

FIEC

Voting

Restoration

Amendment

14-01

Financial Impact Estimating Conference

Voting Restoration Amendment Serial Number 14-01

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- ProCon.org - State Felon Voting Laws, August 2016
- Brennan Center for Justice - Criminal Disenfranchisement Laws across the United States, August 2016

Florida and Other State Legislation Tab 5

- Florida Legislature, 2006 Regular Session, CS/SB 2230
 - Bill Analysis, April 19, 2006
- Commonwealth of Kentucky, 2008 Regular Session, HB 70, State Fiscal Note Statement, April 11, 2008
- Maryland General Assembly, 2015 Session, Senate Bill 340, Fiscal and Policy Note, Revised March 24, 2015
- State of New Mexico, First Session, 2001, CS/SB 204, Fiscal Impact Report, March 1, 2001
- State of Texas, House Bill 1001, 75th Regular Session, 1997

Tab 1

Authorization



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

September 14, 2016

Financial Impact Estimating Conference
c/o Ms. Amy Baker, Coordinator
Office of Economic and Demographic Research
111 West Madison Street, Ste. 574
Tallahassee, Florida 32399-6588

Dear Ms. Baker:

Section 15.21, Florida Statutes, provides that the Secretary of State shall submit an initiative petition to the Financial Impact Estimating Conference when a sponsoring political committee has met the registration, petition form submission and signature criteria set forth in that section.

The criteria in section 15.21, Florida Statutes, has now been met for the initiative petition titled *Voter Restoration Amendment*, Serial Number 14-01. Therefore, I am submitting the proposed constitutional amendment petition form, along with a status update for the initiative petition, and a chart that provides a statewide signature count and count by congressional districts.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ken Detzner".

Ken Detzner
Secretary of State

RECEIVED
9-15-16
SB
hand-delivered

KD/am

pc: Desmond Meade, Chairperson
Floridians for a Fair Democracy, Inc.

Enclosures

Division of Elections
R.A. Gray Building, Suite 316 • 500 South Bronough Street • Tallahassee, Florida 32399
850.245.6200 • 850.245.6217 (Fax) • DOS.MyFlorida.com/elections



**Attachment for Initiative Petition
Voter Restoration Amendment
Serial Number 14-01**

1. **Name and address of the sponsor of the initiative petition:**
Desmond Meade, Chairperson
Floridians for a Fair Democracy
3000 Gulf-to-Bay Blvd., Suite 503
Clearwater, Florida 33759
2. **Name and address of the sponsor's attorney, if the sponsor is represented:**
Unknown
3. **A statement as to whether the sponsor has obtained the requisite number of signatures on the initiative petition to have the proposed amendment put on the ballot:** As of September 14, 2016, the sponsor has not obtained the requisite number of signatures to have the proposed amendment placed on the ballot. A total of 683,149 valid signatures were required for placement on the 2016 general election ballot. The total number of signatures required to have an item placed on the 2018 general election ballot will not be known until after the 2016 general election
4. **If the sponsor has not obtained the requisite number of signatures on the initiative petition to have the proposed amendment put on the ballot, the current status of the signature-collection process:** As of September 14, 2016, the Supervisors of Elections have certified a total of 70,012 valid petition signatures to the Division of Elections for this initiative petition. This number represents more than 10% of the total number of valid signatures needed from electors statewide and in at least one-fourth of the congressional districts in order to have the initiative placed on the 2016 general election ballot.
5. **The date of the election during which the sponsor is planning to submit the proposed amendment to the voters:** Unknown. The earliest date of election that this proposed amendment can be placed on the ballot is November 6, 2018, provided the sponsor successfully obtains the requisite number of valid signatures by February 1, 2018.
6. **The last possible date that the ballot for the target election can be printed in order to be ready for the election:** Unknown
7. **A statement identifying the date by which the Financial Impact Statement will be filed, if the Financial Impact Statement is not filed concurrently with the request:** The Secretary of State forwarded a letter to the Financial Impact Estimating Conference in the care of the coordinator on September 14, 2016.
8. **The names and complete mailing addresses of all of the parties who are to be served:** This information is unknown at this time.

FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS

SUMMARY OF PETITION SIGNATURES

Political Committee: **Floridians for a Fair Democracy, Inc.**

Amendment Title: **Voter Restoration Amendment**

Congressional District	Voting Electors in 2012 Presidential Election	For Review 10% of 8% Required By Section 15.21 Florida Statutes	For Ballot 8% Required By Article XI, Section 3 Florida Constitution	Signatures Certified	
FIRST	356,435	2,851	28,515	2,485	
SECOND	343,558	2,748	27,485	3,958	***
THIRD	329,165	2,633	26,333	1,290	
FOURTH	351,564	2,813	28,125	1,444	
FIFTH	279,598	2,237	22,368	6,013	***
SIXTH	363,402	2,907	29,072	1,767	
SEVENTH	333,990	2,672	26,719	1,718	
EIGHTH	365,738	2,926	29,259	4,140	***
NINTH	277,101	2,217	22,168	936	
TENTH	329,366	2,635	26,349	2,239	
ELEVENTH	359,004	2,872	28,720	1,496	
TWELFTH	345,407	2,763	27,633	679	
THIRTEENTH	344,500	2,756	27,560	1,378	
FOURTEENTH	295,917	2,367	23,673	2,557	***
FIFTEENTH	304,932	2,439	24,395	2,556	***
SIXTEENTH	360,734	2,886	28,859	1,720	
SEVENTEENTH	299,464	2,396	23,957	1,178	
EIGHTEENTH	345,399	2,763	27,632	2,152	
NINETEENTH	323,317	2,587	25,865	1,053	
TWENTIETH	264,721	2,118	21,178	5,300	***
TWENTY-FIRST	326,392	2,611	26,111	1,595	
TWENTY-SECOND	329,816	2,639	26,385	2,537	
TWENTY-THIRD	290,042	2,320	23,203	3,581	***
TWENTY-FOURTH	263,367	2,107	21,069	6,252	***
TWENTY-FIFTH	240,521	1,924	19,242	1,020	
TWENTY-SIXTH	268,898	2,151	21,512	4,817	***
TWENTY-SEVENTH	247,023	1,976	19,762	4,162	***
TOTAL:	8,539,371	68,314	683,149	70,023	

CONSTITUTIONAL AMENDMENT PETITION FORM

Note:

- All information on this form, including your signature, becomes a public record upon receipt by the Supervisor of Elections
- Under Florida Law, it is a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.08, Florida Statutes, to knowingly sign more than one petition for an issue. [Section 104.185, Florida Statutes]
- If all requested information on this form is not completed, the form will not be valid.

Your name: _____
Please Print Name as it appears on your Voter Information Card

Your address: _____

City: _____ Zip: _____ County: _____

☐ Please change my legal address on my voter registration record to the above residence address (check box, if applicable).

Voter Registration Number: _____ or Date of Birth: _____

I am a registered voter of Florida and hereby petition the Secretary of State to place the following proposed amendment to the Florida Constitution on the ballot in the general election:

BALLOT TITLE: Voting Restoration Amendment

BALLOT SUMMARY: This amendment restores the voting rights of Floridians with felony convictions after they complete all terms of their sentence including parole or probation. The amendment would not apply to those convicted of murder or sexual offenses, who would continue to be permanently barred from voting unless the Governor and Cabinet vote to restore their voting rights on a case by case basis.

ARTICLE AND SECTION BEING CREATED OR AMENDED: Article VI, § 4.

FULL TEXT OF THE PROPOSED CONSTITUTIONAL AMENDMENT:

Article VI, Section 4. Disqualifications.—

(a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.

(b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights.

(b c) No person may appear on the ballot for re-election to any of the following offices:

- (1) Florida representative,
- (2) Florida senator,
- (3) Florida Lieutenant governor,
- (4) any office of the Florida cabinet,
- (5) U.S. Representative from Florida, or
- (6) U.S. Senator from Florida

if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years.

DATE OF SIGNATURE

X _____
SIGNATURE OF REGISTERED VOTER

Initiative petition sponsored by Floridians for a Fair Democracy, Inc., 3000 Gulf-to-Bay Blvd., Suite 503, Clearwater, FL 33759

If paid petition circulator is used:

Circulator's name _____

Circulator's address _____

RETURN TO:

Floridians for a Fair Democracy, Inc.
3000 Gulf-to-Bay Blvd., Suite 503
Clearwater, FL 33759

For Official Use Only:

Serial Number: 14-01

Date Approved: 10/31/2014

100.371 Initiatives; procedure for placement on ballot.—

(1) Constitutional amendments proposed by initiative shall be placed on the ballot for the general election, provided the initiative petition has been filed with the Secretary of State no later than February 1 of the year the general election is held. A petition shall be deemed to be filed with the Secretary of State upon the date the secretary determines that valid and verified petition forms have been signed by the constitutionally required number and distribution of electors under this code.

(2) The sponsor of an initiative amendment shall, prior to obtaining any signatures, register as a political committee pursuant to s. [106.03](#) and submit the text of the proposed amendment to the Secretary of State, with the form on which the signatures will be affixed, and shall obtain the approval of the Secretary of State of such form. The Secretary of State shall adopt rules pursuant to s. [120.54](#) prescribing the style and requirements of such form. Upon filing with the Secretary of State, the text of the proposed amendment and all forms filed in connection with this section must, upon request, be made available in alternative formats.

(3) An initiative petition form circulated for signature may not be bundled with or attached to any other petition. Each signature shall be dated when made and shall be valid for a period of 2 years following such date, provided all other requirements of law are met. The sponsor shall submit signed and dated forms to the supervisor of elections for the county of residence listed by the person signing the form for verification of the number of valid signatures obtained. If a signature on a petition is from a registered voter in another county, the supervisor shall notify the petition sponsor of the misfiled petition. The supervisor shall promptly verify the signatures within 30 days after receipt of the petition forms and payment of the fee required by s. [99.097](#). The supervisor shall promptly record, in the manner prescribed by the Secretary of State, the date each form is received by the supervisor, and the date the signature on the form is verified as valid. The supervisor may verify that the signature on a form is valid only if:

- (a) The form contains the original signature of the purported elector.
- (b) The purported elector has accurately recorded on the form the date on which he or she signed the form.
- (c) The form sets forth the purported elector's name, address, city, county, and voter registration number or date of birth.
- (d) The purported elector is, at the time he or she signs the form and at the time the form is verified, a duly qualified and registered elector in the state.

The supervisor shall retain the signature forms for at least 1 year following the election in which the issue appeared on the ballot or until the Division of Elections notifies the supervisors of elections that the committee that circulated the petition is no longer seeking to obtain ballot position.

(4) The Secretary of State shall determine from the signatures verified by the supervisors of elections the total number of verified valid signatures and the distribution of such signatures by congressional districts. Upon a determination that the requisite number and distribution of valid signatures have been obtained, the secretary shall issue a certificate of ballot position for that proposed amendment and shall assign a designating number pursuant to s. [101.161](#).

(5)(a) Within 45 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, the Financial Impact Estimating Conference shall complete an analysis and financial impact statement to be placed on the ballot of the estimated increase or decrease in any revenues or costs to state or local governments resulting from the proposed initiative. The Financial Impact Estimating Conference shall submit the financial impact statement to the Attorney General and Secretary of State.

(b) The Financial Impact Estimating Conference shall provide an opportunity for any proponents or opponents of the initiative to submit information and may solicit information or analysis from any other entities or agencies, including the Office of Economic and Demographic Research.

(c) All meetings of the Financial Impact Estimating Conference shall be open to the public. The President of the Senate and the Speaker of the House of Representatives, jointly, shall be the sole judge for the interpretation, implementation, and enforcement of this subsection.

1. The Financial Impact Estimating Conference is established to review, analyze, and estimate the financial impact of amendments to or revisions of the State Constitution proposed by initiative. The Financial Impact Estimating Conference shall consist of four principals: one person from the Executive Office of the Governor; the coordinator of the Office of Economic and Demographic Research, or his or her designee; one person from the professional staff of the Senate; and one person from the professional staff of the House of Representatives. Each principal shall have appropriate fiscal expertise in the subject matter of the initiative. A Financial Impact Estimating Conference may be appointed for each initiative.

2. Principals of the Financial Impact Estimating Conference shall reach a consensus or majority concurrence on a clear and unambiguous financial impact statement, no more than 75 words in length, and immediately submit the statement to the Attorney General. Nothing in this subsection prohibits the Financial Impact Estimating Conference from setting forth a range of potential impacts in the financial impact statement. Any financial impact statement that a court finds not to be in accordance with this section shall be remanded solely to the Financial Impact Estimating Conference for redrafting. The Financial Impact Estimating Conference shall redraft the financial impact statement within 15 days.

3. If the members of the Financial Impact Estimating Conference are unable to agree on the statement required by this subsection, or if the Supreme Court has rejected the initial submission by the Financial Impact Estimating Conference and no redraft has been approved by the Supreme Court by 5 p.m. on the 75th day before the election, the following statement shall appear on the ballot pursuant to s. [101.161](#)(1): "The financial impact of this measure, if any, cannot be reasonably determined at this time."

(d) The financial impact statement must be separately contained and be set forth after the ballot summary as required in s. [101.161](#)(1).

(e)1. Any financial impact statement that the Supreme Court finds not to be in accordance with this subsection shall be remanded solely to the Financial Impact Estimating Conference for redrafting, provided the court's advisory opinion is rendered at least 75 days before the election at which the question of ratifying the amendment will be presented. The Financial Impact Estimating Conference shall prepare and adopt a revised financial impact statement no later than 5 p.m. on the 15th day after the date of the court's opinion.

2. If, by 5 p.m. on the 75th day before the election, the Supreme Court has not issued an advisory opinion on the initial financial impact statement prepared by the Financial Impact Estimating Conference for an initiative amendment that otherwise meets the legal requirements for ballot placement, the financial impact statement shall be deemed approved for placement on the ballot.

3. In addition to the financial impact statement required by this subsection, the Financial Impact Estimating Conference shall draft an initiative financial information statement. The initiative financial information statement should describe in greater detail than the financial impact statement any projected increase or decrease in revenues or costs that the state or local governments would likely experience if the ballot measure were approved. If appropriate, the initiative financial information statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context. The initiative financial information statement must include both a summary of not more than 500 words and additional detailed information that includes the assumptions that were made to develop the financial

impacts, workpapers, and any other information deemed relevant by the Financial Impact Estimating Conference.

4. The Department of State shall have printed, and shall furnish to each supervisor of elections, a copy of the summary from the initiative financial information statements. The supervisors shall have the summary from the initiative financial information statements available at each polling place and at the main office of the supervisor of elections upon request.

5. The Secretary of State and the Office of Economic and Demographic Research shall make available on the Internet each initiative financial information statement in its entirety. In addition, each supervisor of elections whose office has a website shall post the summary from each initiative financial information statement on the website. Each supervisor shall include the Internet addresses for the information statements on the Secretary of State's and the Office of Economic and Demographic Research's websites in the publication or mailing required by s. [101.20](#).

(6) The Department of State may adopt rules in accordance with s. [120.54](#) to carry out the provisions of subsections (1)-(5).

(7) No provision of this code shall be deemed to prohibit a private person exercising lawful control over privately owned property, including property held open to the public for the purposes of a commercial enterprise, from excluding from such property persons seeking to engage in activity supporting or opposing initiative amendments.

History.—s. 15, ch. 79-365; s. 12, ch. 83-251; s. 30, ch. 84-302; s. 22, ch. 97-13; s. 9, ch. 2002-281; s. 3, ch. 2002-390; s. 3, ch. 2004-33; s. 28, ch. 2005-278; s. 4, ch. 2006-119; s. 25, ch. 2007-30; s. 1, ch. 2007-231; s. 14, ch. 2008-95; s. 23, ch. 2011-40.

NOTICE OF WORKSHOPS AND CONFERENCE
FINANCIAL IMPACT ESTIMATING CONFERENCE

The Financial Impact Estimating Conference (FIEC) will be holding workshops and a conference on the petition initiative entitled “***Voting Restoration Amendment***”. Unless otherwise indicated on the schedule below, all meetings will begin at 9:00 a.m. in Room 117, Knott Building, 415 W. St. Augustine Street, Tallahassee, Florida. They will continue until completion of the agenda.

The FIEC is required by s. 100.371, Florida Statutes, to review, analyze, and estimate the financial impact of amendments to or revisions of the State Constitution proposed by initiative. In this regard, the FIEC is now in the process of preparing financial impact statements to be placed on the 2018 ballot that show the estimated increase or decrease in any revenues or costs to state and local governments resulting from the proposed initiative.

The purpose of the Public Workshop is to provide an opportunity for proponents and opponents of the initiative to make formal presentations to the FIEC regarding the probable financial impact of the initiative. In addition to the workshop, proponents and opponents may submit information at any time to the FIEC by contacting the Legislative Office of Economic and Demographic Research (contact information below).

Voting Restoration Amendment

- Public Workshop – October 5, 2016
- Principals’ Workshop – October 17, 2016
- Formal Conference – October 26, 2016

For additional information regarding the meetings, please contact the Florida Legislature’s Office of Economic and Demographic Research at (850) 487-1402.

Address for submitting information to the FIEC:

The Florida Legislature
Office of Economic and Demographic Research
111 West Madison, Suite 574
Tallahassee, FL 32399-6588
Email: edrcoordinator@leg.state.fl.us
FAX: (850) 922-6436

For additional information regarding the Financial Impact Estimating Conference process and the Initiative Petition process, please visit the Florida Legislature's Office of Economic and Demographic Research's website at: <http://edr.state.fl.us/Content/constitutional-amendments/index.cfm> and the Florida Department of State, Division of Elections' website at: <http://election.dos.state.fl.us/initiatives/initiativelist.asp>

Tab 2

Current Law

SECTION 4. Disqualifications.—

(a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability.

(b) No person may appear on the ballot for re-election to any of the following offices:

- (1) Florida representative,
- (2) Florida senator,
- (3) Florida Lieutenant governor,
- (4) any office of the Florida cabinet,
- (5) U.S. Representative from Florida, or
- (6) U.S. Senator from Florida

if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years.

History.—Am. by Initiative Petition filed with the Secretary of State July 23, 1992; adopted 1992.

RULES OF EXECUTIVE CLEMENCY

1. STATEMENT OF POLICY

Executive Clemency is a power vested in the Governor by the Florida Constitution of 1968.

Article IV, Section 8(a) of the Constitution provides:

Except in cases of treason and in cases where impeachment results in conviction, the governor may, by executive order filed with the custodian of state records, suspend collection of fines and forfeitures, grant reprieves not exceeding sixty days and, with the approval of two members of the cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses.

The Governor and members of the Cabinet collectively are the Clemency Board. Clemency is an act of mercy that absolves the individual upon whom it is bestowed from all or any part of the punishment that the law imposes.

2. ADMINISTRATION

A. These rules were created by mutual consent of the Clemency Board to assist persons in applying for clemency. However, nothing contained herein can or is intended to limit the authority or discretion given to the Clemency Board in the exercise of its constitutional prerogative.

B. The Office of Executive Clemency was created to assist in the orderly and expeditious exercise of this executive power.

C. The Governor, with the approval of at least two members of the Clemency Board, appoints a Coordinator who hires all assistants. The Coordinator and assistants comprise the Office of Executive Clemency. The Coordinator must keep a proper record of all proceedings and is the custodian of all records.

3. PAROLE AND PROBATION

The Clemency Board will neither grant nor revoke parole or probation.

4. CLEMENCY

The Governor has the unfettered discretion to deny clemency at any time, for any reason. The Governor, with the approval of at least two members of the Clemency Board, has the unfettered discretion to grant, at any time, for any reason, the following forms of clemency:

I. Types of Clemency

A. Full Pardon

A Full Pardon unconditionally releases a person from punishment and forgives guilt for any Florida convictions. It restores to an applicant all of the rights of citizenship possessed by the person before his or her conviction, including the right to own, possess, or use firearms.

B. Pardon Without Firearm Authority

A Pardon Without Firearm Authority releases a person from punishment and forgives guilt. It entitles an applicant to all of the rights of citizenship enjoyed by the person before his or her conviction, except the specific authority to own, possess, or use firearms.

C. Pardon for Misdemeanor

A Pardon for a Misdemeanor Conviction releases a person from punishment and forgives guilt.

D. Commutation of Sentence

A Commutation of Sentence may adjust an applicant's penalty to one less severe but does not restore any civil rights, and it does not restore the authority to own, possess, or use firearms. (See also Rule 15 on commutation of death sentences.)

E. Remission of Fines and Forfeitures

A Remission of Fines or Forfeitures suspends, reduces, or removes fines or forfeitures.

F. Specific Authority to Own, Possess, or Use Firearms

The Specific Authority to Own, Possess, or Use Firearms restores to an applicant the right to own, possess, or use firearms, which were lost as a result of a felony conviction. Due to federal

firearms laws, the Clemency Board will not consider requests for firearm authority from individuals convicted in federal or out-of-state courts. In order to comply with the federal laws, a Presidential Pardon or a Relief of Disability from the Bureau of Alcohol, Tobacco and Firearms must be issued in cases involving federal court convictions. A pardon or restoration of civil rights with no restrictions on firearms must be issued by the state where the conviction occurred.

G. Restoration of Civil Rights in Florida

The Restoration of Civil Rights restores to an applicant all of the rights of citizenship in the State of Florida enjoyed before the felony conviction, except the specific authority to own, possess, or use firearms. Such restoration shall not relieve an applicant from the registration and notification requirements or any other obligations and restrictions imposed by law upon sexual predators or sexual offenders.

H. Restoration of Alien Status under Florida Law

The Restoration of Alien Status Under Florida Law restores to an applicant who is not a citizen of the United States such rights enjoyed by him or her, under the authority of the State of Florida, which were lost as a result of a conviction of any crime that is a felony or would be a felony under Florida law, except the specific authority to own, possess, or use firearms. However, restoration of these rights shall not affect the immigration status of the applicant (i.e., a certificate evidencing Restoration of Alien Status Under Florida Law shall not be a ground for relief from removal proceedings initiated by the United States Immigration and Naturalization Service).

II. Conditional Clemency

All of the preceding forms of clemency may be granted subject to various conditions. If the conditions of clemency are violated or breached, such clemency may be revoked by the Clemency Board, returning the applicant to his or her status prior to receiving the conditional clemency.

5. Eligibility

A. Pardons

A person may not apply for a pardon unless he or she has completed all sentences imposed for the applicant's most recent felony conviction and all conditions of supervision imposed for the applicant's most recent felony conviction have expired or been completed, including but not limited to, parole, probation, community control, control release and conditional release, for a period of no less than 10 years. The applicant may not have outstanding detainers, or any pecuniary penalties or liabilities which total more than \$1,000 and result from any criminal conviction or traffic infraction. In addition, the applicant may not have any outstanding victim restitution, including, but not limited to, restitution pursuant to a court order or civil judgment, or obligations pursuant to Chapter 960, Florida Statutes.

Persons who had adjudication of guilt withheld and were not convicted may apply for a pardon if they otherwise meet the eligibility requirements of this rule.

B. Commutations of Sentence

A person may not be considered for a commutation of sentence unless he or she has been granted a Request for Review pursuant to Rule 8 or has had his or her case placed upon a Clemency Board agenda pursuant to Rule 17.

C. Remission of Fines and Forfeitures

A person may not apply for a remission of fines and forfeitures unless he or she has completed all sentences imposed and all conditions of supervision have expired or been completed, including, but not limited to, parole, probation, community control, control release, and conditional release.

D. Specific Authority to Own, Possess, or Use Firearms

A person may not apply for the specific authority to own, possess, or use firearms unless he or she has completed all sentences imposed for the applicant's most recent felony conviction and all

conditions of supervision imposed for the applicant's most recent felony conviction have expired or been completed, including but not limited to, parole, probation, community control, control release, and conditional release, for a period of no less than eight (8) years. The applicant may not have outstanding detainers, or any pecuniary penalties or liabilities which total more than \$1,000 and result from any criminal conviction or traffic infraction. In addition, the applicant may not have any outstanding victim restitution, including, but not limited to, restitution pursuant to a court order or civil judgment, or obligations pursuant to Chapter 960, Florida Statutes. Persons convicted in a federal, military, or out-of-state court are not eligible to apply.

E. Restoration of Civil Rights or Alien Status under Florida Law

A person who meets the requirements of Rule 9 may have his or her civil rights restored by the Clemency Board. Persons who do not qualify for restoration of civil or alien rights under Rule 9 may request restoration of civil rights pursuant to Rule 6 if the person has completed all sentences imposed and all conditions of supervision have expired or been completed, including but not limited to, imprisonment, parole, probation, community control, control release, and conditional release; has no pending outstanding detainers or pending criminal charges; has paid all restitution pursuant to a court order or civil judgment and obligations pursuant to Chapter 960, Florida Statutes; and has met the seven (7) year time requirement. Restoration of civil rights includes all rights of citizenship enjoyed by the person before his or her conviction, except the specific authority to own, possess or use firearms.

If the person was convicted in a court other than a court of the State of Florida, he or she must be a legal resident of the State of Florida at the time the application is filed, considered, and acted upon. If the person is applying for Restoration of Alien Status under Florida Law, he or she must be domiciled in the State of Florida at the time the application is filed, considered, and acted upon.

Notwithstanding any provision of this rule, an individual who has previously had his or her civil rights or Alien Status under Florida Law restored and is subsequently convicted of any offense listed in Rule 9(A) shall be ineligible for restoration of civil rights or Alien Status under Florida law for a period of no less than seven (7) years after completing all sentences and conditions of supervision (including but not limited to, parole, probation, community control, control release and conditional release) arising from the subsequent conviction.

6. Applications

A. Application Forms

All correspondence regarding an application for clemency should be addressed to Coordinator, Office of Executive Clemency, 4070 Esplanade Way, Tallahassee, Florida, 32399-2450. Those persons seeking clemency shall complete an application and submit it to the Office of Executive Clemency.

Persons seeking Restoration of Civil Rights or Alien Status under Florida Law must submit an application. Application forms will be furnished by the Coordinator upon request or they may be downloaded from the clemency website at <https://fpc.state.fl.us/Clemency.htm>. All applications for clemency must be filed with the Coordinator on the form provided by the Office of Executive Clemency.

B. Supporting Documents

Each application for clemency shall have attached to it a certified copy of the charging instrument (indictment, information, or warrant with supporting affidavit) for each felony conviction, or misdemeanor conviction if seeking a pardon for a misdemeanor, and a certified copy of the judgment and sentence for each felony conviction, or misdemeanor conviction if seeking a pardon for a misdemeanor. (Note: The Office of Executive Clemency or Parole Commission may assist in preparation of applications in unique situations.) Each application for clemency may include

character references, letters of support, and any other documents that are relevant to the application for clemency.

C. Applicant Responsibility

It is the responsibility of the applicant to answer all inquiries fully and truthfully and to keep the Office of Executive Clemency advised of any change in the information provided in the application, including change of address and phone number.

D. Failure to Meet Requirements

If any application fails to meet the requirements of the Rules of Executive Clemency, the Coordinator may return it without further consideration.

E. Notification

Upon receipt of a completed application that meets the requirements of the Rules of Executive Clemency, the Coordinator shall make reasonable attempts to notify the victims of record, the respective State Attorney's Office, the Office of the Statewide Prosecutor, if applicable, and the Office of the Attorney General, Bureau of Advocacy and Grants.

7. Applications Referred to the Florida Parole Commission

Every application which meets the requirements of these Rules may be referred to the Florida Parole Commission for an investigation, report, and recommendation.

All persons who submit applications shall comply with the reasonable requests of the Florida Parole Commission in order to facilitate and expedite investigation of their cases. Failure to comply with such requests by the Commission, without adequate explanation, may result in denial of the application without further consideration.

8. Commutation of Sentence

A. Request for Review

An applicant who applies for commutation of sentence under Rule 5(B) may do so only if he or she has completed at least one third of the sentence imposed, or, if serving a minimum mandatory

sentence, has completed at least one half of the sentence.

Individuals eligible for commutation of sentence consideration may receive a “Request for Review” form by contacting the Office of Executive Clemency or it may be downloaded from the clemency website at <https://fpc.state.fl.us/Clemency.htm>. Upon receipt of the original and four (4) copies of the Request for Review form, clemency application, and any other material to be considered, the Coordinator shall forward copies of the documents to the Clemency Board and the Florida Parole Commission. The Commission shall review the documents and make an advisory recommendation to the Clemency Board. Notification of receipt by the Office of Executive Clemency of such a request shall be provided as indicated under Rule 6.

Rule 17 may also be invoked by any member of the Clemency Board.

B. Referral to Commission

Upon receipt by the Coordinator of written notification from the Governor and at least one member of the Clemency Board granting a Request for Review, or notification invoking Rule 17, the Coordinator may refer the request to the Parole Commission for a full investigation and place the case on an agenda to be heard by the Clemency Board.

C. Notification

The Coordinator shall attempt to provide individuals seeking a request for commutation of sentences, and the respective prosecuting authority, with approximately 20 days notice prior to any such request being heard by representatives of the Clemency Board.

D. § 944.30 Cases

All remaining § 944.30, Florida Statutes, cases will be processed under this rule.

E. Domestic Violence Case Review

Domestic violence cases that meet the criteria adopted by the Clemency Board on December 18, 1991, as amended, will be processed as requests for review.

9. Restoration of Civil Rights or Alien Status under Florida Law Without A Hearing

A. Criteria for Eligibility

A person may have his or her civil rights or alien status under Florida Law restored by approval of the Clemency Board, excluding the specific authority to own, possess, or use firearms, without a hearing if the person has committed no crimes and has not been arrested for a misdemeanor or felony for five (5) years from the date of completion of all sentences and conditions of supervision imposed and the following requirements are met:

1. The person has completed all sentences imposed and all conditions of supervision have expired or been completed, including but not limited to, imprisonment, parole, probation, community control, control release, and conditional release;

2. The person has no outstanding detainers or pending criminal charges;

3. The person has paid all restitution pursuant to a court order or civil judgment and obligations pursuant to Chapter 960, Florida Statutes;

4. The person has never been convicted of one of the following crimes:

a. murder, attempted murder, attempted felony murder, manslaughter (F.S. Chapter 782);

b. DUI manslaughter, DUI Serious Bodily Injury (F.S. 316.193);

c. leaving the Scene of Accident involving Injury or Death;

d. sexual battery, attempted sexual battery, unlawful sexual activity with a minor, female genital mutilation (F.S. Chapter 794)

e. any violation of F.S. Chapter 800;

f. lewd or lascivious offense upon or in the presence of an elderly or disabled person, attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person (F.S. 825.1025);

g. sexual performance by a child, attempted sexual performance by a child (F.S. 827.071);

h. aggravated child abuse (F.S. 827.03);

- i. failure to register as a sexual predator (F.S. 775) or sexual offender (F.S. 943.0435);
- j. computer pornography, transmission of computer pornography, or any crime involving a minor in violation of F.S. Chapter 847;
- k. kidnapping, attempted kidnapping, false imprisonment, or luring and enticing a child (F.S. Chapter 787);
- l. aggravated battery, attempted aggravated battery (F.S. 784.045), felony battery, domestic battery by strangulation (F.S. 784.041);
- m. robbery, carjacking, attempted carjacking, home invasion, attempted home invasion (F.S. Chapter 812);
- n. poisoning of food or water (F.S. 859.01);
- o. abuse of a dead human body (F.S. 872.06);
- p. burglary of a dwelling, first degree burglary, or attempted first degree burglary (F.S. 810.02);
- q. arson, attempted arson, or conspiracy to commit arson (F.S. 806.01);
- r. aggravated assault (F.S. 784.021);
- s. aggravated stalking (F.S. 784.048);
- t. aggravated battery, battery, or aggravated assault on a law enforcement officer or other specified officer (F.S. 784.07);
- u. trafficking or conspiracy to traffic in illegal substances (F.S. 893.135); all other first and second degree felonies described in F. S. Chapter 893.
- v. aircraft piracy (F.S. 860.16);
- w. unlawful throwing, placing, or discharging of a destructive device or bomb (F.S. 790.161);
- x. facilitating or furthering terrorism (F.S. 775.31);
- y. treason (F.S. 876.32);

z. possession of a firearm by a convicted felon (F.S. 790.23) or possession of a firearm or ammunition by a violent career criminal (F.S. 790.235);

aa. bribery, misuse of public office (F.S. Chapter 838); extortion by officers of the state (F. S. 839.11); misappropriations of moneys by commissioners to make sales (F.S. 839.17);

bb. any crime committed by an elected official while in office;

cc. illegal use of explosives;

dd. RICO;

ee. exploitation of the elderly;

ff. public corruption;

gg. any felony violation of an election law;

hh. any crime designated a “dangerous crime” under F.S. 907.041;

ii. any offense committed in another jurisdiction that would be an offense listed in this paragraph if that offense had been committed in this State;

5. The person has not been declared to be one of the following:

a. Habitual Violent Felony Offender under F.S. 775.084(1)(b);

b. Three-time Violent Felony Offender under F.S. 775.084(1)(c);

c. Violent Career Criminal under F.S. 775.084;

d. Prison Releasee Reoffender under F.S. 775.082(9)(a);

e. Sexual Predator under F.S. 775.21;

6. In the case of restoration of civil rights, (a) the person must be a citizen of the United States; and (b) if convicted in a court other than a Florida court, the person must be a legal resident of Florida;

7. In the case of restoring alien status under Florida Law, the person must be domiciled in Florida.

B. Action by Clemency Board

The Florida Parole Commission shall accept and retain the records of individuals released by the Department of Corrections by expiration of sentence or from community supervision. In a manner approved by the Board of Clemency, the Parole Commission may provide individuals released by the Department of Corrections with a written explanation of the Rules determining eligibility to apply for restoration of civil rights. The Parole Commission shall review the applications of individuals who have applied for restoration of civil rights pursuant to Rule 6. If an individual meets all requirements under Rule 9(A), then the Coordinator shall issue a preliminary review list of individuals eligible for restoration of civil rights or alien status under Florida law without a hearing to the Clemency Board members. If the Governor plus two members approve an individual's restoration of civil rights or alien status under Florida law without a hearing within 60 days of issuance of the preliminary review list, the Coordinator shall, pursuant to executive order, issue a certificate that grants the individual restoration of civil rights or alien status under Florida law in the State of Florida, without the specific authority to own, possess, or use firearms. Article IV, Section 8 of the Florida Constitution provides that an executive order granting clemency requires the signature of the Governor and two members of the Florida Cabinet. If approval is not granted, that candidate will be notified, and may elect to pursue restoration of civil rights with a hearing pursuant to Rule 10.

C. Out-of-State or Federal Convictions

If the person has been convicted in a court other than a court of the State of Florida, a request for the restoration of civil rights or alien status under Florida law must be submitted in accordance with Rule 6. Such request shall be reviewed by the Florida Parole Commission to determine if the requirements under Rule 9(A) are met. If the Commission certifies that all of the requirements in Rule 9(A) are met, the Coordinator shall follow procedures for the restoration of civil rights as enumerated herein.

10. Restoration of Civil Rights or Alien Status under Florida Law With a Hearing

A. Criteria for 7 Year Eligibility

An individual who does not qualify to be granted clemency under Rule 9 must comply with Rule 6 by filing an application to have his or her civil rights or alien status under Florida law restored, excluding the specific authority to own, possess, or use firearms, with a hearing. An individual is eligible to apply only if the following requirements are met:

1. The person has had no new felony convictions for a period of 7 years or more after completion of all sentences imposed for the applicant's most recent felony conviction and all conditions of supervision for the applicant's most recent felony conviction have expired or been completed, including but not limited to, imprisonment, parole, probation, community control, control release, and conditional release;

2. The person has paid all restitution pursuant to a court order or civil judgment and obligations pursuant to Chapter 960, Florida Statutes;

3. In the case of restoration of civil rights, (a) the person must be a citizen of the United States; and (b) if convicted in a court other than a Florida court, the person must be a legal resident of Florida;

4. In the case of restoring alien status under Florida Law, the person must be domiciled in Florida.

B. Out-of-State or Federal Convictions

If the person has been convicted in a court other than a court of the State of Florida, a request for the restoration of civil rights or alien status under Florida law must be submitted in accordance with Rule 6. Such request shall be reviewed by the Florida Parole Commission to determine if the requirements under Rule 10(A) are met. If the Commission certifies that all of the requirements in Rule 10(A) are met, the Coordinator shall follow procedures for the restoration of civil rights or alien status with a hearing as enumerated herein.

11. Hearings by the Clemency Board on Pending Applications

A. Cases on the Agenda

After the Parole Commission investigation is complete, the Coordinator may place upon the agenda for consideration by the Clemency Board at its next scheduled meeting:

1. Timely applications that meet the eligibility requirements under Rule 5 for which any investigation, report and recommendation, conducted under Rule 7, has been completed;
2. Cases in which an applicant has requested a commutation of sentence under Rule 8 or when Rule 17 has been invoked so long as any investigation, report and recommendation conducted under Rule 7 has been completed.

B. Distribution of Agenda

The Coordinator shall prepare an agenda which shall include all cases that qualify for a hearing under Subsection A of this Rule. A preliminary agenda shall be distributed to the Clemency Board at least 10 days before the next scheduled meeting.

C. Failure of Applicant to Comply With Rules

An applicant's failure to comply with any rule of executive clemency may result in refusal, without notice, to place an application on the agenda for consideration.

12. Hearings Before the Clemency Board

A. Scheduled Meetings

The Clemency Board will meet in the months of March, June, September, and December of each year, or at such times as set by the Clemency Board. The Governor may call a special meeting at any time for any reason.

B. Notice of Appearance

While applicants are not required to appear at the hearing, the Clemency Board encourages applicants to attend. The applicant, or any other person intending to speak on behalf of the applicant,

must notify the Office of Executive Clemency at least 10 days prior to the scheduled meeting of the Clemency Board.

C. Time Limits

Any person making an oral presentation to the Clemency Board will be allowed no more than five minutes. All persons making oral presentations in favor of an application shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations against an application, including victims, shall be allowed cumulatively no more than 10 minutes.

D. Filing of Executive Orders

Subsequent to the hearings of the Clemency Board, the Coordinator shall prepare executive orders granting clemency as directed and circulate them to the members of the Clemency Board. After the Executive Orders are fully executed, the Coordinator shall certify and mail a copy to the applicant. The original executive order shall be filed with the custodian of state records. The Coordinator shall send a letter to each applicant officially stating the disposition of his or her application. A seal is not used by the Office of Executive Clemency.

13. Continuance and Withdrawal of Cases

An interested party may apply for a continuance of a case if the continuance is based on good cause. The Governor will decide if the case will be continued. Cases held under advisement for further information desired by the Governor will be marked “continued” and noted on each subsequent agenda until the case is decided.

The applicant may withdraw his or her application by notifying the Office of Executive Clemency at least 20 days prior to the next scheduled meeting of the Clemency Board. A request to withdraw a case made within 20 days of the hearing on the application will be allowed if the Governor or the Coordinator for the Office of Executive Clemency determines that there is good cause. Cases that are withdrawn from the agenda will not be considered again until the application is re-filed.

14. Reapplication for Clemency

Any otherwise eligible person who has been granted or denied any form of executive clemency may not reapply for further executive clemency for at least two years from the date that such action became final. Any person who has been denied a Rule 8 commutation of sentence may not apply for another request for at least five years from the date the prior request was denied.

15. Commutation of Death Sentences

This Rule applies to all cases where the sentence of death has been imposed. The Rules of Executive Clemency, except Rules 1, 2, 3, 4, 15 and 16 are inapplicable to cases where inmates are sentenced to death.

A. Confidentiality

Notwithstanding incorporation of Rule 16 by reference in cases where inmates are sentenced to death, the full text of Rule 16 is repeated below for clarification: Due to the nature of the information presented to the Clemency Board, all records and documents generated and gathered in the clemency process as set forth in the Rules of Executive Clemency are confidential and shall not be made available for inspection to any person except members of the Clemency Board and their staff. Only the Governor and no other member of the Clemency Board, nor any other state entity that may be in the possession of Clemency Board materials, has the discretion to allow such records and documents to be inspected or copied. Access to such materials shall not constitute a waiver of confidentiality.

B. Parole Commission Investigation

In all cases where the death penalty has been imposed, the Florida Parole Commission may conduct a thorough and detailed investigation into all factors relevant to the issue of clemency and provide a final report to the Clemency Board. The investigation shall include, but not be limited to, (1) an interview with the inmate, who may have clemency counsel present, by the Commission; (2)

an interview, if possible, with the trial attorneys who prosecuted the case and defended the inmate; (3) an interview, if possible, with the presiding judge and; (4) an interview, if possible, with the defendant's family. The Parole Commission shall provide notice to the Office of the Attorney General, Bureau of Advocacy and Grants, that an investigation has been initiated. The Office of the Attorney General, Bureau of Advocacy and Grants shall then provide notice to the victims of record that an investigation is pending and at that time shall request written comments from the victims of record. Upon receipt of comments from victims of record or their representatives, the Office of the Attorney General, Bureau of Advocacy and Grants shall forward such comments to the Parole Commission to be included in the final report to the Clemency Board.

C. Monitoring Cases for Investigation

The investigation by the Parole Commission shall begin at such time as designated by the Governor. If the Governor has made no such designation, the investigation shall begin immediately after the defendant's initial petition for writ of habeas corpus, filed in the appropriate federal district court, has been denied by the 11th Circuit Court of Appeals, so long as all post-conviction pleadings, both state and federal, have been filed in a timely manner as determined by the Governor. An investigation shall commence immediately upon any failure to timely file the initial motion for postconviction relief in state court, and any appeal therefrom, or the initial petition for writ of habeas corpus in federal court, and any appeal therefrom. The time frames established by this rule are not tolled during the pendency of any petition for rehearing or reconsideration (or any similar such motion for clarification, etc.), request for rehearing en banc in the 11th Circuit Court of Appeals, or petition for writ of certiorari in the U.S. Supreme Court. Failure to conduct or complete the investigation pursuant to these rules shall not be a ground for relief for the death penalty defendant. The Parole Commission's Capital Punishment Research Specialist shall routinely monitor and track death penalty cases beyond direct appeal for this purpose. Cases investigated under previous administrations may be reinvestigated at the Governor's discretion.

D. Parole Commission Report

After the investigation is concluded, the Commissioners who personally interviewed the inmate shall prepare and issue a final report on their findings and conclusions. The final report shall include (1) any statements made by the defendant, and defendant's counsel, during the course of the investigation; (2) a detailed summary from each Commissioner who interviewed the inmate; and (3) information gathered during the course of the investigation. The final report shall be forwarded to all members of the Clemency Board within 120 days of the commencement of the investigation, unless the time period is extended by the Governor.

E. Request for Hearing by any Clemency Board Member

After the report is received by the Clemency Board, the Coordinator shall place the case on the agenda for the next scheduled meeting or at a specially called meeting of the Clemency Board if, as a result of the investigation, or final report, any member of the Clemency Board requests a hearing within 20 days of transmittal of the final report to the Clemency Board. Once a hearing is set, the Coordinator shall provide notice to the appropriate state attorney, the inmate's clemency counsel, the victim's rights coordinator in the Executive Office of the Governor and the Office of Attorney General, Bureau of Advocacy and Grants. The Office of the Attorney General, Bureau of Advocacy and Grants shall then notify the victims of record of the hearing.

F. Request for Hearing by Governor

Notwithstanding any provision to the contrary in the Rules of Executive Clemency, in any case in which the death sentence has been imposed, the Governor may at any time place the case on the agenda and set a hearing for the next scheduled meeting or at a specially called meeting of the Clemency Board.

G. Transcript of Interview

Upon request, a copy of the actual transcript of any statements or testimony of the inmate relating to a clemency investigation shall be provided to the state attorney, the inmate's clemency

counsel, or victim's family. The attorney for the state, the inmate's clemency counsel, the victim's family, the inmate, or any other interested person may file a written statement, brief or memorandum on the case within 90 days of initiation of the investigation under Rule 15, copies of which will be distributed to the members of the Clemency Board. The person filing such written information should provide five (5) copies to the Coordinator of the Office of Executive Clemency.

H. Time Limits

At the clemency hearing for capital punishment cases, the inmate's clemency counsel and the attorneys for the state may make an oral presentation, each not to exceed 15 minutes collectively. Representatives of the victim's family may make oral statements not to exceed an additional five minutes collectively. The Governor may extend these time frames at his or her discretion.

I. Distribution and Filing of Orders

If a commutation of a death sentence is ordered by the Governor with the approval of at least two members of the Clemency Board, the original order shall be filed with the custodian of state records, and a copy of the order shall be sent to the inmate, the attorneys representing the state, the inmate's clemency counsel, a representative of the victim's family, the Secretary of the Department of Corrections, and the chief judge of the circuit where the inmate was sentenced. The Office of the Attorney General, Bureau of Advocacy and Grants shall inform the victim's family within 24 hours of such action by the Clemency Board.

16. Confidentiality of Records and Documents

Due to the nature of the information presented to the Clemency Board, all records and documents generated and gathered in the clemency process as set forth in the Rules of Executive Clemency are confidential and shall not be made available for inspection to any person except members of the Clemency Board and their staff. Only the Governor, and no other member of the Clemency Board, nor any other state entity that may be in the possession of Clemency Board

materials, has the discretion to allow such records and documents to be inspected or copied. Access to such materials, as approved by the Governor, does not constitute a waiver of confidentiality.

17. Cases Proposed by the Governor or Members of the Clemency Board

In cases of exceptional merit, any member of the Clemency Board may place a case on an upcoming agenda for consideration.

18. Collection of Statistics and Evaluation of Clemency Action

The Office of Executive Clemency, in conjunction with the Florida Parole Commission and Department of Corrections, shall collect and submit to the Clemency Board an annual written report providing statistics and evaluations regarding the status of those individuals whose rights were restored during the previous two calendar years. The first report shall be filed on July 1, 2011.

19. Effective Dates

History. - Adopted September 10, 1975, Rule 6 (formerly Rule 9) effective November 1, 1975; Rule 7 adopted December 8, 1976; Rule 6 amended December 8, 1976, effective July 1, 1977; revised September 14, 1977; Rule 12 amended October 7, 1981; revised December 12, 1984; amended January 8, 1985; amended July 2, 1985; Rule 12 amended September 18, 1986; Rules amended December 18, 1991, effective January 1, 1992; Rule 10 and Rule 15 amended June 22, 1992; Rules amended December 29, 1994, effective January 1, 1995. Rules amended January 7, 1997, effective January 15, 1997; Rule 4 and Rule 9 revised October 28, 1999, effective January 1, 2000; Rules revised June 14, 2001, effective June 14, 2001; Rules revised March 27, 2003; effective March 27, 2003; Rules revised June 20, 2003; effective June 20, 2003; Rules revised December 9, 2004; effective December 9, 2004; Rules revised April 5, 2007, effective April 5, 2007; Rules revised March 9, 2011, effective March 9, 2011.



Melinda N.
Coonrod,
Chairman

FLORIDA COMMISSION ON OFFENDER REVIEW

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Clemency

Overview

Under the Florida Constitution, a convicted felon **cannot vote, serve on a jury, or hold public office** until civil rights have been restored.

When a person is convicted of a felony in Florida, he/she loses the right to vote, sit on a jury, hold public office, and possess a firearm.

Clemency is the constitutionally authorized process that provides the means through which convicted felons may be considered for relief from punishment and seek restoration of their civil rights. The clemency function is an act of mercy that absolves an individual from all, or any part, of the punishment that the law imposes. This is a power to grant full or conditional pardons, or commute punishment. If an individual was adjudicated delinquent of an offense as a juvenile and not adjudicated guilty in adult court, that person is not eligible for any form of clemency.

There are rules for these procedures, and these powers to grant clemency are vested in the Governor with the agreement of two cabinet members who are also statewide elected officials. The Governor also has the sole power to deny clemency.

Types of Clemency

Full Pardon – A Full Pardon unconditionally releases a person from punishment and forgives guilt for any Florida convictions. It restores to an applicant all of the rights of citizenship possessed by the person before his or her conviction, including the right to own, possess, or use firearms.

Pardon Without Firearm Authority – A Pardon Without Firearm Authority releases a person from punishment and forgives guilt. It entitles an applicant to all of the rights of citizenship enjoyed by the person before his or her conviction, except the specific authority to own, possess, or use firearms.

Pardon for Misdemeanor – A Pardon for Misdemeanor conviction releases a person from punishment and forgives guilt.

Commutation of Sentence – A Commutation of Sentence may adjust an applicant's penalty to one less severe but does not restore any civil rights, and it does not restore the authority to own, possess, or use firearms.

Remission of Fines and Forfeitures – A Remission of Fines or Forfeitures suspends, reduces, or removes fines or forfeitures.

Specific Authority to Own, Possess, or Use Firearms – The Specific Authority to Own, Possess, or Use Firearms restores to an applicant the right to own, possess, or use firearms, which were lost as a result of a felony conviction. Due to federal firearms laws, the Clemency Board will not consider requests for firearm authority from individuals convicted in federal or out-of-state courts. In order to comply with the federal laws, a Presidential Pardon or a Relief of Disability from the Bureau of Alcohol, Tobacco and Firearms must be issued in cases involving federal court convictions. A Pardon or Restoration of Civil Rights with no restrictions on firearms must be issued by the state where the conviction occurred.

Restoration of Civil Rights in Florida - The Restoration of Civil Rights restores to an applicant all of the rights of citizenship in the State of Florida enjoyed before the felony conviction, except the specific authority to own, possess, or use firearms. Such restoration shall not relieve an applicant from the registration and notification requirements or any other obligations and restrictions imposed by law upon sexual predators or sexual offenders.

Restoration of Alien Status under Florida Law - The Restoration of Alien Status Under Florida Law restores to an applicant who is not a citizen of the United States such rights enjoyed by him or her, under the authority of the State of Florida, which were lost as a result of a conviction of any crime that is a felony or would be a felony under Florida law, except the specific authority to own, possess, or use firearms. However, restoration of these rights shall not affect the immigration status of the applicant (i.e., a certificate evidencing Restoration of Alien Status Under Florida Law shall not be a ground for relief from removal proceedings initiated by the United States Immigration and Naturalization Service).

For more information on the eligibility criteria for each form of clemency (Rule 5.) read the "[Rules of Executive Clemency](#)."

Contact the Office of Executive Clemency

Toll Free: 1-800-435-8286

Phone: (850) 488-2952

Fax: (850) 488-0695

Email: ClemencyWeb@fcor.state.fl.us

The Office of Executive Clemency

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Clemency

Frequently Asked Questions About Clemency

Click on a question below to expand and view the answer.

- **How do I know if I need to have my civil rights restored? When can my rights be restored?**

Upon conviction of a felony in the State of Florida, a person's civil rights are suspended indefinitely unless restored by the Clemency Board. The four members of the Clemency Board are the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture and Consumer Services.

You may search our website at <https://fpcweb.fpc.state.fl.us/> to verify if your civil rights have been restored and print out a copy of the certificate. You will need to enter either your Date of Birth or Florida Department of Corrections ID number, and will only be able to find your name and retrieve a certificate if your rights have been granted. If you were granted clemency at a clemency hearing, you will need to contact the Office of Executive Clemency for a copy of your specific Executive Order.

A person's civil rights cannot be restored until all sentences or supervision periods have been completed; all restitution owed to current or prior victim(s) is paid in full (this includes judgments or liens); there are no pending criminal charges, warrants or detainers; and established waiting periods have been met.

Depending on your offense, you must wait until either five (5) or seven (7) years after completing your sentence or supervision to apply. The list of offenses and specific requirements for applying for the restoration of civil rights can be found in the Rules of Executive Clemency located on the [Clemency page](#) of this website. All persons seeking the restoration of civil rights must submit an application to the Office of Executive Clemency.

- **What rights are restored?**

The basic civil rights that are restored are: the right to vote, the right to serve on a jury, and the right to hold public office. The right to own, possess, or use firearms requires a waiting period of eight years from the date your sentence expired or supervision terminated.

- **How can I apply for Clemency (including civil rights)?**

All persons seeking clemency, including the restoration of civil rights, must complete an application and submit it to the Office of Executive Clemency. Application forms are furnished on the [Clemency page](#) of this website and by the Coordinator upon request. All applications for Clemency must be filed with the Coordinator on the form provided and include the required court documents.

- **Do I need an attorney to handle my application?**

No, you do not need an attorney to represent you in the clemency process.

- **Is there a filing fee for the application process?**

No, there is no fee involved. This is a service provided free of charge by the State of Florida.

- **If my case is scheduled for a clemency hearing, do I have to attend the hearing?**

You are not required to appear before the Clemency Board at the clemency hearing. However, any testimony you provide may aid the Governor and Cabinet in understanding your case and will be considered by the Clemency Board in its final decision.

- **How does the clemency process work?**

When an application for any form of clemency is received in the Office of Executive Clemency, it is screened for eligibility regarding the required time frames for the various offenses and the accompanying required certified court documents are reviewed.

If applicant is found eligible, the application is forwarded to the investigative phase of the process in the Office of Clemency Investigations. Cases are then assigned to examiners in the field offices on a first-in, first-out basis.

If the Office of Executive Clemency determines that an application does not meet the requirements, the applicant is advised of the disqualifying issues and guidance provided as to the next step. After the investigation and report is prepared, the eligible applications are forwarded to the Clemency Board for a decision.

If granted, the applicant is mailed a certificate of Restoration of Civil Rights.

- **If adjudication of guilt was withheld in my case, do I need restoration of civil rights?**

No, if adjudication of guilt was withheld in your case, you have not lost your civil rights. However, per the Florida Department of Law Enforcement (FDLE) Firearms Purchase Program, you are usually prohibited from purchasing firearms for at least three years from the date your supervision terminated. You may contact FDLE at (850) 410-8139 for more information.

- **If I receive clemency, such as a pardon, will my record be automatically expunged?**

No. There is no form of clemency that will expunge, remove or clear an offense from a criminal record. For questions pertaining to expunging or sealing of records, contact the Florida Department of Law Enforcement (FDLE) at seal-expunge@fdle.state.fl.us.

- **If I have my civil rights restored, will my criminal history record be expunged/removed?**

No. In order to have your civil rights restored you had to have been convicted (adjudicated guilty) of a felony that was the basis for your loss of civil rights. Persons who have been convicted (adjudicated guilty) of a felony are not eligible for a seal or expunge of their criminal history under Florida law, regardless of whether their civil rights have been restored.

Contact the Office of Executive Clemency

Toll Free: 1-800-435-8286

Phone: (850) 488-2952

Fax: (850) 488-0695

Email: ClemencyWeb@fcor.state.fl.us

The Office of Executive Clemency
Florida Commission on Offender Review
4070 Esplanade Way
Tallahassee, FL 32399-2450

Copied from <https://www.fcor.state.fl.us/faq-clemency.shtml> August 25, 2016

97.041 Qualifications to register or vote.—

(1)(a) A person may become a registered voter only if that person:

1. Is at least 18 years of age;
2. Is a citizen of the United States;
3. Is a legal resident of the State of Florida;
4. Is a legal resident of the county in which that person seeks to be registered; and
5. Registers pursuant to the Florida Election Code.

(b) A person who is otherwise qualified may preregister on or after that person's 16th birthday and may vote in any election occurring on or after that person's 18th birthday.

(2) The following persons, who might be otherwise qualified, are not entitled to register or vote:

(a) A person who has been adjudicated mentally incapacitated with respect to voting in this or any other state and who has not had his or her right to vote restored pursuant to law.

(b) A person who has been convicted of any felony by any court of record and who has not had his or her right to vote restored pursuant to law.

(3) A person who is not registered may not vote.

History.—ss. 1, chs. 3850, 3879, 1889; RS 154; s. 1, ch. 4328, 1895; GS 170; RGS 215; s. 1, ch. 8583, 1921; CGL 248; s. 1, ch. 26870, 1951; s. 2, ch. 28156, 1953; s. 1, ch. 63-408; s. 3, ch. 65-60; s. 1, ch. 67-67; ss. 1, 4, ch. 71-108; s. 1, ch. 72-197; s. 2, ch. 73-157; s. 31, ch. 73-333; s. 1, ch. 74-5; s. 1, ch. 77-175; s. 2, ch. 89-338; s. 8, ch. 94-224; s. 12, ch. 2007-30; s. 2, ch. 2008-95.

Note.—Former s. 98.01.

97.052 Uniform statewide voter registration application.—

(1) The department shall prescribe by rule a uniform statewide voter registration application for use in this state.

(a) The uniform statewide voter registration application must be accepted for any one or more of the following purposes:

1. Initial registration.
2. Change of address.
3. Change of party affiliation.
4. Change of name.
5. Replacement of a voter information card.
6. Signature update.

(b) The department is responsible for printing the uniform statewide voter registration application and the voter registration application form prescribed by the Election Assistance Commission pursuant to federal law. The applications and forms must be distributed, upon request, to the following:

1. Individuals seeking to register to vote or update a voter registration record.

2. Individuals or groups conducting voter registration programs. A charge of 1 cent per application shall be assessed on requests for 10,000 or more applications.

3. The Department of Highway Safety and Motor Vehicles.
4. Voter registration agencies.
5. Armed forces recruitment offices.
6. Qualifying educational institutions.
7. Supervisors, who must make the applications and forms available in the following manner:
 - a. By distributing the applications and forms in their offices to any individual or group.
 - b. By distributing the applications and forms at other locations designated by each supervisor.
 - c. By mailing the applications and forms to applicants upon the request of the applicant.

(c) The uniform statewide voter registration application may be reproduced by any private individual or group, provided the reproduced application is in the same format as the application prescribed by rule under this section.

(2) The uniform statewide voter registration application must be designed to elicit the following information from the applicant:

- (a) Last, first, and middle name, including any suffix.
- (b) Date of birth.
- (c) Address of legal residence.
- (d) Mailing address, if different.
- (e) E-mail address and whether the applicant wishes to receive sample ballots by e-mail.
- (f) County of legal residence.
- (g) Race or ethnicity that best describes the applicant:
 1. American Indian or Alaskan Native.
 2. Asian or Pacific Islander.
 3. Black, not Hispanic.
 4. White, not Hispanic.
 5. Hispanic.
- (h) State or country of birth.
- (i) Sex.
- (j) Party affiliation.

- (k) Whether the applicant needs assistance in voting.
- (l) Name and address where last registered.
- (m) Last four digits of the applicant's social security number.
- (n) Florida driver license number or the identification number from a Florida identification card issued under s. [322.051](#).
- (o) An indication, if applicable, that the applicant has not been issued a Florida driver license, a Florida identification card, or a social security number.
- (p) Telephone number (optional).
- (q) Signature of applicant under penalty for false swearing pursuant to s. [104.011](#), by which the person subscribes to the oath required by s. 3, Art. VI of the State Constitution and s. [97.051](#), and swears or affirms that the information contained in the registration application is true.
- (r) Whether the application is being used for initial registration, to update a voter registration record, or to request a replacement voter information card.
- (s) Whether the applicant is a citizen of the United States by asking the question "Are you a citizen of the United States of America?" and providing boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.
- (t) Whether the applicant has been convicted of a felony, and, if convicted, has had his or her civil rights restored by including the statement "I affirm I am not a convicted felon, or, if I am, my rights relating to voting have been restored." and providing a box for the applicant to check to affirm the statement.
- (u) Whether the applicant has been adjudicated mentally incapacitated with respect to voting or, if so adjudicated, has had his or her right to vote restored by including the statement "I affirm I have not been adjudicated mentally incapacitated with respect to voting, or, if I have, my competency has been restored." and providing a box for the applicant to check to affirm the statement.

The registration application must be in plain language and designed so that convicted felons whose civil rights have been restored and persons who have been adjudicated mentally incapacitated and have had their voting rights restored are not required to reveal their prior conviction or adjudication.

- (3) The uniform statewide voter registration application must also contain:
 - (a) The oath required by s. 3, Art. VI of the State Constitution and s. [97.051](#).
 - (b) A statement specifying each eligibility requirement under s. [97.041](#).
 - (c) The penalties provided in s. [104.011](#) for false swearing in connection with voter registration.
 - (d) A statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and may be used only for voter registration purposes.
 - (e) A statement that informs the applicant who chooses to register to vote or update a voter registration record that the office at which the applicant submits a voter registration application or updates a voter registration record will remain confidential and may be used only for voter registration purposes.
 - (f) A statement informing an applicant who has not been issued a Florida driver license, a Florida identification card, or a social security number that if the application is submitted by mail and the applicant is registering for the first time in this state, the applicant will be required to provide identification prior to voting the first time.
- (4) A supervisor may produce a voter registration application that has the supervisor's direct mailing address if the department has reviewed the application and determined that it is substantially the same as the uniform statewide voter registration application.
- (5) The voter registration application form prescribed by the Election Assistance Commission pursuant to federal law or the federal postcard application must be accepted as an application for registration in this

state if the completed application or postcard application contains the information required by the constitution and laws of this state.

(6) If a voter registration applicant fails to provide any of the required information on the voter registration application form, the supervisor shall notify the applicant of the failure by mail within 5 business days after the supervisor has the information available in the voter registration system. The applicant shall have an opportunity to complete the application form to vote in the next election up until the book closing for that next election.

History.—s. 5, ch. 25391, 1949; s. 2, ch. 26870, 1951; s. 1, ch. 59-231; s. 8, ch. 65-134; s. 1, ch. 67-170; s. 8, ch. 69-377; ss. 10, 35, ch. 69-106; s. 2, ch. 72-63; s. 5, ch. 77-175; s. 23, ch. 84-302; s. 6, ch. 89-338; s. 10, ch. 94-224; s. 2, ch. 96-327; s. 26, ch. 97-13; s. 4, ch. 98-129; ss. 1, 7, ch. 2002-189; s. 3, ch. 2003-415; s. 4, ch. 2005-277; s. 5, ch. 2005-278; s. 1, ch. 2013-192.

Note.—Former s. 97.05; s. 98.111.

97.057 Voter registration by the Department of Highway Safety and Motor Vehicles. —

(1) The Department of Highway Safety and Motor Vehicles shall provide the opportunity to register to vote or to update a voter registration record to each individual who comes to an office of that department to:

- (a) Apply for or renew a driver license;
- (b) Apply for or renew an identification card pursuant to chapter 322; or
- (c) Change an address on an existing driver license or identification card.

(2) The Department of Highway Safety and Motor Vehicles shall:

(a) Notify each individual, orally or in writing, that:

- 1. Information gathered for the completion of a driver license or identification card application, renewal, or change of address can be automatically transferred to a voter registration application;
- 2. If additional information and a signature are provided, the voter registration application will be completed and sent to the proper election authority;
- 3. Information provided can also be used to update a voter registration record;
- 4. All declinations will remain confidential and may be used only for voter registration purposes; and
- 5. The particular driver license office in which the person applies to register to vote or updates a voter registration record will remain confidential and may be used only for voter registration purposes.

(b) Require a driver license examiner to inquire orally or, if the applicant is hearing impaired, inquire in writing whether the applicant wishes to register to vote or update a voter registration record during the completion of a driver license or identification card application, renewal, or change of address.

1. If the applicant chooses to register to vote or to update a voter registration record:

- a. All applicable information received by the Department of Highway Safety and Motor Vehicles in the course of filling out the forms necessary under subsection (1) must be transferred to a voter registration application.
- b. The additional necessary information must be obtained by the driver license examiner and must not duplicate any information already obtained while completing the forms required under subsection (1).
- c. A voter registration application with all of the applicant's voter registration information required to establish the applicant's eligibility pursuant to s. [97.041](#) must be presented to the applicant to review and verify the voter registration information received and provide an electronic signature affirming the accuracy of the information provided.

2. If the applicant declines to register to vote, update the applicant's voter registration record, or change the applicant's address by either orally declining or by failing to sign the voter registration application, the Department of Highway Safety and Motor Vehicles must note such declination on its records and shall forward the declination to the statewide voter registration system.

(3) For the purpose of this section, the Department of Highway Safety and Motor Vehicles, with the approval of the Department of State, shall prescribe:

- (a) A voter registration application that is the same in content, format, and size as the uniform statewide voter registration application prescribed under s. [97.052](#); and
- (b) A form that will inform applicants under subsection (1) of the information contained in paragraph (2) (a).

(4) The Department of Highway Safety and Motor Vehicles must electronically transmit completed voter registration applications within 24 hours after receipt to the statewide voter registration system. Completed paper voter registration applications received by the Department of Highway Safety and Motor Vehicles shall be forwarded within 5 days after receipt to the supervisor of the county where the office that processed or received that application is located.

(5) The Department of Highway Safety and Motor Vehicles must send, with each driver license renewal extension application authorized pursuant to s. [322.18](#)(8), a uniform statewide voter registration application, the voter registration application prescribed under paragraph (3)(a), or a voter registration application developed especially for the purposes of this subsection by the Department of Highway Safety and Motor Vehicles, with the approval of the Department of State, which must meet the requirements of s. [97.052](#).

(6) A person providing voter registration services for a driver license office may not:

- (a) Seek to influence an applicant's political preference or party registration;
- (b) Display any political preference or party allegiance;
- (c) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or
- (d) Disclose any applicant's voter registration information except as needed for the administration of voter registration.

(7) The Department of Highway Safety and Motor Vehicles shall collect data determined necessary by the Department of State for program evaluation and reporting to the Election Assistance Commission pursuant to federal law.

(8) The Department of Highway Safety and Motor Vehicles must ensure that all voter registration services provided by driver license offices are in compliance with the Voting Rights Act of 1965.

(9) The Department of Highway Safety and Motor Vehicles shall retain complete records of voter registration information received, processed, and submitted to the statewide voter registration system by the Department of Highway Safety and Motor Vehicles. These records shall be for the explicit purpose of supporting audit and accounting controls established to ensure accurate and complete electronic transmission of records between the statewide voter registration system and the Department of Highway Safety and Motor Vehicles.

(10) The department shall provide the Department of Highway Safety and Motor Vehicles with an electronic database of street addresses valid for use as the address of legal residence as required in s. [97.053](#)(5). The Department of Highway Safety and Motor Vehicles shall compare the address provided by the applicant against the database of valid street addresses. If the address provided by the applicant does not match a valid street address in the database, the applicant will be asked to verify the address provided. The Department of Highway Safety and Motor Vehicles shall not reject any application for voter registration for which a valid match cannot be made.

(11) The Department of Highway Safety and Motor Vehicles shall enter into an agreement with the department to match information in the statewide voter registration system with information in the database of the Department of Highway Safety and Motor Vehicles to the extent required to verify the accuracy of the driver license number, Florida identification number, or last four digits of the social security number provided on applications for voter registration as required in s. [97.053](#).

(12) The Department of Highway Safety and Motor Vehicles shall enter into an agreement with the Commissioner of Social Security as required by the Help America Vote Act of 2002 to verify the last four digits of the social security number provided in applications for voter registration as required in s. [97.053](#).

History.—s. 13, ch. 94-224; s. 2, ch. 2002-189; s. 9, ch. 2005-278; s. 3, ch. 2016-23.



Florida Voter Registration Application
Part 1 – Instructions (DS-DE 39, R1S-2.040, F.A.C.) (eff. 10/2013)

Información en español: Sirvase llamar a la oficina del supervisor de elecciones de su condado si le interesa obtener este formulario en español.

To Register in Florida, you must be:

- a U.S. citizen,
- a Florida resident,
- at least 18 years old (you may pre-register at 16 or 17, but cannot vote until you are 18).

If you have been convicted of a felony, or if a court has found you to be mentally incapacitated as to your right to vote, you cannot register until your right to vote is restored.

If you do not meet any ONE of these requirements, you are not eligible to register.

Questions?

Contact the Supervisor of Elections in your county:
dos.myflorida.com/elections/contacts/supervisor-of-elections
Visit the Florida Division of Elections' website at:
dos.myflorida.com/elections

CRIMINAL OFFENSE: It is a 3rd degree felony to submit false information. Maximum penalties are \$5,000 and/or 5 years in prison.

PUBLIC RECORD: Once filed, all information including your phone number and email address as provided become public record except for the following which can only be used for voter registration purposes: your FL DL#, FL ID#, SSN, where you registered to vote, and whether you declined to register or to update your voter registration record at a voter registration agency. Your signature can be viewed but not copied. (Section 97.0585, Fla. Stat.)

Where to Register: You can register to vote by completing this application and delivering it in person or by mail to any supervisor of elections' office, office that issues driver's licenses, or voter registration agency (public assistance office, center for independent living, office serving persons with disabilities, public library, or armed forces recruitment office) or the Division of Elections. Mailing addresses are on page 2 of this form.

Deadline to Register: The deadline to register to vote is 29 days before any election. You can update your registration record at any time, but for a Primary Election, party changes must be completed 29 days before that election. You will be contacted if your new application is incomplete, denied or a duplicate of an existing registration. Your Voter Information Card will be mailed to you once you are registered.

Identification (ID) Requirements: New applicants must provide a current and valid Florida driver's license number (FL DL#) or Florida identification card number (FL ID#). If you do not have a FL DL# or FL ID#, then you must provide the last four digits of your Social Security number (SSN). If you do not have any of these numbers, check "None." If you leave the field and box blank, your new registration may be denied. See section 97.053(6), Fla.Stat.

Special ID requirements: If you are registering by mail, have never voted in Florida, and have never been issued one of the ID numbers above, include one of the following with your application, or at a later time before you vote: 1) A copy of an ID that shows your name and photo (*acceptable IDs*—U.S. Passport, debit or credit card, military ID, student ID, retirement center ID, neighborhood association ID, or public assistance ID); or 2) A copy of an ID that shows your name and current residence address (*acceptable documents*—utility bill, bank statement, government check, paycheck, or other government document).

The special ID is not required if you are 65 or older, have a temporary or permanent physical disability, are a member of the active uniformed services or merchant marine who is absent from the county for active duty, or a spouse or dependent thereof, or are currently living outside the U.S. but otherwise eligible to vote in Florida.

Political Party Affiliation: Florida is a closed primary election state. In primary elections, registered voters can only vote for their registered party's candidates in a partisan race on the ballot. In a primary election, all registered voters, regardless of party affiliation, can vote on any issue, nonpartisan race, and race where a candidate faces no opposition in the General Election. If you do not indicate your party affiliation, you will be registered with no party affiliation. For a list of political parties, visit the Division of Elections' website at: dos.myflorida.com/elections

Race/Ethnicity: It is optional to list your race or ethnicity.

Boxes: Please check boxes (☐) where applicable.

Numbered rows 1 through 7 and 12 must be completed for a new registration.



Florida Voter Registration Application

Part 2 – Form (DS-DE #39, R1S-2.040, F.A.C.) (eff. 10/2013)

The downloadable/printable online form is available at:

dos.myflorida.com/elections/for-voters/voter-registration

This is: ☐ New Registration ☐ Record Update/Change (e.g., Address, Party Affiliation, Name, Signature) ☐ Request to Replace Voter Information Card

1	Are you a citizen of the United States of America? <input type="checkbox"/> YES <input type="checkbox"/> NO				OFFICIAL USE ONLY				
2	<input type="checkbox"/> I affirm that I am not a convicted felon, or if I am, my right to vote has been restored.								
3	<input type="checkbox"/> I affirm that I have not been adjudicated mentally incapacitated with respect to voting or, if I have, my right to vote has been restored.								
4	Date of Birth (MM-DD-YYYY) <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>				FVRS No:				
5	Florida Driver License (FL DL) or Florida identification (FL ID) Card Number <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>				If <u>no</u> FL DL or FL ID, then provide <input type="text"/>		Last 4 digits of Social Security Number <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		<input type="checkbox"/> I have NONE of these numbers.
6	Last Name <input type="text"/>		First Name <input type="text"/>		Middle Name <input type="text"/>		Name Suffix (Jr., Sr., I, II, etc.): <input type="text"/>		
7	Address Where You Live (legal residence-no P.O. Box) <input type="text"/>		Apt/Lot/Unit <input type="text"/>	City <input type="text"/>		County <input type="text"/>		Zip Code <input type="text"/>	
8	Mailing Address (if different from above address) <input type="text"/>		Apt/Lot/Unit <input type="text"/>	City <input type="text"/>		State or Country <input type="text"/>		Zip Code <input type="text"/>	
9	Address Where You Were Last Registered to Vote <input type="text"/>		Apt/Lot/Unit <input type="text"/>	City <input type="text"/>		State <input type="text"/>		Zip Code <input type="text"/>	
10	Former Name (if name is changed) <input type="text"/>		Gender <input type="checkbox"/> M <input type="checkbox"/> F	State or Country of Birth <input type="text"/>		Telephone No. (optional) (<input type="text"/>) <input type="text"/>			
11	<input type="checkbox"/> Email me SAMPLE BALLOTS if option is available in my county. (See Public Record Notice above) My email address is: <input type="text"/>								
Party Affiliation (Check only one. If left blank, you will be registered without party affiliation) <input type="checkbox"/> Florida Democratic Party <input type="checkbox"/> Republican Party of Florida <input type="checkbox"/> No party affiliation <input type="checkbox"/> Minor party (print party name): <input type="text"/>		Race/Ethnicity (Check only one) <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Black, <i>not of</i> Hispanic Origin <input type="checkbox"/> Hispanic <input type="checkbox"/> White, <i>not of</i> Hispanic Origin <input type="checkbox"/> Multi-racial <input type="checkbox"/> Other: <input type="text"/>		(Check only one if applicable) <input type="checkbox"/> I am an active duty Uniformed Services or Merchant Marine member <input type="checkbox"/> I am a spouse or a dependent of an active duty uniformed services or merchant marine member <input type="checkbox"/> I am a U.S. citizen residing outside the U.S.				<input type="checkbox"/> I will need assistance with voting. <input type="checkbox"/> I am interested in becoming a poll worker.	
12	Oath: I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that all information provided in this application is true.			SIGN/MARK HERE				Date <input type="text"/>	

**Address your envelope to
your County Supervisor of
Elections. (Updated 7/2016)**

ALACHUA COUNTY

Supervisor of Elections
515 N Main Street, Suite 300
Gainesville FL 32601-6819
352-374-5252

BAKER COUNTY

Supervisor of Elections
PO Box 505
MacClenny FL 32063-0505
904-259-6339

BAY COUNTY

Supervisor of Elections
830 W. 11th St.
Panama City FL 32401
850-784-6100

BRADFORD COUNTY

Supervisor of Elections
PO Box 58
Starke FL 32091-0058
904-966-6266

BREVARD COUNTY

Supervisor of Elections
PO Box 410819
Melbourne FL 32941-0819
321-633-2124

BROWARD COUNTY

Supervisor of Elections
PO Box 029001
Fort Lauderdale FL 33302
954-357-7050

CALHOUN COUNTY

Supervisor of Elections
20859 Central Ave. E., Rm 117
Blountstown FL 32424-2264
850-674-8568

CHARLOTTE COUNTY

Supervisor of Elections
226 Taylor Street, Unit 120
Punta Gorda FL 33950
941-833-5400

CITRUS COUNTY

Supervisor of Elections
120 N. Apopka Ave.
Inverness FL 34450-4238
352-341-6740

CLAY COUNTY

Supervisor of Elections
PO Box 337
Green Cove Springs FL 32043-0337
904-269-6350

COLLIER COUNTY

Supervisor of Elections
Rev. Dr. MLK Jr. Bldg.
3750 Enterprise Ave.
Naples FL 34104
239-252-VOTE (8683)

COLUMBIA COUNTY

Supervisor of Elections
971 W. Duval St., Suite 102
Lake City FL 32055-3734
386-758-1026

DESOTO COUNTY

Supervisor of Elections
PO Box 89
Arcadia FL 34265-4451
863-993-4871

DIXIE COUNTY

Supervisor of Elections
PO Box 2057
Cross City FL 32628-2057
352-498-1216

DUVAL COUNTY

Supervisor of Elections
105 E. Monroe St.
Jacksonville FL 32202-3215
904-630-1414

ESCAMBIA COUNTY

Supervisor of Elections
PO Box 12601
Pensacola FL 32591-2601
850-595-3900

FLAGLER COUNTY

Supervisor of Elections
PO Box 901
Bunnell FL 32110-0901
386-313-4170

FRANKLIN COUNTY

Supervisor of Elections
47 Ave. F
Apalachicola FL 32320-2311
850-653-9520

GADSDEN COUNTY

Supervisor of Elections
PO Box 186
Quincy FL 32353
850-627-9910

GILCHRIST COUNTY

Supervisor of Elections
112 S. Main St., Room 128
Trenton FL 32693-3249
352-463-3194

GLADES COUNTY

Supervisor of Elections
PO Box 668
Moore Haven FL 33471-0668
863-946-6005

GULF COUNTY

Supervisor of Elections
401 Long Ave.
Port St. Joe FL 32456-1707
850-229-6117

HAMILTON COUNTY

Supervisor of Elections
1153 US Hwy. 41 NW, Suite 1
Jasper FL 32052-5856
386-792-1426

HARDEE COUNTY

Supervisor of Elections
311 N. 6th Ave.
Wauchula FL 33873-2361
863-773-6061

HENDRY COUNTY

Supervisor of Elections
PO Box 174
LaBelle FL 33975-0174
863-675-5230

HERNANDO COUNTY

Supervisor of Elections
20 N. Main St., Room 165
Brooksville FL 34601-2864
352-754-4125

HIGHLANDS COUNTY

Supervisor of Elections
PO Box 3448
Sebring FL 33871-3448
863-402-6655

HILLSBOROUGH COUNTY

Supervisor of Elections
2514 N. Falkenburg Rd.
Tampa FL 33619-0917
813-744-5900

HOLMES COUNTY

Supervisor of Elections
201 N. Oklahoma St., Suite 102
Bonifay FL 32425-2243
850-547-1107

INDIAN RIVER COUNTY

Supervisor of Elections
4375 43rd Ave.
Vero Beach FL 32967-1024
772-226-3440

JACKSON COUNTY

Supervisor of Elections
PO Box 6046
Marianna FL 32447-6046
850-482-9652

JEFFERSON COUNTY

Supervisor of Elections
380 W. Dogwood St.
Monticello FL 32344-1470
850-997-3348

LAFAYETTE COUNTY

Supervisor of Elections
PO Box 76
Mayo FL 32066-0076
386-294-1261

LAKE COUNTY

Supervisor of Elections
PO Box 457
Tavares FL 32778-0457
352-343-9734

LEE COUNTY

Supervisor of Elections
PO Box 2545
Fort Myers FL 33902-2545
239-533-VOTE (8683)

LEON COUNTY

Supervisor of Elections
PO Box 7357
Tallahassee FL 32314-7357
850-606-VOTE (8683)

LEVY COUNTY

Supervisor of Elections
421 S. Court St.
Bronson FL 32621-6520
352-486-5163

LIBERTY COUNTY

Supervisor of Elections
PO Box 597
Bristol FL 32321-0597
850-643-5226

MADISON COUNTY

Supervisor of Elections
239 SW Pinckney St.
Madison FL 32340
850-973-6507

MANATEE COUNTY

Supervisor of Elections
PO Box 1000
Bradenton FL 34206-1000
941-741-3823

MARION COUNTY

Supervisor of Elections
PO Box 289
Ocala FL 34478-0289
352-620-3290

MARTIN COUNTY

Supervisor of Elections
PO Box 1257
Stuart FL 34995-1257
772-288-5637

MIAMI-DADE COUNTY

Supervisor of Elections
Attn: Registration
PO Box 521550
Miami FL 33152-1550
305-499-VOTE (8683)

MONROE COUNTY

Supervisor of Elections
530 Whitehead St., Suite 101
Key West FL 33040-6577
305-292-3416

NASSAU COUNTY

Supervisor of Elections
96135 Nassau Place, Suite 3
Yulee FL 32097-8635
904-491-7500

OKALOOSA COUNTY

Supervisor of Elections
302 Wilson St. N., Suite 102
Crestview FL 32536-3440
850-689-5600

OKEECHOBEE COUNTY

Supervisor of Elections
304 NW 2nd St., Room 144
Okeechobee FL 34972-4120
863-763-4014

ORANGE COUNTY

Supervisor of Elections
PO Box 562001
Orlando FL 32856-2001
407-836-2070

OSCEOLA COUNTY

Supervisor of Elections
2509 E. Irlo Bronson Memorial Hwy.
Kissimmee FL 34744-4909
407-742-6000

PALM BEACH COUNTY

Supervisor of Elections
PO Box 22309
West Palm Beach FL 33416-2309
561-656-6200

PASCO COUNTY

Supervisor of Elections
PO Box 300
Dade City FL 33526-0300
1-800-851-8754

PINELLAS COUNTY

Supervisor of Elections
13001 Starkey Road
Largo FL 33773-1416
727-464-VOTE (8683)

POLK COUNTY

Supervisor of Elections
PO Box 1460
Bartow FL 33831-1460
863-534-5888

PUTNAM COUNTY

Supervisor of Elections
2509 Crill Ave., Suite 900
Palatka FL 32177-4267
386-329-0224

SANTA ROSA COUNTY

Supervisor of Elections
6495 Caroline St., Suite F
Milton FL 32570-4592
850-983-1900

SARASOTA COUNTY

Supervisor of Elections
PO Box 4194
Sarasota FL 34230-4194
941-861-8600

SEMINOLE COUNTY

Supervisor of Elections
PO Box 1479
Sanford FL 32772-1479
407-585-VOTE (8683)

ST. JOHNS COUNTY

Supervisor of Elections
4455 Ave. A, Suite 101
St. Augustine FL 32095-5200
904-823-2238

ST. LUCIE COUNTY

Supervisor of Elections
4132 Okeechobee Road
Fort Pierce FL 34947
772-462-1500

SUMTER COUNTY

Supervisor of Elections
900 N. Main St.
Bushnell FL 33513-5008
352-569-1540

SUWANNEE COUNTY

Supervisor of Elections
220 Pine Ave. SW
Live Oak FL 32064-2315
386-362-2616

TAYLOR COUNTY

Supervisor of Elections
PO Box 1060
Perry FL 32348-1060
850-838-3515

UNION COUNTY

Supervisor of Elections
175 W. Main St.
Lake Butler FL 32054
386-496-2236

VOLUSIA COUNTY

Supervisor of Elections
125 W. New York Ave.
DeLand FL 32720-5415
386-736-5930

WAKULLA COUNTY

Supervisor of Elections
PO Box 305
Crawfordville FL 32326-0305
850-926-7575

WALTON COUNTY

Supervisor of Elections
571 US Hwy. 90 East, Suite 102
DeFuniak Springs FL 32433-1378
850-892-8112

WASHINGTON COUNTY

Supervisor of Elections
1331 South Blvd., Suite 900
Chipley FL 32428-2233
850-638-6230

101.043 Identification required at polls.—

(1)(a) The precinct register, as prescribed in s. [98.461](#), shall be used at the polls for the purpose of identifying the elector at the polls before allowing him or her to vote. The clerk or inspector shall require each elector, upon entering the polling place, to present one of the following current and valid picture identifications:

1. Florida driver license.
2. Florida identification card issued by the Department of Highway Safety and Motor Vehicles.
3. United States passport.
4. Debit or credit card.
5. Military identification.
6. Student identification.
7. Retirement center identification.
8. Neighborhood association identification.
9. Public assistance identification.
10. Veteran health identification card issued by the United States Department of Veterans Affairs.
11. A license to carry a concealed weapon or firearm issued pursuant to s. [790.06](#).
12. Employee identification card issued by any branch, department, agency, or entity of the Federal Government, the state, a county, or a municipality.

(b) If the picture identification does not contain the signature of the elector, an additional identification that provides the elector's signature shall be required. The address appearing on the identification presented by the elector may not be used as the basis to confirm an elector's legal residence or otherwise challenge an elector's legal residence. The elector shall sign his or her name in the space provided on the precinct register or on an electronic device provided for recording the elector's signature. The clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided on the precinct register or on an electronic device provided for that purpose and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector.

(c) When an elector presents his or her picture identification to the clerk or inspector and the elector's address on the picture identification matches the elector's address in the supervisor's records, the elector may not be asked to provide additional information or to recite his or her home address.

(2) If the elector fails to furnish the required identification, the elector shall be allowed to vote a provisional ballot. The canvassing board shall determine the validity of the ballot pursuant to s. [101.048](#)(2).

History.—s. 1, ch. 77-267; s. 533, ch. 95-147; s. 10, ch. 98-129; s. 3, ch. 2001-40; s. 13, ch. 2003-415; s. 23, ch. 2005-277; s. 30, ch. 2005-278; s. 26, ch. 2007-30; s. 25, ch. 2011-40; s. 2, ch. 2016-167.

Note.—Former s. 98.471.

944.605 Inmate release; notification; identification card.—

(1) Within 6 months before the release of an inmate from the custody of the Department of Corrections or a private correctional facility by expiration of sentence under s. [944.275](#), any release program provided by law, or parole under chapter 947, or as soon as possible if the offender is released earlier than anticipated, notification of such anticipated release date shall be made known by the Department of Corrections to the chief judge of the circuit in which the offender was sentenced, the appropriate state attorney, the original arresting law enforcement agency, the Department of Law Enforcement, and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside. In addition, unless otherwise requested by the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, the state attorney or the Department of Corrections, whichever is appropriate, shall notify such person within 6 months before the inmate's release, or as soon as possible if the offender is released earlier than anticipated, when the name and address of such victim, or the name and address of the parent, guardian, next of kin, or lawful representative of the victim has been furnished to the agency. The state attorney shall provide the latest address documented for the victim, or for the victim's parent, guardian, next of kin, or lawful representative, as applicable, to the sheriff with the other documents required by law for the delivery of inmates to those agencies for service of sentence. Upon request, within 30 days after an inmate is approved for community work release, the state attorney, the victim, the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, or the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor shall be notified that the inmate has been approved for community work release. This section does not imply any repeal or modification of any provision of law relating to notification of victims.

(2) Within 60 days before the anticipated release of an inmate under subsection (1), a digitized photograph of the inmate to be released shall be made by the Department of Corrections or a private correctional facility, whichever has custody of the inmate. If a private correctional facility makes the digitized photograph, this photograph shall be provided to the Department of Corrections. Additionally, the digitized photograph, whether made by the Department of Corrections or a private correctional facility, shall be placed in the inmate's file. The Department of Corrections shall make the digitized photograph available electronically to the Department of Law Enforcement as soon as the digitized photograph is in the department's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center. The department shall provide a copy of the digitized photograph to a local law enforcement agency upon request.

(3)(a) If an inmate is to be released after having served one or more sentences for a conviction of robbery, sexual battery, home-invasion robbery, or carjacking, or an inmate to be released has a prior conviction for robbery, sexual battery, home-invasion robbery, or carjacking or similar offense, in this state or in another jurisdiction, and if such prior conviction information is contained in department records, the department shall release to the sheriff of the county in which the inmate plans to reside, and, if the inmate plans to reside within a municipality, to the chief of police of that municipality, the following information, which must include, but need not be limited to:

1. Name.
2. Social security number.
3. Date of birth.
4. Race.
5. Sex.
6. Height.

7. Weight.
8. Hair and eye color.
9. Tattoos or other identifying marks.
10. Fingerprints.
11. A digitized photograph as provided in subsection (2).

The department shall release the information specified in this paragraph within 6 months prior to the discharge of the inmate from the custody of the department.

(b) The department may electronically submit the information listed in paragraph (a) to the sheriff of the county in which the inmate plans to reside, and, if the inmate plans to reside within a municipality, to the chief of police of that municipality.

(4) An inmate who refuses to submit to the taking of a digitized photograph commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(5) The department shall, at least 10 days before the anticipated date of release on work release of an inmate, notify in writing the county law enforcement agency in the county in this state in which the inmate is scheduled to be released.

(6) Upon request of the victim, the personal representative of the victim, or the state attorney, the department shall notify the requesting person when an inmate has been approved for community work release within 30 days after the date of approval.

(7)(a) The department, working in conjunction with the Department of Health and the Department of Highway Safety and Motor Vehicles, shall provide every Florida-born inmate with a certified copy of his or her birth certificate and a state identification card before the inmate's release upon expiration of his or her sentence. A replacement driver license shall be provided in lieu of a state identification card when an inmate has a valid state driver license issued by the Department of Highway Safety and Motor Vehicles which was lost, stolen, or destroyed.

(b) Paragraph (a) does not apply to inmates who:

1. The department determines have a valid driver license or state identification card, except that the department shall provide these inmates with a replacement state identification card or replacement driver license, if necessary.
2. Have an active detainer, unless the department determines that cancellation of the detainer is likely or that the incarceration for which the detainer was issued will be less than 12 months in duration.
3. Are released due to an emergency release or a conditional medical release under s. [947.149](#).
4. Are not in the physical custody of the department at or within 180 days before release.
5. Are subject to sex offender residency restrictions, and who, upon release under such restrictions, do not have a qualifying address.

(c) The department shall assist each inmate in applying for and obtaining a social security card before release if the inmate needs a social security card.

(d) The department, for purposes of assisting the inmate in obtaining a birth certificate, shall submit to the Department of Health on all Florida-born inmates in its custody, the department's inmate photo or digitized photo, and as provided by the inmate his or her date of birth, full name at birth and any subsequent legal name changes, city or county of birth, mother's full name including her maiden surname, and father's full name.

(e) For inmates born outside of this state, the department shall assist the inmate in completing the necessary forms or applications to obtain a social security card, driver license, or state identification card. The department shall also provide the inmate with the location and address of the appropriate licensing

authority the inmate will need to obtain a valid identification card in proximity to the inmate's release address.

(f) The department shall, as part of its annual report, provide a report that identifies the number of inmates released with and without identification cards, identifies any impediments in the implementation of this subsection, and provides recommendations to improve obtaining release documents and identification cards for all inmates.

History.—s. 3, ch. 85-107; s. 9, ch. 88-96; s. 54, ch. 88-122; s. 1, ch. 91-65; s. 22, ch. 91-225; s. 2, ch. 92-76; s. 35, ch. 96-312; s. 10, ch. 97-299; s. 9, ch. 98-81; s. 3, ch. 2001-124; s. 1, ch. 2001-209; s. 9, ch. 2010-64; s. 4, ch. 2014-193.

Tab 3

**Florida State Agency
Reports**



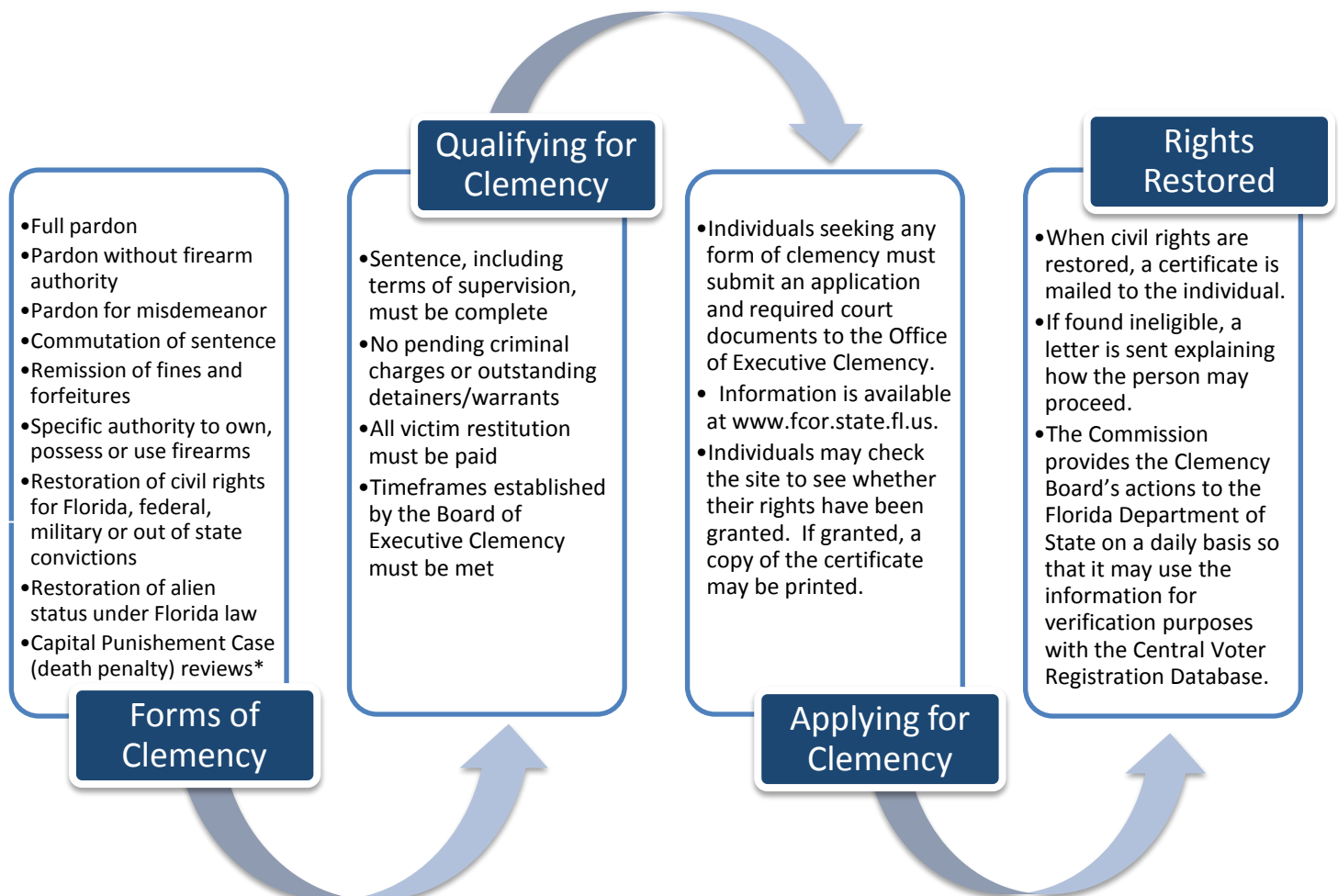
FLORIDA COMMISSION ON OFFENDER REVIEW

SERVING THE CITIZENS OF FLORIDA SINCE 1941

Executive Clemency Timeline: 1991-2015

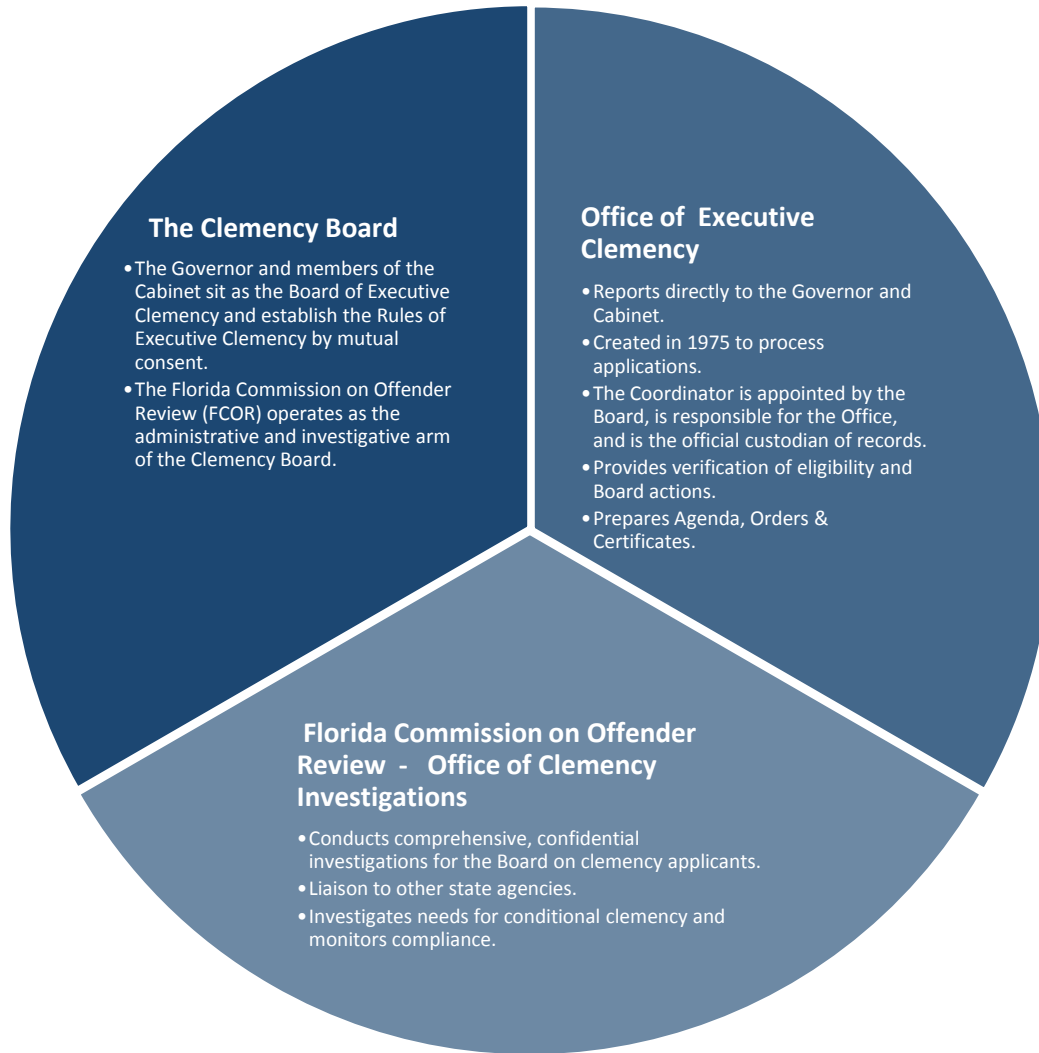
CLEMENCY - Under the Florida Constitution, a person convicted of a felony loses the right to vote, serve on a jury, hold public office, and possess a firearm.

Clemency is the constitutionally authorized process that provides the means through which convicted felons may be considered for relief from punishment and seek restoration of their civil rights. The clemency function is an act of mercy that absolves an individual from all, or any part, of the punishment that the law imposes. This is a power to grant full or conditional pardons, or commute punishment. There are rules for these procedures, and these powers to grant clemency are vested in the Governor with the agreement of two Cabinet members who are also statewide elected officials. The Governor also has the sole power to deny clemency.



*Capital Punishment Clemency Cases follow a different qualifying and application process. For more information visit <https://www.fcor.state.fl.us/clemencyOverview.shtml>

Clemency Administration





2011- Present - Governor Scott's Administration

- Under Governor Scott's Administration, The Florida Board of Executive Clemency amended the Rules of Executive Clemency (Rules), which became effective on March 9, 2011.
- The Rule changes resulted in the redesign of the application, related instructional information, and website content.
- Felons seeking to have their rights restored must complete a five (5) or seven (7) year waiting period upon completion of the sentence to become eligible.
- >>>more info



2007-2010 - Governor Crist's Administration

- Under Governor Crist's Administration, Rule revisions were made effective on April 5, 2007.
- For restoration of civil rights, the Board implemented Rules which designated three levels of eligibility based upon the severity of offense for exoffenders who had completed their sentences or supervision and paid all restitution.
- >>>more info



1999-2006 - Governor Bush's Administration

- Under Governor Bush's Administration, Rule revisions were made effective January 1, 2000.
- The Board amended the rule on the restoration of civil rights to add a list of disqualifying crimes and new language stating that restoration of civil rights does not relieve a person from the registration, notification requirements, or any other obligations and restrictions imposed by law upon sexual predators or sexual offenders.
- >>>more info



1991-1998 - Governor Chiles' Administration

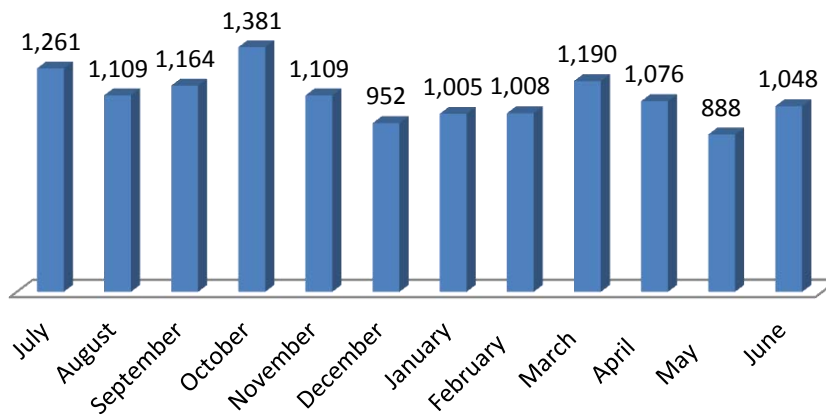
- Under Governor Chiles' Administration, Rule revisions were made effective January 1992.
- The Board expanded the Commission's duties to allow capital case inmates to receive interviews by panels of three commissioners and created a waiver procedure for female inmates to be evaluated by special panels if they met criteria to claim they were victims of the "battered woman syndrome." Requests for clemency increased due to more inmates being ineligible for any other form of early release consideration.
- >>>more info

Recent Activity

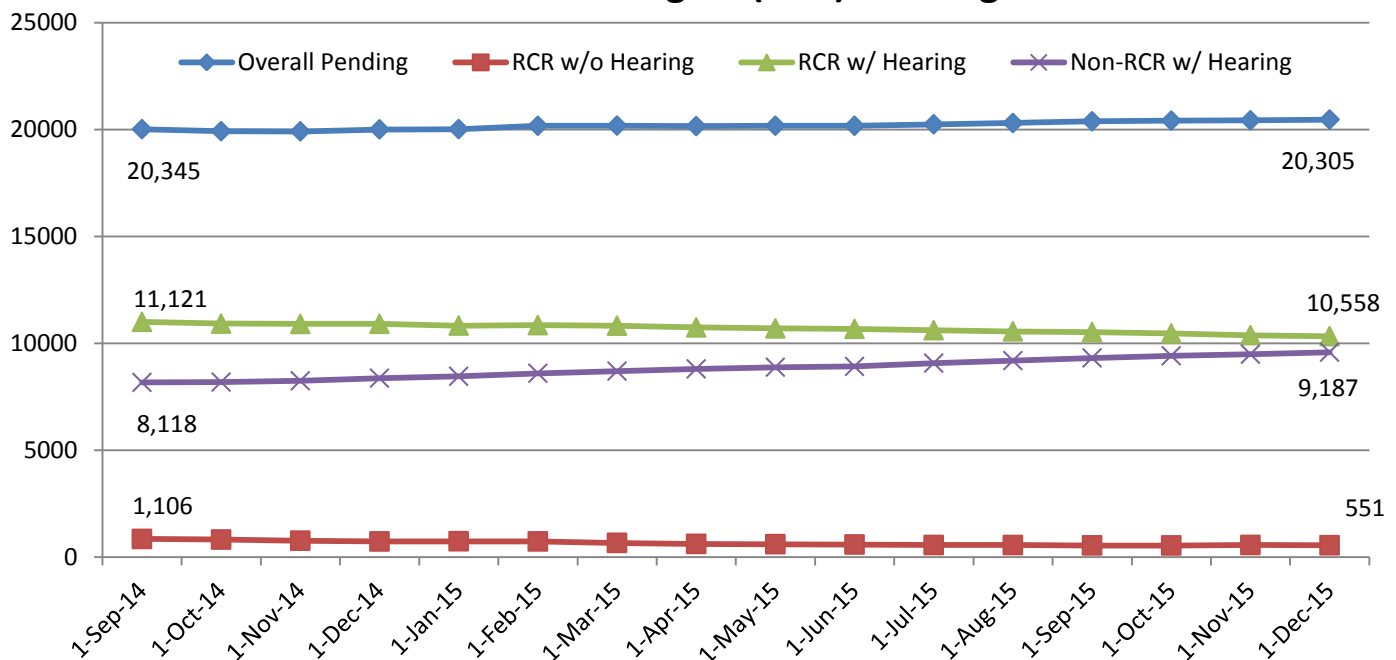
Customer Service

- Stakeholders are provided updates of the most current information by phone and email.
- FCOR staff is trained to assist the public efficiently and courteously.
- Applicants are informed of their eligibility in timely manner.
- FCOR Website (*as of September 2015*): Searches for Restoration of Civil Rights: 1,123,585; RCR Certificates Located: 129,403; RCR Certificates Printed 78,457; RCR Certificates Available: 376,648.

Executive Clemency Toll Free Line Calls Received FY 2014-15



Restoration of Civil Rights (RCR) Pending Cases



Funding

- Additional \$350,000 in recurring OPS General Revenue funds for clemency received in 2012 Legislative Session.
- Additional \$25,000 in non-recurring OPS General Revenue funds for clemency received in 2013 Legislative Session.
- Nine additional full-time clemency employees (FTEs), \$46,500 increase in OPS funds for clemency phone operators, and \$125,000 in contracted services funding to manage clemency for capital case proceedings received in 2014 Legislative Session.

Victims' Services

- Identifies, locates and contacts victims of record by working with State Attorneys and the Attorney General's Victims' Services Office.
- Provides guidance, support and assistance to victims and victim's family members throughout the clemency process and at Clemency Hearings.

2011- Present Governor Scott's Administration

- Under Governor Scott's Administration, the Florida Board of Executive Clemency amended the Rules of Executive Clemency (Rules), which became effective on March 9, 2011.
- The Rule changes resulted in the redesign of the application, related instructional information, and website content.
- Felons seeking to have their rights restored must complete a five (5) or seven (7) year waiting period upon completion of the sentence to become eligible.
- In 2011, the *Jim King Keep Florida Working Act* was established to allow offenders lacking civil rights the ability to apply for a license, permit, certificate, or employment. As a safeguard, the Act specified exemptions for positions deemed to be critical to security or public safety, law enforcement agencies, and correctional agencies.

Restoration of Civil Rights (RCR) cases are now classified as follows: *Without a Hearing* (Rule 9.A.) and *With a Hearing* (Rule 10.A.). *Without a Hearing* investigations are those where offenders are eligible for consideration only after five (5) years have passed since the date of completion of all sentences and conditions of supervision imposed for all felony convictions, if no crimes have been committed and if the applicant has not been arrested for a misdemeanor or felony for the five (5) years prior to the date the application is being reviewed. *With a Hearing* investigations are those where offenders are eligible for consideration only after seven (7) years have passed since the date of completion of all sentences and conditions of supervision imposed for all felony convictions.

Clemency Funding Summary

Under Governor Scott's administration, an additional \$350,000 in recurring OPS General Revenue funds for Clemency were received in 2012 Legislative Session. And an additional \$25,000 in non-recurring OPS General Revenue funds for Clemency were received in 2013 Legislative Session. In 2014 Legislative Session, clemency funding included nine additional full-time clemency employees (FTEs), \$46,500 increase in OPS funds for clemency phone operators, and \$125,000 in contracted services funding to manage clemency for capital case proceedings. In fiscal year 2015-16, the Commission received additional funding in the amount of \$153,537 for capital clemency counsel services for a total funding of \$250,000.

2007-2010 Governor Crist's Administration

- Under Governor Crist's Administration, Rule revisions were made effective on April 5, 2007.
- For restoration of civil rights, the Board implemented Rules which designated three levels of eligibility based upon the severity of offense for exoffenders who had completed their sentences or supervision and paid all restitution.

Cases were sent electronically to the Commission (Clemency Investigations Office) by the Florida Department of Corrections (Department) based on offenders either ending their prison sentence (EOS) or being terminated from community supervision (TOS). An eligibility review was conducted by the Commission for these electronic requests and if deemed eligible, the case was placed on an Executive Order and submitted to the Board for signature. If found ineligible, the person was notified and told of the process to request a hearing. **This amended process did not eliminate the requirements that the exoffender must still be reviewed for eligibility, deemed eligible, then placed on an Executive Order for signature of the Clemency Board.** Once the order was signed, certificates were mailed to persons granted restoration of civil rights. Applications were also being submitted and reviewed for persons who had been released from incarceration or terminated supervision previously, had Federal, military or out-of-state convictions and now reside in Florida or were requesting other forms of clemency.

The amended Rules designated three levels of eligibility for the Restoration of Civil Rights: The persons eligible for Level I approval were those convicted of less serious offenses such as Grand Theft, Burglary of a Dwelling, Possession of Firearm by Convicted Felon; Robbery (No Deadly Weapon); Felony DUI; and Sale of a Controlled Substance. The cases were reviewed for eligibility and placed on an executive order for signature by the Board. These cases still required the Commission to conduct an eligibility review and required approval by the Board. Once the order was signed, certificates were mailed to the persons granted restoration of civil rights.

Those offenders convicted of more serious offenses such as Aggravated Battery/Assault, Trafficking in Cocaine, Aggravated Stalking, Kidnapping/False Imprisonment or designated as a Three-Time Violent Felony Offender, were eligible for a Level II review for restoration of civil rights without a hearing. An investigation was required on these cases, with the information forwarded to the Board for a 30-day review. If approved by the Board, the names of the offenders found eligible were placed on an executive order for signature by the Board and restoration of civil rights certificates were mailed to those persons once the order was signed.

Persons convicted of the most serious offenses such as Murder/Manslaughter, Sexual Battery, Aggravated Child Abuse, or persons designated as Sexual Predators required a more in-depth investigation for restoration of civil rights with a hearing as a Level III case.

Clemency Funding Summary

The streamlining of the clemency RCR process by the Governor and Cabinet in April 2007 created a greater clemency workload for the Commission. In 2008-2009, due to an economic downturn and statewide budget challenges, the Commission's budget was reduced by 20% with reductions made primarily in the clemency staffing area.

1999-2006 Governor Bush's Administration

- Under Governor Bush's Administration, Rule revisions were made effective January 1, 2000.
- The Board amended the rule on the restoration of civil rights to add a list of disqualifying crimes and new language stating that restoration of civil rights does not relieve a person from the registration, notification requirements, or any other obligations and restrictions imposed by law upon sexual predators or sexual offenders.

In June 2001, the rule on Restoration of Civil Rights (RCR) was amended to: eliminate owing outstanding monetary obligations excluding restitution as a disqualifier; eliminate having more than two felony convictions as a disqualifier for RCR without a hearing; and offenders including habitual felony offenders, habitual violent felony offenders, three-time violent felony offenders, violent career criminals, and prison release re-offenders were required to have a hearing before the Clemency Board.

“Lawsuit” Cases and Clemency Funding: In 2002, a lawsuit filed against the Florida Department of Corrections by the Florida Conference of Black State Legislators resulted in an additional 155,000 RCR cases being reviewed by the Commission, substantially impacting the workload of the Office of Executive Clemency and the Office of Clemency Investigations.

Bush Lawsuit Cases’ Implementation Plan: In a letter dated December 14, 2001, Governor Bush directed the Office of Executive Clemency to implement a plan to provide the clemency application form to all prison or community supervision releases. This plan required the Department to submit to the Commission a monthly computer-generated list of offenders being released from prison (EOS – expiration of sentence) and offenders being terminated from supervision (TOS) who might be eligible for restoration of civil rights without a hearing. Data regarding these individuals was then downloaded into the Commission’s clemency database. This process ensured that all offenders would be notified of their eligibility or ineligibility for RCR without a hearing.

Computer generated “EOS/TOS” lists provides the names of offenders determined eligible for RCR without a hearing were forwarded to the Board of Executive Clemency for approval and then notified of the Board’s action. Offenders determined ineligible from the computer-generated lists were provided a hard-copy application and instructions regarding further consideration of restoration of their civil rights. The names of individuals determined eligible for RCR without a hearing were electronically placed on a list for submission to the Clemency Board. If the Board review did not result in objection by the Board, the names were electronically placed on an Executive Order and submitted to the Board for signature. Once the Executive Order was signed, certificates were electronically generated. If the Board objected to RCR without a hearing, the individual was notified. All lawsuit cases were completed June 2004.

Governor Bush’s Paperless RCR Initiative Beginning in July 2004, Governor Bush eliminated the use of a paper application and persons seeking to have their civil rights restored could call, send a letter to the Office of Executive Clemency, send an e-mail, or fill out a data information form directly online at the Commission’s website.

On December 9, 2004, the rule on the restoration of civil rights was revised to: eliminate a Board hearing provision that individuals who have been granted RCR or a pardon in the past 10 years be required to have a hearing before the Board. Allow individuals with certain disqualifying convictions to be eligible for RCR Without a Hearing if they remained crime-free for a period of five years after completion of all sentences; and allow any individual, regardless of the nature of any conviction, to be eligible for RCR Without a Hearing if they remained crime-free for a period of 15 years after completion of all sentences.

Clemency Funding Summary

As a result of the lawsuit cases, Governor Bush recognized the seriousness of the situation and recommended funding for additional clemency positions to help reduce the pending cases. The Legislature agreed and provided funding for 14 Parole Examiner positions for FY 2003-04. With the additional positions, these “lawsuit” cases were completed by mid-June 2004. The Legislature then reduced the 14 Parole Examiner positions by 10. This was the last funding for positions for clemency provided by the Legislature to the Commission until the 2012 Legislative Session, wherein the General Appropriations Act provided \$350,000 in recurring annual general revenue OPS funds for FY 2012-13 for the reduction of the RCR Without a Hearing pending cases.

1991-1998 Governor Chiles' Administration

- Under Governor Chiles' Administration, Rule revisions were made effective January 1992.
- The Board expanded the Commission's duties to allow capital case inmates to receive interviews by panels of three commissioners and created a waiver procedure for female inmates to be evaluated by special panels if they met criteria to claim they were victims of the "battered woman syndrome." Requests for clemency increased due to more inmates being ineligible for any other form of early release consideration.

In 1991-92, the clemency workload was adversely affected by the State's budget crisis and worked much of the year with positions either frozen or eliminated. A backlog in pending applications resulted in decreases in some workload categories.

Clemency Funding Summary

The Commission experienced budget cuts in FY 1990-91 of \$895,238 and 28 positions. The adjusted annual budget for FY 1990-91 was \$7,799,264. One professional position in Clemency Investigations was reduced and 27 positions eliminated in the revocation function as a result of budget cuts. A majority of the Commission's budget was allocated to the control release function.



FLORIDA COMMISSION ON OFFENDER REVIEW

MELINDA N. COONROD
Commissioner/Chairman

RICHARD D. DAVISON
Commissioner/Vice-Chair

DAVID A. WYANT
Commissioner/Secretary

75 YEARS OF
SERVICE EXCELLENCE
1941-2016

July 1, 2016

The Honorable Rick Scott, Governor
The Honorable Pam Bondi, Attorney General
The Honorable Jeff Atwater, Chief Financial Officer
The Honorable Adam Putnam, Commissioner of Agriculture

Dear Governor Scott, General Bondi, CFO Atwater, and Commissioner Putnam:

Pursuant to the Rules of Executive Clemency, attached is the sixth annual report required by Rule 18 - "Collection of Statistics and Evaluation of Clemency Action."

This report provides information on the status of individuals, whose rights were restored for the previous two calendar years, including recidivism statistics and evaluative data. The felon population reviewed and subsequent data measured includes those individuals whose civil rights were granted during the reporting period and are identified in the clemency database.

If you have any questions regarding the content of this report, please contact me at your convenience at 850-487-1980.

Respectfully,

Melinda N. Coonrod
Chairman

Cc:

John Heekin, Assistant General Counsel, Executive Office of the Governor
Carolyn Snurkowski, Associate Deputy Attorney General, Legal Affairs
Robert Tornillo, Director, Cabinet Affairs, Financial Services
Christie Utt, Senior Attorney, Agriculture and Consumer Services

COMMITTED TO PROTECTING THE PUBLIC

OFFICE OF THE CHAIRMAN
4070 ESPLANADE WAY, TALLAHASSEE, FL 32399-2450 • (850) 487-1980
www.fcor.state.fl.us

RESTORATION OF CIVIL RIGHTS' RECIDIVISM REPORT FOR 2014 & 2015

Presented to the Florida Board of Executive Clemency

July 1, 2016



FLORIDA COMMISSION ON OFFENDER REVIEW

A Governor and Cabinet Agency Created in 1941

75 YEARS OF
SERVICE EXCELLENCE
1941-2016

THE BOARD OF EXECUTIVE CLEMENCY



Rick Scott
Governor

Pam Bondi
Attorney General

Jeff Atwater
Chief Financial Officer

Adam Putnam
Commissioner of Agriculture & Consumer Services

FLORIDA COMMISSION ON OFFENDER REVIEW

The Commission acts as the investigative and administrative arm
of the Board of Executive Clemency.

Mission Statement

*To Ensure Public Safety and Provide Victim Assistance
Through the Post Prison Release Process*

Commissioners

Melinda N. Coonrod, *Chairman*

Richard D. Davison, *Vice Chair*

David A. Wyant, *Secretary*

Office of Executive Clemency

Julia McCall, *Coordinator*

Office of Clemency Investigations

Stephen Hebert, *Director*

REPORT OVERVIEW

Introduction

Pursuant to Rule 18, Rules of Executive Clemency, the Office of Executive Clemency, the Florida Commission on Offender Review, and the Florida Department of Corrections are directed to provide annually, beginning July 1, 2011 and each year thereafter, a report on the status of individuals whose rights were restored for the previous two calendar years, including recidivism statistics and evaluative data.

Rule 18 states:

“18. Collection of Statistics and Evaluation of Clemency Action

The Office of Executive Clemency, in conjunction with the Florida Commission on Offender Review and Department of Corrections, shall collect and submit to the Clemency Board an annual written report providing statistics and evaluations regarding the status of those individuals whose rights were restored during the previous two calendar years. The first report shall be filed on July 1, 2011.”¹

This report provides data on the number of individuals whose civil rights were restored during calendar years 2014 and 2015, along with data indicating the number and percentage of these individuals that have reoffended by committing a new felony conviction subsequent to the date their civil rights were granted by the Clemency Board.

Methodology

TABLE I

All individuals whose civil rights were granted during the reporting period were identified in the Florida Commission on Offender Review’s Management of Application for Clemency (MAC) database and are included in this report.

TABLE II

The definition of “reoffend” for this table is any individual who has been convicted of a new felony offense and has returned to the custody of the Florida Department of Corrections (FDC), the Federal Bureau of Prisons, a Florida county jail, or another out-of-state entity, subsequent to the date their civil rights were granted by the Clemency Board.

All individuals whose civil rights were granted during the reporting period were reviewed by Commission staff to determine if any new felony convictions occurred subsequent to the date an individual’s civil rights were granted. Criminal histories for each individual were reviewed by running queries in three criminal justice databases between June 1-8, 2016. The databases utilized were the Florida Crime Information Center/ National Crime Information Center (FCIC/NCIC), the Corrections Data Center (CDC), and the Comprehensive Case Information System (CCIS).

TABLE III

The definition of “reoffend” for this table is any individual who has returned to the custody of the Florida Department of Corrections (FDC) subsequent to the date their civil rights were granted by the Clemency Board.

All individuals whose civil rights were granted during the reporting period and are identified by a FDC Number in the MAC database were cross-referenced against the FDC database on June 1, 2016. Some individuals in the MAC database do not have a FDC Number if they only had an out-of-state or federal felony conviction, or a felony conviction which resulted in service of a county jail sentence.

¹ Florida Rules of Executive Clemency, Rule 18, revised March 9, 2011, effective March 9, 2011.

DATA TABLES

TABLE I
PERSONS GRANTED RCR
Calendar Years 2014 & 2015

CLEMENCY TYPE	PERSONS GRANTED RCR IN 2014	PERSONS GRANTED RCR IN 2015	TOTAL
Restoration of Civil Rights	562	427	989

TABLE II
PERSONS REOFFENDING WITH NEW FELONY CONVICTION
Calendar Years 2014 & 2015

CALENDAR YEAR GRANTED	TOTAL PERSONS GRANTED RCR	TOTAL PERSONS REOFFENDING WITH NEW FELONY CONVICTION	PERCENTAGE OF PERSONS REOFFENDING WITH NEW FELONY CONVICTION
2014	562	3	0.5%
2015	427	1	0.2%
Total	989	4	0.4%

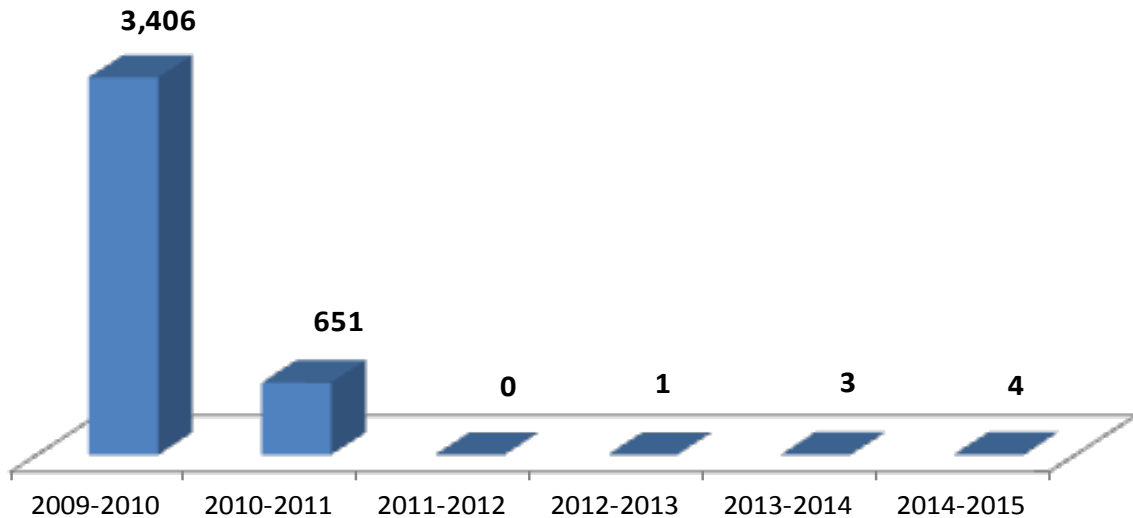
TABLE III
PERSONS RETURNED TO FDC CUSTODY BY REPORT YEAR & CURRENT YEAR

RCR RECIDIVISM REPORT YEAR	CALENDAR YEARS	PERSONS GRANTED RCR*	PERSONS RETURNED TO FDC CUSTODY AT TIME OF ORIGINAL REPORT	PERCENTAGE AT TIME OF ORIGINAL REPORT	PERSONS RETURNED TO FDC CUSTODY AS OF 6/8/16	PERCENTAGE AS OF 6/8/16
Jul 01, 2011	2009-2010	30,672	3,406	11.1%	8,340	27.2%
Jul 01, 2012	2010-2011	5,771	651	11.3%	1,477	25.6%
Jul 01, 2013	2011-2012	420	0	0.0%	2	0.5%
Jul 01, 2014	2012-2013	911	1	0.1%	5	0.5%
Jul 01, 2015	2013-2014	1,131	3	0.3%	7	0.6%
Jul 01, 2016	2014-2015	989	4	0.4%	4	0.4%

* THE FLORIDA RULES OF EXECUTIVE CLEMENCY WERE AMENDED ON MARCH 9, 2011 TO INCLUDE ELIGIBILITY CRITERIA FOR RESTORATION OF CIVIL RIGHTS.

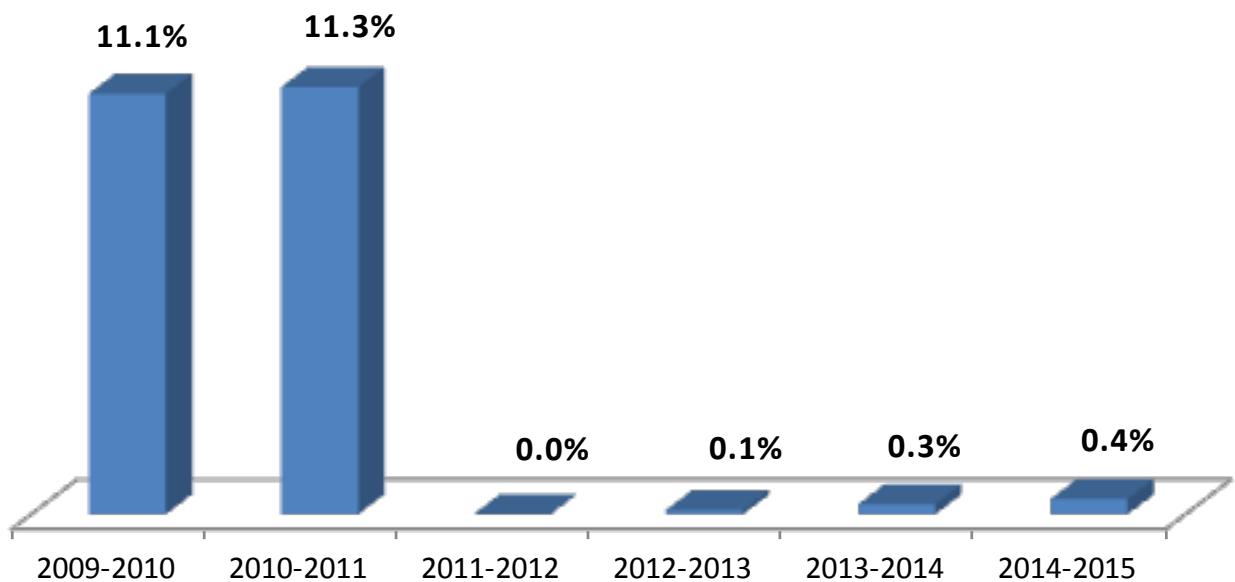
DATA GRAPHS

PERSONS GRANTED CIVIL RIGHTS THAT WERE RETURNED TO FDC CUSTODY*



* AT TIME OF ORIGINAL REPORT

PERCENTAGE OF PERSONS GRANTED CIVIL RIGHTS THAT WERE RETURNED TO FDC CUSTODY*



* AT TIME OF ORIGINAL REPORT

CONTACT INFORMATION

Florida Commission on Offender Review

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(850) 922-0000
www.fcor.state.fl.us

For information concerning the contents of this report contact:

Office of Executive Clemency

Julia McCall, Coordinator (850) 488-2952

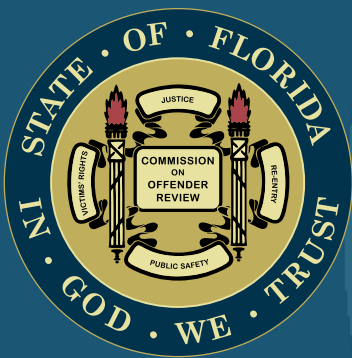
Office of Clemency Investigations

Stephen Hebert, Director (850) 487-1175

For information regarding applications for restoration of civil rights; restoration of alien status under Florida law; pardons; commutation of sentence; remission of fines/forfeitures; and specific authority to own, possess or use firearms, call toll-free (800) 435-8286 or (850) 488-2952 or visit www.fcor.state.fl.us.

Media & Legislative Inquiries

Press inquiries and public records requests regarding the Florida Commission on Offender Review should be directed to (850) 921-2816 or publicaffairs@fcor.state.fl.us.



FLORIDA COMMISSION ON OFFENDER REVIEW

A GOVERNOR AND CABINET AGENCY CREATED IN 1941

2015

Annual Report

FLORIDA COMMISSION ON OFFENDER REVIEW



Commissioner Tena M. Pate, Chair

Governor Rick Scott

Commissioner Melinda N. Coonrod, Vice Chair

Commissioner Richard D. Davison, Secretary

(Pictured from right to left)

FLORIDA BOARD OF EXECUTIVE CLEMENCY

Rick Scott, Governor

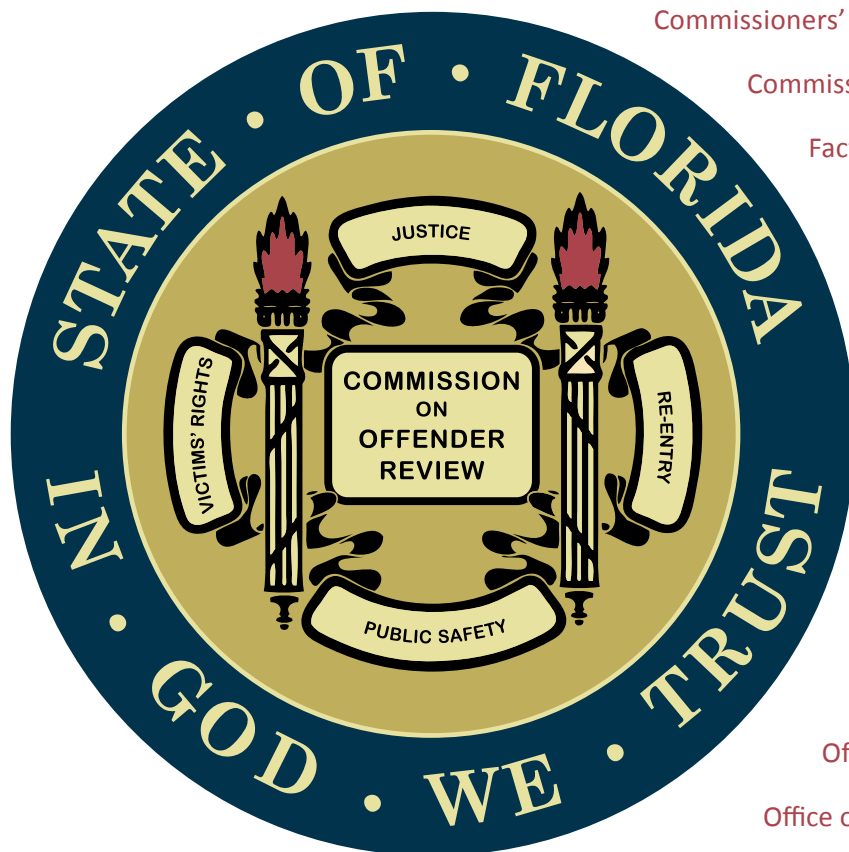
Pam Bondi, Attorney General

Jeff Atwater, Chief Financial Officer

Adam Putnam, Commissioner of Agriculture
and Consumer Services



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FCOR Mission Statement

Ensuring public safety and providing victim assistance through the post prison release process.

CHAIR'S MESSAGE



FCOR Commissioners and 'A Conversation about Crime Victims' Rights' panelists. (Pictured from left to right) State Attorney William "Willie" Meggs, Commissioner Richard Davison, Commission Chair Tena Pate, Peyton Tuthill Foundation founder Pat Tuthill, crime victim survivor and victims' advocate Cecilia McAdams, Commissioner Melinda Coonrod, and Director of Victim Services & Criminal Justice Programs for the Office of the Attorney General Emery Gainey.

December 2015

Dear Governor Scott and Members of the Cabinet, Senate President Gardiner, and Speaker Crisafulli:

With the support of our state leaders and the diligence of our dedicated staff, the Commission continued its commitment to protecting our state's residents and visitors this fiscal year under our new agency name, the Florida Commission on Offender Review (FCOR). During the 2014-15 fiscal year, the Commission provided accurate information to the Clemency Board for quarterly clemency hearings, held three successful out-of-town hearings, performed 21,176 victim assists, and continued to strengthen relationships with other public safety and law enforcement agencies locally, nationally and globally. Additional accomplishments are as follows:

- Hosted 'A Conversation about Crime Victims' Rights' panel presentation in observance of National Crime Victims' Rights Week at the Florida Capitol focused on victims' rights issues and services in Florida's post conviction processes. Panelists included State Attorney William "Willie" Meggs, Peyton Tuthill Foundation founder Pat Tuthill, Director of Victim Services & Criminal Justice Programs for the Office of the Attorney General Emery Gainey, and crime victim survivor and victims' advocate Cecilia McAdams. With guests including lawmakers, victims' rights advocates and public safety stakeholders, topics covered included current victims' issues and possible opportunities for future partnerships.
- Held a Victim Offender Dialogue (VOD) facilitator training session in preparation for the first state agency led VOD program in

Florida. The program is designed to provide victims and survivors of violent crime the opportunity to participate in a single face-to-face meeting with their offender in a safe and structured environment.

- Broadened our crime prevention initiative to educate at-risk youth on the potential consequences of poor life decisions.
- Created an online staff directory to increase familiarity and communication among employees and earned a Prudential Productivity Award for internal staff training innovations.
- Recognized as a model for parole, both nationally and internationally, through our continued efforts to improve the field of public safety and share the Commission's best practices with others. The Commission's media policy regarding victim interaction was cited in The National Parole Resource Center's Public and Stakeholder Education Toolkit as an example of strong communication practices for other parole boards to emulate.

The Commission plays a vital role in Florida's criminal justice system and contributes to ensuring public safety for residents and visitors to Florida, thereby reducing the number of crime victims. Commissioners Coonrod, Davison and I will continue to hold offenders accountable and through careful selection, also provide the opportunity for deserving offenders to become contributing, law-abiding members of society.

Respectfully,

Tena M. Pate, Chair



COMMISSIONERS' VITAE



TENA M. PATE
COMMISSIONER
Chair

Serving the State of Florida and the public safety community for more than 30 years, Commissioner Pate has leveraged her extensive knowledge of the pre/post conviction and prison release process to propel the Commission forward in becoming a recognized model for parole and supervision release processes and policies across the globe. Pate is also an ardent advocate for citizens who have fallen prey to crime and has played a key role in the extensive enhancement and awareness of Florida's crime victims' rights.

Commissioner Pate has served in four of Florida's gubernatorial administrations including Martinez, Chiles, MacKay and Bush and received confirmation by the Florida Senate following her appointments to the Commission by Governors Bush, Crist, Scott, and the Florida Cabinet. Pate has also been tapped for numerous positions on national and statewide public safety boards and task forces including the National Institute of Corrections National Experts Panel on Victims Services in the Post Conviction Process, Florida Supreme Court's Florida Innocence Commission, the Attorney General's Domestic Violence Fatality Review Team and the Self-Inflicted Crimes Task Force.

She currently serves as President-elect for the Association of Paroling Authorities International, is a member of the Florida Council on Crime and Delinquency, the Florida Police Chiefs Association, Leadership Florida, Leadership Tallahassee, and is a graduate of the Florida Department of Law Enforcement Chief Executive Seminar.



MELINDA N. COONROD
COMMISSIONER
Vice Chair

Commissioner Melinda N. Coonrod began her criminal justice career in 1992 when she was appointed to serve as an Assistant State Attorney for the Second Judicial Circuit. As a prosecutor, Commissioner Coonrod handled a diverse set of criminal cases and served as lead prosecutor in more than 57 jury trials and more than 30 non-jury trials where she gained extensive criminal law experience, and became well versed in the Florida criminal justice system. She prosecuted perpetrators of crimes, advocated sentencing of those found guilty and worked closely with victims and various law enforcement agencies.

Commissioner Coonrod later served as an Administrative Hearing Officer with the Florida Department of Agriculture and Consumer Services Division of Licensing, where she presided over hearings involving the denial, suspension and revocation of licensure under Chapters 493 and 790, F.S. Her experience also includes representing children before the courts as a certified court appointed Guardian Ad-Litem, providing training seminars to various law enforcement agencies, and teaching graduate and undergraduate courses as an adjunct instructor at Florida State University College of Criminology and Criminal Justice.

Commissioner Coonrod received a Bachelor of Science degree from Florida State University College of Business and a Juris Doctor degree from Nova University. Commissioner Coonrod was appointed by the Governor and Cabinet on June 26, 2012 and was confirmed by the Florida Senate on April 29, 2013 to serve a six-year term, which extends until June 30, 2018.



RICHARD D. DAVISON
COMMISSIONER
Secretary

Commissioner Richard D. Davison began his criminal justice career in 1989 as an Assistant State Attorney in the Ninth Judicial Circuit where he prosecuted juvenile delinquency, misdemeanor, and traffic cases in jury and non jury trials. In 1991, he became the staff attorney for the Florida House of Representatives Committee on Criminal Justice. He then served as an Assistant Statewide Prosecutor for Florida's Office of Statewide Prosecution where he prosecuted white collar crime, organized crime, and other criminal enterprises.

Following the creation of the Florida Department of Juvenile Justice in 1994, Commissioner Davison served as that Department's Director of Legislative Affairs, Assistant General Counsel, and Deputy Secretary. Subsequently, Commissioner Davison was appointed Deputy Secretary of the Florida Department of Corrections. Prior to his appointment to the Commission, Davison served as Legal Counsel and Director of Administration for the Gadsden County Sheriff's Office, as well as a program coordinator for the City of Tallahassee Community Connections Restorative Justice Program.

Commissioner Davison received a Bachelor of Science degree from Florida State University and a Doctor of Jurisprudence from the University of Florida in 1988. Commissioner Davison was appointed by Governor Scott and the Cabinet on August 19, 2014 and was confirmed by the Florida Senate on April 29, 2015 to serve a six-year term, which extends until June 30, 2020.

Commission History

In the early 1800's, state prisoners were leased to Florida companies to work as slave laborers. This era of inhumane and bitter treatment of prisoners ended after the notorious Taber case. Martin Taber was a young prisoner convicted of stealing a ride on a freight train, after which he died as a result of the brutal treatment administered by the lumber company boss to whom he was leased. An incensed public demanded the discontinuance of leasing prisoners, but prison overcrowding, the high cost of housing, and pressures for better treatment of prisoners set the stage for opportunists to peddle their influence in the pardoning of prisoners. The Pardon Board was created by the 1885 Florida Constitution and was composed of the Governor and Cabinet. Due to the limitations of the pardon system, the Florida Parole and Probation Commission was established in 1941. The Commission selected sentenced inmates for parole release and its field staff provided supervision. In 1975, the responsibilities of the supervising field staff were transferred to the Florida Department of Corrections (Department). Below is an abbreviated timeline outlining the Commission's role in Florida's criminal justice system.

1978 The Florida Legislature enacted the Objective Parole Guidelines Act, which required the Commission to develop and implement rules and criteria upon which parole decisions were to be made. It required the development of guidelines according to an acceptable research method based on the seriousness of the offense and the likelihood of a favorable parole outcome. The Act also provided for reorganization of the agency into functional areas.

1983 Under Sentencing Guidelines, the Commission retained paroling authority primarily for inmates whose offenses were committed prior to October 1, 1983.

1988 The *Victim Assistance Law* was enacted and provided that the crime victim, or family of the victim, have the opportunity to provide input into the decision-making process.

1988 *Conditional Release Program* was enacted and provides that inmates convicted of certain crimes, and who have served at least one prior felony commitment at a state or federal correctional institution or have been sentenced as a habitual offender, violent habitual offender, violent career criminal or sexual predator, shall be released under supervision on their tentative release date subject to specified terms and conditions established by the Commission.

1989 *Control Release Authority* was established. This legislation directed the Commission to develop a system of uniform criteria to determine the number and type of inmates released into the community in order to maintain the state's prison population between 99% and 100% of its total capacity. The *Control Release Program* became effective September 1, 1990, and over the next four years, 75,000 inmates were released through this program.

1992 *Conditional Medical Release Program* was established. This program authorizes the Department to recommend to the Commission terminally ill or permanently incapacitated inmates for early release due to their medical conditions.

1996 The Commission began reviewing and establishing *presumptive parole release dates* (PPRD) for inmates convicted of capital felonies with 25-year minimum mandatory terms.

2001 The Legislature created the *Addiction Recovery Supervision Program* and placed it under the Commission's administration. The law requires the Commission to set the terms and conditions of supervision, and to address alleged violations of supervision if the offender fails to abide by the conditions.

2010 During Legislative Session, SB 200, a victim-friendly bill was passed and became law on July 1, 2010. The new law amended ss. 947.16, 947.174, and 947.1745, F.S., giving the Commission authority to increase the interval between parole consideration re-interviews to within seven years for parole eligible offenders who have been convicted of murder, attempted murder, sexual battery, or attempted sexual battery, or who are serving a 25-year minimum mandatory sentence under s. 775.082, F.S. For victims and their families, reduction in the frequency of parole opportunities lessens the trauma, stress, and financial burden associated with the potential release of an offender.

2013 HB 685 was signed by the Governor on June 5, 2013 and became law on July 1, 2013. The law expanded the list of crimes eligible for subsequent interview dates to be set within seven years to include the act or attempt of kidnapping, and the crimes of robbery, burglary of dwelling, burglary of a structure or conveyance, or breaking and entering, or an attempt thereof of any of these crimes, in which a human being is present and a sexual act is completed or attempted. The sexual act or attempt thereof does not apply to the kidnapping offenses.

2014 SB 1636 was passed and the name of the Commission was changed from the Florida Parole Commission to the Florida Commission on Offender Review.

The Legislature passed HB 5303 which reassigned the responsibility for appointing capital clemency counsel from the Justice Administrative Commission to the Board of Executive Clemency. Under the bill, the Board may only appoint private counsel with the fees paid from funds appropriated to the Commission.

FACTS ABOUT THE COMMISSION



Commissioners and staff during a hearing held in West Palm Beach in January 2015.

The Commission performs a vital role in Florida's criminal justice system by preserving the autonomy needed in post release decisions affecting inmates and ex-offenders. The Commission functions as a quasi-judicial, decision-making body.

Commissioners preside over approximately 36 meetings annually at the Central Office in Tallahassee and various other locations throughout the state to encourage participation by victims, victims' families and inmates' families who would otherwise not be able to attend. While offenders are not present at these hearings, the Commission provides a victims' coordinator and an inmate family coordinator to assist both parties with participating in the proceedings and understanding the Commission's decisions. During these public proceedings the Commissioners make a variety of determinations regarding parole and other releases. In addition, the Commission reviews releasees' supervision status every two years.

Every parole eligible inmate has a constitutionally protected right to proper consideration for parole, and these proceedings must be conducted as required by law. In both parole and conditional medical release, testimony and pertinent information may be provided by representatives of the inmate, the inmate's family, by persons who were victims of the crime, and the victim's family. This proceeding is often the first opportunity for a victim, or family member of a victim, to provide input in a non-adversarial venue. If parole is granted, the Commissioners will address victim restitution issues, as well as special conditions needed to ensure the protection of the citizens in our state and the successful re-entry of the offender into society. The Commissioners may also hear from law enforcement, state and private attorneys, and other interested parties.

During meetings, the Commission also conducts other types of proceedings, such as imposing conditions of conditional release or addiction recovery supervision. The Commission makes final determinations with regard to revocation of post release supervision, where a releasee

may have violated the conditions of their release. When the Commission determines that the releasee is guilty of a willful and substantial violation, the Commission may order the violator's return to state prison to complete service of the original term of imprisonment.

The Commission serves as a cost-saving mechanism for the taxpayers of the State of Florida by conducting revocation hearings for post release supervision violators in informal surroundings conducted before an investigator, and usually held at a county jail, with witnesses to the violation providing the pertinent testimony. The United States Supreme Court has fully sanctioned the state's use of these less costly proceedings, with limited due process requirements. Probation revocation hearings, by contrast, require that proceedings be conducted in a courtroom before a judge, with an assistant state attorney prosecuting the case, and generally an appointed public defender representing the offender, plus all other expenses attendant to a criminal proceeding, at much greater expense to the state.

The Commission also acts as the administrative and investigative arm of the Governor and Cabinet, sitting as the Board of Executive Clemency in clemency matters. Clemency is a constitutionally authorized process and the forms of clemency include: a full pardon; pardon without firearm authority; pardon for misdemeanor; commutation of sentence; remission of fines and forfeitures; specific authority to own, possess, or use firearms; restoration of civil rights (RCR) in Florida; restoration of alien status under Florida law; and capital case (death penalty) reviews.

When offenders are convicted of a felony, they lose the right to vote, sit on a jury, hold public office, and possess a firearm in Florida. The clemency process administered by the Commission provides the means through which offenders may have some or all of their rights restored.

Commission Quick Facts

- Functions as a quasi-judicial, decision-making body.
- Responsible for the careful selection of candidates who are appropriate for parole.
- Holds 36 hearings per year - including hearings held throughout the state to encourage participation by victims, victims' families and inmates' families who would otherwise not be able to attend.
- Administers parole, conditional medical release, control release, conditional release and addiction recovery release supervision.
- Acts as the administrative and investigative arm of the Governor and Cabinet, sitting as the Board of Executive Clemency.

COMMISSION ACTIVITIES

Parole

The Commission administers parole, a discretionary prison release, which allows an inmate who has been granted parole to serve the remainder of his prison sentence outside of the confines of the institution. Once released, the parolee is subject to strict conditions of supervision set by the Commission. The Commission monitors their progress through supervision reviews and conducts revocation hearings when alleged violations are reported. If the parolee is found to have willfully and substantially violated the conditions of his supervision, the Commission may return the parolee to prison.

Parole eligible inmates are those who committed:

1. A first degree murder, a felony murder, or the crime of making, possessing, throwing, projecting, placing, or discharging a destructive device (or the attempt of) prior to May 25, 1994;
2. All other capital felonies prior to October 1, 1995;
3. A continuing criminal enterprise (violation of section 893.20, Florida Statutes) prior to June 17, 1993;
4. A murder of a law enforcement officer (and other specified officers) prior to January 1, 1990;
5. A murder of a justice or judge prior to October 1, 1990;
6. Any felony prior to October 1, 1983, or those who elected to be sentenced "outside the guidelines" for felonies committed prior to July 1, 1984;
7. Any habitual offender sentence prior to October 1, 1988.

The following capital felonies require a minimum of 25 years to be served before becoming parole eligible: first-degree murder; sexual battery upon a child less than 12 years old; trafficking in cocaine; trafficking in illegal drugs; and the killing of another by distribution of cocaine or opium or derivatives.

There are approximately 4,561 inmates currently eligible for parole consideration and 547 parolees on supervision, as of July 1, 2015. In FY 2014-15, 28 inmates were granted parole, of which 25 were released during the fiscal year.

Conditional Medical Release

In 1992, the Florida Legislature created the Conditional Medical Release Program (section 947.149, Florida Statutes) which is a discretionary release allowing the Commission to release inmates on supervision who are "terminally ill" or "permanently incapacitated" and who are not a danger to others. The Department is charged with the responsibility of recommending to the Commission cases to be considered for conditional medical release. Upon release, the offender is subject to conditions of supervision set by the Commission. The Commission monitors the offender's progress through periodic medical reviews. The

supervision can be revoked and the offender returned to prison if the Commission determines that a willful and substantial violation of supervision has occurred or if their medical or physical condition improves. In FY 2014-15, the Commission granted 15 of the 35 inmates recommended by the Department for conditional medical release.

Conditional Release

In 1988, the Florida Legislature created the Conditional Release Program (section 947.1405, Florida Statutes) and placed it under the administration of the Commission. The program is a non-discretionary release and requires mandatory post prison supervision for inmates who are sentenced for certain violent crimes and who have served a prior felony commitment at a state or federal correctional institution, or who are designated as a habitual offender, violent habitual offender, violent career criminal or sexual predator.

Inmates who are subject to conditional release and have completed the incarceration portion of their sentence are placed under supervision for the remainder of their sentence. These offenders are subject to strict conditions of supervision set by the Commission. The Commission monitors their progress through supervision reviews, conducts revocation hearings when violations occur, and takes swift and certain response when willful and substantial violations occur, up to and including the return to prison. On July 1, 2015, there were 3,108 offenders on conditional release supervision, and in FY 2014-15 the Commission set terms and conditions for 5,386 offenders.

Addiction Recovery

The Florida Legislature created the Addiction Recovery Supervision Program (section 944.4731, Florida Statutes) in 2001 and placed it under the Commission's administration. This program requires mandatory post prison supervision for offenders released from a state correctional facility who are convicted of a non-violent crime committed on or after July 1, 2001, and have a history of substance abuse or addiction or have participated in any drug treatment, and have not been convicted of a disqualifying offense. Upon release, the offender is subject to strict conditions of supervision set by the Commission. The Commission monitors the offender's progress through supervision reviews and conducts revocation hearings when violations occur. If the Commission finds the offender willfully and substantially violated the terms and conditions of supervision, the Commission may return the offender to prison. As of July 1, 2015, there were 317 offenders on addiction recovery supervision and in FY 2014-15 the Commission set terms and conditions for 1,172 offenders.

Control Release

The Florida Legislature created the Control Release Authority (section 947.146, Florida Statutes) in 1989 with the members of the Commission acting as the release authority. When active, control release is utilized as a prison population management tool to maintain it between 99% and 100% of total capacity. Currently, the Commission is not reviewing the inmate population for discretionary release under this authority as there are sufficient prison beds to house the current prison population. Today, a small number of control releasees remain under supervision. The Commission monitors their progress through supervision reviews and conducts revocation hearings when alleged violations occur.

Clemency

The Governor and members of the Cabinet sit as the Board of Executive Clemency; the Commission operates as the administrative and investigative arm of the Board. Clemency is a constitutionally authorized process and the forms of clemency include: a full pardon; pardon without firearm authority; pardon for misdemeanor; commutation of sentence; remission of fines and forfeitures; specific authority to own, possess, or use firearms; restoration of civil rights (RCR) in Florida; restoration of alien status under Florida law; and capital case (death penalty) reviews.

Under the Florida Constitution, when a person is convicted of a felony, they lose the right to vote, sit on a jury, hold public office, and possess a firearm in Florida. The clemency process administered by the Commission provides the means through which an offender may have some or all of their rights restored.

Individuals seeking any form of clemency must start the process by submitting an application and the required court documents to the Office of Executive Clemency (OEC). Detailed information is available online at www.fcor.state.fl.us/clemencyoverview.shtml.

Victims' Services

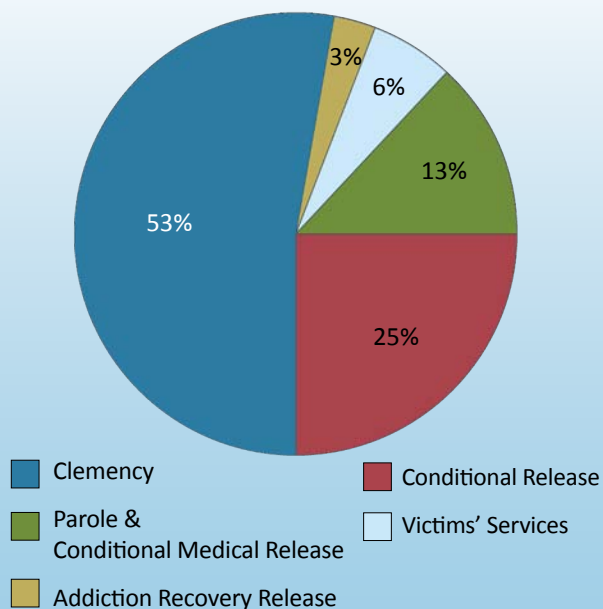
The Victims' Services section provides direct, personal service to crime victims and their families. Staff strive to reduce victimization through education within an environment of compassion, dignity, and respect. The section is proactive in educating victims and informing them of their rights. Central Office staff, in coordination with Field Services staff, attempt to locate all victims to inform them of their right to be present, informed, and heard in the clemency or Commission processes. Victims are located using many resources, including death certificates and obituaries to identify survivors, Florida driver's license information, the Internet, and the CLEAR investigative interface.

Victims are also informed of their right to be notified by the Department of an inmate's movement within the prison system or escape.

Victim input is important at every stage of the clemency, parole and conditional medical release process and is crucial to informed decision-making. Victim participation can impact a variety of decisions including clemency and conditional medical release or aggravating factors when setting a presumptive parole release date. Restitution, special conditions of supervision, and treatment programs for the offender are also impacted. If a victim chooses not to participate in this process, the person may still request to be notified and informed of upcoming proceedings and the Commission's or Clemency Board's actions concerning those proceedings. Victims make the decision as to what extent they wish to participate in the process.

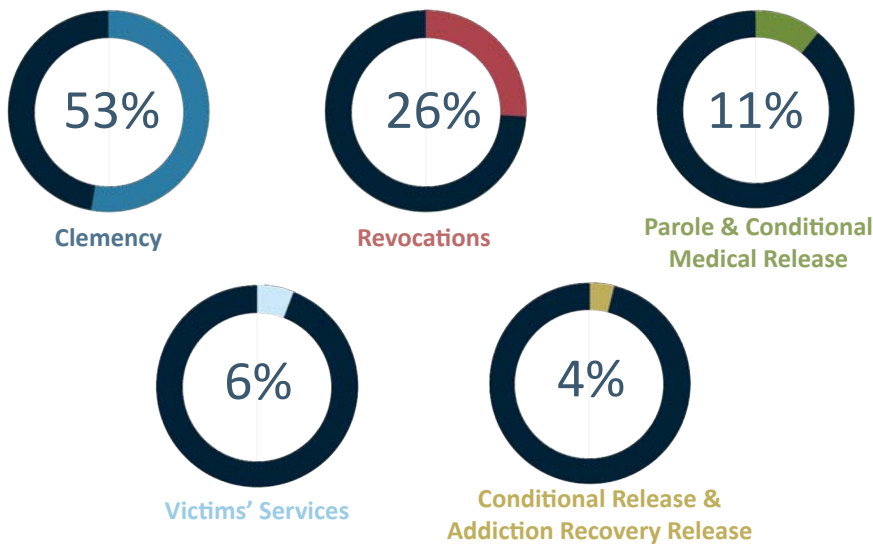
The "Victims of Crime Act" was enacted in 1984 and provides federal funding to assist state, local, and private nonprofit agencies to provide direct services to crime victims. Staff offers assistance to victims and their families by: responding to their emotional needs; providing the necessary support and resources available to help stabilize their lives after victimization; and providing information on the criminal justice system and its operations. This section is proactive in seeking ways to broaden the services that are available to victims.

WORKLOAD HOURS BY FUNCTION
FY 2014-15



YEAR IN SUMMARY STATISTICS

WORKLOAD HOURS BY BUDGET ACTIVITY



ACTIVITY	HOURS
Clemency	88,916
Revocations	43,676
Parole & Conditional Medical Release	18,577
Victims' Services	10,248
Conditional Release & Addiction Recovery Release	7,063
TOTAL FY 2014-15	168,480

Clemency Services

- 5,327 clemency applications were received.
- 20,258 pending clemency applications.*
- 6,121 clemency cases were completed.

Offender Revocations

- 1,753 revocation determinations were made.
- 99% of revocation determinations were completed within 90 days of final hearing.
- 2,080 warrants were issued.

Parole

- 1,300 parole release decisions were made.
- 4,561 inmates were eligible for parole release.*
- 547 inmates were under parole supervision.*
- 28 inmates were granted parole.
- 25 inmates were released on parole.

Conditional Medical Release (CMR)

- 35 inmates were referred for CMR.
- 15 inmates were granted CMR.
- 100% of offenders placed on CMR successfully completed supervision.

**As of July 1, 2015*

Victims' Services

- 21,176 assists to victims were provided by FCOR.

Conditional Release

- 5,386 inmates were placed on conditional release supervision.
- 3,108 inmates were under conditional release supervision.*
- 75% of offenders placed on conditional release successfully completed supervision.

Addiction Recovery Release

- 1,172 inmates were placed on addiction recovery release supervision.
- 317 inmates were under addiction recovery release supervision.*
- 92% of offenders placed on addiction recovery successfully completed supervision.



16,602

Total number of inmate and ex-offender cases the Commission took action on in FY 2014-15.

FINANCIAL DISCLOSURE

BUDGET CATEGORY	APPROPRIATED BUDGET	ACTUAL EXPENDITURES AS OF JUNE 30, 2015	BALANCE AS OF JUNE 30, 2015
Salaries (GR)	\$ 7,443,721	\$ 7,371,864	\$ 71,857
OPS	\$ 637,153	\$ 631,507	\$ 5,646
Expense	\$ 964,484	\$ 964,484	\$ -
OCO	\$ 108,202	\$ 108,202	\$ -
Contracted Services	\$ 68,000	\$ 64,000	\$ 4,000
Risk/Insurance	\$ 46,861	\$ 46,861	\$ -
Lease/Purchase Equipment	\$ 19,800	\$ 19,800	\$ -
Human Resource	\$ 51,712	\$ 51,712	\$ -
Data Processing	\$ 194,450	\$ 194,450	\$ -
Total	\$ 9,534,383	\$ 9,452,880	\$ 81,503

PERFORMANCE MEASURES

47

Parolees successfully completed their supervision without revocation within the first two years.

1,338

Number of parole and conditional medical release decisions.**

1,753

Number of revocation determinations.

21,176

Number of victim assists.

6,121

Number of clemency cases completed.

7,390

Number of conditional release/addiction recovery cases handled.**

94%

Of parolees have successfully completed their supervision without revocation within the first three years.

99%

Of cases placed before the Commission/Clemency Board contained no factual errors.

99%

Of revocation cases were completed within 90 days of final hearing.

99%

Of RCR *With a Hearing* cases provided to the Clemency Board contained no factual errors.

100%

Of RCR *Without a Hearing* cases provided to the Clemency Board contained no factual errors.

** Number includes re-docketed cases.

DIVISION OF OPERATIONS

The Division of Operations is the largest unit of the Commission and is comprised of four sections: the Revocations Unit; Victims' Services; Office of the Commission Clerk; and Field Services. Twelve field offices are divided among five regional areas across the state with each region staffed by an Administrator who directs the day-to-day activities of the professionals and support staff assigned to the offices located within the region.

Operations is responsible for multiple, diverse functions relating to the administration of post prison supervisory release programs. These supervised release programs include parole, conditional medical release, control release, conditional release, and addiction recovery release supervision. The Division, through its Field Services staff, conducts parole interviews, administrative hearings for alleged violations of supervision, as well as clemency investigations for the Board of Executive Clemency.

Operations Accomplishments: FY 2014-15

In partnership with the Florida Department of Corrections, FCOR's Conditional Release work group met with Gadsden Re-Entry Center staff to become involved earlier in establishing program priorities for conditional release eligible inmates rather than waiting until the inmate is within 180 days of release. The goal of this early participation in inmate programming and assessment is the possibility of fewer conditions imposed upon release, fewer technical violations and a reduction in recidivism.

Held three successful out-of-town meetings in Hillsborough, Palm Beach, and Brevard Counties throughout the year, providing greater accessibility to hearings for victims and families. The hearings also broadened our Crime Prevention Initiative program by allowing at-risk youth the opportunity to observe the proceedings and view first hand the negative consequences criminal behavior has on families and the community.

Statewide Field staff updated and created operational procedure directives to ensure accurate and modern processes were documented and available if required.

Continued Operation Justice Owed (OJO) warrant sweep operation with the US Marshals Service Fugitive Task Force to locate and apprehend parole absconders. To date, more than 110 warrants have been cleared; 85 arrests, 25 confirmed deceased.

Office of the Commission Clerk

The Office of the Commission Clerk receives thousands of cases each year which staff prepare and process for the Commission's review and action. They include conditional release interviews, parole interviews, parole release plan investigations, addiction recovery interviews, conditional medical release recommendations, supervision reviews, requests for modifications of the conditions of supervision, eligibility reviews and special requests from the Department.

Office of the Commission Clerk Accomplishments: FY 2014-15

Electronically preserved all historical Commission dockets from the previous 30 years, including all control release case dockets.

Continued to refine the Commission Management System (CMS), the agency's paperless docketing mechanism, including scanning and filing all Central Office case files in their entirety.

Established Commission action forms for use upon parole grant and conditional medical release decisions to ensure timely notification to relevant parties.

Reclaimed preparation responsibility of judicial notices for sentencing courts so that they may have an opportunity to provide input upon the scheduling of an inmate's effective or extraordinary interview. Also updated Judicial Notice Procedure Directive 3.01.03 to provide specific direction to the Commission regarding sentencing courts notification procedures per section 947.1745(6) and section 947.146(4), Florida Statutes.

Completed project with the Florida Department of Corrections to electronically flag all violent criminals with conditional release eligible status. Resulted in the identification of 185 conditional release eligible inmates and ensured immediate status identification of newly admitted violent criminals.

Scanned 1,245 historical index orders of 15 years or greater into OnBase imaging system providing accessibility to all Commission staff.

The number of cases docketed in FY 2014-15 included:*

- Parole - 1,304
- Conditional Medical Release - 37
- Conditional Release - 6,094
- Addiction Recovery Release Supervision - 1,220
- Control Release - 0

** Individual cases may be docketed multiple times throughout the year, therefore docketed case totals may be higher than actual case totals.*

Revocations

Revocations reviews all violation reports, prepares arrest warrants, updates the National Crime Information Center/ Florida Crime Information Center (NCIC/FCIC) databases, responds to requests from law enforcement agencies, coordinates the extradition of violators, and performs functions relating to the docketing and processing of cases for Commission action involving review of supervision and violations of supervision.

Revocations Accomplishments: FY 2014-15

Completed cross-training in Communications to respond to NCIC/FCIC notifications received on offenders under the agency's jurisdiction who have been arrested.

Created procedure directives for Waivers in Absentia and Out of State Hits and Extraditions.

Coordinated the Commission's workshops at The Attorney General's 30th National Preventing Crime in the Black Community Conference, including panel presentation, 'The Impact of Crime: The Good, The Bad & The Ugly' and a workshop on Restorative Justice focused on the concept of finding opportunities for offenders to take responsibility for their actions and contribute to the needs of the crime victim and surrounding community instead of simply receiving punishment.

- Warrants Issued - 2,214
- Warrants Dismissed - 487
- Cases Reviewed and Prepared for Docket - 1,753*

**Includes parole, conditional medical release, control release, conditional release, and addiction recovery release supervision cases.*

Victims' Services Accomplishments: FY 2014-15

Awarded Victims of Crime Act (VOCA) federal grant to fund a full-time staff position responsible for assisting victims of offenders who are seeking clemency.

Hosted a panel presentation in observance of National Crime Victims' Rights Week (NCVRW) at the Florida Capitol focused on victims' rights issues and services in Florida's post conviction processes. Moderated by Commission Chair Tena M. Pate, 'A Conversation about Crime Victims' Rights' included panelists State Attorney William "Willie" Meggs, Peyton Tuthill Foundation founder Pat Tuthill, Director of Victim Services & Criminal Justice Programs for the Office of the Attorney General Emery Gainey, and victims' advocate Cecilia McAdams. With guests including lawmakers, victims' rights advocates and public safety stakeholders, topics covered included current victims' issues and possible partnership opportunities.

Developed Victim Offender Dialogue (VOD) Program designed to provide victims of violent crime the opportunity to participate in one face-to-face meeting with their offender in a safe and structured setting. The victim-centered and initiated program allows the Commission to enhance victim assistance by supporting the healing process of victims and allowing offenders to learn about the impact of the crime on victims and to take direct responsibility for their behavior.

A VOD facilitator training session led by Jon Wilson, Director of Just Alternatives, was held and included victim services professionals from the Commission, Florida Department of Corrections, Department of Juvenile Justice, the Executive Office of the Governor, the Office of the State Attorney Second Judicial Circuit, and the Office of the State Attorney Eighth Judicial Circuit.

Coordinated NCVRW event for Commission staff who were invited to attend a Cyber Safety class presented by FDLE's Secure Florida team. Attendees learned how to protect themselves from being the victim of a cyber crime or cyber stalking.

Hosted a viewing of *The Other Way*, a short film about crime victim and advocate Agnes Furey's journey through the restorative justice process followed by a Q&A session.

- Requests for Information by Victims - 2,870*
- Status Updates Provided to Victims - 5,573*
- Victims Located - 1,093*
- Victims Assisted at Parole/Clemency Hearings - 342

**Includes parole, conditional medical release, clemency, and conditional release cases.*

Field Services

Field Services is responsible for performing a variety of functions, including acting as hearing officers when conducting administrative hearings. Regarding the parole release process, Field Services Investigators conduct inmate interviews at the correctional facilities, perform investigations, and make recommendations regarding the establishment of a presumptive parole release date (PPRD) for parole eligible inmates. Duties also include: making recommendations regarding changes to an inmate's PPRD and whether to grant parole; conducting investigations for parole release plans; and locating victims or relatives of victims. Additional duties include conducting full clemency investigations for the Board of Executive Clemency.

Field Services Statewide Activity Totals: FY 2014-15

- Parole Interviews - 926
- Revocation Interviews - 2,673
- Revocation Hearings - 757
- Total Interviews and Hearings - 4,357

DIVISION OF ADMINISTRATION

The Division of Administration serves as a liaison with the Governor's Office of Planning and Budgeting, the Office of Program Policy and Government Accountability, the Auditor General, the Florida Legislature, the Department of Financial Services (DFS), the Department of Management Services (DMS), and the Department of Corrections' Information Technology section. The Division provides administrative support to the Commission's Central Office and 12 field offices. Administration includes Human Resources, Finance and Accounting, Purchasing, Safety, Grants, Contracts, Inventory, Emergency Management and General Services. This Division has fiscal responsibility for the agency including preparation of the agency's Legislative Budget Request, management of the Commission's operating budget, the Long Range Program Plan, and purchasing of all commodities and services for the agency. Additionally, the Division is responsible for preparing data, statistics, and financial information.

Administration Accomplishments: FY 2014-15

The Department of Financial Services reported 99-100% prompt payment requirement compliance by the Commission which processed 1,664 invoices.

The Department of Management Services' MFMP Agency Utilization Scorecard reported the Commission with 100% in purchase order and contract utilization, 91% in invoice utilization, 98% in catalog utilization and 95% in receiving goods.

The Department of Management Services reported 98-100% of performance evaluations completed in People First.

The Commission reported 100% completion of Financial Disclosure Reporting to the Commission on Ethics.

The Director of Administration and the Accounting and Budgeting Administrator successfully completed the Florida Certified Contract Manager course.

OFFICE OF GENERAL COUNSEL

The Office of the General Counsel is charged with successfully prevailing on litigation filed against the Commission; providing quality legal advice and representation in a prompt manner; and engaging in proactive legal counseling to prevent unnecessary litigation in the future.

General Counsel Accomplishments: FY 2014-15

The Office of the General Counsel was actively involved in litigation during FY 2014-15 in both state and federal court, opening 379 new cases.

The office filed 492 court pleadings, motions, responses, briefs, memoranda, and legal correspondence as a result of releasees, parolees, and clemency applicants challenging the Commission's decisions.

Legal staff responded to 348 public records requests.

The attorneys provided 611 legal opinions, advice and support to the Commissioners, Central Office and the five regional offices.

OFFICE OF LEGISLATIVE AFFAIRS

The Office of Legislative Affairs is charged with directing and overseeing the Commission's legislative program as the agency's chief legislative advocate. This office interacts with all members and staff of the Florida Legislature; the Office of Program Policy and Accountability and the appropriate Joint Legislative Committees; the Governor's Office of Policy and Budget; the Governor's Office of Legislative Affairs; and the Legislative Affairs Directors of all state agencies, particularly those in the areas of law enforcement and criminal justice.

Legislative Affairs Accomplishments: FY 2014-15

The Commission's primary legislative priority in 2015 was the confirmation of Commissioner Richard Davison. Commissioner Davison successfully appeared before the Senate Criminal Justice Committee and the Senate Committee on Ethics and Elections. The Senate voted unanimously in favor of Commissioner Davison's confirmation on April 29th.

The Commission's operating budget for FY 2015-16, as provided in SB2500a, is \$10,019,470 (\$9,958,912 in General Revenue Funding and \$60,558 from Trust Funds); the total represents an increase of \$449,891 over FY 2014-15 funding. In addition to receiving funding for the agency's base budget which included 132 full-time employees (FTEs), the Commission received \$210,577 for Information Technology (IT) services and \$153,537 for the Commission to manage clemency counsel for capital case proceedings.

OFFICE OF COMMUNICATIONS

The Office of Communications is charged with overseeing the agency's internal and external communications and public information programs, with the Director acting as the agency's chief spokesperson. This office responds to daily inquiries from local, state, and national media organizations, as well as responding to public information and public records requests. It is also responsible for the production of all publications and informational materials disseminated to legislators, media, key stakeholders and the general public throughout the state and nation.

Communications Accomplishments: FY 2014-15

Created comprehensive, strategic plan to notify, educate and connect with key stakeholders regarding the Commission's name change to the Florida Commission on Offender Review.

Designed the new official Commission seal, as well as updated brand and identity standards for all agency collateral, website and communication tools.

Designed and produced Commission publications and reports including: Legislative Budget Request and presentation, Long Range Program Plan, Annual Report, Commission Brochure, Victims' Services Brochure, Commission Media Kit and Virtual Press Kit, and Quarterly Staff Newsletters.

Composed media messaging and content copy for programs including: 2015 National Crime Victims' Rights Week (NCVRW), Crime Prevention Initiative, and Victim Offender Dialogue Program and Facilitator Training.

Prepared presentation and speaking points for internal and external events and engagements including: NCVRW 2015 Panel Presentation, Prosecuting Attorney's Association Conference, Florida Council on Crime and Delinquency Institute, Attorney General's Advocacy after Conviction training, Big Bend Paralegal Association, Canadian Parole Board Training, Wakulla Correctional Institution's National Women's History Month event, FCCD (Florida Council on Crime and Delinquency) Chapter II Annual Distinguished Service Awards Dinner, APAI's (Association of Paroling Authorities International) Annual Training Conference, Commission business meetings, Public Service Recognition Week and Annual Staff Awards Ceremony, and the Attorney General's National Preventing Crime in the Black Community Conference.

Provided media messaging, materials and on-site media relations for: Victim Offender Dialogue Facilitator Training, NCVRW Panel Presentation, weekly parole hearings in Central Office, Quarterly Board of Executive Clemency hearings, Commissioner Davison confirmation and Commissioner reappointments, and Florida Channel's Point of View Interview featuring Commission Chair.

OFFICE OF EXECUTIVE CLEMENCY

The Office of Executive Clemency (OEC) reports directly to the Governor and Cabinet who sit as the Clemency Board in the performance of their duties and responsibilities. This office is co-located with the Commission for ease of operation and coordination of functions. OEC was created in 1975 to process applications for executive clemency requiring approval of the Governor and requisite members of the Cabinet. The Coordinator is appointed by the Governor and Cabinet and is responsible for coordinating all clemency meetings, referring applications for investigation and serves as the official custodian of all clemency records.

In addition to processing requests for Restoration of Civil Rights (RCR), applications for restoration of alien status under Florida law, full pardons, pardon without firearm authority, pardon for misdemeanors, remission of fines, requests for review regarding commutations of sentence and specific authority to own, possess or use firearms, the office also provides verification and certification of RCR and all other forms of clemency requested by law enforcement agencies, state attorneys, public defenders, licensing agencies, and supervisors of elections. During FY 2014-15, staff prepared 4,708 "Gold Seal" letters, which verified the status of clemency requests for inquiring agencies.

The OEC prepares and distributes the agenda for the quarterly Board meetings, as well as the orders and certificates granting clemency, and is responsible for notifying the applicants and their attorneys regarding meeting dates and the status of their cases. Information and applications for clemency are distributed on a daily basis. Office staff responds to questions and assists applicants in completing the requests for RCR, as well as responding to correspondence and phone calls referred from the Governor, Cabinet offices and other government agencies.

The Coordinator works with the Governor and Cabinet members' clemency aides on the interpretation of the Rules of Executive Clemency and stays abreast of new state and federal legislation that may have a direct or indirect impact on the clemency process in Florida. The Coordinator also responds to research inquiries regarding clemency and provides information to persons conducting federal and state surveys on clemency procedures in Florida.

In 2014, the Legislature passed HB 5303 which reassigned the responsibility for appointing capital clemency counsel from the Justice Administrative Commission to the Board of Executive Clemency. The Coordinator of the OEC facilitates and monitors this action.

RCR Recidivism Report

Rule 18 directs the Office of Executive Clemency, the Commission, and the Department to provide an annual report on the status of individuals whose rights were restored for the previous two calendar years, including recidivism statistics and evaluative data.

The report was provided to the Board by the Commission on July 1, 2015, and is an overview of the processing and granting of RCR cases for calendar years 2013 and 2014, along with data indicating the number of these individuals who have re-offended with a new felony conviction.

Office of Executive Clemency Accomplishments: FY 2014-15

During FY 2014-15, the OEC coordinated quarterly clemency meetings; September and December 2014, and March and June 2015. Much of the work is prepared prior to and after meetings regarding contacting applicants and informing them of their placement on the agenda and of the results after the meeting. The OEC and Clemency Investigations work jointly to ensure productive meetings.

Clemency's toll-free information number received 13,191 calls in FY 2014-15.

Since its inception on October 6, 2008 and through June 2015, the clemency RCR search web page had the following results:

- Visitors to site - 3,974,058
- Certificate searches - 1,106,369
- RCR certificates located - 126,904
- RCR certificates viewed and available to print - 77,419
- Certificates available online June 2015 - 376,597

The OEC focused efforts on customer service and enhanced assistance to applicants, as well as the Office of Clemency Investigations.

OEC's basic eligibility screening procedures were expanded in FY 2014-15 to include full research capabilities on all eligibility aspects for pending cases during the initial screening process. Benefits include timelier notification of disqualifying issues to applicants and detailed resolution instructions and assistance.

To ensure the dissemination of current and accurate information, the OEC provided daily data updates to the Division of Elections and provided updated instructional material to the Supervisors of Elections across the state. The same information is available online at www.FLrestoremyrights.com, the 24/7 resource available to individuals who want to verify the restoration of their voting rights.

OFFICE OF CLEMENCY INVESTIGATIONS

The Office of Clemency Investigations is charged with investigating, reviewing, evaluating, and reporting to the Clemency Board in all types of clemency cases, including, but not limited to, the restoration of civil rights, restoration of alien status under Florida law, full pardons, firearm authority, commutations of sentence, remission of fines, and capital punishment cases. Clemency Investigations provides training, resource materials, and support to Field Services staff in all clemency matters.

General Clemency Investigations

Clemency Investigations, with the assistance of Field Services staff, provides daily investigative and research support to the Board. Field Services staff conducts confidential investigations on all applications that are referred to the Commission for investigation. The office conducts quality assurance reviews on each of these investigations, and all eligible cases are presented to the Board.

The office also conducts investigations on all Requests for Review for Commutation of Sentence applications, provides customer service to clemency applicants, and assists in the development of clemency data requests.

The type of clemency investigation primarily depends on the severity and nature of the offense and the form of clemency relief being sought. The Rules of Executive Clemency (Rules) provide detailed information regarding the list of offenses that determine the processing category. The depth and scope of each investigation vary by type and each has a different waiting period after completion of sentence.

Restoration of Civil Rights (RCR) investigations are classified as: Without a Hearing and With a Hearing. Without a Hearing investigations are those where offenders, depending on the offense of conviction, are eligible for consideration only after five years have passed since the date of completion of all sentences and conditions of supervision imposed for all felony convictions, if no crimes have been committed and if the applicant has not been arrested for a misdemeanor or felony for the five years prior to the date the application is being reviewed. With a Hearing investigations are those where offenders with more serious offenses are eligible for consideration only after seven years have passed since the date of completion of all sentences and conditions of supervision imposed for all felony convictions.

All With a Hearing investigations, including non-RCR, provide a broad picture of the applicant's history and activities, which assist the Board in making informed decisions. They include, but are not limited to: criminal convictions; history of adjustment to incarceration or supervision; criminal record; traffic record; payment of fines, court costs, public defender fees and victim restitution; history of domestic violence; alcohol and substance abuse history; voter registration information; as well as judicial, state attorney and victim input. The office

conducts quality assurance reviews on each of these investigations and obtains the Commission's advisory recommendation for submission to the Board. Clemency applicants are mailed a copy of their investigative report prior to each scheduled Board meeting.

Capital Punishment Case Investigations

In capital punishment cases, by Rule, the Governor may direct the Commission to conduct an in-depth investigation. Clemency Investigations is responsible for coordinating the clemency interview of the death row inmate conducted by the Commission. The Capital Punishment Research Specialist researches the case history, including offense(s) of conviction, complete criminal record, institutional record, social and psychological information, co-defendant information, and trial and appellate court information. The Specialist is the point of contact for clemency counsel, manages the agreement, and acts as a liaison between counsel and the Florida Department of Corrections. They also coordinate with Field Services staff to conduct an investigation on the inmate and conduct interviews, if possible, with the trial attorneys who prosecuted and defended the inmate, the presiding judge, and the inmate's family. In addition, the Research Specialist works with the Attorney General's Office to allow victims of record to provide any comments to be included with the final report to the Board. Clemency Investigations compiles this information together with the Commission's findings and conclusions and provides it to the Board to assist in the consideration of a commutation of death sentence to life.

Office of Clemency Investigations Accomplishments: FY 2014-15

Reduced the number of pending Without a Hearing cases from 956 on July 1, 2014 to 561 on July 1, 2015.

Produced a revised RCR eligibility investigation training manual; provided monthly teleconference training to field offices; established joint monthly training meetings with the OEC; and assisted in conducting on-site investigation training to the field offices.

Coordinated with the OEC to implement a clemency database upgrade to include an improved Notes system, a Quick Search feature, new categories for scanned documents, and greater security enhancements.

CONTACT INFORMATION

General Information

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www.fcor.state.fl.us

For general inquiries about the Commission
publicaffairs@fcor.state.fl.us (850) 922-0000

Clemency

For information regarding clemency applications for restoration of civil rights, full pardons, remission of fines, commutations of sentence and specific authority to own, possess or use firearms, call **toll-free (800) 435-8286**, email **clemencyweb@fcor.state.fl.us**.

Victims' Services

For notification of inmate hearings and release information contact Victims' Services **toll-free (855) 850-8196** or email **victimquestions@fcor.state.fl.us**.

Inmate Supporters

For information regarding an inmate's parole, conditional medical release, conditional release or addiction recovery supervision or for information about attending a Commission hearing call **toll-free (800) 335-3396**.
 To submit a statement of support, email **inmatessupporter@fcor.state.fl.us**.

Revocations

For information regarding violations of supervision, warrants or other revocation matters, call **(850) 488-0611** or email **revocations@fcor.state.fl.us**.

Public Affairs

All press inquiries should be directed to the Communications office at **(850) 921-2816** or **publicaffairs@fcor.state.fl.us**.

All legislative inquiries should be directed to the Legislative Affairs office at **(850) 921-2804**.

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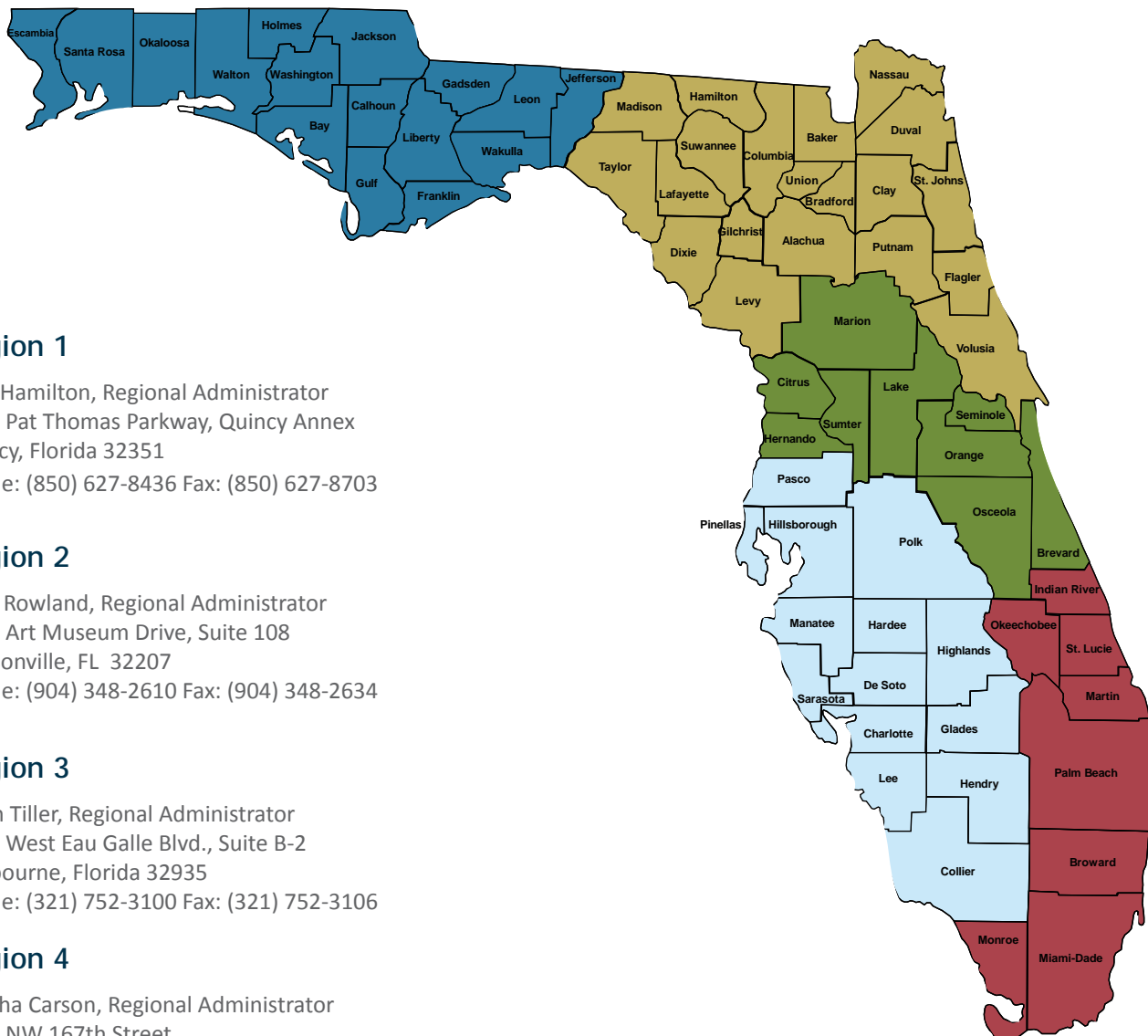
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FIELD SERVICES DIRECTORY



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▶ Region 4

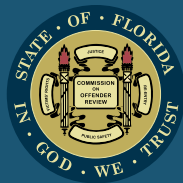
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Field Services

Field Services staff are responsible for carrying out the Commission's duties at a regional level including conducting administrative hearings for alleged violations of supervision; performing clemency investigations for the Board of Executive Clemency; conducting inmate interviews at the correctional facility and making appropriate recommendations; conducting investigations for parole release plans; and locating victims or the relatives of victims.



FLORIDA COMMISSION ON OFFENDER REVIEW

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**Florida Department of Corrections
Florida ID Data for August 2016 Releases**

Birth State	Florida ID	Percent of Inmates with Florida ID	No Florida ID, but ID Prepared	Percent of Inmates that are ID Prepared	Percent of Releases with either a Florida ID or are ID Prepared	Total of Inmates Released
FLORIDA	1,226	84.8%	132	9.1%	93.9%	1,446
OTHER	570	69.3%	61	7.4%	76.7%	823
TOTAL	1,796	79.2%	193	8.5%	87.7%	2,269

Note: Excluding Deaths, Emergency Releases, Inmates Released on a Detainer or who are Confirmed Aliens or who are Released to Another State

Date prepared: September 12, 2016

Tab 4

Reports

Turnout and Party Registration among Criminal Offenders in the 2008 General Election

Traci Burch

This paper estimates the voter registration, turnout, and party registration in the 2008 general election for men with felony convictions in Florida, Georgia, Michigan, Missouri, and North Carolina. The findings indicate that turnout among felons is much lower than previous research has shown. Ex-felon turnout in 2008 varied by state, averaging 22.2 percent. People captured and convicted for their first offense after the election voted at similarly low rates. Also contrary to the expectations of previous literature, the ex-felon population does not seem overwhelmingly Democratic. In North Carolina and Florida, two states for which the data are available, party registration varies by race. Among registered black male ex-felons, 71.7 percent in North Carolina and 84.2 percent in Florida are registered Democrats. Among whites, however, only 35.3 percent and 36.4 percent of ex-felons are registered Democrats in North Carolina and Florida, respectively.

To many observers, 2008 seemed a banner year for civic engagement in the United States. Thousands of Americans volunteered, donated, and canvassed for candidates in never-before-seen numbers. Images of long lines of citizens waiting to cast ballots, often for the first time, suggested “a huge turnout that ought to be cause for celebration” (King 2008). Right before the election, a poll conducted by CBS and the New York Times showed that 70 percent of adults reported paying “a lot” of attention to the campaign (*The New York Times/CBS News Poll, October 19–22 2008*).

Most encouragingly, this increase in political activity incorporated segments of the population that traditionally have been left out of politics. According to the Census Bureau, voter turnout increased from 47 percent in 2004 to 49 percent in 2008 among people aged 18 to 24, a statistically significant effect (Edwards

I would like to thank Jennifer Hochschild, Gary King, Sidney Verba, Kay Schlozman, Andrea Campbell, D. Sunshine Hillygus, Vesla Weaver, the members of the American Politics Research Workshop at Harvard University, Barry Burden, and Jamie Druckman for their comments on various drafts of this article. This article was funded by the American Bar Foundation and Northwestern University. Please direct all correspondence to Traci Burch, The American Bar Foundation, 750 N. Lake Shore Drive, 4th floor, Chicago, IL 60611; e-mail: tburch@abfn.org.

2009). Voting rates among blacks, Hispanics, and Asians increased by four percentage points between 2004 and 2008 (Edwards 2009). Minority voters account for most of the five-million-vote increase during this time period; two million more blacks, two million more Hispanics, and 600,000 more Asians cast ballots in this election, while the number of non-Hispanic white voters remained unchanged (Edwards 2009).

This surge in votes among young and minority citizens certainly can be attributed to the candidacy of Barack Obama, who targeted and won these two demographics overwhelmingly. In light of the successful mobilization of these groups, one might wonder whether people convicted of crimes, a group disproportionately composed of young minority males, also experienced a bump in voter participation. Moreover, how many people might have been barred from voting because of felon-disfranchisement laws? These questions are particularly pressing given that scholars, journalists, and advocates argue that felon disfranchisement played a role in the presidential election outcome in 2000 (Conn 2005; Manza & Uggen 2004, 2006; Moore 2008).

This article estimates the voter registration, turnout, and where available, party registration in the 2008 general elections for all men who served time for felony convictions¹ under state supervision² prior to each election in five states: Florida, Georgia, Michigan, Missouri, and North Carolina. Ex-felon turnout in 2008 is compared with ex-felon turnout in 2000 and 2004 in order to show the over-time trend in ex-felon turnout. Turnout among men who were convicted of their first state felony after the 2008 election also is presented as a proxy for turnout among people currently serving sentences. The study population includes felons who served or will serve time in prison, on probation, or parole in state custody. According to the Bureau of Justice Statistics, states account for 93 percent of all prison admissions and 99 percent of all probation admissions, making states an appropriate site for studying the phenomenon of felon voting (Glaze & Bonczar 2009; Sabol et al. 2009).

This article represents the first attempt to estimate participation among this group on a large scale using real data from departments of corrections to validate the registration and turnout of felons. These data combine millions of voter registration and

¹ According to the Bureau of Justice Statistics, a felony is "an offense, as murder or burglary, of graver character than those called misdemeanors, especially those commonly punished in the U.S. by imprisonment for more than a year" (Bureau of Justice Statistics. 2010. "All Terms and Definitions." Available online. at <http://bjs.ojp.usdoj.gov/index.cfm?ty=tda>. Accessed 21 June 2010).

² Only state courts and federal courts try felony cases. This analysis excludes defendants convicted under federal jurisdiction, which accounts for less than 1 per cent of probation admissions and less than 7 percent of prison admissions.

history files with departments of corrections data from Florida, Georgia, Michigan, Missouri, and North Carolina. In these states, felons are allowed to register and vote after serving their sentences; in Florida, a limited number of ex-felons were allowed to vote for the first time in this presidential election. For all of these states, new data on the number of eligible ex-felons who registered and voted are presented. All of the states in this study prevent voting among some or all felons still serving sentences. To get a sense of how these offenders barred from the election would have voted, registration and turnout among people captured and convicted for their first offense *after* the election are presented. Calculating registration and turnout rates for this counterfactual group helps overcome many of the problems of inference that plague previous research on felon disfranchisement.

The findings indicate that, despite heightened attention to felon disfranchisement and the excitement of the 2008 election, turnout among felons is much lower than previous research predicts and is certainly lower than that of similar individuals with low socioeconomic status from the general population. Ex-felon turnout in 2008 varied by state, averaging 22.2 percent. Turnout among ex-felons increased in all the states between 2004 and 2008; turnout increased 10 percentage points in Michigan, seven percentage points in Missouri and North Carolina, and about half a percentage point in Georgia; all of Florida's ex-felon voters are new. This gap in turnout between ex-felons and people from the general population does not appear to be caused by conviction and disfranchisement; people captured and convicted for their first offense after the election voted at similarly low rates, despite the fact that they had never been convicted of a state felony at the time of the election. However, even at such low rates of participation, imposing ex-felon disfranchisement laws still would have prevented thousands of people from voting in these states. These turnout numbers, while low relative to those of the general population, represent growth from 2004, especially for black male ex-felons.

Contrary to the expectations of previous literature, the ex-felon population does not seem overwhelmingly Democratic; the pattern of participation among ex-felons looks much like the nationwide trend reported by the Census Bureau. Most of the surge in turnout from 2004 occurred among black ex-felons; in all states except Michigan, turnout increased dramatically among black males, but remained somewhat flat for white males. In North Carolina and Florida, two states for which the data are available, party registration also varies by race. Among registered black male ex-felons, 71.7 percent in North Carolina and 84.2 percent in Florida are registered Democrats. Among whites, however, only 35.3 percent

and 36.4 percent of ex-felons are registered Democrats in North Carolina and Florida, respectively.

These results seem obvious at first glance. However, the findings seriously contradict scholarly and popular thinking about how disfranchisement laws affect the electorate. Manza and Uggen (2004) estimate that in the absence of disfranchisement laws, 35 percent of felons nationwide would have voted in the 2004 general election. The results presented here demonstrate that many fewer people with criminal convictions voted in 2008 and in previous years. Moreover, turnout among this group is low prior to conviction, casting further doubt on the 35 percent figure. The findings presented in this article show racial diversity in party preferences even among this group, which is arguably the worst-off in American society, suggesting that a significant number of white felons do not view the Democratic Party as the party of the downtrodden, as many suggest (Piven & Cloward 2000). This new evidence calls into question the widespread belief that “ex-felon votes would have helped Al Gore carry Florida and thus the election in 2000” (Manza & Uggen 2004).

Apart from these immediate electoral implications, the results provide a window into the participatory habits of felons, the worst-off group in American society, a group traditionally excluded by law and circumstance from full political, social, and economic membership. That the majority of this group, even in this highly salient electoral context, did not go to the polls suggests the limits of democratic inclusion in the United States. Increasingly, poverty and other social ills coincide with criminality so that in many communities in the United States, high proportions of adults have been convicted and punished for felony offenses. People with lower socioeconomic status are not a proxy for people with felony convictions. However, understanding the political behavior of offenders becomes important for understanding the participatory habits of people with low socioeconomic status generally, particularly racial and ethnic minorities, because a growing percentage of these groups have been convicted of criminal acts (Western et al. 2004).

Literature Review and Theory

Since 1970, the number of people convicted and punished for crimes in the United States has skyrocketed. By the end of 2006, more than 7.2 million people were being supervised in jail, in prison, on probation, or on parole at all levels of government (Glaze & Bonczar 2009; West & Sabol 2008). About 2.3 million of these individuals are incarcerated (West & Sabol 2008). People with

criminal backgrounds make up an ever-increasing proportion of the population, particularly among those of low socioeconomic status: "Nine out of ten prison inmates are male, most are under the age of 40, African Americans are seven times more likely than whites to be in prison, and nearly all prisoners lack any education beyond high school" (Western et al. 2004: 1). For high school dropouts, incarceration is fast becoming "a pervasive event" in the life cycle: 32.4 percent of young black male high school dropouts aged 22–30 were in prison or jail; for comparable whites, the figure is 6.7 percent (Western et al. 2004: 7).

Much of the research on the political effects of increasing conviction and supervision rates has focused on explaining the origins and impact of felon disfranchisement laws. Currently, 48 states retain some restriction on the voting rights of felons and/or misdemeanants who are serving sentences; 12 states bar some or all offenders who have finished serving their time from the ballot box, at times for life. Manza and Uggen (2004) estimate five million offenders and ex-offenders were disfranchised during the 2004 general election. Fellner and Mauer estimated that, as of 1998, 13 percent of all adult black men were disfranchised nationwide; in several states, including Florida and Alabama, more than a quarter of black men were disfranchised (Fellner & Mauer 1998). In many states, a growing percentage of Latinos are disfranchised. As of 2003, 6 percent of the Latino voting age population was disfranchised in Washington and Nebraska and 5 percent of the Latino voting age population was disfranchised in Arizona and Florida (Demeo & Ochoa 2003).

Clearly, felony disfranchisement laws affect a considerable share of the population, especially the black male population. However, despite the growth in disfranchisement rates and conviction rates more generally, very few studies attempt to estimate the participation rates and candidate preferences of ex-felons directly, perhaps because of the methodological and theoretical difficulties of such a task. Most cross-sectional surveys do not ask questions about criminal history. Panel studies that can track incarceration and other incidents often suffer from attrition or selection bias. However, even if survey organizations did ask about experiences with criminal justice, most would find current and former felons incredibly difficult to reach. A final problem is conceptual: determining the impact of convictions and disfranchisement on voting depends on making counterfactual estimates, which requires finding an appropriate control or comparison group against which to compare felons.

The existing research on ex-felon voter participation and the effect of disfranchisement laws is limited by these problems. In an extensive consideration of this question, Manza and Uggen (2004) find that disfranchisement laws prevented hundreds of thousands

of felons from voting in 2000 and 2004 and may have changed the outcomes of one presidential and seven senate elections. They estimate that, in the absence of disfranchisement laws, people convicted of felonies would vote at rates of 35 and 24 percent for presidential and mid-term elections, rates that are comparable to those of people with characteristics similar to ex-felons who have not been convicted of crimes (Uggen & Manza 2002).³ Moreover, they estimate 70 to 80 percent of ex-felons nationally would support Democratic candidates. These results are based on estimates of turnout and vote choice of respondents to the Current Population Survey and American National Election Studies rather than actual offenders. Uggen and Manza (2002) assume explicitly that in the absence of disfranchisement laws, "the political behavior of disfranchised felons would approximate that of nonfelons matched to them in terms of age, race, gender, education, income, and marital status." Subsequent tests of their model on a sample of youth in Minnesota shows no difference in participation between people with and without convictions once "sociodemographic factors" are taken into account (Manza & Uggen 2004: 499). The implication of this argument is that being convicted of a crime affects behavior only to the extent that a person is disfranchised legally.

Other studies conclude that voter registration and turnout among ex-felons is virtually nonexistent. In a cross-state analysis, Grose and Yoshinaka (2002) find consistent evidence that disfranchisement affects turnout in the South. When extended to the entire nation, however, Miles (2004) finds no correlation between disfranchisement regime and voter turnout across states. He ascribes the lack of a treatment effect to the fact that most offenders do not vote even when they have the right to do so because "the same demographic and socioeconomic factors that correlate with participation in criminal activity, and by implication with disfranchisement, also correlate with the decision to forgo voting" (Miles 2004: 115). By this logic, the relationship between disfranchisement and participation is spurious and disappears when demographic factors such as poverty and race are taken into account. In line with these findings, Burch estimates that about 15 percent of ex-felons in Georgia and Michigan and 10 percent of ex-felons in North Carolina and Missouri would have voted in the 2000 general election (Burch 2007a). Similarly, Haselswerdt (2009) finds single-digit turnout in 2004 among 660 recently released ex-prisoners in Erie County, PA. However, Burch shows that turnout among prisoners,

³ Uggen and Manza do observe that "although nonfelon voters resemble felons in many respects, we cannot be certain that the experience of criminal conviction itself may not suppress, (or conversely, mobilize), political participation" (2002: 796).

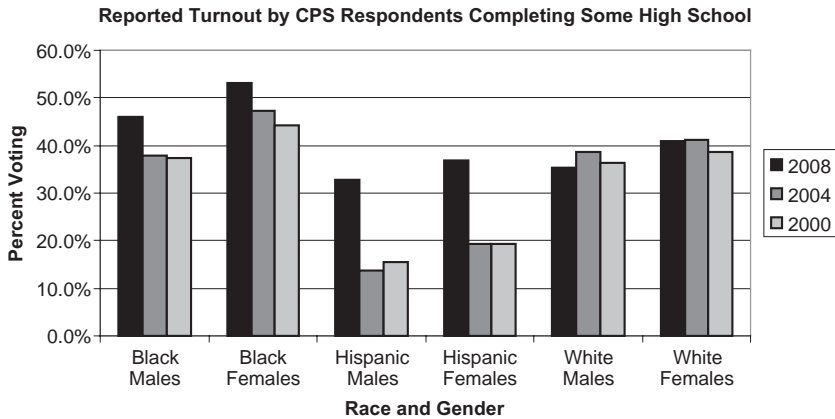


Figure 1. This graph shows reported voter turnout in the 2000, 2004, and 2008 general election among select racial and gender groups who completed some high school without earning a diploma, as reported by the U.S. Census Bureau.

especially those still serving sentences, is low relative to that of probationers (2007b). Thus, Haselswerdt's findings may underestimate ex-felon turnout overall.

The literature on ex-felon voter participation provides a murky picture of the turnout rates of ex-felons who can vote and the effect of disfranchisement laws on ex-felons who cannot. On the one hand, both Miles and Haselswerdt suggest that turnout rates would be closer to zero. On the other, Manza and Uggen estimate a national turnout rate of one-third of ex-felons based on 2004 Current Population Study (CPS) data (Manza & Uggen 2006). By extension, Manza and Uggen might argue that the turnout rates among ex-felons in the most recent election would approximate those of disadvantaged respondents to the 2008 CPS as well. As shown in Figure 1, these rates are extremely high even among respondents who did not obtain high school diplomas. Nearly 46 percent of black men and 53 percent of black women who completed some high school reported voting in 2008, both representing an increase of 6 percentage points over 2004. Thirty-five percent of white men and 41 percent of white females with less than a high school diploma reported voting in 2008; both figures represent a decrease from 2004.

A more nuanced analysis of felon voting patterns would take into account the unique characteristics of people who get convicted of crimes as well as the special burdens criminal convictions further place on their ability to participate in politics. To be sure, persons convicted of crimes often face many disadvantages that would have

lowered their turnout relative to the rest of the population even if they had not been convicted. For instance, it is no secret that people convicted of crimes are worse off relative to the rest of the population in ways that are difficult to measure in a survey. For instance, in a national sample of state prisoners, about 70 percent of state inmates and 40 percent of state probationers did *not* have a high school diploma—in comparison, only 18 percent of the general population lacked high school diplomas (Harlow 2003). Age is another factor that affects participation; because they tend to be young, people convicted of crimes already would be less likely to participate in politics than the average citizen. The Bureau of Justice Statistics estimates that almost 60 percent of U.S. inmates are under age 35 (West & Sabol 2008). People convicted of crimes also face other problems that would affect their likelihood of participating in politics. Because of their lower socioeconomic status and involvement with crime, it could be the case that mortality rates are higher among offenders as well. Langan and Levin (2002) find that among prisoners, the mortality rate was 1.46 times higher than that of the general population. Psychological and emotional disturbances are more common among offenders (Ditton 1999). Sexual abuse is high among these populations; 16 percent of male and 57 percent of female prisoners report having been victimized sexually prior to their entry into prison (Ditton 1999). Drug and alcohol dependence is high among people who are convicted of crimes; one-third of federal and more than half of state prisoners reported committing their crimes while under the influence of alcohol or drugs (Mumola 1999). Twenty-one percent of state and 16 percent of federal prisoners showed signs of past alcohol abuse, while 57 percent of state and 40 percent of federal inmates had used drugs in the month prior to committing their offense (Mumola 1999). These types of physical and mental disabilities often render political activity difficult, even impossible.

In addition to these factors, persons convicted of crimes may differ from the general population in other ways. They may be engaged in drug abuse or other criminal activities that make them unwilling or unable to provide their personal information to government agencies, including boards of elections (Mumola 1999). Likewise, they may be avoiding further contact with law enforcement officials for fear of arrest. Finally, people who commit crimes may be less connected to their communities, families, peers, and government (Fleisher & Decker 2001; Sampson 1988; Sampson & Groves 1989; Sampson et al. 2002). These networks reinforce the norm in favor of political participation and the norm against criminal behavior.

It is unclear whether and how the experience of conviction and punishment would affect political behavior. For many individuals, a

criminal conviction serves as the wake-up call that provides an opportunity for rehabilitation and training (Sourcebook of Criminal Justice Statistics ["Table 6.73"] 2003; Mumola & Karburg 2006). However, the economic and social burdens associated with criminal convictions severely restrict the ability of offenders to garner resources such as time, money, and civic skills that would help them participate in politics after they serve their time (Verba et al. 1995). The unemployment rate among ex-offenders is much higher than that of the general population, often as the result of employment discrimination (Holzer et al. 2004; Pager & Quillian 2005). Federal educational and housing assistance, as well as cash assistance such as TANF and SSI, can be denied to people convicted of drug offenses (Travis 2002; Uggen et al. 2006; Western et al. 2004a). Socially, it is well documented that people are more likely to get involved in politics when they are mobilized by friends or political parties, and people are more likely to be mobilized when they take part in community and social activities (Rosenstone & Hansen 1993; Verba & Nie 1972; Verba et al. 1995). Criminal offenders tend to be less residentially stable; moreover, for incarcerated individuals, already-fragile social networks "are made tenuous by the distance between home and prison" (Abu-Jamal 1995: 12; Fleisher & Decker 2001).

Still, even in light of these findings, the predictions of both Miles and of Haselswerdt seem to underestimate the rate at which felons would vote. Miles's analyses at the state level accurately gauge the absence of effects big enough to change electoral outcomes; however, cross-state analyses may be too blunt to pick up smaller differences in the turnout of felons across states. Likewise, Haselswerdt's analysis is based on a small sample of parolees and thus reflects the turnout patterns of those ex-felons who are least likely to vote. Even though the turnout is low, it is still likely that tens of thousands of persons with felony convictions voted in this and in previous elections.

Even if one accepts the claim that some people with felony convictions vote, it is not altogether clear for whom convicted offenders vote when given the chance. Most criminal offenders are males of low socioeconomic status (Harlow 2003). Is this group more likely to vote Democratic? Most research today says yes; poor men vote their class interests, so lower-class voters are more likely to support Democratic candidates (Bartels 2005; Brewer & Stonecash 2001; Campbell et al. 1960; Erikson 1995; Piven & Cloward 2000; Stonecash 2000; Tucker et al. 1986). However, as Kristof (2004) has pointed out, "One of the Republican Party's major successes over the last few decades has been to persuade many of the working poor to vote for tax breaks for billionaires." Many other observers often lament the propensity of white lower-class

voters to vote seemingly against their own class interests in favor of Republicans (DeNardo 1980; Frank 2004; Hillygus & Shields 2005; Nagel & McNulty 1996).

Black men across classes consistently support the Democratic Party and therefore it is expected that black ex-felons would overwhelmingly support Democratic candidates (Dawson 1994). For whites, however, the answer to this question is still unsettled in the literature and remains quite controversial, as noted above. Bartels finds consistent support for the Democratic Party among lower-class whites throughout the last three decades (Bartels 2005). Other empirical evidence suggests lower rates of support for the Democratic Party among white male offenders. Manza and Uggen find that people who have been incarcerated or arrested are more likely to describe themselves as Independents and less likely to describe themselves as Democrats (Manza & Uggen 2006: 124). People with criminal backgrounds were also more likely to support Jesse Ventura rather than major party candidates in Minnesota's 1998 gubernatorial election (Manza & Uggen 2006: 124). Anecdotal evidence such as that found in Frank (2004) also calls into question the idea that lower-class whites vote Democratic.

Research Design

Measuring the participation of people convicted of crimes is difficult, as noted above, because data on the criminal history of individuals have not been included regularly in studies that measure participation. Moreover, determining the effects of disfranchisement is even more problematic because it involves estimating a particularly difficult counterfactual scenario.

To estimate the turnout rates of ex-felons and thus the effect of ex-felon disfranchisement laws, the ideal analysis would measure the extent to which each offender undertakes different political activities now and then compare that figure with what that same person would have done *if the conviction or its various consequences had never taken place*. Although it may be possible to measure the participation of people once they have been convicted, it is impossible to observe that same individual's participation in the counterfactual condition. Thus, it is not possible to test the effects of conviction on any particular individual directly (Holland 1986). Using a control subject who is similar to what the unobserved person would be if he had not been convicted is the best substitute for approximating the level of participation in the counterfactual condition (Holland 1986). However, people who have been convicted of crimes often are very different from people who have never been convicted in ways that cannot be measured, complicating the task of finding a

control or comparison group against which to measure disfranchised ex-felons.⁴

Although no surveys or data sources measure the effects of convictions on individuals directly, state governments collect very detailed data on convicted offenders and on one form of political activity, voting. As a result, it is possible to combine these records and use them to directly measure at least one form of participation for offenders with different criminal justice experiences.⁵ Because these data also contain some demographic information, one can also separate the effects of an offender's background and disadvantages from the effects of the conviction.

Having data on the personal characteristics and voter participation of offenders makes identifying and measuring their voting behavior possible. Even more importantly, these data enable potentially confounding factors such as age, race, gender, crime severity, and education to be taken into account. These data allow the voter participation of ex-offenders, many of whom are allowed to vote after completing their sentences, to be measured. Constructing appropriate counterfactual groups against which to compare offenders barred from voting is more difficult. For instance, the CPS turnout rates discussed previously provide one estimate of the likely participation among offenders. Manza and Uggen use this comparison group to estimate felon participation in the counterfactual case at the national level (Uggen & Manza 2002; Manza & Uggen 2004, 2006). However, analyses that use this control group to estimate the effect of convictions, like those of Manza and Uggen, are biased because they cannot account for the differences between people with and without convictions that may affect participation.

Instead, looking at turnout rates among persons convicted of their first felony after the 2008 general election best accounts for baseline differences between the general population and offenders. At the time of the election, these offenders had not yet been convicted or taken into custody; thus, their turnout patterns cannot be

⁴ Convicted felons are but a subset of the universe of people who commit crimes, indicating that there is some mechanism that assigns some people who commit crimes to be captured, punished, and convicted, while others are not. We cannot know, or fully account for that selection mechanism, thus it is "unmeasured." If this selection mechanism is random, then it is ignorable. However, numerous studies show that there are biases in criminal behavior, arrests, and convictions that make some people who commit crimes more likely to be convicted than others (Thomson & Zingraff 1981; Klepper et al. 1983; Humphrey & Fogarty 1987; Bridges & Crutchfield 1988; Gordon et al. 1988; Albonetti 1997; Spohn et al. 1998; Brock et al. 2000; Steffensmeier & Demuth 2000; Bushway & Piehl 2001; Lundman & Kaufman 2003; Rodriguez 2003; Weinstein 2003; Smith & Durose 2006).

⁵ However, vote validation is a complex process and depends on the quality of voting records and the procedure by which records are linked. For a discussion on the difficulties of joining voters to administrative records on registration and turnout, see Presser et al. (1990).

attributed to the experience or consequences of justice supervision. Rather, the gap between these offenders and the general population, if any, represents the influence of those unmeasured factors that eventually led this group to be convicted of crimes. Conceptually, this group represents people who would have been punished and disfranchised during this election had they been captured and convicted just a few months earlier.

Estimating candidate preferences among offenders is difficult without survey evidence. To get a sense of vote choice, party registration among offenders in states with closed primaries can be used. Although party registration differs from partisan identification and vote choice, it is the best information available on the preferences of offenders (Finkel & Scarrow 1985).

Hypotheses

To summarize the argument, being criminally convicted can affect an individual's desire and ability to participate in politics. Given the fact that persons convicted of crimes already lack the economic and educational resources of other citizens and suffer from substance abuse, mental health issues, and social isolation at higher rates than nonoffenders of similar social background even before their convictions, these individuals should demonstrate lower levels of political activity than similar citizens who have not been convicted of crimes. Likewise, the experience of being convicted and punished for crimes should prevent participation of offenders because convictions impose barriers that tend to decrease the likelihood of participating in politics even further. To restate:

H1: Voter registration and turnout in the 2008 general election among people convicted of felonies should be lower than that of CPS respondents of the same race, gender, and educational attainment. Because people convicted of felonies experience substance abuse, mental health issues, and other problems at higher rates even before their convictions, the registration and turnout of pre-conviction offenders should be lower than similarly-situated CPS respondents as well.

With respect to vote choice, although there is no way of knowing the true candidate preferences of offenders for this analysis, it is possible to make some plausible assumptions about vote choice based on the available evidence. Criminal offenders do not vote at the same rates as people with similar backgrounds who have not been convicted of crimes. However, it is possible that criminal offenders would have the same preferences as nonoffenders who share their demographic characteristics. There is a consistent finding that in general, nonvoters tend to have the same preferences as voters, such that registration laws have little effect on the

policy preferences of the electorate (Rosenstone & Wolfinger 1978). Applying this logic to disfranchised offenders, then, one should expect the candidate preferences of offenders to mirror those of other people with the same race, gender, and educational level.

H2: The party preferences of ex-felons as a group in each state should depend on the racial makeup of the ex-felon population. Black ex-felons should support the Democratic Party in overwhelming numbers, but only a minority of white ex-felons should be registered Democrats, depending on the state.

Data

One of the most exciting facets of this study is that it explores the political participation of real offenders using records maintained by the departments of corrections in the states selected for the analysis: Florida, Georgia, Michigan, Missouri, and North Carolina. In each state, the department of corrections maintains highly detailed data on all offenders convicted of felonies and misdemeanors who are sentenced to state supervision in prison or in the community through probation or parole. People convicted of felonies in federal court who served sentences under federal authorities and people convicted of misdemeanors or infractions in municipal court who served time in county jail are not included in the analysis.⁶ In all states in this analysis, all offenders accused of state felonies are tried, convicted, and punished by state authorities, such that the files represent a complete list of people who have or are being supervised for felony convictions by that state.⁷ People with misdemeanor convictions who were supervised by local authorities are absent from the data, as are people convicted under federal law. As a result, these findings estimate turnout only among

⁶ In 2008, federal courts commenced 2,437 cases against criminal defendants in North Carolina, 2002 cases in Missouri, 1,392 in Michigan, 5,336 in Florida, and 2,271 in Georgia (Administrative Office of the United States Courts. 2008. "Table E-2, Persons Under Supervision." Available online at <http://www.uscourts.gov/uscourts/Statistics/FederalJudicialCaseloadStatistics/2008/tables/E02Mar08.pdf>. Accessed on 21 June 2010). Although I do not have comparable data on the number of felony cases commenced by state authorities, similar data on admissions to supervision show that in 2006, more than 90,000 people were admitted to state prison or probation in Michigan, Missouri, and Georgia; more than 80,000 in North Carolina, and nearly 300,000 in Florida (*Sourcebook on Criminal Justice Statistics*, "Table 6.3.2006," Available online at <http://www.albany.edu/sourcebook/pdf/t632006.pdf>. Accessed on 21 June 2010. *Sourcebook on Criminal Justice Statistics*, "Table 6.0009.2008." Available online at <http://www.albany.edu/sourcebook/pdf/t600092008.pdf>. Accessed on 21 June 2010).

⁷ In Florida, only offenders whose rights were restored automatically are considered. Eligibility is determined based on offense data codes provided by the Department of Corrections. Any offender convicted of an offense ineligible for automatic restoration was excluded from the data.

citizens convicted by state authorities, and cannot be generalized to those citizens who are convicted under federal or local authorities.

Matching Procedure

The offender data are joined to voter registration and history data containing information on all registered voters in each state. These files are updated regularly by each state's respective secretary of state and contain the last name, first name, and birth date for all voters. To create the datasets used for the analysis of offenders, the names of individuals from the state offender files were linked electronically to those found in the voter files in a multi-step process. First, for all states, the last name, first name, birth date, and gender were used to match as many offenders as possible. In instances in which voters' last name, first name, date of birth, and gender produced duplicate identifiers, subsequent inactive entries were deleted. A second round of matching was conducted using only the last name, first name, and date of birth for those offenders who remained unmatched after the first round. The voter registration files were obtained at several points in the fall and winter of 2009 in order to avoid problems with post-election purging. Departments of corrections files were obtained in the spring of 2009 in order to include offenders convicted after the November 2008 election in the study.⁸ Data for comparison estimates rely on data obtained in 2004 and 2006.

Caveats

As with any analysis, the reader must be aware of certain issues with respect to the conclusions one can draw from the use of these data. The first set of problems reflects the difficulty of drawing conclusions from the relevant data's not being in the file. The fact that an offender is not in the voter registration files does not necessarily mean he has never participated in politics at all. For instance, voting is only one form of political participation; it could be the case that unmatched offenders participate in politics in other ways such as protesting or volunteering for campaigns. Second, it is necessary to take care in the inferences one can make about offenders who are not in the voter file. First, if a person's voter registration or offender records contain typographical errors in the fields used for matching, the procedure for combining the files inaccurately categorizes that person as not being on the voter

⁸ The latest sentencing date available for Florida is January 14, 2009; for North Carolina, June 16, 2009; for Michigan, March 3, 2009; for Georgia, September 19, 2009; and for Missouri, March 13, 2009.

registration list. Second, not being on the voter registration list does not mean that a person has *never* registered to vote in his or her lifetime. It does mean that the person was not registered and did not vote in the 2008 election cycle. For the 2000 and 2004 election cycles, absence from the voter registration list has a different meaning. Because Georgia, Missouri, and Michigan delete removed voters, it could be the case that ex-felons who voted in 2000 or 2004 were subsequently removed from the voter rolls if they were re-convicted of another felony offense after the election. For this reason, turnout estimates for all states for those two elections exclude people who were reconvicted of new felony offenses after the respective election.⁹ Third, the fact that women often change their names after marriage or divorce means that the procedure for linking the records underestimates the extent to which they register to vote. To help alleviate this concern, the analysis excludes female felons from the analyses in this article. Because the vast majority of offenders are men, one still can draw relevant conclusions about the overall effects of disfranchisement policies on individuals, and later on politics, from this analysis.

A final problem with these data reflects the difficulty of determining the voting-eligible population among current and former offenders. Including ineligible offenders (such as those who have died or moved out of the state) among the population of eligible voters deflates the participation rate of offenders. To address this concern, registration rates are calculated using all offenders in the sample and again by weighting the pool of potential voters by Centers for Disease Control estimates of mortality for people of different races and ages (Arias 2005) and by Current Population Study estimates of out-of-state migration expectancy based on the age of last release.¹⁰

State Selection

The states selected for analysis here were chosen because of electoral competitiveness, data quality, and regional comparability. These states were studied merely to give a sense of ex-felon turnout in different contexts, not with an eye toward controlling for state-level characteristics that would make comparisons across states possible. One cannot extrapolate turnout in these five states to turnout

⁹ There is some evidence from North Carolina that excluding these post-election recidivists from the 2000 and 2004 counts biases registration and turnout upward (Burch 2007b).

¹⁰ The weights use the likelihood of moving out of state in the remaining lifetime for people released prior to 2003 and the likelihood of moving out of state within 5 years of release for people released after 2003. U.S. Bureau of the Census (2009a, 2009b).

in the entire nation, nor should turnout figures be compared across states. Please see the appendix for information on the political, demographic, and legal characteristics of each state.

Methods

This analysis counts the raw registration, vote totals, and party registration for two groups of offenders: men who experienced their first conviction and sentence after the 2008 election¹¹ and men who finished serving their sentences before the 2008 election. The probability of voting among ex-offenders and pre-conviction offenders is estimated using multivariate analyses in order to determine whether variation across the two groups in racial composition, age, punishment type, and education (where available) can account for the differences between the pre- and post-conviction groups, if any. Knowing voter registration and turnout among the pre-conviction group gives a sense of what would have happened if these offenders had been convicted and disfranchised during the election; they provide estimates of the counterfactual turnout rates among current and former offenders barred from voting during this election cycle. Voter turnout in the 2008 general election for CPS respondents who report completing some high school without earning a diploma also will be referenced for comparison following the example of Manza and Uggen (2004).¹²

The analysis is decomposed into three steps. In the first, the participation rates of offenders before they experience a conviction are tabulated in order to provide a lower bound on what participation would have been without these interventions. This group best serves as a proxy for how people currently serving felony convictions might have voted had they not been convicted. Next, voter turnout among offenders who have completed their sentences is presented. Finally, multivariate estimates of voter turnout are presented for each state, along with the predicted probabilities of voting among pre- and post-conviction offenders with certain characteristics. The purpose of this regression is to account for demographic differences between pre- and post-conviction

¹¹ Some people enter and exit supervision more than once. In the data, a person with a felony conviction who spent 1998–1999 and 2003–2005 on probation is considered an ex-felon in 2000 and 2008, but not in 2004 while they were serving an active sentence.

¹² As shown in Figure 1, these rates are extremely high even among respondents who did not obtain high school diplomas. Nearly 46 percent of black men and 53 percent of black women who completed some high school reported voting in 2008, both representing an increase of 6 percentage points over 2004. Thirty-five percent of white men and 41 percent of white females with less than a high school diploma reported voting in 2008; both figures represent a decrease from 2004.

offenders that might explain differences in the turnout rates of the two groups. However, this regression cannot account for differences in life circumstances between pre- and post-conviction felons. The probability of voting is calculated for male felony offenders who were eligible to vote in the 2008 general election based on models that account for race, age, whether the sentence was served before or after the election, whether the offender had served or would serve time in prison, and where available, educational attainment. The dependent variable, *Vote 2008*, is a dichotomous variable where “1” indicates a vote in the 2008 presidential election. The analysis includes both ex-offenders and pre-conviction offenders; *Pre-conviction* is the dummy indicator for offenders who were captured and convicted after the election. Race is entered as dummy variables for *White* and *Black*, with Hispanics and other races represented as the baseline condition. *Age* is in years and includes offenders between the ages of 18 and 65. *Prisoner* is dichotomous and indicates whether an offender had served or will serve a prison sentence. Finally, offender education is available only for Missouri and Georgia; for these states, *Education* is a 0 1 variable that indicates whether an offender completed high school or its equivalent. Age, race, and educational attainment have been shown in previous research to be important determinants of voting (Campbell et al. 1960, Verba & Nie 1972; Verba et al. 1995). Similarly, voter turnout among prisoners also is lower (Burch 2007a). Because voting, the dependent variable, is dichotomous, these models are estimated using logistic regression. The predicted probabilities of voting for offenders with several characteristics are simulated using the means and standard deviations estimated from these models.

Results

The results indicate that many ex-felons voted in the 2008 general election. As Table 1 shows, 22 percent of ex-felons voted in Georgia, 19.4 percent voted in Missouri, and 24.2 percent voted in North Carolina. In Michigan, where felony probationers were never disfranchised, nearly 35 percent of ex-felons voted in the general election. However, in Florida, only 11.1 percent of eligible ex-felons voted in the general election. This low turnout rate is likely due to the fact that this is the first presidential election in which some of Florida's ex-felons could vote. Among offenders who served time for their first offense after the election, turnout surprisingly was lower than that of ex-felons. As Figure 2 shows, in Florida, 9.4 percent of people convicted of crimes after the election voted; in Georgia, 16.7 percent; in Missouri, 11.7 percent; and in

Table 1. Participation Rates among Male Ex-felons

	FL	GA	MI	MO	NC
Voter Registration	0.237	0.345	0.589	0.351	0.355
Voter Turnout	0.111	0.227	0.347	0.194	0.242
Voter Turnout (Weighted for Death Rates & Mobility)	.134	.257	.401	.222	.275
Black	0.149	0.253	0.319	0.212	0.264
White	0.099	0.205	0.37	0.188	0.222
Hispanic (Based on Surname)	0.072	0.081	0.31	0.074	0.107
Age 18–30	0.089	0.182	0.384	0.178	0.2
Age 31–44	0.109	0.233	0.382	0.194	0.25
Age 45–59	0.115	0.256	0.336	0.199	0.262
Age 60 +	0.119	0.204	0.237	0.187	0.232
Less than High School		0.198		0.145	
High School Diploma		0.267		0.251	
Ex-Prisoners	0.070	0.212	0.313	0.108	0.241
Ex-Probationers	0.122	0.227	0.389	0.229	0.246
Party Registration					
Democratic	0.514				0.563
Republican	0.279				0.228
Other	0.207				0.209
Ex-Felon <i>N</i> (unweighted)	301,460	402,797	203,341	192,449	244,300
Ex-Felon <i>N</i> (weighted)	250,693	355,377	175,933	168,061	214,935
First timers convicted after election	3,099	10,773	8,841	4,332	24,403

NOTE: Data were calculated by matching department of corrections data to voter registration and history data from each state.

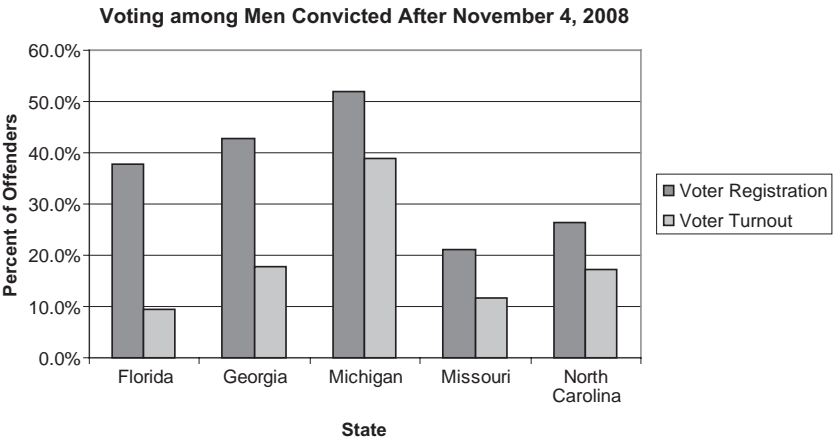


Figure 2. This graph shows the percent of persons registered to vote and turning out to vote in each state before they were taken into custody and convicted of crimes after the election. Data were calculated by matching department of corrections data to voter registration and history data from each state.

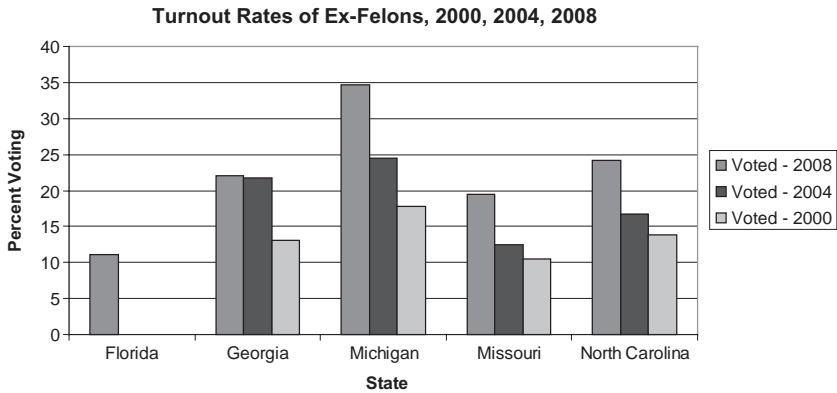


Figure 3. This graph shows the percent of ex-felons turning out to vote in each state. Data were calculated by matching department of corrections data to voter registration and history data from each state.

North Carolina, 17.3 percent. Again, Michigan is exceptional; 38.9 percent of offenders in Michigan voted before they served time.

When compared with turnout in past presidential elections, it is clear that turnout in the 2008 election represents a substantial increase in political participation among ex-felons from previous elections, as depicted in Figure 3. Since the 2000 general election, when voter turnout was roughly similar in the four states where ex-felons could vote, ex-felon voter turnout has increased 68 percent in Georgia, 95 percent in Michigan, 88 percent in Missouri, and 75 percent in North Carolina. Despite this substantial growth, voting among offenders still remains low relative to that of similar people who do not have criminal backgrounds. As expected, the turnout in the 2008 general election of both ex-felons and those offenders who began serving time after the election is lower than that of CPS respondents who had attended high school without earning a diploma reported earlier in this article.

Among ex-felons, personal characteristics influence voter turnout much as they do among the broader electorate. As shown in Table 1, older ex-felons were more likely to vote than were their younger counterparts. Also, as expected, ex-felons in all states who had served time in prison at some point before the election were less likely to vote than were ex-probationers who had never served time in prison. Ex-felons with a high school diploma were 33 percent more likely to vote in Georgia and 72 percent more likely to vote in Missouri, the two states where data on the educational attainment of ex-felons are available. The most interesting pattern, however, develops with respect to race. In four of five states, black male ex-felons were more likely to vote than whites, as shown in

Figure 4. This pattern results from a surge in black turnout between 2004 and 2008 as Figure 5 displays; in previous years, racial differences in turnout were mixed; in North Carolina and Missouri, white ex-felons were more likely to vote than black ex-felons, while in Georgia and Michigan, the opposite was true.

Because of correlations among several of the factors discussed previously, simple bivariate data might not provide an accurate comparison between pre- and post-conviction felons. For instance, blacks were more likely to vote in this election than whites,

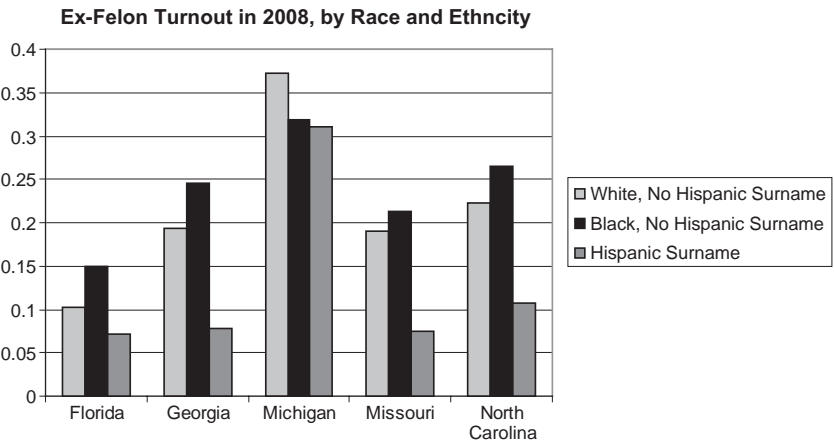


Figure 4. This graph shows the percent of ex-felons turning out to vote in each state, by race. Data were calculated by matching department of corrections data to voter registration and history data from each state.

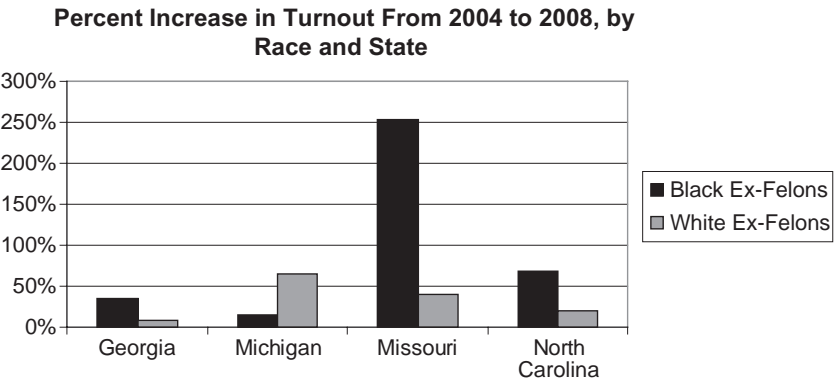


Figure 5. This graph shows the change in the turnout rates of ex-felons between 2004 and 2008 in each state. Data were calculated by matching department of corrections data to voter registration and history data from each state.

Table 2. Predicted Probability of Voting in 2008 and First Differences for Felony Offenders

	FL	GA	MI	MO	NC
Male probationers, age 35	.156	.256	.359	.256	.267
Black post-conviction					
... Black pre-conviction (first difference)	0	-.039	+.010	-.096	-.064
White post-conviction	.096	.208	.416	.210	.221
... White pre-conviction (first difference)	0	-.026	+.010	-.081	-.055
Less than high school:					
Black post-conviction	n/a	.223	n/a	.204	n/a
... Black pre-conviction (first difference)	n/a	-.032	n/a	-.102	n/a
White post-conviction	n/a	.180	n/a	.173	n/a
... White pre-conviction (first difference)	n/a	-.028	n/a	-.088	n/a

probationers more than prisoners, and the higher educated more than the less educated; thus the effect of the timing of the conviction could reflect differences in racial composition, sentence type, or educational attainment across the groups. Similarly, people convicted of their first offense after the election may be younger than people who served their sentences before the election. However, multivariate analyses confirm the patterns found in the simple tabulations; demographic differences in the sample do not account for the difference in turnout between pre- and post-conviction felons. The coefficient on pre-conviction is significant and in the expected direction. Age, race, imprisonment, and education are significant in the models, indicating that each still has a direct effect on turnout even after controlling for the other factors. These estimates can be found in the appendix. Logit coefficients are not easily interpreted so it is easier to discuss the probability of voting among offenders using the simulated scenarios in Table 2 (King et al. 2000: 348). According to the analysis, the probability of voting among black men convicted after the general election declines by 6 percentage points in North Carolina, 4 percentage points in Georgia, and 10 percentage points in Missouri, even after accounting for differences in age, race, and incarceration history. However, there is no significant difference between people who served time before and after the election in Michigan and Florida. Among whites, the probability of voting declines by 6 percentage points in North Carolina, 3 percentage points in Georgia, and 8 percentage points in Missouri. Again, there is no significant difference between pre- and post-conviction whites in Florida and Michigan.

Once race is considered, it becomes clear that black ex-felons account for most of the turnout increase between the 2004 and 2008 presidential election in Georgia, Missouri, and North Carolina. To reiterate the evidence from Figure 4, turnout among black and white male ex-felons increased in all states from 2004 to 2008. However, as shown in Figure 5, in Georgia, Missouri, and North

Percent Difference in Turnout Between White and Black Ex-Felons, 2000 General Election

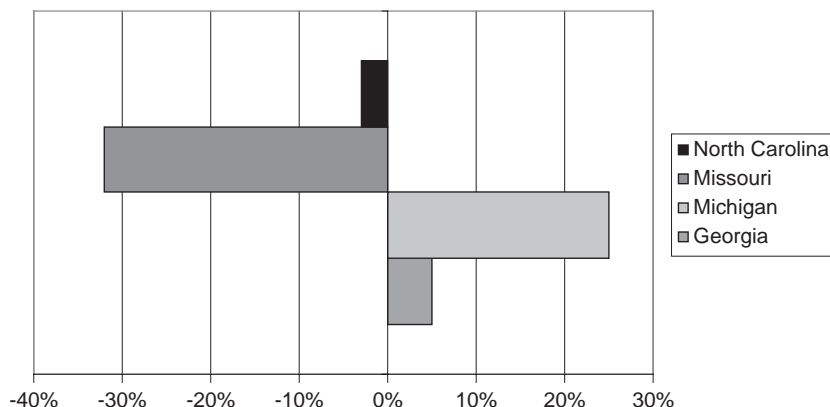


Figure 6. This graph shows the percent difference in turnout rates for the 2000 general election between black and white ex-felons in each state. Data were calculated by matching department of corrections data to voter registration and history data from each state.

Carolina, black ex-felon participation increased much more than white ex-felon participation in those years. Again, Michigan is exceptional; white ex-felon participation increased and surpassed that of blacks between 2004 and 2008. By comparison, turnout showed no consistent pattern by race prior to 2008. As shown in Figure 6, blacks were more likely to turn out in 2000 in Michigan and Georgia, while whites were more likely to vote in North Carolina and Missouri.

Party registration among ex-felons also shows surprising patterns. Table 1 shows that 51.4 percent of registered ex-felons in Florida registered as Democrats, compared with 27.9 percent as Republicans and 20.7 percent unaffiliated with the two major parties. One should note, however, that party registration is available only for the small subset of Florida ex-felons whose voting rights were automatically restored. In North Carolina, 56.3 percent of registered ex-felons signed up as Democrats, compared with 22.8 percent as Republicans and 20.9 percent unaffiliated or Independent. This pattern, as hypothesized, varies by race and thus reflects the racial composition of the offender population as shown in Figure 7. Black ex-felons overwhelmingly support the Democratic Party; 72 percent of black ex-felons in North Carolina and 84 percent of black ex-felons in Florida are registered Democrats. By contrast, white ex-felons in both states are divided almost evenly among the Democrats, Republicans, and unaffiliated categories, although slightly more white ex-felons support the Republican

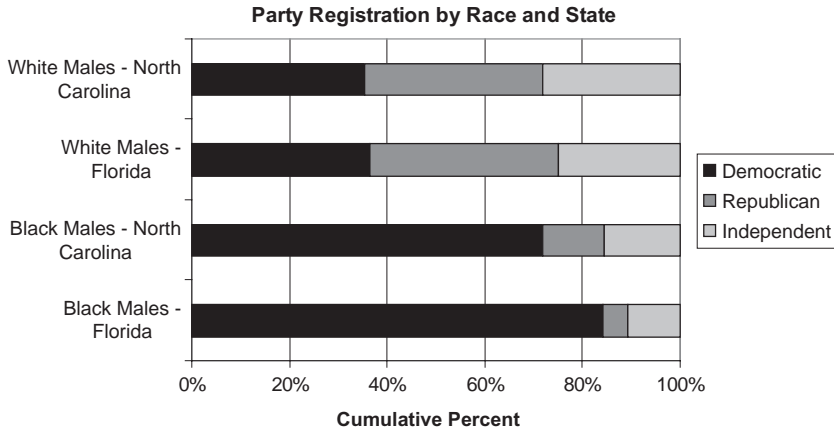


Figure 7. This graph depicts the party registration rates of black and white male ex-felons in North Carolina and Florida. Data were calculated by matching department of corrections data to voter registration and history data from each state.

Party than the Democratic Party. This distribution closely mirrors the general breakdown of registration by party and race in those particular states. In Florida, 83 percent of blacks were registered with the Democratic Party in 2008, while only 35 percent of whites were (Florida Secretary of State 2008). Similarly, in North Carolina, ex-felon party registration by race closely mirrors that of the general population (author's own analysis; see Burch 2010).

Discussion

These findings help adjudicate the controversy in the literature over offender voter turnout and vote choice. As expected, many people with criminal backgrounds participate in politics both before and after they serve time. Thus, claims such as that of Miles and Haselswerdt that disfranchisement laws only affect people who would not have voted anyway are too harsh. Had Florida, Missouri, North Carolina, Michigan, or Georgia prevented ex-felon voting, thousands of people would not have cast ballots in this past election. However, the data also show that expecting people with criminal backgrounds to vote at the same rates as everyone else after controlling for socioeconomic status, race, and other factors is overly optimistic. Voter turnout among offenders before and after their convictions falls far short of the turnout demonstrated by similarly disadvantaged citizens who have not had a criminal conviction.

More interestingly, these data show that turnout and party registration diverged sharply from previous expectations about the political behavior of offenders. The most important claim here is that race mattered in the 2008 election in ways that it had not previously. As with the broader electorate, turnout among eligible offenders increased since 2004. However, also like the broader electorate, that turnout increase occurred primarily among racial minorities. Black offenders turned out at much higher rates than white offenders even after controlling for age, education, and incarceration history. Prior to 2008's election, turnout showed no consistent pattern with respect to race; in North Carolina and Missouri, white ex-felons were more likely to vote than black ex-felons. This pattern reversed in 2008. Thus, the expectation that ex-felons would respond uniformly to the increased excitement and engagement of the 2008 election was misplaced.

Race also matters with respect to party registration. White ex-felons and black ex-felons diverged sharply in their support of the two major political parties. While, as expected, overwhelming numbers of black ex-felons were registered Democrats, two-thirds of white ex-felons registered as something other than Democratic. These patterns are similar to those found among low-income male voters on national surveys (Burch 2007a). Primarily, this finding points out that the potential effects of disfranchisement laws are not limited to Democratic supporters. Because low socioeconomic status (SES) whites were more likely to support Republican candidates in most recent elections, the answer to the question of which party is most affected by disfranchisement laws is, "it depends." A complete answer to that question would take into account the racial makeup of the disfranchised population and the politics of the time under consideration. For instance, in light of these findings, it makes little sense to argue that Wyoming's disfranchisement of ex-felons particularly hurt the Democratic Party in that state. Likewise, though Democrats held an 11-point advantage in party registration in Florida in 2008, the evidence suggests that Florida's electorate leaned more Republican in earlier years. For instance, the partisan affiliation of Florida's Latinos shifted over the past decade; while a majority of registered Hispanics were Republicans in 2006, by 2008 Hispanic Democrats outnumbered Hispanic Republicans by nearly 70,000 people (Pew Hispanic Center 2008). These findings suggest the need to reexamine the widespread belief¹³ that Vice President

¹³ Manza and Uggen (2004) state unequivocally that Gore would have won Florida had ex-felons been allowed to vote in 2000.

Gore would have defeated President Bush in 2000 had ex-felons been allowed to vote in that state.¹⁴

One curious result is that people who served time after the election vote less than ex-felons. One might think that the experience of conviction and punishment would suppress political participation by depleting the resources, efficacy, and social ties that foster participation, so individuals who had not yet experienced those effects would tend to vote more than those who had. That still may be the case. The pre-conviction group most closely approximates current felons, as noted at several points throughout this discussion. Pre-conviction felons and current felons may face a different set of life circumstances than ex-felons. For many people who are about to serve time for crimes, the time before they are caught and convicted is particularly difficult: they may be hiding from authorities or engaged in severe substance abuse, for instance, as suggested by Mumola (1999). In contrast, some ex-felons may have been able to turn their lives around and may be in better mental and emotional health than people about to enter the criminal justice system. Forty percent of state prisoners received treatment for substance abuse while in prison (Mumola & Karburg 2006). Ten percent received psychotropic drugs and 12 percent received therapy or counseling for mental health conditions while in state correctional facilities (Sourcebook of Criminal Statistics 2003).

Another possibility is that the negative consequences offenders experience because of convictions could *increase* their political activity. Hansen, for instance, argues that groups will increase their participation in politics under threat, such as when important resources are at stake (Hansen 1985). Punishment that is perceived to be harsh or unfair, for instance, could hasten the “transformation of convicts into political militants” (Davis 2003: 69). Moreover, through contact with other offenders, a person may develop new habits of participation or even a revolutionary consciousness. Malcolm X, after learning of the teachings of the Nation of Islam, wrote that “It was right there in prison that I made up my mind to devote the rest of my life to telling the white man about himself—or die” (X 1965: 186).

A third possible explanation for lower turnout among pre-conviction offenders is that this sample is contaminated with people who were actually ex-felons convicted by other state or federal authorities. Each offender classified as a “pre-conviction” felon is one for whom the first supervision by the state department

¹⁴ Upon further analysis, assuming that ex-felons supported Vice President Gore at rates similar to General Society Survey (GSS) respondents with at most a high school diploma, Bush would have defeated Gore by averages of 4,295 and 7,048 votes, assuming turnout rates of 10 and 15 percent, respectively. Neither higher levels of turnout generally nor higher levels of turnout for blacks alone resulted in a Gore advantage (Burch 2010).

of corrections for a felony took place after the 2008 election. If the turnout difference were in fact due to the inadvertent inclusion of ex-felons in the pre-conviction sample, then 16 percent of pre-conviction felons in Florida, 19 percent of pre-conviction felons in Georgia, 40 percent of pre-conviction felons in Missouri, and 29 percent of pre-conviction felons in North Carolina would actually be nonvoters with felony convictions in other jurisdictions, assuming a turnout rate among those ex-felons of zero. No data are available to evaluate the possibility that these individuals were convicted by other authorities directly, although the evidence suggests that the likelihood that people have felony convictions under other authorities is small. Sixty percent of pre-conviction ex-felons are between the ages of 18 and 24, suggesting that they are early in their adult criminal life. The percentage of felons convicted in federal courts accounts for only 6 percent of all felony convictions nationally. Furthermore, in the states for which data are available, most people convicted after the election were born in their state of conviction. More than three quarters of Georgia pre-conviction felons, and two-thirds of North Carolina pre-conviction felons were born in their respective states, suggesting that they had not moved to North Carolina after being convicted of a felony somewhere else.

Persons convicted after the election are interesting not just because they provide a close approximation to the turnout rates of felons if they had not been serving sentences at the time of the election, but also because their behavior provides a response to an important counterargument. Some might argue that this article underestimates the intent or desire of eligible offenders to vote. Many researchers can recall stories of offenders who do not vote because they believe they cannot. In fact, eligible offenders may be misinformed by government authorities (Ewald 2005). The explanatory force of such “*de facto* disfranchisement” claims diminishes, however, in the face of evidence that most felons did not vote before their convictions even after accounting for race, age, and other factors. Intimidation, fraud, or misinformation based on convictions cannot explain nonvoting among people who had not yet been captured, convicted, or punished at the time of the election. Instead, this evidence suggests that most people convicted of felonies are, at best, nonvoters or peripheral voters (Campbell et al. 1960).

Even with full information, turnout might still be low. When Florida restored the civil rights of hundreds of thousands of ex-offenders, the Department of Corrections, Clemency Board, and Board of Elections teamed up to contact those eligible offenders to tell them that their rights had been restored automatically. These bureaus also held community events and ran advertisements to alert eligible ex-felons of the change in laws. Moreover, since

2006, the Department of Corrections in Florida has advised eligible ex-felons about the restoration of their rights as they exit supervision. Undoubtedly, the state found it difficult to reach ex-felons released before the change in the law (Moore 2008). However, turnout remains low even among those ex-offenders released after 2006, suggesting that lack of information is not the primary cause of nonvoting among ex-felons because this group was told explicitly about the automatic restoration of their rights.

Conclusion

This article argues that, on average, 22 percent of eligible ex-felons voted in states without ex-felon disfranchisement laws. This figure shows that a sizeable number of people would have been kept from voting had these states prevented ex-felon voting. However, this analysis suggests that this very disadvantaged group is even less likely to participate than previously indicated using the CPS or other data sources. Participation rates among eligible offenders, even during a time in which the broader society is highly mobilized, lag far behind those of even disadvantaged people who have not been convicted of crimes. That turnout is so low, even during this favorable climate, suggests that full democratic participation remains a remote prospect for the United States. However, these results raise many questions.

The results indicate the need for more research into the political behavior of people on the margins of society. An increasing number of people suffer from housing instability, food insecurity, joblessness, and isolation; these factors seem to lead to criminality as well as to nonvoting as this research suggests. These people are difficult to reach by traditional survey methods because they often do not have permanent residences or telephones.

Reasonable people disagree as to whether offenders should be encouraged to participate in politics on equal footing with law-abiding citizens. Liberal democratic theory brands an individual who breaks the law “a rebel and a traitor to the homeland” who deserves to be expelled from the community (Rousseau 1762/1987). These normative judgments, however, are separate from the empirical understanding of how laws can potentially affect political participation. Achieving a deeper understanding of how being convicted, punished, and disfranchised for committing a crime affects political behavior is essential to comprehending voting patterns among disadvantaged citizens generally because so many disadvantaged citizens experience these phenomena. Likewise, future research should also explore how variation in laws and other conditions at the state level can influence those voting patterns.

Appendices

Appendix Table A1. Political and Demographic Characteristics of Sample States

	FL	GA	MI	MO	NC
% for McCain (08)	52	41	50	49	48
% for Bush (04)	52.1	58	48	53	56
% for Bush (00)	48.8	55	46	50	56
Party of governor	R	R	D	D	D
Party of legislature	R	R	R	R	D
% Black	15.3	29.6	14.1	11.3	21.3
% Minority	23.7	37.7	20.4	16.0	29.5
Region	South	South	Midwest	Midwest	South
% Citizen	89.7	93.7%	96.7%	97.9%	95.2%
Total population	18,328,340	9,685,744	10,003,422	5,911,605	9,222,414
Poverty rate	12.6	14.7	13.5	13.6	14.7
Median income	\$45, 495	\$46,832	\$47,182	\$42,841	\$42,625

Appendix Table A2. Characteristics of Criminal Justice in the Sample States

	FL	GA	MI	MO	NC
Incarceration rate (per 100 K)	535	563	499	506	361
Probation rate (per 100 K)	1,863	6,144	2,392	1,256	1,612
Total correctional copulation ^a (2004)	462,435	562,763	278,808	125,613	181,435
Total supervised per 100 K ^a (2004)	3,197	3,042	3,527	2,595	2,589
Index crime rate (per 100 K)	4,812	4,394	3,602	4,243	4,553
Arrests (2005)	1,055,052	216,627	344,114	229,077	446,154
State Department of Corrections					
Prison	98,219	54,256	50,233	29,857	37,970
Probation	272,977	422,790	182,650	54,963	110,419
Parole	4,790	22,958	18,486	19,063	3,236
Expenditures	\$2.298B	\$968.5M	\$1.705B	\$575.2M	\$1.039B
% Black of Incarcerated	46.50%	62%	53%	40.3%	58%
Legal					
Felony cases/year	158,079	78,019	63,474	93,226	101,509
Truth in Sentencing ^b	85%	85%	85%	85%	85%
Sentencing Guidelines			✓	✓	✓
Habitual Offender Laws	✓	✓	✓	✓	✓

^aIncludes offenders supervised by local and state authorities.

^bOffenders must serve 85 percent of their sentence; meet federal standards.

Table A3. Estimates of Voter Turnout in the 2008 General Election by State

	NC	GA	GA	MO	MO	FL	MI
Constant	-1.963*** (0.04)	-3.104*** (0.06)	-3.342*** (0.07)	-2.455*** (0.11)	-2.598*** (0.21)	-3.28989*** (0.06)	-0.25859*** (0.03)
White	0.337*** (0.03)	0.827*** (0.06)	0.862*** (0.06)	0.909*** (0.11)	1.014 (0.20)	0.633637*** (0.05)	0.179748*** (0.02)
Black	0.588*** (0.03)	1.196*** (0.06)	1.243*** (0.06)	1.169*** (0.11)	1.218 (0.20)	1.189291*** (0.05)	-0.06115** (0.02)
Pre-conviction	-0.356*** (0.02)	-0.323 (0.10)	-0.304** (0.10)	-0.590*** (0.05)	-0.819*** (0.07)	-0.00147 (0.07)	0.042175 (0.03)
Prisoner	-0.066 (0.01)	-0.213*** (0.01)	-0.165*** (0.01)	-0.947*** (0.02)	-0.923*** (0.02)	-0.71348*** (0.02)	-0.1691*** (0.01)
Age	0.010*** (0.00)	0.020*** (0.00)	0.021*** (0.00)	0.006*** (0.00)	0.000 (0.00)	0.011684*** (0.00)	-0.00738*** (0.00)
Education			0.082*** (0.01)		0.598*** (0.02)		
N	263,434	391,968	361,634	185,515	90,894	284,326	191,658

NOTES: These models were estimated using logistic regression for binary dependent variables for each state. Sample limited to offenders aged 18 to 65. Unstandardized regression coefficients are reported. Standard errors in parentheses, *significant at 5%; **significant at 1%; ***significant at .1%.

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Governing the restoration of civil rights for ex-felons: an evaluation of the Executive Clemency Board in Florida

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In Florida, when someone is adjudicated guilty of a felony crime, they lose the right to vote. The only way to regain these rights is to go through the process of rights restoration. The civil rights restoration hearings in Florida have the potential to serve as a formal ceremony in which individuals are acknowledged for their recovery from crime and readmitted into the political community. Data from the Governor's office, observations of the Executive Clemency Board, and interviews with ex-offenders who have experience with the restoration process, were evaluated to determine the impact these hearings have for ex-offenders' reintegration. Results suggest that the low success rate, cumbersome process, and lengthy amount of time required may all serve to further alienate the many applicants who are rejected, impeding their reintegration into the community. Recommendations to either simplify the process of rights restoration or to remove ex-felon disenfranchisement policies are given.

Keywords: ex-felons; disenfranchisement; reintegration; rights restoration; voting; clemency

Introduction

Florida governor, Jeb Bush, stated that the restoration of civil rights is, 'an exhausting, emotionally draining process that can also be uplifting when people have changed their lives and turned things around' (Pfankuch, 2001). In Florida, those convicted of a felony offense must go through the rights restoration process in order to vote, run for an elected office, or serve on a jury. The rights restoration process serves as one of the final steps in the process of restoring liberties forfeited by a criminal conviction.

Maruna (2011) argues that unlike the punishment process that involves well-orchestrated and elaborate proceedings, the reintegration process involves very few of these types of events. Ceremonies or formal moments recognizing ex-offender reintegration have been noted as important events that can symbolize the process of moving toward full civic membership. Scholars have noted the potential benefits of these types of ceremonies. Trice and Roman (1970) argue that *delabeling*, or *deviant decertification* ceremonies signify an important point in which an offender

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has overcome his/her criminal life. A formal ceremony, in which the individuals are acknowledged for their recovery from crime and readmitted into the political community, has the potential to aid the reintegration process. [Uggen and Manza \(2005, p. 78\)](#) argue that ‘some variant of these restoration processes may hold promise for reducing the stigma associated with a felony conviction ... while helping convicted felons to move on with their lives.’

It seems likely that the manner in which these ceremonies are carried out will influence the degree to which they are effective. If these ceremonies are not conducted in a just or reasonable manner, the benefits may largely be lost. Braithwaite and Mugford (1994, p. 142) suggest that when these ceremonies follow the ‘disapproval-degradation-exclusion’ framework or are applied in an unjust or inequitable way, they fail to benefit the former offender. Erikson (1964, p. 16) argues that it is important to have some type of ceremony stating that one is:

ushered into the deviant position by a decisive and often dramatic ceremony, yet is retired from it with hardly a word of public notice. And as a result, the deviant often returns home with no proper license to resume a normal life in the community.

Rights restoration

Once somebody has truly paid their debt to society, we should recognize it. We should welcome them back into society and give them that second chance. Who doesn’t deserve a second chance? (Florida Governor Charlie Crist cited in King, 2008)

In the state of Florida, when someone is adjudicated guilty of a felony, they lose their right to vote, serve on a jury, or run for elected office. The only way they may regain these rights is through the process of rights restoration. In the past, all ex-felons were required to go before the Executive Clemency Board (ECB) at one of their quarterly meetings in Tallahassee. On 5 April 2007, Governor Charlie Crist revised the rights restoration process by changing the rules of eligibility to allow former offenders to get their rights restored without a formal Board hearing. Those who were convicted of a nonviolent felony became eligible for ‘automatic’ rights restoration. This process requires the Florida Department of Corrections (DOC) to send the names of nonviolent first-time felons to the Florida Parole Commission (FPC) to assess their case for eligibility. The DOC estimates that they send about 4000 names per month to the FPC. The DOC estimated that this consists of approximately 2000 inmates being released into the community, and 2000 former offenders terminating their supervision (probation or parole).

The FPC reports that 150,000 nonviolent individuals have had their rights restored through this revised process, yet estimates still suggest that hundreds of thousands of individuals remain disenfranchised (estimates range from 600,000 to 1.2 million). Florida is one of eight states that restrict voting rights for offenders after the completion of their criminal justice sentence (including incarceration, probation, and parole). Despite the rule change in 2007, Florida is still considered among the top states when it comes to disenfranchising criminal offenders; a March 2011 decision by the new administration of Governor Rick Scott to repeal the 2007 rule change has essentially returned the state to its earlier more restrictive rules.

Under the 2007 clemency rules, when an individual is convicted of a felony crime the DOC notifies the Florida Division of Elections and that individual endures

the loss of voting rights, the right to serve on a jury, and the ability to hold an elected office. Ex-felons become eligible for the restoration of their civil rights upon completion of their sentence and all forms of supervision. At level 1, the lowest level of offenses (nonviolent felonies), the DOC automatically sends a list to the Parole and Probation Commission (see Figure 1). The FPC investigates all of these submissions to make sure that three requirements are met: (1) completion of all sentences imposed and all conditions of supervision have expired; (2) there are no outstanding detainers or pending criminal charges; and (3) all restitution paid pursuant to a court order or civil judgment is paid (OPPAGA, 2009). The Florida American Civil Liberties Union (ACLU) has argued that the last requirement has a considerable impact on those seeking rights restoration (as it may take many years to pay off restitution payments). Furthermore, the Florida ACLU and others have equated this requirement to Reconstruction-era poll taxes (ACLU of Florida, 2009). If the FPC approves the individual then it sends its information to the ECB for the governor, chief financial officer (CFO), commissioner of agriculture (CoA), and the attorney general (AG) for an 'automatic' approval signature. If the FPC denies the 'automatic' applicant, the ex-convict applicant is required to apply for rights restoration.

For more serious level 2 and level 3 offenses, the process becomes exponentially more difficult. For level 2 offenders, consisting of violent and habitual

	Eligibility	Procedure
Level 1	No violent offenses	Rights are restored without a hearing.
	And Not declared: a habitual violent felony offender, a 3-time violent felony offender, violent career criminal, prison releasee reoffender, or sexual predator.	Ex-offenders in Level 1 are not required to apply for rights restoration.
Level 2	Convicted of offenses more severe than Level 1 offenses, except murder and sex offenses.	Rights may be restored without a hearing after a mid-level investigation.
	And Not declared to be a sexual predator.	If civil rights are not restored without a hearing, then the case can be considered at a hearing after a full investigation, if the applicant notifies the Office of Executive Clemency that a hearing is desired.
	Or 15 years arrest and crime free.	
Level 3	Convicted of homicide or sex offense and those not approved in Level 1 or 2.	Full investigation and hearing.

Source: Rules of Executive Clemency 2007.

Figure 1. Restoration of civil rights process by different level.

offenders (see Figure 1), an in-depth review by the Parole and Probation Commission is required and then sent to the ECB which looks over the case files and either approves or denies rights restoration. The level 3 offenders, consisting of sex offenders, homicide offenders, and those denied at lower levels, are required to go before the ECB in Tallahassee at one of its quarterly hearings to have their cases heard. Any offense can be considered at a higher level based on the governor's discretion. If denied rights restoration at a hearing, which is a common occurrence, the ex-felon must wait two years before reapplying.

Rights restoration in Florida is a unique and complex process that is largely void of transparency. Unlike criminal justice processes that are open to the public (public hearings, public court records, public dispositions, etc.), the rights restoration process in Florida remains mostly hidden from public scrutiny. This examination employs several strategies to better understand this process, including an evaluation of records from the ECB, observation of the hearings, and interviews with ex-felons. These data sources are evaluated to: (1) determine the predictors of rights restoration, (2) evaluate the experience of going through the rights restoration process, and (3) assess the mistakes that occur during this process.

ECB data

The ECB has the authority to restore the civil rights of an individual who has forfeited them by receiving a felony conviction. The Constitution of Florida allows for the governor and his cabinet to use their discretion in granting clemency. Because the governor and his cabinet have the sovereign prerogatives typical in a clemency process, their decision-making takes place outside of the normal checks and balances of the criminal justice system (Sarat & Hussain, 2007). The applicant for clemency has neither entitlement to due process, nor is the governor required to give a reason for denying their petition. The particular operations of rights restoration through executive clemency raise the question of whether or not this system favors certain groups or types of applicants over others. In order to answer this question, we use records from the public hearings of the ECB over the past six years to evaluate predictors of rights restoration. In addition, observations of four ECB hearings, along with interviews with ex-felons who have experienced this process, were conducted to advance our understanding of these proceedings.

One of the challenges to research on rights restoration is that records are held confidential. In order to analyze data on the rights restoration process, we were limited to the only part of the process that is open to the public, the meeting agenda. It is important to note that not all ex-felons are required to go through the process of a formal hearing, and these requirements have changed from one governor to the next and even in the middle of a governor's term. To give a better understanding of the process of rights restoration, we evaluated the meeting agendas over six years: 2004 through 2009. The timeframe of six years was chosen to allow for an analysis of changes in trends and to make a comparison between Governors Bush (three years) and Crist (three years). In addition, this time period encompassed two presidential elections and varying political climates. These six years of data collected from the ECB were then used to evaluate the predictors of having one's rights restored.

The meeting agendas were formally requested through the FPC in accordance with Florida's Sunshine Laws. The information contained on the agenda included

the type of petition, individual's legal name, favorable or unfavorable recommendation by the FPC, and whether the applicant attended. The agendas sent to us contained the Coordinator of the Office of Executive Clemency, Janet Keels, personal notes that marked the disposition and any other relevant notes including whether a victim was present or a victim statement was read. Over the six years, the ECB held 23 meetings. It met four times a year (March, June, September, and December), except in 2008, when the Board only met three times (February, June, October). The ECB would not state a reason for why the board only met three times in 2008, but it is likely that scheduling conflicts were the primary concern.

In order to gather background information on the ex-offenders, we used a commercial criminal records search engine. For a monthly fee, the search engine allowed criminal records to be located using offender names. The database also allowed searches to be limited to ex-offenders who had Florida criminal records by selecting Florida as a search parameter. This methodology has several limitations, but still was able to illuminate patterns among ex-offenders' characteristics that made them more likely to have their rights restored.

Ironies abound in this methodological approach, ironies which deserve some elaboration. Even after ex-offenders have their rights restored, in many cases their criminal records will continue to be readily available on the Internet for a minimal fee. The use of criminal background checks has dramatically increased, and more states are now making them available online ([Blumstein & Nakamura, 2009](#)). A survey conducted by SEARCH (2001) revealed that 13 of the 37 reporting states allowed individuals to purchase criminal records over the Internet. Florida is one of these states that provides criminal histories containing everything in the file (that has been entered into the computer). The accuracy of these records has been questioned (SEARCH, 2005) and often records are incomplete or contain inaccurate information.

Along with possible inaccuracies with this data, there was also a significant amount of missing data. More common for women than men, some of the missing cases can be attributed to legal name changes preventing the names on the agenda to be connected to the name on the criminal records. This is one clear limitation of this methodology. The date of the criminal offense may also complicate locating a criminal record. Some of the electronic county records in the state of Florida only go back as far as 1997, whereas others go back much further. Thus, if an offense occurred before the start of records in the database for a particular county then the individual may not be in the database. In many cases, older records have been entered into these databases, but certain offenses such as sex offenses and homicides may be more likely to be represented in the database than lesser offenses.

Another issue of concern is the problem of duplicate names. In some cases, when common names were entered into the database, several records came up for different people with felony convictions. The information was omitted when this happened, and there was no way to be sure which ex-felon was the one who was petitioning for clemency.

Each meeting agenda provided by the Office of Executive Clemency indicated the disposition of the applicant's petition. After each name, a handwritten note indicated if the petition was granted, denied, continued, or taken under advisement. Applicants who had 'granted' next to their name were compared to those whose petitions were denied. In the rare case where applicants' cases were either continued or taken under advisement, they were excluded from this analysis.

Key factors that may influence the disposition of the case, were indicated on the agendas. These included the applicant's attendance at the hearing, the Parole Board's recommendation for the case, and whether the victims spoke or provided a statement for the hearing. On the FPC's website under 'Frequently Asked Questions' about clemency, question 6 asked: 'If my case is scheduled for a clemency hearing, do I have to attend the hearing?' The question is answered: 'No, it is not a requirement for any individual to attend the clemency hearing, although in rare cases, the governor or any board member may request that an individual appear to answer specific questions about his or her case' (FPC, 2004). Although attendance was not required, it is hypothesized that those who attend will have a greater likelihood of having their rights restored. Those who indicated that they would attend prior to the hearing were noted on the agendas by the placement of an asterisk after their name. Individuals who failed to attend and were given asterisks or those who attended and were not marked on the agenda, were corrected on the copies received from the Office of the ECB. In the rare cases where applicants were not in attendance, but arrangements had been made for someone to represent them (attorney, family member, or friend) they were included in the attendance group indicating their representation. Those who were represented at the hearing were compared to those who were not represented.

The FPC evaluates all level 3 applicants cases prior to the hearing. This investigation often consists of interviews with the ex-felon, family member, employers, victim(s), and other people in contact with the applicant. The FPC is required to provide the ECB with a copy of this report and give the applicant either a favorable or unfavorable recommendation. The governor and his cabinet are not constrained by this recommendation and have full autonomy to overrule the recommendation of the FPC. It is hypothesized that those who received favorable recommendations are more likely to have their rights restored than those who received unfavorable recommendations. On the agenda, those who received favorable recommendations were grouped together and presented their cases prior to the group with unfavorable recommendations. Those who received favorable recommendations from the FPC were then compared to those who received unfavorable recommendations.

The Commission's Victims Coordinator notifies victims of upcoming hearings that involve offenders, including applicants for restitution of civil rights. The Victim Services office is responsible for locating victims and to 'offer guidance and compassion through the process of providing the Commission input on matters brought before it' (FPC, 2004). Victims are informed of the hearing date and given the opportunity to provide a written statement or to appear in person to speak either for or against the applicant's petition. As noted earlier, the FPC usually attempts to contact the victim(s) prior to determining their recommendation to the board as well. Although victims did not speak in many cases, it is hypothesized that in those cases where a victim was either present or had a statement read to the Board that this would impact whether the applicant's rights are restored or not. The agenda contained handwritten notes indicating whether the victim(s) spoke or had someone speak on their behalf. The cases where a victim or victim statement was indicated were compared to cases without victim(s) involvement at the hearing.

Demographic variables were used to evaluate if certain groups were more likely to have their rights restored than others. Criminal background checks were used to provide the applicant's gender, race, and age. Gender was a dichotomous measure and was indicated on the criminal records. The applicant's race was also indicated

on the criminal record. Although one would expect that Florida would have a large Hispanic group, historically, racial/ethnic classifications failed to accurately report Hispanics. Race was therefore treated as a dichotomous variable where Whites were compared to nonWhites. Taking the birth date given on the criminal record and subtracting it from the date of the applicant's hearing determined the applicant's age. Age was a continuous variable measured in years and the age of the applicant was represented at the time of their hearing.

A criminal records search was used to determine what offenses the applicant had committed. The categories were determined using the Florida Department of Law Enforcement (FDLE) classification system and reduced to represent the major categories of crimes. Included were homicides, sex offenses, robberies, assaults (including other violent offenses), thefts (property crimes), drug offenses, and other offenses. Homicides included murder, manslaughter, vehicular manslaughter, and DUI manslaughter. Any offense designated by the state and included by the state's registry as a sex offense was included in the sex offense category. Any type of robbery (armed robbery, strong arm, etc.) was included in the robbery category. The assault category consisted of aggravated assaults and aggravated stalking. The category of thefts included burglary, larceny, forgery, and motor vehicle thefts. All drug offenses were placed into the drug offender category. Finally, those offenses that did not fit into one of these categories were placed into the other category (arson, felony DUI, carrying a concealed firearm, bribery, eluding, trespassing, cruelty to animals, child abuse, etc.). For those applicants who had multiple offenses only the most severe (higher FDLE) offense was selected. Because this is a categorical variable, seven dummy variables were used in the analysis and drug offenders were excluded and used as the reference group.

Results

The ECB meets in the basement of the Capital building in Tallahassee, four times a year, to hear petitions for commutation of sentences, pardons, restoration of firearm authority, and the restoration of civil rights. Applications for the restoration of civil rights made up the majority of the agenda and the Board heard 56 rights restoration cases on average for meetings from 2004 through 2009. During this time period, the board considered 1344 cases for restoration of civil rights, 437 (33%) of which were granted, 846 (63%) denied, and 61 (4%) continued or taken under advisement.¹ These numbers varied considerably from hearing to hearing, between governors, and even within a governor's term. From 2004 through 2006, while Jeb Bush was Governor, he restored 381 (44%) applicants' civil rights and denied 491 during the ECB meetings. From 2007 through 2009, Governor Crist restored 56 (14%) applicants for restoration of civil rights while denying 355 applicants during the ECB meetings.² It is important to note that in April 2007, Governor Crist amended the Rules of Executive Clemency to allow for a larger number of nonviolent offenders to have their rights restored without a hearing.³ Table 1 shows the changes in civil rights restoration over time.

Descriptive statistics for the dependent and independent variables in the analysis are summarized in Table 2. Due to issues of missing data (discussed previously), only 884 cases were included in the analysis. Among these, about one-third (32%) had their rights restored. The majority of the applicants were male (84%) and White

Table 1. Restoration of civil rights at the ECB by hearing date: 2004–2009.

Year of hearing	Date of hearing	ECB applicant sample (<i>N</i> = 1283)		
		Number restored	Restored (%)	Total applicants
2004	18 March	25	44	57
	17 June	28	51	55
	23 September	27	64	42
	9 December	29	66	44
2005	3 March	23	53	43
	23 June	30	53	57
	8 September	33	57	58
	6 December	49	39	127
2006	2 March	66	47	141
	15 June	26	25	104
	21 September	27	28	95
	7 December	18	37	49
2007 ^a	1 March	23	43	53
	14 June	0	0	29
	20 September	5	11	45
	6 December	1	3	34
2008	28 February	7	25	28
	5 June	3	16	19
	21 October	3	6	51
2009	12 March	4	9	45
	11 June	2	7	28
	24 September	4	10	40
	10 December	4	10	39

Source: ECB data 2004–2009.

^aChange in ECB rules.

Table 2. Descriptive statistics for variables used in rights restoration model.

Variables	ECB applicant sample (<i>N</i> = 884)	
	Mean	S.D.
Dependent variable		
Disposition (restored = 1)	.32	.47
Demographic variables		
Gender (male = 1)	.84	.37
Race (White = 1)	.66	.47
Age at hearing	47.09	13.09
Factors		
Parole rec. (favorable = 1)	.28	.45
Attendance (attended = 1)	.22	.44
Victim statement (yes = 1)	.03	.18
Offense type		
Homicide	.14	.35
Sex offense	.34	.47
Robbery	.07	.26
Assault	.23	.42
Theft	.04	.21
Drug offense	.08	.27
Other	.09	.29

Source: ECB data 2004–2009.

(66%). The average age at the hearing was 47-years-old. Only about one-fourth of the applicants received a favorable recommendation (28%) and less than one-fourth were represented at the hearings (22%). Victims were only represented in three percent of the cases. The largest group of applicants was sex offenders (34%). Other violent offenses made up nearly half of the applicants with homicides (14%), assaults (23%), and robberies (7%). The rest of the offenses consisted of property thefts (4%), drug offenses (8%), and other (9%).

Statistical model

The results from the logistic regression model indicated that those who were predicted to have their rights restored received favorable recommendations, attended the hearings, and did not have victim representation. Compared to unfavorable recommendations, those with favorable recommendations were 46 times more likely to have their rights restored while controlling for other factors. Those who attended the ECB hearing were nearly 10 times more likely to have their rights restored as compared to those who did not attend. Those who had victim statements or testimony during their hearing were 100 times less likely to have their rights restored compared to those who did not have victims present while controlling for other factors. Further, there was only one case where a victim's statement was given and the applicant's rights were restored. These results indicated that the recommendation of the FPC, attending the hearing, and whether a victim is represented are very strong predictors of the likelihood of rights restoration (Table 3).

Among the demographic variables, age was the only significant predictor of rights restoration. Those who were younger at the time of their hearing were more likely to have their rights restored. This relationship likely represents a difference in number

Table 3. Logistic regression analysis predicting restoration of civil rights.

Variables	ECB applicant sample (N=884)	
	Beta (SE)	Odds ratio exp(b)
Demographic variables		
Gender (male = 1)	-.54 (.30)	.59
Race (White = 1)	-.39 (.25)	.68
Age at hearing	-.02 (.01)	.98*
Factors		
Parole rec. (favorable = 1)	3.83 (.27)	46.00**
Attendance (attended = 1)	2.25 (.27)	9.51**
Victim statement (yes = 1)	-4.37 (1.29)	.01**
Offense type (compared to drug offenses)		
Homicide	-1.55 (.53)	.19**
Sex offense	-1.91 (.51)	.16**
Robbery	-.29 (.59)	1.02
Assault	-.32 (.47)	.86
Theft	.13 (.65)	1.37
Other	-.08 (.50)	.93
Intercept	-.49 (.64)	
χ^2	598.65**	
Pseudo R^2	.69	

* $p \leq .05$, ** $p \leq .01$.

Source: ECB data 2004–2009.

of offenses, severity of offense, and length of sentence that unfortunately could not be measured. These limitations are further addressed in the discussion section.

For the offense type, only homicides and sex offenses were significant in predicting the denial of rights restoration compared to drug offenses. Those applicants convicted of homicide were 5.26 and sex offenders were 6.25 times less likely to have their rights restored than drug offenders while controlling for other factors. All other offenses were not significantly different than drug offenders.

In sum, the actions of the ECB appear to present something of a paradox. On the one hand, appeals for the restoration of rights are nominally treated as a matter for very personal and individual assessment of each ex-offender. Indeed, the fact the rights restoration goes through the *clemency* Board explicitly, evokes the traditional notion of a sovereign prerogative to provide mercy – albeit in a decidedly unsystematic way – to the individual facing state sanction. In practice, however, the decisions of the ECB appear relatively uninfluenced by the figure of the individual petitioner standing before the Board – except in the basic sense in which petitioners who are physically standing before the Board improved their chances considerably over those who chose not to attend hearings in person. Otherwise, parole reports and victim attendance played a far more critical role in the proceedings, suggesting the relative unimportance of the petitioners' own presentation. To gain a better sense of how the process is experienced in practice, we observed the proceedings of the ECB and conducted a number of interviews with ex-offenders.

Observations and interviews

The ECB convenes four times a year and offers an opportunity for ex-offenders to speak before the governor and his cabinet to ask for the restoration of their civil rights. The Florida Parole and Probation Commission provides the governor, AG, CFO, and CoA with their recommendations. Victims are notified and sometimes speak at these hearings or have statements read. To supplement the quantitative assessment of this process, we provide a detailed account of these hearings.

The senior author attended the four hearings during 2009 (12 March, 11 June, 24 September, and 10 December). During these hearings, an electronic recording device was used to record parts of the hearing. In addition, notes were taken on the interactions between the governor, his cabinet, petitioners, victims, and staff members present at the hearings. As part of a larger project, interviews were conducted with ex-felons unable to vote. Several of these ex-offenders were observed at the hearings and later interviewed. We use their stories to supplement the quantitative data presented.

It is about time and place

During the 24 September 2009, Executive Clemency Hearing, Alex Sink (CFO) asked Frederick Dunphy (the chair of the FPC) how long it took for applicants to obtain a hearing of their cases. This question was asked after an applicant had described a frustrating seven-year process to reach the hearings. Dunphy explained that because of the backlog and underfunding, it was not unusual for the process to take over five years. The exchange between Sink and Dunphy prompted numerous ex-felon applicants to express similar frustrations with the system during their hearings. Rising to take their turns to speak, they repeated stories of waiting for

five, six, and even seven years. Conversations with the ACLU and ex-felons revealed that even level 1 offenders were required to wait several years. The Florida ACLU cites these extended waiting periods as one of the reasons for the 'automatic' restoration label to be inaccurate (ACLU of Florida, 2009).

The length of time it takes for an applicant to secure a scheduled interview means that many life events can intervene in the meantime. Observations of the ECB hearings suggested that the governor and cabinet officials expressed little sympathy for those experiencing these adverse life events. This seemed especially true in those instances of ex-offenders describing economic 'hard times.' Those who had recently been laid off and were dealing with the hardships of the economic downturn seemed much less likely to garner support from the board than those who had recent positive economic events.

Indeed, it would be fair to say that unpredictable life circumstances at the equally unpredictable point of evaluation (anywhere from three to seven years after the initial application) may be a critical factor in the governor's decision. The FPC often conducts interviews with recent employers, friends, and other references, not at the time of the petitioner's application, but instead many years later. For many, this delayed process may place them in much different circumstances than when they originally applied for their rights restoration.

If applicants have their application denied the ex-offender must wait for two years before reapplying. An applicant at the 10 December 2009, hearing pleaded with Governor Crist to continue his case, indicating that he had some material he wanted to bring in, but he was not ready to present. The governor, showing a reluctance to continue the case at the applicant's request, patiently waited for him to use his time to argue for himself. The room fell quite silent, as the applicant fumbled through an improvised statement and concluded with a plea for a continuance. The governor said he would take the case 'under advisement.' The applicant, clearly not understanding the governor's comment, asked what he meant. In response, the governor explained that he would look over the case later to evaluate it and see if he should schedule a new hearing. This dialog may seem trivial, but under the current rules, if a petition is denied the applicant must wait two years from the date of the hearing before reapplying for rights restoration. Thus, if the governor denies the case, the applicant must wait two years to reapply and then endure another three to seven years before having another hearing. In many cases the governor would deny a petition, but stated that he 'encourage[s] you to reapply.' It is very likely that by the time the applicant has another hearing scheduled that the governorship would change more than once before their petition is heard. As knowledge of the amount of time this process requires becomes better known, many ex-offenders may be discouraged from ever applying.

If 'time' works against ex-offenders, the problem of 'place' does as well. Specifically, ex-offenders must meet the challenge of being physically present in Tallahassee at the board hearing. During the March 2009 meeting, a glance around the room sparked an observation on the curious demographic makeup of the assembled group. With the exception of one black family and what appeared to be an aide, the entire room was filled with Whites. Even more surprising was that there were only two Hispanic families (one of which was there to give a victim's statement). Data from 2004 to 2009 showed that 28% of White applicants attended, while only 21% of nonWhites attended the hearing. Over the 23 hearings from 2004 to 2009 only 64 nonWhites were heard before the governor, representing an

average of less than three applicants per hearing and about one-fourth of the total applicants who attended.

While observing the hearings the governor would simply say, 'denied' right after the name was read if they were not in attendance. This process was repeated many times during the hearings. In the cases where a victim was present and the applicant was not, the governor would let the family members know that they did not have to testify unless they wanted to, making it clear that he was going to deny the applicant. In several cases, the coordinator would read a name indicating that the person was not present, and before someone in the audience would have a chance to speak up announcing their presence, the governor would deny the application. The governor would then retract his statement and call the applicant forward to have the case considered.

Victim rights

Miller (2000) noted, in her historical analysis of clemency in Florida, that during 'the pardon application, the applicant's explanation of the crime predominates; and whereas a criminal trial began with and focused on the victim's story, a pardon application began with that of the defendant' (p. 138). Nevertheless, these hearings differ from trials in that anything applicants could do to focus attention on their current life status rather than the circumstances of the crime seemed to enhance their likelihood of having their petition granted. This included bringing certificates and diplomas to show the Board or providing references to keep the discussion focused on their current status. When a victim was present or a victim's statement was read, this dramatically changed the direction and tone of the hearing.

Gottschalk (2006) argues that the more punitive approach to criminal justice in the USA is partially a product of the victim's rights movement. In Florida, it is required that victims be notified of any hearing, including civil rights restoration, and victims are permitted to speak out against their perpetrator at any of these hearings. As the data presented earlier suggest, the presence of a victim or a victim's statement was the greatest impediment to success for civil rights restoration. Regardless of how well applicants presented their cases, a victim's presence trumped all their efforts. The only exception to this would be if the victim had forgiven the applicant's offense, but even in these cases, denial was common. In one case, the victims were obviously struggling to cope with their loss and stated that they were conflicted, because as Christians they wanted to forgive the applicant, but because he had hurt them they wanted him to suffer. This applicant was denied.

During the December 2009 meeting, an applicant did not attend the meeting, but the victim advocate notified the governor that he had a statement from the victim's family. The advocate stated,

The deceased victim's brother wanted to come today, but wasn't able to because of a job situation, but he just wanted me to convey to you that he believes, that he does want to believe that if the applicant is on the right path than he does not want to stand in his way of receiving his rights. (ECB Meeting 10 December 2009)

The governor asked the advocate, 'Is this involving the second degree murder?' The victim advocate replied saying, 'Yes, sir, that is correct.' The governor waited a few minutes to open the file in front of him. The governor looked to the cabinet

members and said, 'Are there any questions?' [Silence] Then I am going to deny the application' (ECB Meeting 10 December 2009). In this case, the governor was reluctant to restore the applicant's rights even with the consent of the victim's family, their presence seeming to trump even their own words.

A middle-aged woman who had worked as a paralegal prior to her incarceration pled for her civil rights back in order to continue work as a paralegal and be a notary (a right dependant on the restoration of civil rights). She was well spoken during her hearing and had several lawyers speak as character witnesses. Next, the victim's family was permitted to speak and soon the details of the offense were revealed. The applicant had shot and killed her husband. Many of the husband's family members had traveled from Tennessee and North Carolina to speak out against her application. The first family member to speak was the youngest child of the victim who spoke against his former stepmother detailing how he had suffered growing up without a father. The victim's brother and sister spoke next, but the most persuasive speech came last from the victim's oldest son. Now a Marine, he spoke about his time in Iraq and how he had witnessed the first women voting in Fallujah. He stated that he knew what the right to vote means and how he saw the sacrifices made for it. He finished his statement by saying that someone who creates such pain and misery does not deserve those hard-earned rights. The governor quickly denied the application and thanked the family members for making the trip.

During the March 2009 meeting, after hearing a victim talk about the loss of a loved one and the hardship of having to travel to the hearing, Alex Sink suggested to the governor that they bar the applicant from ever reapplying.⁴ The governor looked over to Bill McCollum, the AG, and asked if this was permitted. McCollum said that the governor could take this action (permanently barring the applicant from reapplying), but it probably would not be wise and that the next governor would be able to let them reapply. After a short discussion, the governor agreed that this was not a good idea. This situation further illustrates some of the questions surrounding the rules on due process. Because the governor does not have to restore anyone's rights, it creates a system in which individuals could be permanently deprived of having their case even heard. Further, this situation speaks to the fundamental assumptions about whether people are able to change. Sink's position exemplifies the view that some offenders will never be worthy of redemption and, therefore, should never be returned to full citizenship.

Errors

In an Operational Audit by the Auditor General of Florida of a sample of 203 rights restoration cases, 13 cases were found in which the FPC had restored individuals' rights through the automatic restoration process in error – producing an error rate of 6% (State of Florida Auditor General, 2009). The primary focus of the report was investigating false positives. It is also likely that many of those who were denied or delayed restoration may have occurred in error as well. The focus of the audit identified six individuals who still owed restitution and three with outstanding warrants that should not have been eligible for restoration of civil rights. Further, they identified four individuals who were evaluated at the inappropriate level. Three individuals should have gone through a level 2 investigation and one

individual (convicted of sexual battery) should have had a level 3 investigation requiring a hearing before the ECB.

The ECB discussed these errors on 24 September 2009. The report published just days before the ECB hearing had criticized the performance of the FPC severely. Sink (CFO) suggested that they revoke the restoration of civil rights for those individuals awarded in error. McCollum (AG) and Governor Crist agreed that they should do an investigation into these cases in order to determine if revocation is necessary. Both Sink and Governor Crist challenged Frederick Dunphy (Commissioner of the FPC) to explain these errors. Dunphy argued that his agency has operated as best it could despite significant funding cuts to the agency. Indeed, the audit revealed 33,000 cases that had been ignored for three years, and a queue of over 60,000 applicants to be evaluated (not to mention the additional 60,000 prisoners released each year in Florida). ‘We don’t have adequate funding and staffing,’ Dunphy said. ‘I would say for the amount of cases we did that our agency has done a tremendous job in processing all those cases. Yes, we did have a handful of mistakes, but the process is very cumbersome and complex’ (Bousquet, 2009, p. 1). Dunphy’s full-time dedicated staff for evaluating these cases was cut from thirteen to six in 2008. For the fiscal year 2008–2009, the FPC requested \$1.8 million to fund the increased caseload. In the midst of budget crises, the Florida Legislature denied this request and a special request in September 2008 for 20 additional staff members was rejected by the Governor’s Office. In January 2009, however, the governor vetoed the state legislature’s plan to cut an additional \$300,000 from the FPC’s budget.

One particular case is worthy of discussing to better illuminate some of the problems with the rights restoration process. The restoration process, as detailed before is ‘cumbersome and complex’ (to use the words of the commissioner of the FPC). To demonstrate a failure of this system, we will discuss the case of a 57-year-old welder from Georgia. The senior author first met this man at the ECB meeting on 11 June 2009, and he agreed to meet later in Jacksonville to discuss his situation. We will refer to him as Earl.

In 1988, Earl was drunk at a party and got into a fight with another man. In his angered state he pulled out a gun (he had kept in his truck) and shot the man. Earl later turned himself into the police and was convicted of voluntary manslaughter. Earl spent 15 years incarcerated at the Georgia DOC.

Seven years ago, Earl moved 30 miles south into the state of Florida. When Earl was released from prison in Georgia, he received a notice that his civil rights had been restored indicated by a certificate he has managed to keep all these years. In Georgia (unlike Florida), once felons have completed their sentences (including parole and probation), their civil rights, including the right to vote are restored. Upon his move to Florida, a representative from legal aid, unaware of the rules, filled out a clemency application on his behalf knowing that he was a felon. Unaware of this action, Earl took his certificate to the voter registration office and was issued a card. Earl felt that it was his civic duty to vote and had voted in every election for the past seven years including the presidential election in November 2008.

Earl received a letter from the clemency office in December 2008. The letter informed him that the governor had agreed to hear his case for the restoration of civil rights. He did not really understand the letter, investigation, and interviews, which he thought were unnecessary because he had already had his rights restored and had the certificate from the governor of Georgia to prove it. Earl figured that

he better go to the appointment and clear things up with the FPC. Earl went into the clemency office where the parole examiner was ready to evaluate him to determine if he would give a favorable recommendation to the governor. Because Earl committed a level 3 offense, which is reserved for homicide and sex offenses; the Parole and Probation Commission had to conduct an investigation of his life, including interviews with him, his family, and the victim's family. Earl went to the office that day and tried his best to explain his situation. He showed the Commission his saved rights restoration certificate, and explained that he was a registered voter and that that he had been proudly exercising this right. Earl pulled out his voter registration card to show the officer that there was no problem. The parole examiner told him that he was not allowed to vote and demanded that Earl hand over his voter registration card. Earl did not understand what was going on, and refused to give up his registration card. He soon learned that following the investigation, he had received an unfavorable recommendation. He was notified that the agenda for the March meeting was filed and his case was placed on the agenda for the June meeting. Earl received a phone call asking if he would be able to make it to Tallahassee for his hearing. When Earl replied that he did not think he could find the money or the time to make the three hour drive to Tallahassee, the lady on the phone informed Earl that if he failed to appear he would likely not have his rights restored (given the earlier analysis, a likely statement). With that information, Earl was able to borrow \$50 from his daughter to buy gas for the drive. Unfortunately, Earl who had been doing well for himself had recently been laid off as his employer was downsizing.

The first time the senior author met Earl, he stood in front of the governor, CFO, AG, and CoA. Earl, a black man of medium build, had short gray hair and glasses. He stood at the podium and spoke softly and nervously, his southern accent was difficult to follow, and his soft voice made it even harder to understand him. After a minute of testimony, the senior author realized that he would not likely have his rights restored. His speech was scattered, and he fixated on the hardships he had endured. He claimed that his rights had been legally restored by the state of Georgia, but that point was lost in the rest of his statement, which focused on the loss of his job. The governor simply said, 'denied' as Earl walked away with his head down. Earl had traveled over three hours to Tallahassee, waited through two hours of cases, and after ten minutes of talking the governor simply said, 'denied.'

Earl walked outside of the chambers of the meeting room where the senior author greeted him and asked if he would be interested in talking about his situation. Several weeks later at the agreed upon interview, Earl brought copies of the report from the FPC, his voter's registration card, and his certificate of rights restoration from Georgia. After the interview, the senior author re-examined the Rules of Executive Clemency (2007) and discussed his case with members of the Florida ACLU along with a lawyer from the Brennan Center for Justice. Both of these contacts explained that they should have honored his restoration by another state. The senior author emailed the Office of Executive Clemency to further clarify the policy on out-of-state civil rights restoration.⁵ Janet Keels promptly responded to the email by stating, 'Yes, out of state restoration is honored by the State of Florida.'⁶ The senior author responded to the email and asked about Earl's case. Keels responded that she had asked Stephen Hebert, Director of Clemency Administration, to review his case. Two weeks later Janet Keels sent an email addressing the situation:

I checked with the Florida Parole Commission Director of Clemency Administration, Mr. Stephen Hebert. He contacted the Parole Examiner who did the investigation on [Earl]. Unfortunately, the Examiner did advise [Earl] that he could not vote until Florida restored his civil rights. The Supervisor has been advised and will address this issue with the Examiner and other staff. I don't know why he said this because all the Examiners should know that this is not a correct statement. I'm not sure who told [Earl] he had to request restoration through Florida in the first place. If a person with an out-of-state conviction only wants to be able to vote, the policy is to check to see if the state where the conviction occurred may have already restored voting rights. Of course, sometimes the person wants restoration for employment or licensing purposes which the out of state restoration may not address. [Earl] can take a copy of his Georgia restoration to the Supervisor of Elections and should have no problem registering to vote. We are very sorry that this occurred.⁷

The mistakes made by the legal aid worker, parole examiner, and governor all illuminate a situation where complex rules make the restoration process more difficult. In this case, it was the supervisor of elections who issued Earl his voter registration card who understood the rules surrounding ex-felons and rights restoration. This is not always the case for many ex-felons who often further face embarrassment of being denied the ability to vote when they have the legal right.

A 46-year-old lawn worker was convicted in North Carolina and should have had his rights restored in the state of North Carolina following the completion of his probation for writing bad checks. When he moved to Florida and went to vote, he was told that he was not allowed to vote. He said,

Yeah I went to register to vote and I was turned down 'cause I was honest on my application. It's like well what's the point of even living in this United States if I can't share the same simple right that everyone else has here.

This is not a unique case; in 2008, the ACLU conducted a telephone survey with members in all 67 county supervisors of election offices. They found that employees in these offices did not know the correct rules for misdemeanor offenders, those on parole and probation, out-of-state convictions, and those on pretrial detention (ACLU of Florida, 2009). In addition, they found that election employees required unnecessary documentation, gave misinformation about waiting periods, and failed to inform ex-felons of restitution preconditions. The ACLU concluded that many of the changes implemented after 2005, that were intended to better ensure that voter lists are purged correctly, have failed as a result of the complexity of a system where alarmingly high numbers of county supervisors of elections remain unaware of the rules surrounding former offenders and the right to vote (ACLU of Florida, 2009).

Another case worthy of some detailed description here is a 41-year-old realtor who seemed a likely candidate for rights restoration. He explained to the senior author that he had never stolen anything and tried hard to live a good life. When he was young, he killed his best friend and severely injured his girlfriend in a drunk driving accident. It was hard even 20 years after the accident for him to talk about what happened. He said that he had blacked out and did not remember getting into the car. He spent five years in prison and since his release has not consumed alcohol and always drives under the speed limit. Despite his incarceration, he had been successful as a realtor and wanted to get more involved in politics. During the ECB hearing, the governor denied his case without providing a rationale for his decision.

During my interview with this petitioner, I learned why he had received an unfavorable recommendation, likely one of the main reasons for his case being denied.

At the interview after many years with a lady in Tampa for the Parole Commission, her name was ... and she was real nice to me and then I never saw her again. Then I get a letter in the mail several months later after that final interview with her and it said 'unfavorable' due to that I owed money or something. Some kind of fine or restitution. I don't know anything. What I saw was there was some kind of restitution but to nobody. All it was, was some fines that I had put into liens after my two years of probation was up many years ago back in 1999. And it said 'I couldn't own property' unless I satisfied these liens. And what it was, was over depositions that my lawyer took for the, you know for the trial back in the '80s and these people never even went to court. (41-year-old realtor)

It took him seven years to go through the application process and actually have a hearing. He had traveled seven hours to Tallahassee 20 years after the accident (the only crime he had committed) only to be rejected because the records showed he owed money, but it was not clear whom he needed to pay. Others at the ECB hearings were also frustrated with the parole examiner's accusations that they owed money. In several cases, people would offer to settle debts, but did not know whom they needed to pay bringing into question the validity of the examiner's reports.

Discussion

As predicted, the parole recommendation, attendance, and victim representation were all significant and large predictors of rights restoration. Victim representation had the largest impact on rights restoration, and in only one case did someone have their rights restored when a victim was represented. The victim's representation at these hearings deserves further discussion, since in those cases where a victim was present the likelihood of the applicant being successful in the restitution of their civil rights was close to zero while controlling for other factors. Therefore, the presence of a victim can even trump a favorable recommendation and attendance.

Victim impact statements have become a controversial issue in their use during the sentencing process for capital cases. Most of the arguments that oppose their use argue that the victim impact statement 'invites prejudice and judgments based on emotion rather than reason' (Myers & Greene, 2004, p. 492). As described in the observations of these hearings, the victim statements are typically very emotional and often focus on the events of the crime rather than the offender's progress. Further evidence of the impact of a victim's presence is that in six out of the 42 cases when a victim was represented, the applicant received favorable recommendations, yet in five of those cases they were denied.

While controlling for other factors in the model, those applicants who attended were nearly 10 times more likely to have their rights restored as compared to those who did not attend. This is an important finding given that the Office of Executive Clemency clearly states that attendance is not required on their website (FPC, 2004). Further, this may have a differential impact on those who do not have the financial resources to travel to Tallahassee to be present on a Thursday morning. The logistics and costs for someone who lives in Miami, Key West, or Fort Meyers may make them far less likely to make the trip. Although this analysis had no economic indicators, it can be deduced that those who are able to attend the hearings

have greater financial or social resources to make such a trip in the middle of a workweek.

The recommendation by the FPC had a large impact on the likelihood of having ones rights restored. This was not surprising, but one issue of concern is that the Commission does not have to give a reason for its recommendation. Petitioners are not allowed to see these reports passed between the FPC and the ECB. Clemency hearings have traditionally been up to the discretion of the governor and the parole board and not subject to the same kind of due process restrictions as other judicial processes (Miller, 2000). In many cases where applicants appeared at the hearing, they did so in an effort to correct mistakes reported by the FPC. Mistakes included listing that restitution was still owed (when the applicant had receipts to prove payment), mistaken identity claiming applicants had other offenses they can prove they did not commit, and a misunderstanding of the rules of executive clemency. The hearing for many, serves as a last chance to correct poor investigative work by the FPC. Those unable to attend who received unfavorable recommendations based on false information have no mechanism of correcting these types of errors. Further, because the FPC does not publicly give any type of metric or calculation for its decision, the recommendation may be more a product of an individual parole officer's discretion rather than a systematic process.

The only demographic variable that significantly impacted rights restoration was age. The younger the applicants, the more likely they were to have their rights restored. This can partially be attributed to the inability to control for the seriousness of the offense. The model was able to control for type of offense, but was unable to measure key variables such as length of sentence or time served. Because these measures were not included, it is likely that those who were older at the time of their hearing spent more time incarcerated or on parole, which could indicate a more serious offense (or greater number of offenses). This is a clear limitation of the data and future research should attempt to take these factors into consideration.

Neither race nor gender was significant in predicting the likelihood of rights restoration. This finding was surprising given that many contend that ex-felon disenfranchisement may be a way to suppress minority votes. Indeed, minorities are disproportionately impacted by the loss of civil rights due to higher arrest, conviction, and incarceration rates than Whites, but it appears that when controlling for the other factors in the model, race had no impact on the likelihood of rights restoration. One further point of inquiry is whether Whites were more likely to apply for a hearing than blacks. These findings may have systematically excluded those without the resources to apply for rights restoration. Future research should attempt to explore whether race has an impact on the likelihood of applying for rights restoration.

One of the great limitations of these data is in the methodology of the criminal record search. Although the nature of these data did not lend many other options, the large amount of missing data needs to be further addressed. One consequence of these missing data is that it may have systematically excluded certain groups of offenders. There were 132 applicants that showed no criminal record when entered into the database. It is likely that these names returned without a criminal record because the applicants changed their name, committed the offense outside of Florida, or committed the offense prior to the jurisdiction making the record available online. Consequences of these omissions are that women (with 11% no

record found missing) were excluded more often compared to men (with 9% no record found missing).

Another consequence is that more serious offenses such as homicides and sex offenders were more likely to be included in the database regardless of offense date, whereas lesser offenses that occurred long ago were less likely to show a record. This may partially explain the relationship between age and disposition due to the omission of older applicants with lesser offenses committed during their youth. These data did not provide the extent of the applicant's criminal record, which may also explain why older applicants are less successful. Those with many convictions over a long period of time may be older at the time of the hearing.

Braithwaite and Mugford (1994) suggest that the benefits of a redemption ceremony are lost when the system is perceived to be unjust and inequitable. It would be difficult to argue that the Florida's system is equitable, just, or efficient when even those officials in charge acknowledge the many problems in funding and errors that persist. Hull (2006, p. 42) argues, 'The clemency process should first be purged of its numerous gratuitous and onerous hurdles, and pardon seekers should be provided with considerably more assistance than they are receiving even in the states that recently modified their procedures.' Although the Florida ACLU and the Florida Rights Restoration Coalition have worked with the Governor's Office to increase awareness for ex-felons about the restoration process, many ex-offenders are unable to receive the assistance necessary to navigate this difficult procedure.

Further, compounding this problem is that when this process of rights restoration is perceived to be unfair it can negatively affect an individual's perception of the legitimacy of law. [Tyler \(2006\)](#) argues that legitimacy, defined as the just view of legal procedures and enforcement of the law, is the most important factor in determining 'why people obey the law.' Uggen and Manza (2005, p. 79) note that the small scale of successful restorations may negate the benefits of this ceremony indicating, 'too few individuals are restored civil rights and the process is generally alienating rather than inclusive.' To this point, the majority of individuals who are rejected may face more challenges in their recovery process dealing with additional alienation after a failed attempt for recognition of their inclusion in the community. In addition, several scholars have argued that the inability of former offenders to participate in civic practices such as voting may present an additional obstacle to successful community reintegration (see [Behan, 2011](#); [Hull, 2006](#); [Manza & Uggen, 2006](#); [Miller & Spillane, 2012](#)). The irony that persists is that those individuals likely to be denied are those most likely to lack the social and economic resources to attend the clemency hearings and may be less integrated in the first place. Therefore, this process may have the inverse effect as a deviant decertification ceremony in that those who are not yet as well integrated are further alienated putting them at increased risk of recidivating.

Policy recommendations

The most immediate need is for ex-felon assistance in navigating the process of rights restoration. As noted by the FPC, the process is 'cumbersome and complex,' and unfortunately, many of those directly involved with the process do not understand these rules. Knowledge of the Rules of Executive Clemency need to be better understood by the parole examiners, election supervisors, the Governor's Office, and members of the ECB in order to prevent errors. In addition, resources need to

be made available for ex-felons attempting to understand this process. Increased information and support are needed for out-of-state ex-felons, and clarifications of these rules need to be made. Furthermore, the underfunded and lengthy process of restoration needs to be further evaluated to assess if the lack of support and low success rate poses a significant threat to reintegration. All four interviewees, rejected at the ECB hearings were angry and frustrated with the system. It is likely that this further alienation and rejection can be harmful for reintegration.

The presence of a victim was the largest predictor for applicants having their petition denied. Further evaluation of the role of the victim at these hearings is warranted. Hearings involving a victim dramatically changed the focus of the hearing from the positive changes in the applicant's life to the pain caused to the victim. Unfortunately, this process does not seem therapeutic to either party, but only creates a situation that appears disintegrative for the applicant, amounting to a kind of erasure of their own narratives of recovery or integration.

Attendance at the ECB played a very large role in whether applicants were able to get their rights restored. The geographic location of Tallahassee creates logistical problems for applicants traveling from various parts of the state. In order to create a more equitable process for all Floridians, this study suggests that hearings be conducted in various geographic regions. This could be accomplished by either a rotation of the ECB hearings or by establishing satellite facilities in which applicants could communicate with the ECB via video conferencing technology. Additional locations in Orlando and Miami would ease the travel burden many applicants face and allow them to present their cases to the governor. At a minimum, advocates for ex-offenders must clearly convey to applicants the potential impact of a failure to attend a hearing in person, particularly in light of state-produced information that appears to imply that attendance is not an important factor.

All these problems could be remedied by either a simplification of the process or the removal of disenfranchisement for those in completion of their criminal justice sentence. It is with this assessment that this study recommends altering the current policy of disenfranchisement and increase practices of inclusion. The low success rate, cumbersome process, and lengthy amount of time required are likely to impede the reintegration process rather than aid it. It should be noted that all of these problems are likely to be exacerbated by the recent decision to repeal the 2007 extension of automatic restoration for many offenders. The political, philosophical, or legal merits of disenfranchising ex-felons should be carefully weighed against this range of negative impacts.

Notes

1. The governor has the option of taking a case 'under advisement' allowing him to make a decision later on if he wishes. A 'continued' case will appear on the next meeting's agenda. Those cases that were continued were only counted on the agenda that a disposition was reached and since cases taken under advisement do not have public dispositions they were omitted from analysis.
2. It is important to note that the authors acknowledge that time is a complicated factor in this analysis. As discussed later in this paper, the amount of time an application takes to move through the process is lengthy. The authors also acknowledge that there may be seasonal as well as yearly differences in the likelihood of rights restoration, but we were unable to assess these factors in a quantitative analysis, but address them later in the paper.

3. The model was initially run with a control variable representing the Crist years compared to the Bush years. Although this measure was significant it did not substantially alter any of the other findings. Due to the complexity of using a time variable in this manner, it was excluded from the final model.
4. It is helpful to put into context the political climate in which these hearings were held. Governor Crist (Republican) was then planning a run for the US Senate in 2010, and eventually campaigned for the office as an independent. Bill McCollum (Republican) and Alex Sink (Democrat) were both seeking their parties' nomination to run for the governorship in 2010. Sink eventually became the Democratic nominee. McCollum lost the Republican gubernatorial nomination to Rick Scott, who eventually won the election. Gov. Scott, as noted above, moved quickly to repeal the 2007 changes to Florida's rights restoration laws.
5. The email sent on 31 August 2009 stated: 'I was wondering if you know where I can find information about out of state felons who have moved to Florida. I have found conflicting information and I was hoping I could find out whether if another state grants civil rights restoration if it is honored by the State of Florida (i.e. if someone committed a crime in Georgia and received restoration of their civil rights in Georgia and then later moved to Florida becoming a legal resident would that person still have to apply for rights restoration in Florida or would the restoration by Georgia be honored?)'
6. Janet Keels, email message to senior author. 1 September 2009.
7. Janet Keels, email message to senior author. 17 September 2009.

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Rules of Executive Clemency Should Allow Level-1 Offenders to Have Their Civil Rights Automatically Restored Upon Completion of Their Sentences

A Report of the
Florida Advisory Committee to the
U.S. Commission on Civil Rights

June 2014

State Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

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Letter of Transmittal

Florida Advisory Committee to the U.S. Commission on Civil Rights

The Florida Advisory Committee submits this report on voting rights as part of its responsibility to study and report on civil rights issues in Florida. This report is a re-examination of Clemency Rules for ex-felons in the State of Florida. It builds upon the Committee's 2009 report on the same issue. This report was adopted by a vote of 9 to 0 at a public meeting of the Florida Advisory Committee held in Miami, FL, on September 17, 2013.

It is the considered opinion of the Florida Advisory Committee that former Governors Jeb Bush (R) and Charlie Crist (R) acted correctly to modify the rules for executive clemency. The Florida Advisory Committee continues to hold that position, absent the introduction of a compelling government interest or purpose; and believes doing so will allow for deserving persons who have made full and proper restitution to again have the privilege to vote and participate in the democratic processes as well as assist such persons to successfully integrate back into society.

Elena Flom, Ed.D.
Chair
Florida Advisory Committee

Florida Advisory Committee to the U.S. Commission on Civil Rights**

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** Clint Cline, J. Robert McClure III, Elizabeth Rodriguez, and Alan Williams were members of the Committee during the 2011-2012 charter period when the voting rights project was conducted.

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I. VOTING RIGHTS FOR EX-FELONS IN FLORIDA

Addressing voting rights issues has been a central mission for the U. S. Commission on Civil Rights and its state advisory committees since its establishment in 1957. In the 1960s the work of the Commission was instrumental in passage of the Voting Rights Act of 1965. In 2001, the Commission conducted a series of hearings to examine voting irregularities in Florida during the 2000 Presidential election.¹

In keeping with the Commission's historical attention to voting rights, in 2008 the Florida Advisory Committee examined the issue of voting rights with respect to an adverse impact on males and African Americans as a result of the state's Constitutional ban on the right of ex-felons to vote. In 2009, the Committee released a report, *Ex-Felon Voting Rights in Florida: Revised Rules of Executive Clemency That Automatically Restore Civil Rights to Level-1 Offenders is the Right Policy*.²

Florida is one of only eleven states with lifetime voting bans for ex-felons. The other ten states with lifetime voting bans for ex-felons are: Alabama, Arizona, Delaware, Iowa, Kentucky, Mississippi, Nevada, Tennessee, Virginia, and Wyoming.³ All eleven states, however, have some procedure in place whereby a former felon can have his/her voting rights restored. In Florida, that process is through executive clemency. Executive clemency is a formal act of the Cabinet that absolves the individual from all or any part of the punishment that the law imposes, including the restoration of civil and voting rights.

Despite the possibility of clemency in states with lifetime bans, the effect on voting rights as a result of the lifetime disenfranchisement statutes is significant.⁴ According to the National Commission on Federal Election Reform, one-third of the people presently denied the right to vote because of a felony conviction have completed their sentences.⁵

¹ U.S. Commission on Civil Rights, *Voting Irregularities in Florida During the 2000 Presidential Election* (Washington, DC: Government Printing Office, June 2001).

² Florida Advisory Committee to the U.S. Commission on Civil Rights, *Ex-Felon Voting Rights in Florida: Revised Rules of Executive Clemency That Automatically Restore Civil Rights to Level-1 Offenders is the Right Policy* (2009) (hereafter cited as *Ex-Felon Voting Rights Report*).

³ The listing of states that permanently ban ex-felons from voting is open to interpretation. For example, the Florida Advisory Committee lists eleven states with permanent bans on ex-felon from voting, but its listing does not include Nebraska which has a permanent ban for treason.

⁴ For purposes of this report and as used herein the term "disenfranchisement" means the revocation of the right to vote by a person.

⁵ John Mark Hansen, Task Force on the Federal Election System, *Disfranchisement of Felons*, 1 (July 2001), in *To Assure Pride and Confidence in the Electoral Process: Task Force Reports to accompany the Report of the National Commission on Election Reform* (Aug. 2001).

Concerned that without successful re-entry back into society ex-offenders are likely to become re-offenders, in 2005 former Governor Jeb Bush issued an executive order creating the Governor's Ex-Offender Task Force to study the effectiveness of Florida in facilitating the re-entry of ex-offenders back into the community. The former Governor stated that "without successful re-entry...recidivism is likely to occur, to the great detriment of public safety, Florida's communities, families, taxpayers, and individual ex-offenders."⁶ The task force noted that Florida has the third largest prison population in America, with more than 30,000 people in the state being released from prison each year.⁷

Following upon the work of Governor Bush's Task Force, in 2007 with the concurrence of a majority of the Governor's Cabinet, former Governor Charlie Crist issued revised Rules of Executive Clemency.⁸ The 2007 revised rules automatically restored civil rights and voting rights to most felons upon release from prison. Under the 2007 Rules of Executive Clemency, immediately upon completion of their sentences, ex-offenders were automatically reviewed by the Parole Commission to determine their eligibility for restoration of civil rights without a hearing.

For those individuals given Level-1 status by the Parole Commission, an executive order was automatically issued that granted the restoration of their civil rights signed by the Clemency Board without the need for a formal hearing. Ex-felons given Level-1 status included non-violent offenders who had no outstanding detainers, pending criminal charges and did not owe restitution pursuant to a court order.

Under the 2007 Rules of Executive Clemency, individuals granted Level-2 status also received a restoration of civil and voting rights without a hearing before the Clemency Board. However, Level-2 offenders had to undergo an investigation by the Parole Commission. Level-2 status was given to offenders who had committed severe offenses.⁹ Level-3 offenders were required to petition for a hearing before the Clemency Board to have their civil rights restored.¹⁰ Level-3 offenders were persons who had been convicted of certain serious offenses, such as murder or a sex offense.

The Florida Advisory Committee noted in its 2009 report that the revisions to the Rules of Executive Clemency that automatically granted restoration of civil rights to Level-1 ex-offenders were a significant policy change. In its report, the Committee noted the following:

⁶ State of Florida, Office of the Governor, Exec. Order No. 05-28.

⁷ State of Florida, *Governor's Ex-Offender Task Force, Final Report to the Governor*, Letter of Chair Vicki Lopez Lukis to Governor Jeb Bush, Nov. 30, 2006 (hereafter cited as *Ex-Offender Task Force Final Report*).

⁸ State of Florida, Parole Commission, *Annual Report: 2006-2007*, December 2007.

⁹ Ibid. p. 10.

¹⁰ Ibid. p. 5(e).

Nearly 200,000 persons in the State of Florida lost their right to vote between 1995 and 2005 because of the state's Constitutional ban. Over the same period of time, only about 6,500 ex-felons each year on average had their civil rights restored by the Clemency Board, and a total of one million persons in the state are likely disenfranchised from voting at the present time.

The state's Constitutional ban prohibiting persons convicted of a felony from voting has a disproportionate impact on voting rights for minorities and males living in the state as minorities comprise nearly half of the inmate population and less than a quarter of the state's population.¹¹

The Florida Advisory Committee supported the revised Rules of Executive Clemency. Further, the Florida Advisory Committee recommended that as future studies show the automatic restoration of civil rights policy for ex-felons to enhance the civil rights of citizens and promote the general welfare, that succeeding Governors endorse and retain these revisions to the Rules of Executive Clemency.¹²

In addition, the Florida Advisory Committee recommended that the Parole Commission immediately put in place data collection systems that will allow future studies to be conducted on the impact of this policy change. The Committee further recommended that data be collected so that in the future the effect of the policy change on minority and male voter participation will be able to be studied.¹³

In March 2011 Governor Rick Scott (R) with the consent of a majority of the Florida Cabinet, amended the previous clemency rules to what was essentially in place prior to Governor Bush. The new procedures require the Clemency Board to review all ex-felon cases individually and decide further action.¹⁴ Furthermore, additional documentation is now required to receive clemency. Ex-felons must now submit an application and any accompanying documents to the Clemency Board regardless of the level of offense.¹⁵ At the time of this change, there were 98,963 cases pending an automatic restoration of civil rights.¹⁶

¹¹ *Ex-Felon Voting Rights Report*, p. 21.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ See 2011 Amended Fla. R. Exec. Clem. (amended Mar. 9, 2011) available at https://fpc.state.fl.us/docs/clemency/clemency_rules.pdf.

¹⁵ *Ibid.* p. 9.

¹⁶ State of Florida, *Parole Commission Proviso Report: The Processing of Clemency Cases for FY 2010-2011*, October 2011 (hereafter cited as *Parole Commission Proviso Report*).

II. EX-FELON DISENFRANCHISEMENT IN FLORIDA AND OTHER STATES

A. Ex-Felon disenfranchisement in Florida extends back more than 150 years

Historically, Florida's policy of criminal disenfranchisement dates back more than 150 years. Florida's earliest Constitution, adopted in 1838, authorized the General Assembly to enact criminal disenfranchisement laws, and in 1845 Florida's General Assembly passed such a law:

Be it further enacted, that every person who shall become a candidate for any of the foregoing offices shall possess the same qualification as that prescribed for a voter ... [a]nd no person who shall hereafter be convicted of bribery, perjury, or other infamous crime, shall be entitled to the right of suffrage.¹⁷

Following the Civil War, the First Reconstruction Act of 1867 mandated that to re-enter the Union former Confederate states had to adopt new constitutions guaranteeing male suffrage without regard to race. In 1868 Florida convened a second post-war constitutional convention to amend its first post-war constitution, which denied suffrage to African Americans. Section 4 of the 1868 state Constitution continued to contain the disenfranchisement provision for ex-felons:

No person under guardianship, non compos mentis, or insane, shall be qualified to vote in any election, nor shall any person convicted of felony by a court of record be qualified to vote at any election unless restored to civil rights.¹⁸

In 1968, the State of Florida adopted a revised state Constitution. The revised Constitution continued to contain an ex-felon voting prohibition. Specifically, the state Constitution provides that no person convicted of a felony will be allowed to vote or hold office until there has been a restoration of the individual's civil rights:

No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability.¹⁹

The disenfranchisement provision of Article VI of the Florida Constitution has come under scrutiny in recent years, in part because of its disparate impact on males and minorities. In its 2009 report, the Florida Advisory Committee estimated that 200,000 former offenders in Florida

¹⁷ *Johnson v. Governor of State of Fla.*, 405 F.3d 1214, 1218 n.6 (11th Cir. 2005) (quoting 1845 Fla. Laws. Ch. 38, art. 2 § 3).

¹⁸ FLA. CONST. of 1868, art. XIV, § 2.

¹⁹ FLA. CONST. art. IV, § 4(a). Under the Florida Constitution, the authority to restore civil rights is reserved to the Clemency Board, composed of the Governor and the three members of the Cabinet: Attorney General, Finance Commissioner, and Commissioner of Agriculture. Clemency is an act of mercy that absolves the individual upon whom it is bestowed from all or any part of the punishment that the law imposes.

were disenfranchised from the right to vote in the 10-year period between 1995 and 2005.²⁰ Moreover, 600,000 to 1.2 million persons, or from about 3 to 6 percent of the voting population, is estimated to be disenfranchised from voting.²¹

Table 1: Restrictions on Voting Rights for Ex-Felons in States without Lifetime Bans²²

No Prohibitions On Voting	Incarcerated Individuals Can Not Vote	Incarcerated Individuals and Persons on Parole Can Not Vote	Ex-Felons Prohibited from Voting Until Sentence is Fully Complete	Prohibited From Voting for Treason
Maine Vermont	Hawaii Illinois Indiana Massachusetts Michigan Montana New Hampshire North Dakota Ohio Oregon Pennsylvania Rhode Island Utah	California Colorado Connecticut New York	Alaska Arkansas Georgia Idaho Kansas Louisiana Maryland Minnesota Missouri ¹ New Jersey New Mexico North Carolina Oklahoma South Carolina South Dakota Texas Washington West Virginia Wisconsin	Nebraska ²

Source: Florida Advisory Committee.

Note 1: In Missouri, persons convicted of either felony or misdemeanor offenses connected with the exercise of the right of suffrage are permanently disqualified from voting.

Note 2: In Nebraska, persons convicted of treason are permanently disqualified from voting.

B. 39 states allow ex-felons the right to vote

In 39 of the 50 states ex-felons may vote, but there is wide variance among the states on this allowance. In two states, Maine and Vermont, incarcerated felons may vote. In Nebraska, a convicted felon's right to vote is restored automatically two years after completion of sentence, including period of parole and probation, for all convictions except treason.

²⁰ *Ex-Felon Voting Rights Report*, p. 12.

²¹ *Ibid.*, p. 14.

²² See Appendix 1 for statutory sources.

The most common restriction on ex-felon voting rights is withholding the right to vote until the individual is released from prison, and in some of these cases until parole and/or all other terms of the sentence have been completed. Thirty-six (36) states have such provisions.

In 13 states, former felons are allowed to vote as soon as they are released from prison. In four states, California, Colorado, Connecticut, and New York, ex-felons may vote after they are no longer incarcerated but only after they have completed all terms of their parole. In 19 states there is a similar restriction, extending until all terms of the sentence including parole have been completed, e.g., restitution, community service.²³

Table 2: Restrictions on Voting Rights for Ex-Felons in States with Lifetime Bans²⁴

Board of Parole/Probation Restores Voting Rights	Executive and/or Legislative Pardon Restores Voting Rights	County Board of Elections Restores Voting Rights
Alabama ¹ Tennessee ¹ Wyoming ²	Arizona Florida Iowa Kentucky Mississippi Nevada Virginia	Delaware ¹

Source: Florida Advisory Committee.

Note 1: In Alabama, Delaware, and Tennessee there is a permanent ban on voting for certain offenses.

Note 2: In Wyoming, the Board of Parole may restore voting rights only for first-offenders. Second time offenders must receive an executive pardon.

C. Eleven states – including Florida – have lifetime voting bans; an estimated 1 million persons are affected in Florida

Eleven states, including Florida, have lifetime voting bans on ex-felons. In all eleven of these states, however, it is possible for a person to obtain a form of clemency and have voting rights restored. The process of clemency varies among the states.

In Mississippi ex-felons are banned for life from voting, but under the state's Constitution may have their voting rights restored by a vote of two-thirds of both legislative houses. (See Table 2.) In seven other states with lifetime bans on ex-felon voting rights the clemency process is an executive decision. In four of these states, Iowa, Kentucky, Tennessee, and Virginia, the Governor has sole power to grant clemency. In Alabama, Arizona, and Nevada, executive clemency is under the authority of the state's correctional system. (See Table 2.)

²³ Table 1.

²⁴ See Appendix 2 for statutory sources.

Florida is unique among the eleven states with lifetime bans for ex-felons in that its clemency procedure resides with the State's cabinet. In Florida, for an individual convicted of a felony to again obtain the right to vote along with the restoration of other civil rights, executive clemency must be granted.²⁵ The Clemency Board is composed of the Governor and the three members of the Florida Cabinet: the Attorney General, Chief Financial Officer, and Commissioner of Agriculture.²⁶ The Clemency Board meets four times a year to vote on clemency applications.²⁷

III. EXECUTIVE CLEMENCY PROCESS REFORMED BY GOVERNOR BUSH IN 2004 AND FURTHER REVISED BY GOVERNOR CRIST IN 2008 TO GRANT AUTOMATIC CLEMENCY

Prior to the implementation of the revised Rules of Executive Clemency in 2009, the rate of clemency was inconsistent and varied considerably depending upon the Cabinet. Two decades ago the number of persons in Florida granted clemency started to decline; but in recent years an upward movement has been observed. In 1986, almost 15,000 persons had their civil rights restored.²⁸ In the 4-year period from 1994 to 1998, the number of individuals receiving clemency remained at historically low levels, and only 6,669 persons had their civil rights restored during this period—an annual average of about 1,300 persons.²⁹ That number started to increase substantially in the next few years, and between 1999 and 2005 the Executive Clemency Board restored the civil rights of nearly 75,000 individuals—an average of about 15,000 per year.³⁰

In 2004 former Governor Jeb Bush and the cabinet adopted changes to the Rules of Executive Clemency that made it easier for felons in Florida to get their civil rights restored. Those rules allowed felons who had been arrest-free for 5 years to obtain restoration of civil rights without a hearing, unless they were convicted of certain violent crimes or owed restitution. In addition, felons who remain arrest-free for 15 years or more could have their rights restored without a hearing, regardless of their crime, unless they owed the victim compensation.³¹

The task force began its work by studying the challenge to make re-entry successful. It noted that Florida has the third largest prison population in America, and over 30,000 people in the state

²⁵ FLA CONST. art. IV, § 8(a); Fla. Stat. §§ 940.01, -05.

²⁶ See State of Florida, Florida Parole Commission, <https://fpc.state.fl.us/clemency.shtml> (last visited June 28, 2012).

²⁷ Fla. Rules of Exec. Clem. (2011), §12(A).

²⁸ “Barred for Life: The Process For Restoring Civil Rights of Felons in Florida Works Perfectly – If Not Restoring Their Rights is the Goal,” Miami New Times, Jan. 16, 2003, p. 17.

²⁹ State of Florida, Parole Commission, *Annual Report: 2006-2007*, December 2007, p. 9.

³⁰ Ibid.

³¹ Fla. R. Exec. Clem., (2007), §10(B).

return home from prison each year.³² The continual growth of imprisonment in the state has created an unprecedented challenge for the state and for the local communities.

Almost 90 percent of the people now in Florida's prisons will one day be released. Within three years of release, over a quarter of those people will go back to prison for a new crime. This rate of recidivism is unacceptably high and unacceptably expensive. For each new crime, there is a new victim, and new costs to Florida communities.³³

The task force called for this trend to be reversed, commenting that focusing only on custody and control does not reduce recidivism. Such a focus protects the public safety by segregating people who have committed crimes from the public, but those are not the only public safety concerns. In order to prevent recidivism, it is essential that after release ex-offenders be reconnected to positive and productive activities in their communities to reduce recidivism and facilitate successful re-entry to civilian life.³⁴

The task force also specifically identified the loss of civil rights as an issue of concern to assist with a positive and productive return to society. The task force reported that hundreds of thousands in Florida have lost their civil rights, which has an impact on their range of employment opportunities, as well as voting, jury service, and seeking public office.³⁵

Table 3 Number of Level-1 Persons Granted Automatic Clemency in 2009 and 2010

	2009	2010	Total
Persons granted automatic Clemency	24,375	5,582	29,957
Persons granted clemency	162	45	207
Totals	24,537	5,627	30,164*

Source: Florida Parole Commission Proviso Report

*A factual total of 30,672 Florida felons were granted their civil rights by the Board of Executive Clemency for calendar years 2009 and 2010. This number includes restoration of alien status under Florida law.

In 2007, with the concurrence of a majority of the Governor's Cabinet, the Clemency Board revised the Rules of Executive Clemency. Under the 2007 revised Rules, civil rights and voting rights were automatically restored to most felons upon release from prison. As part of the revised process, most ex-felons no longer had to formally file a petition for the restoration of their civil rights nor was it necessary to have an individual hearing before the Clemency Board.³⁶

³² *Ex-Offender Task Force Final Report*.

³³ *Ibid.* p. 1.

³⁴ *Ibid.* p. 20.

³⁵ *Ibid.* p. 21.

³⁶ *Parole Commission Proviso Report*, p. 6.

Under the 2007 revised Rules, nearly 25,000 ex-felons were automatically granted clemency in 2009. This is four times the number of persons receiving clemency in that year than the average number of clemencies on an annual basis since the mid-1990s. The number of automatic clemencies declined markedly in 2010, however, to only about 5,500 (See Table 3.)

The revised Rules only grant automatic clemency to non-violent ex-offenders. Persons who have been convicted of certain crimes, including the following, were not eligible under the revised Rules of Executive Clemency to have their civil rights and voting rights automatically restored.³⁷

- Murder, attempted murder, manslaughter
- DUI manslaughter
- sexual battery, attempted sexual battery
- lewd or lascivious battery
- sexual performance by a child
- aggravated child abuse
- failure to register as a sexual predator
- computer pornography, buying or selling of minors
- trafficking in illegal substances
- kidnapping, attempted kidnapping
- aggravated battery
- aggravated assault
- poisoning of food or water
- armed robbery, home invasion
- abuse of a dead human body
- first degree burglary
- arson or attempted arson
- aggravated stalking
- aircraft piracy
- facilitating terrorism
- treason

In addition to violent offenders not receiving automatic clemency, other stipulations under the revised Rules of Executive Clemency precluded ex-felons from having their rights automatically restored. A person shall have his/her civil rights status under Florida Law immediately restored by automatic approval of the Clemency Board, excluding the specific authority to own, possess, or use firearms, if the following requirements are met:

³⁷ For a complete list of crimes ineligible for restoration of civil rights, *see* Fla. Rules of Exec. Clem. (2011), § 9(A)(4).

- (1) The person has completed all sentences imposed and all conditions of supervision have expired or been completed, including but not limited to imprisonment, parole, probation, community control, control release, and conditional release.
- (2) The person has no outstanding detainers or pending criminal charges.
- (3) The person has paid all restitution pursuant to a court order or civil judgment and obligation pursuant to Chapter 960, Florida Statutes.
- (4) The person has not been declared to be: (a) an habitual violent felon offender, (b) a three-time felony offender, (c) violent career criminal, (d) prison release re-offender, or (e) sexual predator.³⁸

IV. IN 2011, NEWLY ELECTED CABINET REVOKES REVISED 2008 RULES OF EXECUTIVE CLEMENCY AND AGAIN REQUIRES ALL EX-FELONS TO HAVE A FORMAL HEARING BEFORE THE CLEMENCY BOARD

In 2011 the newly elected Cabinet amended the previous clemency rules to say that the Clemency Board must review all ex-felon cases individually and decide further action. This act was based on the idea that “it is appropriate to grant the restoration of civil rights only to individuals who have demonstrated over a period of time that they are committed to living a crime-free life.”³⁹ The waiting period that naturally happens as the board reviews every individual case presents an opportunity for ex-felons to demonstrate their commitment to a crime-free life.

Under the previous Governor, depending on an ex-felon’s level of offense, he or she was granted automatic clemency upon his/her release from prison. Others had to apply for their restoration of their rights. For example, a Level-1 offender, a person convicted of burglary, was automatically processed and given his or her rights back upon release.

Another updated provision put in place is additional paper work as part of each individual case. Ex-felons must now submit accompanying documents in support of their application, regardless of the level of offense. Level-1 offenders, who previously would have been granted automatic clemency, must also abide by these new rules. As the new procedures have created more

³⁸ Ibid.

³⁹ State of Florida, Parole Commission, *Restoration of Civil Rights (RCR) Cases Granted 2009 and 2010, 2011*, available at <https://fpc.state.fl.us/docs/reports/2009-2010ClemencyReport.pdf> (hereafter cited as *Parole Commission Clemency Report*).

paperwork to be submitted and reviewed, the waiting list for ex-felons to regain their voting rights has increased.⁴⁰

After all documents have been submitted, there are two ways a felon can go about getting their case reviewed; with a hearing or without a hearing. Offenders whose crimes are serious enough to require a hearing (Level-2 and Level-3 offenders) must wait seven years, during which they cannot have any convictions with the law, before they are eligible to apply for restoration of rights. Applicants whose offenses do not require a hearing (Level-1 offenders) must wait five years, during which they must maintain a crime free status, in order to be eligible to apply.⁴¹ These requirements are considerably different from what the previous Governor implemented. Level-1 offenders, as stated above, were granted automatic clemency. Level-2 offenders were subject to a more in-depth investigation without a hearing for a 30 day review process and upon approval the offenders were granted clemency. It was only Level-3 offenders, those who committed serious offenses like manslaughter or sexual battery, who were subjected to a hearing which included an in-depth field investigation requiring a personal interview and an Advisory Commission recommendation.⁴²

Table 4: Clemency Cases Received, Closed, and Pending for Fiscal Years 2007, 2008, 2009, 2010, and 2011

	Jul 1, 2006 - Jun 30, 2007	Jul 1, 2007 - Jun 30, 2008	Jul 1, 2008 - Jun 30, 2009	Jul 1, 2009 - Jun 30, 2010	Jul 1, 2010 - Jun 30, 2011
All Clemency Cases					
Cases Received	18,174	137,647	68,008	69,931	38,886
Cases Closed	56,009	171,948	76,069	38,355	30,565
Cases Pending (as of June 30)	87,722	70,766	62,924	88,096	95,425

Source: Florida Parole Commission Annual Reports 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011.

The recent press release for the new executive clemency order states: “The Restoration of Civil Rights can be a significant part of the rehabilitation of criminal offenders and can assist them in reentry into society. It is important that this form of clemency be granted in a deliberate, thoughtful manner that prioritizes public safety and creates incentives to avoid criminal activity.”⁴³

⁴⁰ Lane Wright, “Ex-felons Must Wait 5 Years, Then Ask for Right to Vote,” Sunshine State News, Mar. 10, 2011, available at <http://www.sunshinestatenews.com/story/ex-felons-must-wait-5-years-then-ask-for-right-vote> (reporting a backlog of more than 100,000 applications).

⁴¹ State of Florida, Office of the Governor, Press Release, *Governor Scott and Florida Cabinet Discuss Amended Rules of Executive Clemency* (March 9, 2011), available at http://floridaclemencyattorney.com/wp-content/uploads/2011/09/clemency_press_release.pdf (hereafter cited as *Governor Scott Press Release*).

⁴² *Parole Commission Clemency Report*.

⁴³ *Governor Scott Press Release*.

A troubling part of the 2011 revised clemency process is the increasingly anachronistic nature of the state's ex-felon statute. When originally enacted, mandating the Governor and the Cabinet to act on all clemency petitions was not an onerous burden, as the state's population was small.

In 1850, just five years after the state's initial Constitution was adopted, the state's population was only about 87,000 persons. According to the 1870 census, conducted two years after the state ratified its revised Constitution to allow it to re-enter the Union, the state had a population of approximately 188,000 persons. The 2010 census showed Florida's population to be more than 18 million.

This 100-fold increase in the state's population in the last 150 years has inadvertently worked to disenfranchise large numbers of ex-felons because of limits on the ability of the Clemency Board to hear and act on petitions. The process under which ex-felons must operate to have their rights restored necessarily induces a backlog of applicants given the increase in the state's population.

In the context of the backlog of clemency cases in the system,⁴⁴ in 2004, former Governor Jeb Bush (R) adopted changes that made it easier for ex-felons to have their rights restored. The revised process required the Department of Corrections to automatically submit an inmate's name to the Parole Commission for eligibility review for restoration of civil rights without a hearing upon release.⁴⁵ The 2004 rule allowed ex-felons who had been crime-free for five years to obtain automatic restoration of civil rights. In addition, any ex-felon arrest-free for fifteen years or more would have their rights restored without a hearing regardless of their crime.

In 2007, Governor Charlie Crist (R) and the Cabinet went further to expedite the process to restore ex-felons their civil rights. Under the 2007 Revised Rules of Clemency, the state implemented a process of granting automatic clemency for citizens who committed low-level offenses.⁴⁶ The process proved faster, and more efficient. (See Table 4.)

The first fiscal year after the 2007 Revised Rules of Clemency were in effect, the Clemency Board received 137, 647 cases and closed 171,948 cases, which included some 40,000 backlogged cases. The following year, fiscal year 2009, the Clemency Board received 68,008 cases and closed 76,069.⁴⁷

In 2011 Governor Rick Scott (R) and the Cabinet rescinded the 2007 Revised Rules of Clemency. Similar to the process before the 2004 reforms of Governor Jeb Bush, all petitions to

⁴⁴ See Debbie Cenziper & Jason Grotto, "Clemency Proving Elusive for Florida's Ex-Cons," *Miami Herald*, Oct. 31, 2004, p. 1A; Debbie Cenziper and Jason Grotto, "The Long Road to Clemency," *Miami Herald*, Nov. 7, 2004, p. 1A.

⁴⁵ 2004 Fla. R. Exec. Clem. § 9(A).

⁴⁶ 2007 Fla. R. Exec. Clem. § 9(A).

⁴⁷ Table 4.

restore civil rights to ex-felons are again individually reviewed and decided by the Clemency Board. Automatic restoration of civil rights is no longer granted for any ex-felon. In addition, petitioners are now saddled with new requirements to file paperwork with the Clemency Board.

Of note, in the fiscal year in which this process went into effect, more than 95,000 cases were pending review. That is approximately 7,000 more cases than in the previous year.⁴⁸

V. FINDINGS AND RECOMMENDATIONS

Florida State Advisory Committee to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The following findings and recommendations of the Florida Advisory Committee are made through the U.S. Commission on Civil Rights to state and local officials are submitted in accordance with the provisions of Section 703.2 of the Commission's regulations calling upon Advisory Committees to initiate and forward advice and recommendations to the Commission upon matters which the State Committee has studied.⁴⁹

A. Findings

The disenfranchisement provision of Article VI of the Florida Constitution has come under scrutiny in recent years, in part because of its disparate impact on males and minorities. It is estimated that the total number of persons in the state estimated to be disenfranchised from voting likely ranges from 600,000 to 1.2 million persons, or from about 3 to 6 percent of the voting population.

In 2004 former Governor Jeb Bush (R) and the cabinet adopted changes to the Rules of Executive Clemency that made it easier for felons in Florida to get their civil rights restored. Those rules allowed felons who had been arrest-free for 5 years to obtain restoration of civil rights without a hearing, unless convicted of certain violent crimes, or if they owe restitution. In addition, anyone arrest-free for 15 years or more could have their rights restored without a hearing regardless of their crime unless they owe the victim.

In 2007, with the concurrence of a majority of the Cabinet, Governor Charlie Crist (R) issued revised Rules of Executive Clemency that automatically restored civil rights and voting rights to most felons upon release from prison. The 2007 rules no longer required ex-felons to file a formal application or petition for the restoration of their civil rights and have a hearing before the Clemency Board. In 2009, nearly 25,000 ex-felons had their voting rights restored.

⁴⁸ Ibid.

⁴⁹ 45 C.F.R. § 703.2.

In 2009 the Florida Advisory Committee issued a report in support of the revised Rules of Executive Clemency. The Florida Advisory Committee recommended that as future studies show the automatic restoration of civil rights policy for ex-felons to enhance the civil rights of citizens and promote the general welfare that succeeding Governors and cabinet officials endorse and retain these revisions to the Rules of Executive Clemency

In 2011 Governor Rick Scott (R) with the support of a majority of the Cabinet amended the previous clemency rules so that again the Clemency Board must review all ex-felon cases individually and decide further action. In addition, under the 2011 rules the new Clemency Board has put in place additional paper work requirements for each individual case. Ex-felons must now submit supporting documentation along with the application to the Clemency Board regardless of the level of offense.

B. Recommendations

The right to vote is fundamental to democracy. The right to vote is also a privilege.

Given the large number of persons disenfranchised in the state because of the state's ex-felon Constitutional provision, it is the considered opinion of the Florida Advisory Committee that former Governors Jeb Bush (R) and Charlie Crist (R) acted correctly to modify the rules for executive clemency. The original framers of the state's Constitution in 1845 could not have reasonably envisioned a state population of 20 million persons and the disenfranchisement of hundreds of thousands of persons when they enacted the ex-felon voting ban and the procedures for executive clemency.

In 2009 the Florida Advisory Committee issued a report in support of the revised Rules of Executive Clemency enacted in 2007 that allowed Level-1 offenders to automatically have their civil rights restored. The Committee continues to hold that position, absent the introduction of a compelling government interest or purpose; and believes doing so will allow for deserving persons who have made full and proper restitution to again have the privilege to vote and participate in the democratic processes as well as assist such persons to successfully integrate back into society.⁵⁰

⁵⁰ This report is the work of the Florida Advisory Committee to the U. S. Commission on Civil Rights. The report, which may rely on studies and data generated by third parties, is not subject to an independent review by Commission staff. State Advisory Committee reports to the Commission are wholly independent and reviewed by Commission staff only for legal and procedural compliance with Commission policies and procedures. State Advisory Committee reports are not subject to Commission approval, fact-checking, or policy changes. The views expressed in this report and the findings and recommendations contained herein are those of a majority of the State Advisory Committee members and do not necessarily represent the views of the Commission or its individual members, nor do they represent the policies of the U.S. Government.

Appendix 1: Restrictions on Voting Rights for Ex-Felons in States without Lifetime Bans

No Prohibitions on Voting⁵¹

<i>Maine</i>	ME. REV. STAT ANN tit 21(A) § 112(14) Persons incarcerated in correctional facilities. Maine's statute restricting voter eligibility of convicted felons was repealed by the legislature in 1975. <i>See</i> ME. REV. STAT. ANN. tit. 21, § 247 (2011).
<i>Vermont</i>	17 V.S.A. § 2121. Eligibility of voters. VT. STAT. ANN. tit. 28, § 807 (2012).

Incarcerated Individuals Can Not Vote⁵²

<i>Hawaii</i>	Haw. Const. art. 2, § 2.
<i>Illinois</i>	Ill. Const. art. III, § 2; 10 Ill. Comp. Stat. Ann. 5/3.5 (West 2012); 730 Ill. Comp. Stat. Ann. 5/5-5-5(c) (West 2012).
<i>Indiana</i>	Ind. Const. art. 2, § 8; Ind. Code §§ 3-7-13-4 to -6 (2012).
<i>Massachusetts</i>	Mass. Const. art III; MASS. GEN. LAWS ANN. ch. 51, § 1 (West 2012).
<i>Michigan</i>	Convicted felony and misdemeanor offenders are disqualified from voting while confined in jail or prison. MICH. CONST. ART 2, § 2; MICH. COMP. LAWS § 168.758b (2012).
<i>Montana</i>	Mont. Const. art. IV, § 2; MONT. CODE ANN. § 13-2-402. Reasons for cancellation. (voter registration).
<i>New Hampshire</i>	N.H. Rev. Stat. Ann. §§ 607-A:2(I)(a), 654.5 (2012).
<i>North Dakota</i>	N.D. Const. art II, § 2; N.D. Cent. Code Ann. §§ 12.1-33-01, -03 (West 2012).
<i>Ohio</i>	Ohio Const. art. 5, § 4; Ohio Rev. Code Ann. § 2961.01(A) (West 2012).
<i>Oregon</i>	Or. Const. art II, § 3; Or. Rev. Stat. § 137.281 (2012).
<i>Pennsylvania</i>	The Pennsylvania Elections Statute provides that a convicted felony offender who has been confined in a penal institution for within the last five years is not eligible to register to vote. 25 PA. CONS. STAT. § 1301(a) (2012). However, in

⁵¹ As reported in Table 1.

⁵² Ibid.

Mixon v. Com., 759 A.2d 442 (Pa. Commw. Ct. 2000), *aff'd*, 783 A.2d 763 (Pa. 2001), this provision was ruled unconstitutional. The court held that there was no rational basis for precluding these offenders from registering to vote when those who were legally registered prior to incarceration could vote upon their release. *Id.* at 451. Accordingly, only convicted felony offenders who are incarcerated on the date of a primary or general election are precluded from voting. See PENN. DEP'T OF STATE, VOTING RIGHTS OF CONVICTED FELONS, CONVICTED MISDEMEANANTS AND PRETRIAL DETAINEES 2, *available at* http://www.portal.state.pa.us/portal/server.pt/gateway/PTARGS_0_160329_77_3092_0_0_18/Convicted_felon_brochure.pdf.

Rhode Island R.I. Const. art 2, § 1; R.I. Gen. Laws Ann. § 17-9.2-3 (West 2012).

Utah Utah Const. art IV, § 6; Utah Code Ann. §§ 20A-2-101(2)(b), -101.3, -101.5 (West 2012).

Incarcerated Individuals and Persons on Parole Can Not Vote⁵³

California Cal. Const. art. II, § 4; Cal. Elec. Code §§ 2201, 2212 (West 2012).

Colorado Colo. Const. art. 7, § 10; Col. Rev. Stat. § 1-2-103(4) (2012).

Connecticut Conn. Gen. Stat. Ann. § 9-45 (2012).

New York N.Y. Const. art. II, § 3; N.Y. Elec. Law §§ 5-106(2) – (5) (McKinney 2012).

Ex-Felons Prohibited from Voting until Sentence Is Complete⁵⁴

Alaska Alaska Const. art. 5, § 2; Alaska Stat. §§ 12.55.185(18), 15.05.030(a), 33.30.241 (2012).

Arkansas Ark. Const. art. 51, § 11(a)(4).

Georgia Ga. Const. art. II, § 1 para. (III)(a); Ga. Code § 21-2-216 (2012).

Idaho Idaho Const. art. VI, § 3; Idaho Code Ann. § 18-310 (West 2012).

Kansas Kansas Const. art. 5, § 2; Kan. Stat. Ann. §21-6613 (West 2012).

Louisiana La Const. art. I, § 10; La Rev. Stat. Ann. § 18:102 (2012).

Maryland Md. Const. art I, § 4; Md. Code Ann., Elec. Law § 3-102(b)(1) (West 2013).

⁵³ Ibid.

⁵⁴ Ibid.

<i>Minnesota</i>	Minn. Const. art. VII, § 1; Minn. Stat. §§ 609.165(1), 201.014(2) (2013).
<i>Missouri</i>	Convicted felony offenders are disqualified from voting while imprisoned or on probation or parole. MO. REV. STAT. § 115.133 (2011). Convicted misdemeanants are disqualified from voting only while imprisoned. <i>Id.</i> Those convicted of either felony or misdemeanor offenses “connected with the exercise of the right of suffrage” are permanently disqualified from voting. MO. CONST. art VIII, § 2.
<i>New Jersey</i>	N.J. Const. art II, § 1(7); N.J. Stat. Ann. §§ 2C:51-3(a), 19:4-1(8) (2012). If disqualification from voting was imposed by the court as part of the punishment for a criminal violation of election laws, the right to vote can only be restored by pardon. <i>Id.</i> § 19:4-1(6), (7).
<i>New Mexico</i>	N.M. Const. art. VII, § 1; N.M. Stat. Ann. § 31-13-1 (2012).
<i>North Carolina</i>	N.C. Const. art. VI, § 2(3); N.C. Gen. Stat. §§ 13-1, 165-55(a)(2) (2012).
<i>Oklahoma</i>	Okla. Stat. tit. 26, § 4-101(1) (2012).
<i>South Carolina</i>	S.C. Const. art II, § 7; Imprisonment results in disqualification even if conviction is for a misdemeanor offense. S.C. CODE ANN. §§ 7-5-120(B)(2), (3) (2011).
<i>South Dakota</i>	On March 19, 2012, South Dakota enacted H.B. 1247, which removes voting rights from convicted felons until completion of sentence. H.B. 1247, 87th Leg. Assemb., (S.D. 2012). This legislation amended the state’s statutes on Registration of Voters, which previously precluded from voting only those felony offenders currently incarcerated or on parole. S.D. CODIFIED LAWS § 12-4-18 (2011).
<i>Texas</i>	Tex. Const. art. 6, § 1(3); Tex. Elec. Code Ann. § 11.002(4) (West 2013).
<i>Washington</i>	Felony offenders must re-register to vote after completing all requirements of their sentence including period of probation and parole. WASH. CONST. art. VI, § 3. The right to vote is provisionally restored when the offender is discharged from the authority of the Department of Corrections, but may be revoked if the sentencing court determines that they have willfully failed to meet any legal financial obligations resulting from conviction. WASH. REV. CODE ANN. §§ 29A.08.520(1), (2) (West 2013).
<i>West Virginia</i>	W. Va. Const. art. IV, § 1; W. Va. Code § 3-2-2(b) (2012).
<i>Wisconsin</i>	Wis. Stat. § 6.03(1)(b) (2012).

Ex-Felons Prohibited from Voting for Treason⁵⁵

Nebraska A convicted felon's right to vote is restored automatically two years after completion of sentence, including period of parole and probation, for all convictions except treason. NEB. CONST. art. VI, § 2; Neb. Rev. Stat. §§ 29-112, 32-313 (2012).

⁵⁵ Ibid.

Appendix 2: Restrictions on Voting Rights for Ex-Felons in States with Lifetime Bans⁵⁶

Alabama	A person convicted of a “felony of moral turpitude” is disqualified from voting until his/her civil and political rights are restored. Ala. Const. art. VIII, § 177. Upon completion of sentence, a disqualified person may apply to the Board of Pardons and Paroles for a Certificate of Eligibility to Register to Vote, Ala. Code § 17-3-31 (2012), so long as he/she was not convicted of impeachment, murder, rape, sodomy, sexual abuse, incest, sexual torture, enticing a child to enter a vehicle for immoral purposes, soliciting a child by computer, production of obscene matter involving a minor, production of obscene matter, parents or guardians permitting children to engage in obscene matter, possession of obscene matter, possession with intent to distribute child pornography, or treason. <i>Id.</i> § 15-22-36.1(g).
Arizona	Ariz. Const. art. VII, § 2(c); Ariz. Rev. Stat. Ann. §§ 13-904(A)(1), 16-101(5) (2012). Voting rights for first-time felony offenders are automatically restored upon completion of sentence, as well as payment of any monetary fines or restitution. Ariz. Rev. Stat. Ann. § 13-912. All other offenders may apply for restoration of rights with the sentencing or discharging superior court judge. <i>Id.</i> § 13-905. The governor has the authority to grant pardons, except for convictions of treason or impeachment, but his authority may be restricted by statute. Ariz. Const. art. V, § 5; Ariz. Rev. Stat. Ann. § 31-443. Pardons must first be recommended by the Board of Executive Clemency. <i>Id.</i> § 31-402(A). The governor is required to publish reasons for each pardon and must report to the legislature at the beginning of each regular session. <i>Id.</i> §§ 31-445, 31-446.
Delaware	A convicted felon’s right to vote may be restored five years after completion of sentence and period of probation and parole upon application to the County Board of Elections. Del. Const. art. V, § 2; Del. Code Ann. tit. 15, § 6103-05 (West 2012). This provision does not apply to certain serious offenses including murder, manslaughter, sex offenses, or offenses against public administration. Del. Const. art. V, § 2.
Florida	Fla. Const. art. VI, § 4(a); <i>Id.</i> at art. IV, § 8(a); Fla. Stat. §§ 98.075, 944.292(a) (2012). The power to grant a pardon or restore civil rights following felony convictions for offenses other than treason or impeachment is vested in the Governor, and requires approval of two members of the Cabinet. Fla. Stat. §§ 940.01, -05.

⁵⁶ As reported in Table 2.

Iowa	Iowa Const. art. II, § 5; <i>Id.</i> at art. IV § 16; Iowa Code Ann. §§ 48A.6, 914.2 (West 2012). Executive pardon by the Governor restores voting rights of an ex-felon.
Kentucky	Ky. Const. §§ 77, 145(1). Executive pardon by the Governor restores voting rights of an ex-felon.
Mississippi	Disqualification from voting occurs only upon conviction by a state court of certain identified felonies including murder, rape, bribery, theft, arson, obtaining money or goods under false pretense, perjury, forgery, embezzlement or bigamy, Miss. Const. art. 12, § 241, as well as armed robbery, extortion, felony bad check, felony shoplifting, larceny, receiving stolen property, robbery, timber larceny, unlawful taking of a motor vehicle, statutory rape, and carjacking, <i>see</i> Op. Miss. Att’y. Gen. No. 2004-0171 (Karrem, Apr. 23, 2004). Voter eligibility may be regained by executive pardon, Miss. Code Ann. § 47-7-41 (West 2012), or by a two-thirds vote of both houses, Miss. Const. art. 12, § 253. Individuals disqualified from voting in the state remain eligible to vote in federal elections. <i>Id.</i> § 241.
Nevada	Nev. Const. art. 2, § 1. The right to vote is automatically restored to first-time offenders charged with most non-violent felonies following completion of sentence. Nev. Rev. Stat. §§ 155, 213.157 (2012). For all other offenders, the right to vote may only be restored by executive pardon. <i>Id.</i> § 213.090.
Tennessee	Tenn. Const. art. 1, § 5; Tenn. Code. Ann. §40-20-112 (West 2013). Convicted felony offenders may apply to the Board of Probation and Parole for voting restoration upon completion of sentence, Tenn. Code. Ann. § 40-29-202. Persons convicted of certain felony offenses including murder, rape, treason, sexual offenses involving a minor victim, voter fraud, bribery, misconduct involving public officials and employees, or interference with government operations are permanently ineligible to vote. <i>Id.</i> § 40-29-204.
Virginia	Va. Const. art. II, § 1; <i>Id.</i> at art. V, § 12; Va. Code Ann. §§ 53.1-229, -231 (West 2013). Persons convicted of most non-violent felonies may apply to the governor for a pardon or restoration of voting rights two years after completion of sentence and payment of any monetary fines and restitution. See Sec’y of the Commonwealth, <i>Non-Violent Offenders Application for Restoration of Civil Rights</i> , available at http://www.commonwealth.virginia.gov/JudicialSystem/Clemency/McDonnell2-YearRoRAApplication-Latest92010.pdf (last visited June 22, 2012). Persons convicted of violent offenses, drug manufacturing or distribution offenses, offenses against minors, or election law offenses must wait five years to apply for restoration of rights. See Sec’y of the Commonwealth, <i>Five Year Application for Restoration of Civil Rights</i> , available at

<http://www.commonwealth.virginia.gov/JudicialSystem/Clemency/5-YearRoRAApplication-UpdatedJuly2010-2.pdf> (last visited June 22, 2012).

Also see: Governor McDonnell announced on May 29, 2013 a transition from an application process to an Automatic Restoration Process for Non-violent Felons effective on July 15, 2013, at <http://www.commonwealth.virginia.gov/judicialsystem/clemency/restoration.cfm>.⁵⁷

Wyoming First-time non-violent felony offenders may apply to the Board of Parole for a certificate restoring voting rights five years after completion of sentence including period of probation. All others must apply to the governor for either a pardon or a restoration of rights. Wyo. Const. art. 6, § 6; Wyo. Stat. Ann. § 7-13-105 (2012).

⁵⁷ Under the executive order, the right to vote is automatically restored to all non-violent offenders who meet the following conditions: (1) all term of incarceration, probation, and parole have been completed, (2) all court costs, fines, and any restitution has been paid, and (3) there are no pending felony charges.

**Florida Advisory Committee to the
United States Commission on Civil Rights**



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FELONY DISENFRANCHISEMENT IN FLORIDA: PAST, PRESENT AND FUTURE

ALLISON J. RIGGS, ESQ.¹

Laws that restrict individuals with felony convictions from voting are widespread in the United States, but those laws themselves vary widely from state to state. Only Maine and Vermont allow people who are incarcerated for a felony to vote. Other states further prohibit individuals on parole or probation relating to a felony conviction from casting a ballot. The most stringent laws, that prohibit not only persons on probation and parole from voting, but also those who have satisfied their entire sentence, are found only in election states, including Florida.²

Because of disparities in the criminal justice system, African Americans, and other people of color are disproportionately more likely to be kept from voting because of felony disenfranchisement laws. Indeed, in Florida, 23 percent of voting-age African Americans is disenfranchised because of prior felony convictions.³ Under Florida law, regaining the right to vote following a felony conviction is exceptionally difficult. This article examines the fluctuating rules governing restoration of the right to vote in Florida, including legal challenges to those rules. This article concludes by discussing potential legal, policy, and advocacy routes for ameliorating the enormous burden that these rules place on people of color seeking to participate in the political process.

I. EVOLVING FELONY DISENFRANCHISEMENT RULES IN FLORIDA

The United States is unique amongst developed nations in its sanctioning of stringent felony disenfranchisement.⁴ Florida is unique amongst the

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² Marla McDaniel et al., *Imprisonment and Disenfranchisement of Disconnected Low-Income Men*, URBAN INSTITUTE, 4 (August 2013), available at <http://www.urban.org/UploadedPDF/412986-Imprisonment-and-Disenfranchisement-of-Disconnected-Low-Income-Men.pdf>.

³ *Id.* at 5-6.

⁴ The Canadian Supreme Court held that criminal disenfranchisement laws are unconstitutional.

states in the stringency of its felony disenfranchisement, which leaves those convicted of a felony conviction permanently disenfranchised, absent affirmative action on the person with the conviction to seek restoration of the right to vote.⁵ Although this practice has been a prominent characteristic of Florida criminal justice policy for many years, Florida, unlike most states, has moved to make these laws more restrictive in the last several years. That trend has had a significant detrimental impact on the state's electorate, with noticeable racial disparities. The fluctuation of the rules governing the restoration of civil rights in Florida only exacerbates the burdens on those formerly involved in the criminal justice system.

1. Origin of Felony Disenfranchisement in Florida

Disenfranchisement of individuals with felony convictions dates back to Florida's first constitution in 1838, which stated, "The General Assembly shall have the power to exclude from. . .suffrage, all persons convicted of bribery, perjury, forgery, or other high crime, or misdemeanor."⁶ This provision remained essentially unchanged in Florida's 1861 and 1865 Constitutions.⁷ However, the provision was significantly amended in the state's 1868 constitutional convention. It was changed to say, "nor shall any person convicted of a felony be qualified to vote at any election unless restored to civil rights. . .The legislature shall have power and shall enact the necessary laws to exclude from. . .suffrage, all persons convicted of bribery, perjury, larceny or of infamous crime."⁸ That provision remained unchanged until the 1968 constitutional convention. The language was then amended to state that "[n]o person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability."⁹

Suavé v. Canada, [2002] 3 S.C.R. 519, para. 7 (Can.). The European Court of Human Rights found that denying offenders serving more than a one-year sentence was a violation of the European Convention on Human Rights. *See Frodl v. Austria*, App. No. 20201/04, Eur. H.R. Rep. (2010). It also declared that blanket criminal disenfranchisement laws are illegal. *See also Hirst v. United Kingdom* (No. 2), 2005-IX Eur. Ct. H.R. (2005).

⁵ FLA. CONST. art. 6, § 4 (West, Westlaw through Nov. 4, 2014, General Election).

⁶ FLA. CONST. art. VI, §§ 4, 13 (amended 1868).

⁷ FLA. CONST. art. VI, §§ 2, 9 (1968).

⁸ FLA. CONST. art. XIV, §§ 2, 4 (amended 1968).

⁹ FLA. CONST. art. VI, § 4 (1968).

2. *Changing Felony Disenfranchisement Rules in Florida*

Even after the last constitutional revision, Floridians were subjected to many changes in the application of the felony disenfranchisement constitutional provision. In 1974, the Florida legislature passed the Correctional Reform Act,¹⁰ declaring that “[e]ffective July 1, 1974, upon conviction of a felony, the civil rights of a person convicted shall be suspended until he is discharged from parole or released from the custody of the department without parole, at which time such civil rights are automatically reinstated.” The governor at the time, Ruben Askew, immediately sought an advisory opinion on the legislation from the Florida Supreme Court. The court found that this portion of the Act—automatic reinstatement of civil rights—unconstitutionally infringed upon the constitutional power of the Governor (with the approval of three members of the Cabinet) to restore civil rights.¹¹ Thus, this early legislative attempt to minimize the long-term effects of felony disenfranchisement failed.

Following the Florida Supreme Court’s ruling, the Governor and the Cabinet in 1975 established the Rules of Executive Clemency, thereby creating the Office of Executive Clemency to process matters of executive clemency.¹² However, in an attempt to further the legislative intent of the invalidated part of the Correctional Reform Act, the Governor and three members of the Cabinet (together, the Board of Executive Clemency) implemented written rules under which certain categories of executive clemency cases would be eligible for automatic restoration of civil rights.¹³

From 1975 until 1991, the restoration of civil rights in Florida was automatic, although it was still necessary to apply and prove eligibility.¹⁴ In 1991, the state began requiring a hearing before civil rights could be restored.¹⁵ In 1999, the number of applicant criminal offenses that required a hearing before the applicant could have his or her right to vote restored was expanded to include about 200 crimes.¹⁶ Governor Jeb Bush, however, shortened that list of offenses when media reports revealed

¹⁰ FLA. STAT. § 944.292 (1974).

¹¹ In re Advisory of the Governor Civil Rights, 306 So. 2d 520, 524 (Fla. 1975).

¹² FLA. PAROLE COMM’N, 2013 ANNUAL REPORT 14, *available at* <https://www.fcor.state.fl.us/docs/reports/FCORannualreport201213.pdf>.

¹³ FLA. PAROLE COMM’N, RESTORATION OF CIVIL RIGHTS’ (RCR) CASES GRANTED 2009 AND 2010 4-5, *available at* <https://www.fcor.state.fl.us/docs/reports/2009-2010ClemencyReport.pdf>.

¹⁴ Margaret Colgate Love, NACDL Restoration of Rights Resource Project, July 2013 at 3, *available at* https://www.nacdl.org/uploadedFiles/files/resource_center/2012_restoration_project/state_narr_fl.pdf.

¹⁵ *Id.* at 3.

¹⁶ *Id.*

enormous delays in the restoration process.¹⁷

In 2004, Governor Bush also established the Governor's Ex-Offender Task Force to assess the effectiveness of the state in reintegrating those involved in the criminal justice system. By the end of 2006, the Task Force concluded that successful re-integration was critical to reducing recidivism.¹⁸ In addition, the Task Force recommended further study on "the loss of civil rights upon conviction of a felony, [. . .] with the aim of additional reform recommendations'["¹⁹

In 2006, Florida Republican Charlie Crist's campaign promised to streamline the rights restoration process and improve the ability of formerly-incarcerated persons to vote and obtain professional licenses.²⁰ In April of 2007, Governor Crist, with the support of two of his three Cabinet members, revised and streamlined the rules governing the restoration of civil rights.²¹ For many of those convicted of non-violent offenses, no affirmative action or petitioning would be required of them any longer.²² Instead, the Florida Parole Commission would send a list of eligible persons who had completed their sentence to the Office of Executive Clemency.²³ Individuals on that list would have their civil rights restored without a hearing or investigation.²⁴ However, despite the improvement that these changes created, the new rules still fell short of the "automatic" restoration of rights promised during the campaign.²⁵ Restoration of civil rights still required the approval of the Clemency Board, requiring time and processing.²⁶ Those persons eligible for "automatic" restoration still found

¹⁷ Debbie Cenziper & Jason Grotto, *Violent Offenders Rights Restored While Lesser Offenders Wait*, MIAMI HERALD (Nov. 21, 2004), available at <http://freerepublic.com/focus/f-news/1285619/posts>.

<http://search.proquest.com/docview/1000998163/F037CAFD824747F3PQ/2?accountid=14068>.

¹⁸ Bryan Miller & Joseph Spillane, *Civil Death: An Examination of Ex-felon Disenfranchisement and Reintegration*, PUNISHMENT & SOCIETY, 14(4): 402-28, available at http://www.researchgate.net/publication/258181096_Civil_death_An_examination_of_ex-felon_disenfranchisement_and_reintegration.

¹⁹ *Id.* at 405.

²⁰ Farhad Manjoo, *What Was Charlie Crist Thinking?* SALON (April 6, 2007), available at http://www.salon.com/2007/04/06/crist_10/

²¹ *Id.*

²² *Id.*

²³ See Bryan Miller & Joseph Spillane, *Governing the restoration of civil rights for ex-felons: an evaluation of the Executive Clemency Board in Florida*, CONTEMP. JUST. REV. Aug. 8, 2012, at 1, 2 available at http://www.researchgate.net/publication/263729991_Governing_the_restoration_of_civil_rights_for_ex-felons_an_evaluation_of_the_Executive_Clemency_Board_in_Florida.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

themselves caught in a backlog of paperwork in Tallahassee.²⁷

In March of 2011, at the first Board of Executive Clemency meeting after Governor Rick Scott was elected, the Board voted unanimously to revise and pass more restrictive the rules governing the restoration of civil rights.²⁸ Under Scott, the Board of Executive Clemency promulgated Rules 9 and 10 of the Rules of Clemency, which provided for two levels of eligibility for restoration of civil rights.²⁹ Applicants convicted of more serious felonies are now required to wait seven years after the completion of their sentence, and must undergo a full investigation and hearing before the Board.³⁰ Applicants who fall into the category of less serious offenses must wait five years after the completion of their sentence before applying for the restoration of their rights, but they may be able avoid a hearing.³¹ Any applicant whose request for restoration of civil rights is denied must wait two years before applying again.³² Because the Board of Executive Clemency meets only quarterly in Tallahassee, an applicant who falls into the Rule 10 category may wait years for a hearing.³³

The legislature in 2011 enacted a “decoupling” law, which prohibited licensing boards in the state from denying licenses based solely on the fact that the applicant for the license had not had his or her civil rights restored.³⁴ Agencies are not, however, prohibited from taking the lack of restoration of civil rights into account in making licensure decisions.³⁵

II. EFFECT OF FELONY DISENFRANCHISEMENT LAWS IN FLORIDA

The effect of Florida’s draconian felony disenfranchisement rules on its citizens and voters is jaw-dropping, especially when compared to the rest of the country. As of 2010, according to the most recent data available, over 1.5 million Floridians are prohibited from voting because of past felony convictions.³⁶ That number is increased from the approximately 1.1

²⁷ *Id.* at 4.

²⁸ *Id.* at 2.

²⁹ *Id.*; See Fla. R. Exec. Clemency 9-10; See also Reginald R. Garcia, Esq., Florida Executive Clemency: Seeking Mercy and Justice for Convicted Felons, FLORIDA DEFENDER (May 2011), available at http://www.floridaclemencyattorney.com/documents/FIDefender_2011_May.pdf.

³⁰ Miller & Spillane, *supra* note 23 at 11; Fla. R. Exec. Clemency 10(A).

³¹ Fla. R. Exec. Clemency 9(A).

³² Fla. R. Exec. Clemency 14.

³³ Miller & Spillane, *supra* note 23 at 2.

³⁴ FLA. STAT. ANN. § 112.01(c) (repealed 2013).

³⁵ FLA. STAT. § 112.01(2) (repealed 2013).

³⁶ Christopher Uggen, Sarah Shannon, & Jeff Manza, *State-level Estimates of Felon Disenfranchisement in the United States*, THE SENTENCING PROJECT (July 2012) at 16, available at http://sentencingproject.org/doc/publications/fd_State_Level_Estimates_of_Felon_Disen_2010.pdf.

million Floridians disenfranchised in 2004.³⁷ Of those 1.5 million disenfranchised in 2010, over 1.3 million have been released from prison or jail and have completed all probation and parole.³⁸ Given that there were 14.8 million people eligible to vote in Florida in 2010, this means that over 10% of Floridians above the age of 18 were denied their constitutional right to vote.³⁹ In the entire United States, 5.85 million citizens are disenfranchised, meaning that over 26% of the country's disenfranchised live in the state of Florida.⁴⁰

The effect on African-American Floridians is even more disheartening. In 2010, over a half a million African Americans were disenfranchised, constituting 23.32% of the state's African-American voting age population. Of those disenfranchised, over 83% had completed their sentences.⁴¹ The disparity is undeniable. While one out of ten Floridians are disenfranchised, nearly one of four black Floridians are denied the right to vote.⁴²

Felony disenfranchisement laws generally also have an effect on recidivism rates. A seminal study has indicated that there is a statistically significant relationship between voting and the likelihood of recidivism following a felony conviction. The study found that "among former arrestees, about 27 percent of the nonvoters were rearrested, relative to 12 percent of the voters."⁴³ Thus, while many supporters of felony disenfranchisement justify those laws as demanding proof of rehabilitation prior to the restoration of the right to vote, that logic is flatly backward.

Beyond just the impact of these laws by demographic, the voting rights restoration process is "[. . .] an exhausting, emotionally draining process [. . .]"⁴⁴ that undoubtedly has a huge psychological effect on those willing to brave that route. During Governor Bush's administration, restoration of civil rights applications faced a rejection rate of 85%.⁴⁵ In the late 2000s,

³⁷ Jeff Manza & Christopher Uggen, *LOCKED OUT: FELON DISENFRANCHISEMENT AND AMERICAN DEMOCRACY* 248 (Oxford (2006); Ryan S. King, *State Felony Disenfranchisement Reform, 1997-2008*, THE SENTENCING PROJECT (September 2008) at 9, available at http://www.sentencingproject.org/doc/publications/fd_statedisenfranchisement.pdf.

³⁸ Uggen, Shannon & Manza, *supra* note 36, at 14.

³⁹ *Id.* at 16.

⁴⁰ Manza & Uggen, *supra* note 37.

⁴¹ *Id.* at 17.

⁴² Uggen, Shannon & Manza, *supra* note 36, at 15-17.

⁴³ Manza & Uggen, *supra* note 37 at 70.

⁴⁴ Thomas B. Pfankuch, *Clemency Board very cautious in restoring rights*, FLORIDA TIMES-UNION (June 3, 2001), at 1 (quoting Governor Bush), available at http://jacksonville.com/tu-online/stories/060301/met_6339439.html#.VXtRAWBtNUQ.

⁴⁵ Ted Chiricos et al., *Racial Threat and Opposition to the Re-Enfranchisement of Ex-Felons*, 1 INT'L J. CRIM. & SOCIOLOGY 13, 17 (2012), available at

more than 60% of the applications were summarily rejected, most often because of outstanding victim restitution or court fees.⁴⁶

The effect of Florida's frequently-in-flux restoration rules can further be understood by looking at the number of people restored to full civil rights in recent years. In 2009-2010, 30,672 Floridians regained the right to vote via the restoration of civil rights.⁴⁷ In 2010-2011, 5,771 Floridians were granted a restoration of civil rights.⁴⁸ After the change to the rules made by the Scott administration, the number of restorations completed in 2011-2012 dropped precipitously, with only 420 Floridians regaining the right to vote in that year.⁴⁹ The Tampa Bay Times reported in June of 2011 that there were more than 95,000 applications for clemency pending before the Board of Executive Clemency.⁵⁰ That backlog was dramatically reduced after the vast majority of those were ruled ineligible because of the newly-mandated waiting period.⁵¹

Finally, Florida's felony disenfranchisement laws have a political effect as well, which is best highlighted by the 2000 Presidential election. In Florida, the presidential race was decided by a 537-vote margin, at a time when approximately 600,000 former offenders were prohibited from voting in the state.⁵² Indeed, one study indicated that as many as seven U.S. Senatorial elections would have had a different outcome absent felony disenfranchisement laws.⁵³ In light of this, the unavoidable political effect on lower turnout elections is certainly not difficult to appreciate.

III. CHALLENGES TO FELONY DISENFRANCHISEMENT IN FLORIDA

Opponents of felony disenfranchisement laws have employed a number of legal strategies to invalidate those laws, but legal challenges to felony disenfranchisement laws across the country have not been particularly successful. The United States Supreme Court first heard a Fourteenth

<http://www.lifescienceglobal.com/home/cart?view=product&id=184>.

⁴⁶ *Id.*

⁴⁷ Margaret Colgate Love, *NACDL Restoration of Rights Resource Project* (July 2013) FL1, at FL3, available at https://www.nacdl.org/uploadedFiles/files/resource_center/2012_restoration_project/state_narr_fl.pdf.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Michael Bender, *Citrus County Electrician Gets Gov. Rick Scott's First Pardon*, TAMPA BAY TIMES, June 2, 2011, available at <http://www.tampabay.com/news/politics/gubernatorial/citrus-county-electrician-gets-gov-rick-scotts-first-full-pardon/1173320>.

⁵¹ Love, *supra* note 47.

⁵² George Brooks, Comment, *Felony Disenfranchisement: Law, History, Policy and Politics*, 32 FORDHAM URB. L.J. 851 (2005).

⁵³ Manza & Uggen, *supra* note 37.

Amendment challenge to such a law in *Richard v. Ramirez* in 1974.⁵⁴ In *Ramirez*, the Court rejected Plaintiffs' Fourteenth Amendment challenge, relying on an exception in Section 2 of the Equal Protection Clause that allows states to abridge the right to vote because of "participation in rebellion, or other crime."⁵⁵ Asserting the inconsistent logic that one part of the Equal Protection Clause prohibited a practice that another part of the Clause expressly endorsed, the Court thus concluded that felony disenfranchisement was at least facially constitutional.⁵⁶

In 1985, however, opponents of felony disenfranchisement laws did succeed in convincing the Court that those laws could be intentionally discriminatory in violation of the Fourteenth Amendment. In *Hunter v. Underwood*,⁵⁷ the Supreme Court invalidated an Alabama felony disenfranchisement law where a substantial amount of evidence indicated that the law was passed in order to discriminate against black voters.⁵⁸ Thus far, *Hunter* has been the only exception to the *Ramirez*.

More recently, voting rights litigators have tried to attack felony disenfranchisement laws under Section 2 of the Voting Rights Act. In 1982, Congress revised Section 2, creating a "results" test that made clear that discriminatory intent is not necessary to establish a violation of Section 2. Under the 1982 Amendment, a violation of Section 2 is established when, in the "totality of circumstances," the impact of a challenged voting practice is discriminatory. To date, the three Circuit Courts of Appeals that have considered Section 2 challenges to felony disenfranchisement laws have all rejected the application of Section 2 to such laws.⁵⁹ Given the absence of a circuit split, the Supreme Court has yet to take up the issue, and voting rights litigators seem to be declining to pursue such challenges.

Challenges mounted against Florida's particularly stringent felony disenfranchisement laws have not been more successful than challenges in less restrictive states. The first devastating blow to opponents of felony disenfranchisement was delivered in *Beacham v. Braterman*.⁶⁰ In *Beacham*,

⁵⁴ *Richardson v. Ramirez*, 418 U.S. 24 (1974).

⁵⁵ *Id.* at 43.

⁵⁶ *Id.* at 55.

⁵⁷ *Hunter v. Underwood*, 471 U.S. 222 (1985).

⁵⁸ *Id.* at 233.

⁵⁹ *Hayden v. Pataki*, 449 F.3d 305 (2d Cir. 2006); *Farrakhan v. Gregoire*, 623 F.3d 990 (9th Cir. 2010); *Johnson v. Governor of State of Florida*, 405 F.3d 1214 (11th Cir. 2005). The Sixth Circuit "assumed" that Section 2 would apply to a felony disenfranchisement law, but found that there was no discriminatory effect resulting from Tennessee's law; *Wesley v. Collins*, 791 F.2d 1255, 1259-61 (6th Cir. 1986).

⁶⁰ *Beacham v. Braterman*, 300 F. Supp. 182, (S.D. Fla.) aff'd, 396 U.S. 12, 90 S. Ct. 153, 24 L.Ed. 2d 11 (1969).

which was decided before *Richardson v. Ramirez*, the U.S. Supreme Court summarily affirmed a trial court's dismissal of Plaintiff's class action lawsuit challenging Florida's felony disenfranchisement law. The lower court rejected Plaintiffs' Fourteenth Amendment equal protection claim, based almost entirely on the reasoning that the denial of voting rights following a felony conviction is a longstanding and quite common practice.⁶¹ That court also flatly rejected the allegation that the Plaintiffs' due process rights were violated by the vesting of the power for the Governor of Florida, with the approval of three members of the Cabinet, to restore the right to vote to some people with felony convictions and not to others. The court stated, "[t]he restoration of civil rights is part of the pardon power and as such is an act of executive clemency not subject to judicial control."⁶² In a per curiam decision, the Supreme Court affirmed the district court's ruling.⁶³

But *Beacham* was not the last challenge to Florida's felony disenfranchisement law. In 2001, acting on behalf of all Floridians convicted of a felony who have completed their sentences but remain ineligible to vote, eight plaintiffs filed a lawsuit challenging Florida's felony disenfranchisement law under the First, Fourteenth, Fifteenth and Twenty-Fourth Amendment, and under the Voting Rights Act.⁶⁴ The District Court granted summary judgment to Defendants on Plaintiffs' Fourteenth Amendment claim. It concluded that the Supreme Court's decisions in *Ramirez* and the same District Court in *Beacham* (which summarily affirmed by the Supreme Court) precluded such a claim. Like the Court in *Richardson*, the District Court reiterated that Section 2 of the Fourteenth Amendment expressly sanctioned such an action.⁶⁵ The Court likewise rejected Plaintiffs' First Amendment claim.

The District Court in *Johnson* granted Defendant's summary judgment on Plaintiffs' intentional discrimination claims even though Plaintiffs had presented substantial evidence that the challenged provision was initially motivated by improper intent. The court concluded, however, that re-enactment of the law in 1968, without any proven discriminatory intent, relieved the state of any liability for the discriminatory origins of the law.⁶⁶

⁶¹ *Id.* at 184.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Johnson v. Bush*, 214 F. Supp. 2d 1333, 1337-38 (S.D. Fla. 2002) aff'd in part, rev'd in part and remanded sub nom. *Johnson v. Governor of State of Fla.*, 353 F.3d 1287 (11th Cir. 2003) reh'g en banc granted, opinion vacated sub nom. *Johnson v. Governor of Florida*, 377 F.3d 1163 (11th Cir. 2004) and aff'd sub nom. *Johnson v. Governor of State of Florida*, 405 F.3d 1214 (11th Cir. 2005)

⁶⁶ *Id.* at 1337; *See Richardson v. Ramirez*, 418 U.S. 24, 56 (1974); *See also Beachman v.*

With regard to Plaintiffs' claim under Section 2 of the Voting Rights Act, the court found that no Section 2 violation could occur where racially-neutral factors caused the disparate impact on minority voters.⁶⁷ Essentially dismissing the role of bias in the criminal justice system, the court held that the African-American Plaintiffs were not deprived of the right to vote because of any immutable characteristic they possessed, but rather because they committed criminal acts.⁶⁸ Finally, Plaintiffs alleged that the requirement that disenfranchised ex-offenders needed to have paid all victim restitution in order to be eligible for restoration of civil rights was an impermissible poll tax.⁶⁹ The court rejected this claim because impermissible poll taxes directly burden the right to vote, and Plaintiffs had no right to vote (because the state had deprived them of it).⁷⁰

When appealed to the Eleventh Circuit, a three-judge panel affirmed the district court's grant of summary judgment on the poll tax claim, but reversed the grant of summary judgment on Plaintiffs' equal protection and Voting Rights Act claims because there were disputed issues of fact.⁷¹ The panel concluded, quite differently than the district court, that the "discriminatory purpose behind Florida's felon disenfranchisement provision establishes an equal protection violation that persists with the provision unless it is subsequently reenacted on the basis of an independent, non-discriminatory purpose."⁷²

With regard to the Section 2 claims, the appellate panel rejected the district court's interpretation of the Act. The court noted that the conclusion that the disparate impact is caused by felon's poor decision-making begs the statutorily mandated question: "whether felon status interacts with social and historical conditions to cause an inequality in the opportunities enjoyed by black and white voters to elect their preferred representatives."⁷³ Specifically, the panel found that "racial bias in the criminal justice system may very well interact with voter disqualifications to create the kind of barriers to political participation on account of race that are prohibited by Section 2. Thus, rendering it simply another relevant

Brateman, 300 F. Supp. 192 (S.D. Fla. 1969) *aff'd*, 396 U.S. 12 (1969).

⁶⁷ *Id.* at 1341.

⁶⁸ *Id.* at 1341-42.

⁶⁹ *Id.* at 1342.

⁷⁰ *Id.* at 1343.

⁷¹ *Johnson v. Governor of State of Fla.*, 353 F.3d 1287 (11th Cir. 2003) *reh'g en banc granted*, opinion vacated *sub nom. Johnson v. Governor of Florida*, 377 F.3d 1163 (11th Cir. 2004).

⁷² *Id.* at 1301.

⁷³ *Id.* at 1305 (internal quotations omitted).

social and historical condition to consider where appropriate.”⁷⁴

The state obtained *en banc* review from the Eleventh Circuit, which vacated the panel’s judgment and affirmed in its entirety the ruling by the District Court.⁷⁵ The Eleventh Circuit concluded that in fact there was no evidence that the original 1868 constitutional disenfranchising provision was motivated by racial animus.⁷⁶ And even had the appeals court been satisfied that Plaintiffs had proven racial animus motivating the 1868 provision, it agreed with the district court that such improper motivation would not condemn the 1968 constitutional provision.⁷⁷ The appeals court also held that Section 2 of the Voting Rights Act could not be constitutionally read to apply to felony disenfranchisement laws because Section 2 of the Fourteenth Amendment expressly endorsed such laws.⁷⁸

Plaintiffs sought review by the United States Supreme Court, but the Court denied the petition for writ of certiorari.⁷⁹ As such, the Eleventh Circuit ruling stands today as binding precedent, creating an inhospitable environment for facial challenges to Florida’s felony disenfranchisement law. However, this reality does not mean all litigation solutions are off the table, and certainly does not mean that Floridians cannot obtain substantial relief through legislative and advocacy efforts.

IV. PROPOSALS FOR STRATEGIES TO AMELIORATE THE DEVASTATING IMPACT OF FLORIDA’S FELONY DISENFRANCHISEMENT RULES

As long as Florida, and indeed most of America, views exclusion from the political process as an acceptable or “traditional” punishment for criminal violations, citizens will be burdened and restricted from voting because of felony disenfranchisement law. But the failure of earlier legal challenges does not doom the effort as a whole. By adopting a multi-faceted approach to ameliorating the impact of Florida’s felony disenfranchisement laws—including legislative, advocacy and litigation strategies—the situation facing an enormous number of Florida voters can be improved. Three such options are presented below.

⁷⁴ *Id.* at 1306 (citing *Farrakhan v. Locke*, No. 96-0076, 2000 U.S. Dist. LEXIS 22212 (E.D. Wash. 2000) (“*Farrakhan II*”).

⁷⁵ *Johnson v. Bush*, 405 F.3d 1214, 1214 (11th Cir. 2005).

⁷⁶ *Id.* at 1219.

⁷⁷ *Id.* at 1225-26.

⁷⁸ *Id.* at 1233-34.

⁷⁹ *Johnson v. Bush*, 546 U.S. 1015, 126 S. Ct. 650, 651, 163 L. Ed. 2d 526 (2005).

1. Criminal Justice Reform

Perhaps the most important, and least intuitive for voting rights litigators and advocates, solution is reducing the opportunity for Florida's felony disenfranchisement rules to apply to its citizens in the first place. Florida's criminal code is particularly harsh, and as of 2009, Florida had the highest rate among all states of current and estimated former felons as a percent of the adult population—over 14%.⁸⁰

Florida's drug laws are an enormous contributor to the number of its citizens who are prohibited from participating in the political process. A 2009 state-by-state analysis indicated that Florida more severely and more routinely punishes minor marijuana crimes than any other state. And that situation is unlikely to change, because in recent years, state legislators have elected to *enhance* Florida's criminal punishments each time they revisited the state's marijuana penalties⁸¹

Looking at what specifically constitutes a felony with regard to marijuana is enlightening and frustrating. Possession alone of more than 20 grams of marijuana is a felony punishable by a maximum sentence of 5 years imprisonment and a maximum fine of \$5,000.⁸² Possession of fewer than 25 plants—including the possession of just a single marijuana plant—is a felony punishable by a maximum sentence of 5 years imprisonment and a maximum fine of \$5,000.⁸³ The sale of more than 20 grams but less than 25 lbs. or less is a felony punishable by a maximum sentence of 5 years imprisonment and a maximum fine of \$5,000.⁸⁴ Sale or delivery within 1,000 feet of a school, college, park, or other specified areas is a felony punishable by a maximum sentence of 15 years imprisonment and a maximum fine of \$10,000.⁸⁵

Hashish and other such concentrates are considered schedule I narcotics in Florida.⁸⁶ Possession of hashish or concentrates is a felony in the third degree.⁸⁷ Possessing more than 3 grams of hash, selling, manufacturing, delivering, or possessing with intent to sell, manufacture or deliver, hashish or concentrates is also a third-degree felony. Moreover, the offense is

⁸⁰ Sarah Shannon et al., *Growth in the U.S. Ex-Felon and Ex-Prisoner Population, 1948-2010*, POPULATION ASSOCIATION OF AMERICA (Apr. 18, 2011), <http://paa2011.princeton.edu/papers/111687>.

⁸¹ Paul Armentano, *The 5 Worst States to Get Busted With Pot*, ALTERNET (May 13, 2011), available at http://www.alternet.org/story/150935/the_5_worst_states_to_get_busted_with_pot.

⁸² FLA. STAT. §§ 775.082(3)(e), 775.083(1)(c), *See* 893.13(6) (2014).

⁸³ FLA. STAT. §§ 775.082(3)(e), 775.083(1)(c), *See* 893.13(6), 893.135(1)(a) (2014).

⁸⁴ FLA. STAT. §§ 775.082(3)(e), 775.083(1)(c), *See* 893.13(1)(a)(2), 893.135(1)(a) (2014).

⁸⁵ FLA. STAT. §§ 775.082(3)(d), 775.083(1)(b), 893.03(1)(c), 893.13(1)(c) (2014).

⁸⁶ FLA. STAT. ANN. § 893.03(1)(c) (West 2014).

⁸⁷ FLA. STAT. ANN. § 893.13(1)(a)(2) (West 2014).

charged as a second-degree felony if the offense occurred within 1,000 feet of a child care facility between 6 A.M. and 12 midnight, a park or community center, a college, university or other postsecondary educational institute, any church or place of worship that conducts religious activities, any convenience business, public housing, or an assisted living facility.⁸⁸

Of course, drug laws are not the only part of the Florida criminal justice system that imposes felony sentences and potential lifetime disenfranchisement for absurdly minor offenses. For example, in Florida, any property taken that carries a value of more than \$300 can be considered grand theft in certain circumstances, which is classified as a third-degree felony.⁸⁹ In one case, a couple was convicted of felonious grand theft for stealing razors from a store.⁹⁰ In some circumstances, “removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value” can constitute a third-degree felony.⁹¹ The idea that a person might be disenfranchised for life for stealing razors or absconding with a shopping cart should offend the sensibilities of anyone considering the collateral consequences of a criminal justice system with such stiff sentencing structures.

Until politicians and the general public start appreciating the connection between voting rights and criminal justice policy, hundreds of thousands of Floridians will be face a lifetime of exclusion from the political process. Opponents of felony disenfranchisement have the opportunity to make important strides in the advocacy realm by encouraging dialogue about how the over-criminalization of Florida society creates absurd results, particularly in the voting rights arena.

2. *Statewide Constitutional Initiative*

Florida is uniquely situated because its citizens are empowered to amend their state constitution fairly easily and directly through the initiative process. The initiative process is a mechanism that has been utilized to protect voting rights in the past, and could be used now to ease the effects of Florida’s felony disenfranchisement rules.

Florida voters can use the constitutional initiative process by gathering petitions signed by a number of voters equal to eight percent of votes cast in the last presidential election. Those signed petitions are not required

⁸⁸ *Id.*

⁸⁹ FLA. STAT. ANN. § 812.014(2)(c)(1) (West 2014).

⁹⁰ *Rimondi v. State*, 89 So. 3d 1059, 1060 (Fla. Dist. Ct. App. 2012).

⁹¹ FLA. STAT. ANN. tit. 46, § 812.015 (West 2012) (effective July 1, 2012).

simply on a statewide basis—they must come from at least one half of the state’s congressional districts. To begin the initiative petition process, an individual or group, wishing to propose an amendment must register as a political committee with the Division of Elections.⁹² The political committee is then required to submit the proposed initiative amendment petition form to the Division of Elections. Then, the petitions are circulated for signatures. The division only reviews the initiative petition form for sufficiency of its format.⁹³

The political committee must pay the Supervisor of Elections for each signature that the Supervisor’s office checks, which is either ten cents or the actual cost of checking the signature (whichever is less). The sponsoring political committee pays that fee at the time of submitting the petitions. If the political committee cannot pay for the signature-checking without creating an undue burden on the organization, the organization can seek to have those charges waived by submitting a written certification of that inability to pay. However, if the committee pays any person to solicit signatures, an undue burden affidavit may not be filed in lieu of paying the verification fee.⁹⁴

Once a political committee secures signatures from 10% of the voters required, from at least 25% of the congressional districts, the Division of Elections will send the petition to the Attorney General. The Attorney General then, within thirty days of receipt of that petition, must request from the Supreme Court an advisory opinion regarding the compliance of the text of proposed amendment with Art. XI, Section 3, of the State Constitution and the compliance of the proposed ballot title and summary with Section 101.161 of the Florida Statutes.

The process does not end there, though. Any constitutional amendment brought through the citizen initiative process needs 60% of the vote to pass.⁹⁵ The cost of such direct democracy is substantial as well—recent examples attest to that. As of October 2010, the Fair Districts Florida campaign to establish constitutional criteria for redistricting had raised 6.9 million dollars to ensure the petition requirements were met and the electorate was educated on the amendments before voting on them.⁹⁶ The Floridians for Youth Tobacco Education, Inc. citizen initiative campaign

⁹² FLA. STAT. ANN. tit. 9, § 106.03 (West 2013) (effective Nov. 1, 2013).

⁹³ See FLA. CODE § 1S-2.009 (effective: May 21, 2014).

⁹⁴ See FLA. STAT. ANN. tit. 9, § 106.191 (West 2014).

⁹⁵ FLA. CONST. art. 11 § 3.

⁹⁶ See *Campaign Finance Activity*, FLORIDA DEPT. OF STATE, DIVISION OF ELECTION, <http://election.dos.state.fl.us/committees/ComDetail.asp?account=43605> (last visited Mar. 1, 2015).

recently spent over \$5.3 million to ensure that the legislature was forced to use tobacco lawsuit settlement money to fund a statewide tobacco education and prevention program.⁹⁷

Despite the cost and procedural hurdles for pursuing a legislative solution to the felony disenfranchisement problem, the current state of public opinion on felony disenfranchisement laws is encouraging, which makes direct democracy quite appealing. Recent public polling efforts indicate that approximately 80% of those polled (and the polls embrace a variety of methodologies) believe that disenfranchisement should end after an individual with a felony conviction completes his or her sentence, including parole and probation.⁹⁸

Fortunately, the effort to utilize this strategy is already underway. A proposed measure that would amend Section 4 of Article VI of the Florida Constitution has already reached the stage where signatures are being collected. The language of the proposed amendment would add the underlined text:

Article VI, Section 4. Disqualifications—

No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.

No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights.⁹⁹

Based on prior election results, supporters will need to collect a minimum of 683,149 valid signatures by February 1, 2016, in order to qualify the measure for the November 2016 ballot.¹⁰⁰

While the financial and procedural burdens of pursuing a constitutional amendment to revise Florida's felony disenfranchisement laws may seem daunting, the benefits may be equally large. Firstly, this strategy bypasses the courts and legislature that historically have been unfriendly to re-enfranchisement efforts. Secondly, such a campaign would create an opportunity for grassroots organization on a large scale, and would

⁹⁷ Curry, Christopher, *Tobacco suit amendment on the ballot*, OCALA STAR BANNER, available at <http://www.ocala.com/article/20061010/NEWS/210100333> (last updated Oct. 10, 2006, 12:00 AM).

⁹⁸ Chiricos, *supra* note 45, at 16.

⁹⁹ FLA. CONST., art. VI, § 4 (West 2014).

¹⁰⁰ See *Collecting Signatures*, BALLOTPEdia, http://ballotpedia.org/Laws_governing_the_initiative_process_in_Florida#Collecting_signatures (last visited Mar. 1, 2015).

facilitate public dialogue about the right to vote being worthy of constitutional protections. That type of conversation would likely have ancillary benefits in the broader voting rights struggle because one of the field's greatest challenges has been convincing the general public that voting is a right, not a privilege.

3. *Strategic Litigation*

Facial challenges to felony disenfranchisement laws brought under the Constitution or the Voting Rights Act have been minimally successful. While certainly not a novel suggestion, the use of strategic litigation bringing as-applied challenges to these laws has a strong appeal as part of a multi-pronged strategy in the overall effort to re-enfranchise Floridians who have had been involved in the criminal justice system.¹⁰¹ And while this strategy has long been contemplated, its effectuation has been absent or excruciatingly slow in most instances.

A 2002 Harvard Law Review article recommended the use of strategic litigation, aiming at undermining felony disenfranchisement laws in small ways, particularly given the minimal success litigators have had in obtaining judicial invalidations of state disenfranchisement laws.¹⁰² Certainly no one could argue that *Richardson* read in light of *Hunter* precludes all challenges to the administration of a state's clemency or restoration of civil rights process if that process can be shown to discriminate on the basis of race.

The Harvard Law article suggested two particular avenues of targeted attack.¹⁰³ First, the article recommended challenges to the choice of disqualifying crime, arguing that "*Richardson* did not address directly whether a state might choose among disqualifying crimes in a way that violates the Constitution."¹⁰⁴ Such an approach seems more suited to states that still attach disenfranchisement to the commission of "infamous" crimes (i.e., it is unclear exactly what crimes are disqualifying), but the arbitrary classification of felonies in Florida could provide some opportunity to test this strategy. Second, the article pointed to susceptibility of restoration conditions to constitutional and Voting Rights Act challenges.¹⁰⁵ Particularly in Florida, challenges might be promising where restoration is

¹⁰¹ See IV. *One Person, No Vote: The Laws of Felon Disenfranchisement*, 115 HAR. L. REV. 1939, 1959 (2002).

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

granted on arbitrary basis, or where the restoration process is so long or so opaque as to constitute a due process violation. Given the judiciary's resistance to striking down felony disenfranchisement laws on their face, the article astutely noted that "[r]estricting the manner in which a state restores a felon's voting rights does not limit that state's power to take away the right to vote."¹⁰⁶

So why have such targeted litigations efforts failed to materialize? In Florida, the lack of transparency with which the clemency process operates, along with the failure of the Board to offer reasons for its actions, certainly hamstrings the ability of challengers to mount an attack. For example, the Office of Executive Clemency refuses to release racial data on the restoration of civil rights applications it receives, despite such data being requested by the application form itself.¹⁰⁷ Often times, during clemency hearings, the Governor announces that restoration of civil rights application is denied without any explanation to the public viewing those hearings.¹⁰⁸ A first step in creating an environment more hospitable to such strategic litigation would be vigorous public record requests and litigation, if necessary, to obtain data that would support arbitrariness allegations. When litigators are fully informed of all relevant data they will be able to evaluate whether strategic litigation really is a strategy likely to provide any relief.

CONCLUSION

While voting rights advocates and litigators frequently find themselves mired in frustration and failure in their battle to ensure that every Floridian, even those who have been involved with the criminal justice system, is afforded his or her constitutional right to vote, the battle is not lost. Judicial rejections of facial challenges to felony disenfranchisement laws do not mean that there are no tools left to resist disenfranchisement efforts. By replacing broad legal challenges with advocacy and strategic litigation approaches, felony disenfranchisement challengers might find themselves with an enthusiastic base of grassroots support and with improvements in the political exclusion of hundreds of thousands of Floridians.

¹⁰⁶ *Id.* at 1962.

¹⁰⁷ *Id.* at 1944-46.

¹⁰⁸ Bryan Lee Miller and Joseph Spillane, *Governing the Restoration of Civil Rights For Ex-Felons: An Evaluation of the Executive Clemency Board in Florida*, 15 CONTEMP. JUST. REV. 413, 423-24 (2012).



NATIONAL CONFERENCE *of* STATE LEGISLATURES

Felon Voting Rights

9/29/2016



Please Note: The following information is provided for background information only. NCSL is unable to assist in or offer advice on the restoration of voting rights. We recommend that anyone interested in obtaining specific information on how to regain voting rights contact election officials in the jurisdiction where the person wishes to register and vote. To find contact information for your local election official click [here](#).

Background and History

The idea of taking away a criminal's right to vote has been around since ancient Greece and Rome. A condition called "civil death" in Europe involved the forfeiture of property, the loss of the right to appear in court, and a prohibition on entering into contracts, as well as the loss of voting rights. Civil death was brought to America by English colonists, but most aspects of it were eventually abolished, leaving only felon disenfranchisement intact in some parts of modern America.

Categories of Disenfranchisement

State approaches to felon disenfranchisement vary tremendously. In Maine and Vermont, felons never lose their right to vote, even while they are incarcerated. In Florida, Iowa and Virginia, felons and ex-felons permanently lose their right to vote. Virginia and Florida have supplementary programs which facilitate gubernatorial pardons. The remaining states each have their own approaches to the issue.

- In 38 states and the District of Columbia, most ex-felons automatically gain the right to vote upon the completion of their sentence.
- In some states, ex-felons must wait for a certain period of time after the completion of their sentence before rights can be restored.
- In some states, an ex-felon must apply to have voting rights restored.

VOTING RIGHTS OF PERSONS WITH FELONY CONVICTIONS

Never Lose Right to Vote	Lost Only While Incarcerated;	Lost Until the Completion Of Sentence (Parole and/or Probation); Automatic Restoration After	Restoration by Governor's Action or Court Action
	Automatic Restoration After Release		
Maine	District of Columbia	Arizona (1)	Alabama
Vermont	Hawaii	Alaska	Arizona (1)
	Illinois	Arkansas	Florida
	Indiana	California (2)	Iowa
	Maryland (3)	Colorado	Kentucky

Never Lose Right to Vote	Lost Only While Incarcerated; Automatic Restoration After Release	Lost Until the Completion Of Sentence (Parole and/or Probation); Automatic Restoration After	Restoration by Governor's Action or Court Action
	Massachusetts	Connecticut	Mississippi
	Michigan	Delaware	Nevada (5)
	Montana	Georgia	Virginia

	New Hampshire	Idaho	Wyoming (6)
	North Dakota	Kansas	
	Ohio	Louisiana	
	Oregon	Minnesota	
	Pennsylvania	Missouri	
	Rhode Island	Nebraska (4)	
		Nevada (5)	
		New Jersey	
		New Mexico	
		New York	
		North Carolina	
		Oklahoma	
		South Carolina	
		South Dakota	
		Tennessee	
		Texas	
		Utah	
		Washington	
		West Virginia	
		Wisconsin	
		Wyoming (6)	

(1) First time offenders have rights restored upon completion of sentence. Repeat offenders must have them restored through pardon.

(2) In 2016, [California](#) passed legislation allowing those in county jails to vote while incarcerated, but not state or federal prison.

(3) Convictions for buying or selling votes can only be restored through pardon.

(4) Rights restored after two year waiting period after completion of sentence.

(5) Rights are restored upon completion of sentence for first time felon offenders convicted of less serious crimes. Others must do so through court action or pardon.

(6) In 2015, Wyoming restored rights to those convicted of non-violent felonies upon completion of sentence.

Barriers to the Restoration of Rights

Even in states where ex-offenders automatically regain the right to vote upon completion of their sentence, the process of re-registering to vote often is difficult. One reason is the complexity of the laws and processes surrounding disenfranchisement. In some cases, it is difficult to determine whose rights can be restored. This can vary in some states according to the date of the crime, the conviction, or the release from prison, or the nature of the crime. The complex restoration process also can be daunting. It often involves lengthy paperwork, burdensome documentation, and the involvement and coordination of several state agencies.

A second barrier to restoration of voting rights for ex-offenders is the often inconsistent communication among agencies. The methods of communicating the loss and restoration of voting rights among courts, corrections and elections officials are not always reliable, timely or consistent. This inconsistency can result in uneven application of the law, even when the laws are clear. Another barrier is lack of information. Ex-offenders sometimes are not aware that they regain their voting rights automatically upon completion of their sentence. They go through life believing they cannot vote when, in fact, they can. In other cases, they are not informed of the process for regaining their rights or offered assistance in doing so. As long as they remain ignorant of the necessary steps, ex-offenders cannot begin the process of regaining voting rights.

A final obstacle is under-funding of parole boards in some states where offenders must apply to have their rights

restored. A massive backlog of applications can exist because the agencies do not have adequate staff or resources to process them in a timely manner.

Recent State Action

Most--though not all--recent state legislation seeks to expand felon voting rights and ease the process of restoration. Between 1996 and 2008, 28 states passed new laws on felon voting rights.

- Seven repealed lifetime disenfranchisement laws, at least for some ex-offenders.
- Two gave probationers the right to vote.
- Seven improved data-sharing procedures among state agencies.
- Nine passed requirements that ex-offenders be given information and/or assistance in regaining their voting rights at the time they complete their sentence.
- Twelve simplified the process for regaining voting rights, for instance, by eliminating a waiting period or streamlining the paperwork process.

Since 2008:

In 2016, [California](#) passed legislation allowing those in county jails to vote while incarcerated, but not state or federal prison.

In 2016, Virginia Governor Terry McAuliffe [announced an executive order](#) automatically restoring voting rights to convicted felons who have completed their prison sentence and their term of supervised release (parole or probation) as of April 22. This decision was a source of contention with the legislature. In July 2016, the Virginia Supreme Court overturned the order.

In 2016, the Maryland Legislature voted to override Governor Larry Hogan's veto of two bills (HB 980 and SB 340) that will restore voting rights to individuals after completion of term of incarceration, effective March 10.

In 2015, outgoing Kentucky Governor Steve Beshear signed an [executive order](#) to automatically restore the right to vote (and to hold public office) to certain offenders, excluding those who were convicted of violent crimes, sex crimes, bribery, or treason. However the order was [reversed by incoming Governor Matt Bevin](#) as one of his first acts in office. Bevin's order does not retroactively affect felons who, between Nov. 24 and Dec. 22, 2015, received a certificate from the state Department of Corrections confirming their restoration of rights.

In 2015, Wyoming enacted [HB 15](#) requiring the department of corrections to issue a certification of restoration of voting rights to certain non-violent felons after completion of sentence.

In 2013, Delaware eliminated the five-year waiting period before voting rights are restored. In Virginia, then-Governor McDonnell signed an executive order creating new rights restoration processes for persons with prior felony convictions.

In 2012, South Dakota mandated that felons on probation would not have voting rights restored. Previously, only felons on parole or incarcerated had their voting rights suspended.

In 2011, the Florida Board of Executive Clemency (composed of the governor and three cabinet members) reversed a 2007 policy change that automatically restored voting rights to non-violent offenders upon the completion of their sentence. The new policy requires that all ex-felons wait between five and seven years before applying to regain voting rights.

In Iowa, the governor in 2011 reversed an executive order issued in 2005 under the previous governor. The 2005 order automatically restored the voting rights of all ex-felons, but under the 2011 order they will now have to apply to regain rights.

In 2011 in Tennessee, HB 1117 was enacted, adding to the list of felons who will not be eligible to vote again

In 2009, Washington restored the right to vote to felons who completed their sentences, while requiring them to re-register to vote.

For more detailed information on state legislation dealing with the voting rights of convicted felons, visit [NCSL's 2011-current Election Legislation Database](#) and select the subtopic "Voters-Felon Voting Rights." For legislation from the period 2001-2010, visit [NCSL's 2001-2010 Election Legislation Database](#).

Additional Resources

- If you're seeking general information on state policies regarding felon voting rights, please contact [NCSL's elections team](#) for more information by email or at 303-364-7700.
- If you're looking for information on how you or someone else can regain the right to vote, NCSL is regrettably unable to help with or offer advice on this process. We suggest that you contact [election officials](#) in the appropriate jurisdiction to get the most current and accurate information available, and we wish you the best of luck!
- [The Sentencing Project](#) is an advocacy group that offers information on felon disenfranchisement in the states.
- The [Restoration of Rights Project](#), from the National Association of Criminal Defense Lawyers, also provides assistance on felon disenfranchisement.
- If you are seeking information on the process to regain voting rights, please contact an [election official](#) in the jurisdiction where you wish to register and vote.

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Felony Disenfranchisement: A Primer

A striking 5.85 million Americans are prohibited from voting due to laws that disenfranchise citizens convicted of felony offenses.¹ Felony disenfranchisement rates vary by state, as states institute a wide range of disenfranchisement policies.

The 12 most extreme states restrict voting rights even after a person has served his or her prison sentence and is no longer on probation or parole; such individuals in those states make up approximately 45 percent of the entire disenfranchised population.² Only two states, Maine and Vermont, do not restrict the voting rights of anyone with a felony conviction, including those in prison.

Persons currently in prison or jail represent a minority of the total disenfranchised population. In fact, 75 percent of disenfranchised voters live in their communities, either under probation or parole supervision or having completed their sentence.⁵ An estimated 2.6 million people are disenfranchised in states that restrict voting rights even after completion of sentence.

Table 1. Summary of Felony Disenfranchisement Restrictions in 2016^{3,4}

No restriction (2)	Prison (15)	Prison & parole (4)	Prison, parole & probation (18)	Prison, parole, probation & post-sentence – some or all (12)
Maine Vermont	District of Columbia Hawaii Illinois Indiana Maryland Massachusetts Michigan Montana New Hampshire North Dakota Ohio Oregon Pennsylvania Rhode Island Utah	California Colorado Connecticut New York	Alaska Arkansas Georgia Idaho Kansas Louisiana Minnesota Missouri New Jersey New Mexico North Carolina Oklahoma South Carolina South Dakota Texas Washington West Virginia Wisconsin	Alabama ^a Arizona ^b Delaware ^c Florida ^d Iowa ^e Kentucky ^f Mississippi ^a Nebraska ^g Nevada ^h Tennessee ⁱ Virginia ^j Wyoming ^d

^a State disenfranchises post-sentence for certain offenses.

^b Arizona disenfranchises post-sentence for a second felony conviction.

^c Delaware requires a five-year waiting period for certain offenses.

^d State requires a five-year waiting period.

^e Governor Tom Vilsack restored voting rights to individuals with former felony convictions via executive order in 2005. Governor Terry Branstad reversed this executive order in 2011.

^f Governor Steve Beshear restored voting rights to individuals with former non-violent felony convictions via executive order in 2015.

^g Governor Matt Bevin reversed this executive order shortly after taking office in 2015.

^h Nebraska reduced its indefinite ban on voting to a two-year waiting period in 2005.

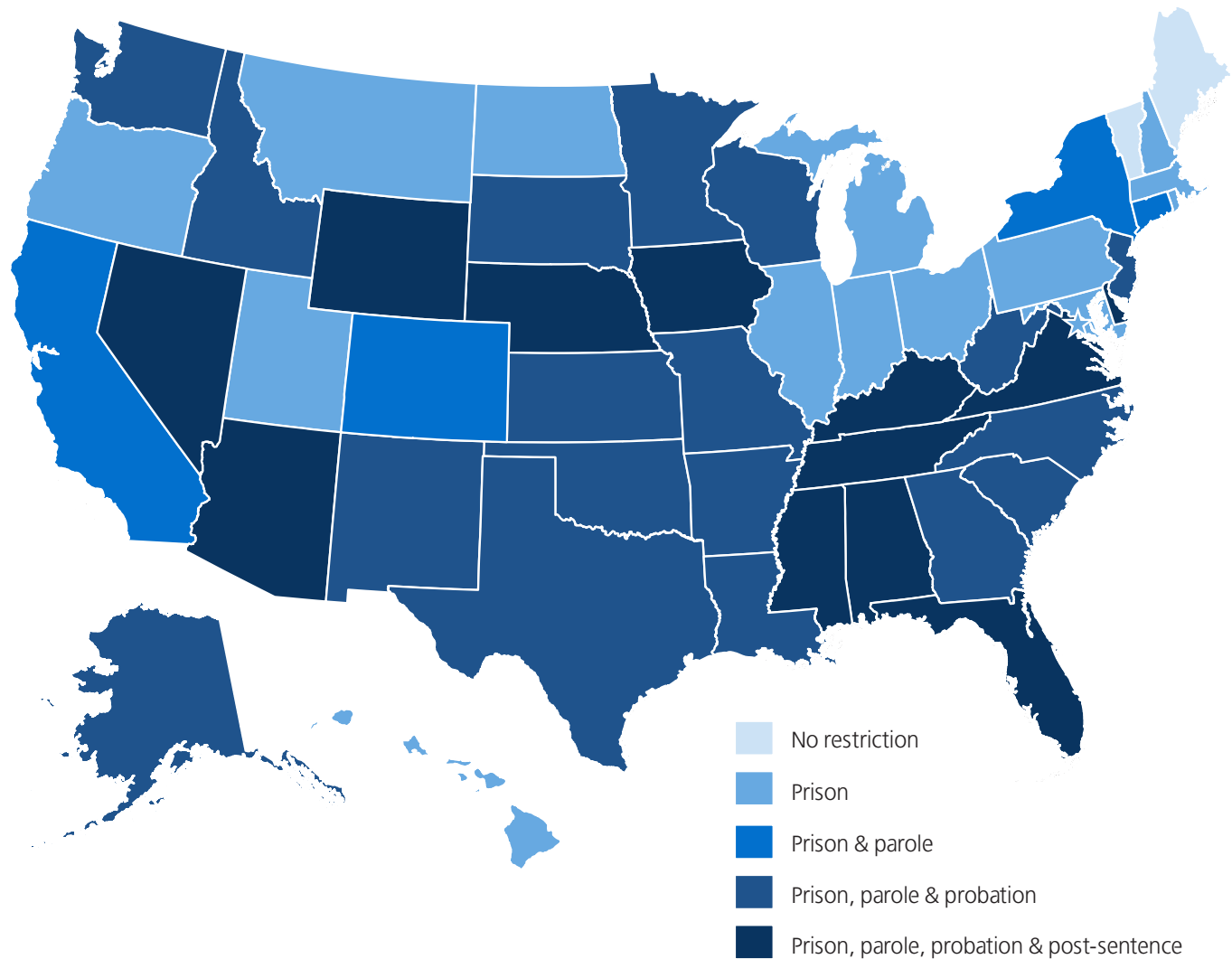
ⁱ Nevada disenfranchises post-sentence except for first-time non-violent offenses.

^j Tennessee disenfranchises those convicted of felonies since 1981, in addition to those convicted of select offenses prior to 1973.

^k Governor Terry McAuliffe restored voting rights to individuals with former felony convictions via executive order in 2016.

Note: Governor McAuliffe used his clemency power to restore voting rights to approximately 200,000 Virginians who have completed their sentences. However, Virginia's disenfranchisement laws remain unchanged, and the state constitution still disenfranchises individuals with felony convictions post-sentence. For individuals who complete their sentences during the rest of his term, the governor has stated that he plans to issue a similar order on a monthly basis to restore their voting rights post-sentence. Until the state constitution is amended, Virginia will continue to disenfranchise individuals with felony convictions post-sentence, and the restoration of their voting rights will depend on the governor's continued action.

Figure A. Felony Disenfranchisement Restrictions by State, 2016



Rights restoration practices vary widely across states and are subject to the turns of political climate and leadership, which has led some states to vacillate between reform and regression. In Florida, the clemency board voted in 2007 to automatically restore voting rights for many persons with non-violent felony convictions. This decision was reversed in 2011, and individuals must now wait at least five years after completing their sentence to apply for rights restoration. In Iowa, then-Governor Vilsack issued an executive order in 2005 automatically restoring the voting rights of all persons who had completed their sentences, but this order was rescinded in 2011 by Governor Branstad.

Felony disenfranchisement policies have a disproportionate impact on communities of color. Black Americans of voting age are four times more likely to lose

their voting rights than the rest of the adult population, with one of every 13 black adults disenfranchised nationally. In three states – Florida (23 percent), Kentucky (22 percent), and Virginia (20 percent) – more than one in five black adults is disenfranchised. In total, 2.2 million black citizens are banned from voting.⁶

HISTORY OF FELONY DISENFRANCHISEMENT IN THE UNITED STATES

English colonists brought to North America the common law practice of “civil death,” a set of criminal penalties that included the revocation of voting rights. Early colonial laws limited the penalty of disenfranchisement to certain offenses related to voting or considered “egregious violations of the moral code.”⁷

After the American Revolution, states began codifying disenfranchisement provisions and expanding the penalty to all felony offenses.⁸ Many states instituted felony disenfranchisement policies in the wake of the Civil War, and by 1869, 29 states had enacted such laws.⁹ Elliot argues that the elimination of the property test as a voting qualification may help to explain the popularity of felony disenfranchisement policies, as they served as an alternate means for wealthy elites to constrict the political power of the lower classes.¹⁰

In the post-Reconstruction period, several Southern states tailored their disenfranchisement laws in order to bar black male voters, targeting those offenses believed to be committed most frequently by the black population.¹¹ For example, party leaders in Mississippi called for disenfranchisement for offenses such as burglary, theft, and arson, but not for robbery or murder.¹² The author of Alabama's disenfranchisement provision "estimated the crime of wife-beating alone would disqualify sixty percent of the Negroes," resulting in a policy that would disenfranchise a man for beating his wife, but not for killing her.¹³ Such policies would endure for over a century. While it is debatable whether felony disenfranchisement laws today are intended to reduce the political clout of communities of color, this is their undeniable effect.

LEGAL STATUS

Disenfranchisement policies have met occasional legal challenges in the last century. In *Richardson v. Ramirez* 418 U.S. 24 (1974), three men from California who had served time for felony convictions sued for their right to vote, arguing that the state's felony disenfranchisement policies denied them the right to equal protection of the laws under the U.S. Constitution. Under Section 1 of the Fourteenth Amendment, a state cannot restrict voting rights unless it shows a compelling state interest. Nevertheless, the U.S. Supreme Court upheld California's felony disenfranchisement policies as constitutional, finding that Section 2 of the Fourteenth Amendment allows the denial of voting rights "for participation in rebellion, or other crime." In the majority opinion, Justice Rehnquist found that Section 2 – which was arguably intended to protect the voting rights of freed slaves by sanctioning states that disenfranchised them – exempts from sanction disen-

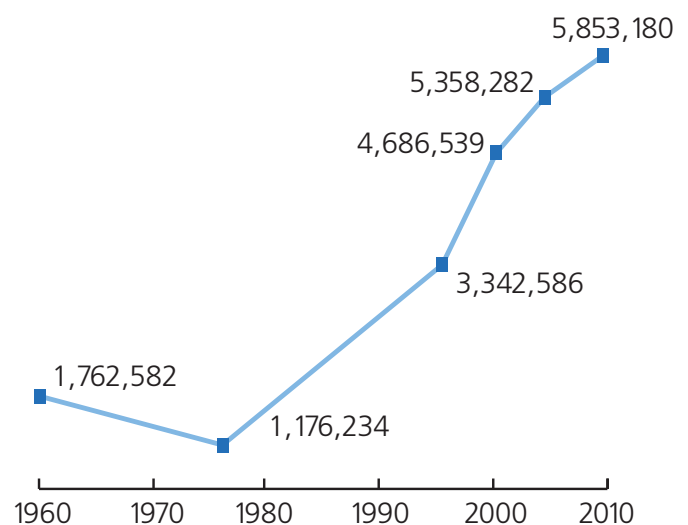
franchisement based on a felony conviction. By this logic, the Equal Protection Clause in the previous section could not have been intended to prohibit such disenfranchisement policies.

Critics argue that the language of the Fourteenth Amendment does not indicate that the exemptions established in Section 2 should prohibit the application of the Equal Protection Clause to voting rights cases.¹⁴ Moreover, some contend that the Court's interpretation of the Equal Protection Clause in *Richardson* is inconsistent with its previous decisions on citizenship and voting rights, in which the Court has found that the scope of the Equal Protection Clause "is not bound to the political theories of a particular era but draws much of its substance from changing social norms and evolving conceptions of equality."¹⁵ Therefore, even if the framers of the Fourteenth Amendment seemingly accepted felony disenfranchisement, our interpretation of the Equal Protection Clause today should allow for the ways in which our concept of equality may have evolved since 1868.

GROWTH OF THE DISENFRANCHISED POPULATION

As states began expanding voting rights in the civil rights era, the disenfranchisement rate dropped between 1960 and 1976. Although reform efforts have been substantial in recent years, the overall disenfranchisement rate has increased dramatically in conjunction with the growing U.S. prison population, rising from 1.17 million in 1976 to 5.85 million by 2010.

Figure B. Disenfranchised Population, 1960-2010



POLICY REFORMS IN RECENT YEARS

Public opinion surveys report that eight in ten U.S. residents support voting rights for citizens who have completed their sentence, and nearly two-thirds support voting rights for those on probation or parole.¹⁷ In recent years, heightened public awareness of felony

disenfranchisement has resulted in successful state-level reform efforts, from legislative changes expanding voting rights to grassroots voter registration initiatives targeting people with felony convictions. Since 1997, 23 states have modified felony disenfranchisement provisions to expand voter eligibility.¹⁸ As a result of successful reform efforts from 1997 to 2016, an estimated 940,000 citizens have regained the right to vote.

Table 2. Felony Disenfranchisement Policy Changes, 1997-2016^{19,20}

State	Change
Alabama	Streamlined restoration for most persons upon completion of sentence (2003)
Connecticut	Restored voting rights to persons on probation (2001); repealed requirement to present proof of restoration in order to register (2006)
Delaware	Repealed lifetime disenfranchisement, replaced with five-year waiting period for persons convicted of most offenses (2000); repealed five-year waiting period for most offenses (2013)
Florida	Simplified clemency process (2004, 2007); adopted requirement for county jail officials to assist with restoration (2006); reversed modification in clemency process (2011)
Hawaii	Codified data sharing procedures for removal and restoration process (2006)
Iowa	Restored voting rights post-sentence via executive order (2005); rescinded executive order (2011); simplified application process (2012)
Kentucky	Simplified restoration process (2001, 2008); restricted restoration process (2004, amended in 2008); restored voting rights post-sentence for non-violent felony convictions via executive order (2015); rescinded executive order (2015)
Louisiana	Required Department of Public Safety and Corrections to provide notification of rights restoration process (2008)
Maryland	Repealed lifetime disenfranchisement (2007); restored voting rights to persons on probation and parole (2016)
Nebraska	Repealed lifetime disenfranchisement, replaced with two-year waiting period (2005)
Nevada	Repealed five-year waiting period (2001); restored voting rights to persons convicted of first-time non-violent offenses (2003)
New Jersey	Established procedures requiring state criminal justice agencies to notify persons of their voting rights when released (2010)
New Mexico	Repealed lifetime disenfranchisement (2001); codified data sharing procedures, certificate of completion provided after sentence (2005)
New York	Required criminal justice agencies to provide voting rights information to persons who are again eligible to vote after a felony conviction (2010)
North Carolina	Required state agencies to establish a process whereby individuals will be notified of their rights (2007)
Rhode Island	Restored voting rights to persons on probation and parole (2006)
South Dakota	Established new procedures to provide training and develop voter education curriculum to protect the voting rights of citizens with certain felony convictions (2010); revoked voting rights for persons on felony probation (2012)
Tennessee	Streamlined restoration process for most persons upon completion of sentence (2006)
Texas	Repealed two-year waiting period to restore rights (1997)
Utah	Clarified state law pertaining to federal and out-of-state convictions (2006)
Virginia	Required notification of rights and restoration process by Department of Corrections (2000); streamlined restoration process (2002); decreased waiting period for non-violent offenses from three years to two years and established a 60-day deadline to process voting rights restoration applications (2010); eliminated waiting period and application for non-violent offenses (2013); restored voting rights post-sentence via executive order (2016)
Washington	Restored voting rights for persons who exit the criminal justice system but still have outstanding financial obligations (2009)
Wyoming	Restored voting rights to persons convicted of first-time non-violent offenses (2003); authorized automatic rights restoration for persons convicted of first-time non-violent felony offenses who receive a certificate of voting rights restoration (2015).

DISENFRANCHISEMENT IN AN INTERNATIONAL CONTEXT

Although they are rooted in the “civil death” tradition of medieval Europe, disenfranchisement policies in the United States today are exceptional in their severity and the restriction of the voting rights of people who have completed their prison terms or were never incarcerated at all.²¹ While only two states (Maine and Vermont) in the United States allow citizens to vote from prison, the European Court of Human Rights determined in 2005 that a blanket ban on voting from prison violates the European Convention on Human Rights, which guarantees the right to free and fair elections.²² Indeed, almost half of European countries allow all incarcerated individuals to vote, facilitating voting within the prison or by absentee ballot.²³ In Canada, Israel, and South Africa, courts have ruled that any conviction-based restriction of voting rights is unconstitutional.

IMPACT OF FELONY DISENFRANCHISEMENT IN THE UNITED STATES

The political impact of the unprecedented disenfranchisement rate in recent years is not insignificant. One study found that disenfranchisement policies likely affected the results of seven U.S. Senate races from 1970 to 1998 as well as the hotly contested 2000 Bush-Gore presidential election.²⁴ Even if disenfranchised voters in Florida alone had been permitted to vote, Bush’s narrow victory “would almost certainly have been reversed.”²⁵

Disenfranchisement policies likely affected the results of **7 U.S. Senate races** from 1970 to 1998 as well as the **2000 Bush-Gore presidential election**.

Furthermore, restoring the vote to persons leaving prison could aid their transition back into community life. The revocation of voting rights compounds the isolation of formerly incarcerated individuals from their communities, and civic participation has been linked with lower recidivism rates. In one study, among individuals who had been arrested previously, 27 percent of non-voters were rearrested, compared with 12 percent of voters.²⁶ Although the limitations of the data available preclude proof of direct causation, it is clear that “voting appears to be part of a package of pro-social behavior that is linked to desistance from crime.”²⁷

CONCLUSION

The dramatic growth of the U.S. prison population in the last 40 years has led to record levels of disenfranchisement, with an estimated 5.85 million voters banned from the polls today. Disenfranchisement policies vary widely by state, ranging from no restrictions on voting to a lifetime ban upon conviction. Felony disenfranchisement has potentially affected the outcomes of U.S. elections, particularly as disenfranchisement policies disproportionately impact people of color. Nationwide, one in every 13 black adults cannot vote as the result of a felony conviction, and in three states – Florida, Kentucky, and Virginia – more than one in five black adults is disenfranchised.

Denying the right to vote to an entire class of citizens is deeply problematic to a democratic society and counterproductive to effective reentry. Fortunately, many states are reconsidering their archaic disenfranchisement policies, with 23 states enacting reforms since 1997, but there is still much to be done before the United States will resemble comparable nations in allowing the full democratic participation of its citizens.

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State Felon Voting Laws



[View US Map
of State Felon Voting Laws](#)


Two states allow felons to vote from prison while other states may permanently ban felons from voting even after being released from prison, parole, and probation, and having paid all their fines.

The chart below provides links to each state's laws on felon voting and places each US state within one of five categories ranging from harshest (may lose vote permanently) to least restrictive (may vote while in prison). Applications for re-enfranchisement and clemency have been provided for the states which require them.

Felon voting has not been regulated federally although some argue that Section 2 of the Voting Rights Act can be applied to felon disenfranchisement and that Congress has the authority to legislate felon voting in federal elections.

In addition, [10 states restrict some people with a misdemeanor conviction from voting.](#)

I. State by State Chart of Felon Voting Laws:

Click on the state to view its rules on felon disenfranchisement in PDF  format. Documents were sourced directly from state codes, acts, orders, constitutions, or other state election office documents

**May lose
vote
permanently:**

(Some felons may vote depending on the state, crime committed, time elapsed since completion of sentence, and other variables)

**Vote
restored
after:**

**Term of
Incarceration
+
Parole +
Probation**

**Vote
restored
after:**

**Term of
Incarceration
+
Parole**

**Vote
restored
after:**

**Term of
Incarceration**

Unrestricted:

(Convicted felons may vote by absentee ballot while in prison)

10 States

20 States


4 States

**14 States &
DC**

2 States

1. Alabama	✓ (more details)				
2. Alaska		✓			
3. Arizona	✓ (more details)				
4. Arkansas		✓			
5. California			✓		
6. Colorado			✓		
7. Connecticut					

	Connecticut			✓		
8.	District of Columbia				✓	
9.	Delaware	✓ (more details)				
10.	Florida	✓ (more details)				
11.	Georgia		✓			
12.	Hawaii				✓	
13.	Idaho		✓			
14.	Illinois				✓	
15.	Indiana				✓	
16.	Iowa	✓ (more details)				
17.	Kansas		✓			
18.	Kentucky	✓ (more details)				
19.	Louisiana		✓			
20.	Maine					✓
21.	Maryland				✓ (more details)	
22.	Massachusetts				✓	
23.	Michigan				✓	
24.	Minnesota		✓			
25.	Mississippi	✓ (more details)				
<p>Click on the state to view its rules on felon disenfranchisement in PDF  format. Documents were sourced directly from state codes, acts, orders, constitutions, or other state election office documents</p>		May lose vote permanently: (Some felons may vote depending on the state, crime committed, time elapsed since completion of sentence, and other variables)	Vote restored after: Term of Incarceration + Parole + Probation	Vote restored after: Term of Incarceration + Parole	Vote restored after: Term of Incarceration	Unrestricted: (Convicted felons may vote by absentee ballot while in prison)
26.	Missouri		✓ (more details)			
27.	Montana				✓	
28.	Nebraska		✓ (more details)			
29.	Nevada	✓ (more details)				
30.	New Hampshire				✓	
31.	New Jersey		✓			
32.	New Mexico		✓			
33.	New York			✓		

34.	North Carolina		✓			
35.	North Dakota				✓	
36.	Ohio				✓	
37.	Oklahoma		✓			
38.	Oregon				✓	
39.	Pennsylvania				✓	
40.	Rhode Island				✓	
41.	South Carolina		✓			
42.	South Dakota		✓ (more details)			
43.	Tennessee	✓ (more details)				
44.	Texas		✓			
45.	Utah				✓	
46.	Vermont					✓
47.	Virginia		✓ (more details)			
48.	Washington		✓ (more details)			
49.	West Virginia		✓			
50.	Wisconsin		✓			
51.	Wyoming	✓ (more details)				
<p>Click on the state to view its rules on felon disenfranchisement in PDF  format. Documents were sourced directly from state codes, acts, orders, constitutions, or other state election office documents</p>		May lose vote permanently: (Some felons may vote depending on the state, crime committed, time elapsed since completion of sentence, and other variables)	Vote restored after: Term of Incarceration + Parole + Probation	Vote restored after: Term of Incarceration + Parole	Vote restored after: Term of Incarceration	Unrestricted: (Convicted felons may vote by absentee ballot while in prison)

II. Misdemeanor Convictions:

Anyone convicted of a misdemeanor in Idaho, Illinois, Indiana, Kentucky, Michigan, Missouri, South Carolina, and South Dakota may not vote while incarcerated. Kentucky and Missouri additionally require an executive pardon before allowing people convicted of certain misdemeanors ("high misdemeanors" in KY and "elections-related misdemeanors" in MO) from ever voting again. In Iowa, only people convicted of an "aggravated" misdemeanor cannot vote while incarcerated.

In West Virginia only people convicted of certain elections-related misdemeanors cannot vote while incarcerated - all others may vote by absentee ballot.


In the District of Columbia certain election, lobbying, and campaign finance-related crimes (that may be misdemeanors) are defined as felonies for the purpose of disenfranchisement under section 1-1001.02(7) of its code - all others with a misdemeanor conviction may vote by absentee ballot while incarcerated.

Individuals in the remaining 40 states may vote by absentee ballot while incarcerated for any misdemeanor.

III. More details on State Felon Voting Policies:


Alabama - Some people convicted of a felony may apply to have their vote restored immediately upon completion of their full sentence. Those convicted of certain felony offenses such as murder, rape, incest, sexual crime against children, and treason are not eligible for re-enfranchisement.

[Instructions for Voting Restoration, State of Alabama](#) (17 KB)  (accessed June 8, 2012)

[Alabama Code: Section 17-3-31](#) (57 KB)  (accessed June 8, 2012)

Arizona - Automatic voting restoration upon completion of sentence and payment of all fines for first-time, single felony offenders. Second time felony offenders may apply for restoration with their county after completion of their sentence.


[Restoration of Civil Rights Frequently Asked Questions, Maricopa County Arizona Office of the Public Advocate](#) (86 KB)  (accessed Apr. 19, 2016)

[Instructions for Voting Restoration, State of Arizona](#) (65 KB)  (accessed June 8, 2012)

Delaware - On April 16, 2013 the Delaware Senate passed the Hazel D. Plant Voter Restoration Act in a 15-6 vote. The act amended the Delaware Constitution by removing the five year waiting period for most felons to regain the ability to vote. People convicted of a felony (with some exceptions) are now automatically eligible to vote after serving their full sentence including incarceration, parole, and probation.

Exceptions: People convicted of murder or manslaughter, a felony offense against public administration involving bribery, improper influence or abuse of office, or a felony sexual offense, remain permanently disqualified from voting.


[Hazel D. Plant Voter Restoration Act](#) (174 KB)  (accessed Apr. 16, 2013)

[Delaware Constitution: Article V Section 2](#) (174 KB)  (accessed Feb. 12, 2014)

Florida - On Mar. 9, 2011 the Florida rules of Executive Clemency were toughened. Automatic restoration of civil rights and the ability to vote will no longer be granted for any offenses. All individuals convicted of any felony will now have to apply for executive clemency after a five year waiting period. Individuals who are convicted, or who have previously been convicted, of certain felonies such as murder, assault, child abuse, drug trafficking, arson, etc. are subject to a seven year waiting period and a clemency board hearing to determine whether or not the ability to vote will be restored.




Prior to the Mar. 9, 2011 rule change some individuals convicted of nonviolent felonies were re-enfranchised automatically by the Clemency Board upon completion of their full sentence, including payment of fines and fees.

[Florida Rules of Executive Clemency](#) (81 KB)  (accessed June 8, 2012)

[Florida Clemency Application](#) (64 KB)  (accessed June 8, 2012)

According to the Florida Rights Restoration Coalition website (accessed Aug. 15, 2012), "If you were convicted of a felony in another state and had your civil rights restored before you became a Florida resident, you do not need to apply for RCR [restoration of civil rights] in Florida."

Iowa - On Jan. 14, 2011, the Republican Governor of Iowa, Terry Branstad, issued executive order 70, rescinding a law allowing people convicted of a felony to automatically have their ability to vote restored after completing their sentences. The automatic voting restoration law had been instituted by former Democratic Governor Tom Vilsack's signing of executive order 42 in 2005. Felons in Iowa must now pay all outstanding monetary obligations to the court in addition to completing their sentence and period of parole or probation. People convicted of a felony may then apply for restoration of the ability to vote.

[Executive Order 70](#) (106 KB)  - Signed Jan. 14, 2011, Terry Branstad, Governor (R)
[Iowa Streamlined Application for Resotration of Citizenship Rights](#) (481 KB)  (accessed Jan. 23, 2014)
[Executive Order 42](#) (686 KB)  - Signed July 4, 2005, Thomas J. Vilsack, JD, Governor (D)

Kentucky - On Nov. 24, 2015, Kentucky Gov. Steven L. Beshear issued executive order 2015-871 to automatically restore the right to vote to nonviolent felons who have completed probation, parole, and who have no outstanding court-ordered restitution payments. On Dec. 22, 2015, newly elected Gov. Matthew G. Bevin issued executive order 2015-052, rescinding the previous Governor's executive order.

As a result, people convicted of any felony in Kentucky must individually apply with the Governor to have their voting rights restored.

[Executive Order 2015-052](#) (210 KB)  - Signed Dec. 22, 2015, Matthew G. Bevin, Governor (R) Kentucky
[Executive Order 2015-871](#) (136 KB)  - Signed Nov. 24, 2015, Steven L. Beshear, Governor (D)
[Kentucky Application for Restoration of Civil Rights](#) (12 KB)  (accessed Nov. 25, 2015)

Maryland - On Feb. 9, 2016, the Maryland General Assembly overrode the Governor's veto of SB 340 and restored the vote to all convicted felons immediately upon their release from prison.




Previously, convicted felons in Maryland had to complete all parole and probation before they were able to vote.

[Senate Bill 340](#)  (accessed Feb. 9, 2016)

Mississippi - People convicted of a felony are barred from voting only if they have been convicted of one or more of the following specific felony crimes (in alphabetical order): "murder, rape, bribery, theft, arson, obtaining money or goods under false pretense, perjury, forgery, embezzlement, bigamy, armed robbery, extortion, felony bad check, felony shoplifting, larceny, receiving stolen property, robbery, timber larceny, unlawful taking of a motor vehicle, statutory rape, carjacking, or larceny under lease or rental agreement"

To regain the ability to vote, an individual, after completion of his/her sentence, must go to his/her state representative and convince them to personally author a bill restoring the vote to that individual. Both houses of the legislature must then pass the bill. Re-enfranchisement can also be granted directly by the governor.


Individuals convicted of felonies in Mississippi remain eligible to vote for US President in federal elections.

[Mississippi Voter Registration Application](#) (50 KB)  (accessed June 8, 2012)
[Mississippi Constitution: Article 12, Section 241](#) (50 KB)  (accessed June 8, 2012)
[Mississippi Constitution: Article 12, Section 253](#) (6 KB)  (accessed June 8, 2012)

Missouri - People convicted of "a felony or misdemeanor connected with the right of suffrage" are not permitted to vote.

[Missouri Code: Chapter 115, Section 115.133](#) (28 KB)  (accessed July 15, 2014)

Nebraska - People convicted of a felony are automatically permitted to vote two years after completion of their sentence of incarceration and all parole and probation for all convictions except treason.

[Nebraska Code: Section 32-313](#) (16 KB)  (accessed June 8, 2012)

Nevada - The vote is automatically restored to all people convicted of a nonviolent felony after the sentence completion. People convicted of a violent felony and all second- time felony offenders (whether violent or nonviolent) are not automatically re-enfranchised. Those individuals must seek restoration of their voting abilities in the court in which they were convicted.

[Nevada Code: Section NRS 213.09](#) (26 KB)  (accessed June 8, 2012)

South Dakota - On Mar. 19, 2012, HB 1247 was enacted. The bill took the ability to vote away from convicted felons serving terms of probation. Previously, only people on parole or incarcerated were ineligible to register to vote. Now convicted felons must serve their full term of incarceration, parole, and probation before they may register to vote.

[South Dakota: HB 1247](#) (10 KB)  (accessed June 8, 2012)

Tennessee - All people convicted of a felony since 1981, except for some serious felonies such as murder, rape, treason and voter fraud, may apply to the Board of Probation and Parole for voting restoration upon completion of their sentence.

People [convicted of a felony between Jan. 15, 1973, and May 17, 1981](#), are eligible to register to vote regardless of the crime committed. People [convicted of certain felonies prior to Jan. 15, 1973](#) may be barred from voting.

[Tennessee General Assembly, Public Chapter 860](#) (31 KB)  (accessed June 8, 2012)

[Tennessee Voting Restoration Application](#) (333 KB)  (accessed June 8, 2012)

Virginia - On Apr. 18, 2014 Governor Terry McAuliffe announced changes to Virginia's restoration of rights process. Under the new rules, people convicted of non-violent felonies (including drug crimes) will have their ability to vote automatically restored providing that they:


1. have completed their term of incarceration and all probation or parole;
2. have paid all court costs, fines, and any restitution; and
3. have no pending felony charges.

On June 23, 2015 Governor McAuliffe announced that "outstanding court costs and fees will no longer prohibit an individual from having his or her rights restored."

On Apr. 22, 2016, Governor McAuliffe signed an order restoring the vote to all 200,000+ felons in Virginia, regardless of their charge, who had completed their term of incarceration and their term of probation or parole. The New York Times reports (Apr. 22, 2016, "Virginia Governor Restores Voting Rights to Felons") that the governor's action will not apply to felons released in the future, although the Governor's aides say he plans "to issue similar orders on a monthly basis to cover people as they are released."

On July 22, 2016 the Virginia Supreme Court overturned Gov. Terry McAuliffe's blanket restoration of voting rights for over 200,000 convicted felons. In a press release the Governor stated that he "will expeditiously sign nearly 13,000 individual orders to restore the fundamental rights of the citizens who have had their rights restored and registered to vote. And I will continue to sign orders until I have completed restoration for all 200,000 Virginians."

[Governor McAuliffe's Statement on the Virginia Supreme Court Decision](#) (146 KB)  (accessed July 26, 2016)

[Governor McAuliffe Restores Voting and Civil Rights to Over 200,000 Virginians](#) (146 KB)  (accessed Apr. 22, 2016)

[Governor McAuliffe Announces New Reforms to Restoration of Rights Process](#) (450 KB)  (accessed July 2, 2015)

[Governor McAuliffe's Letter Outlining His Policy Changes](#) (433 KB)  (accessed Apr. 21, 2014)

Washington - All people with a felony conviction must re-register to vote after completion of their sentence and all parole and probation. However, the Secretary of State's website states that people who have "willfully failed to make three payments in a 12 month period" on any court imposed fines may have their ability to vote revoked by the prosecutor.

[Elections and Voting](#) (76 KB)  (accessed June 8, 2012)

Wyoming - People convicted of a first-time nonviolent felony may apply to the Board of Parole for voting restoration five years after completion of their sentence, all others convicted of a felony must apply directly to the governor five years after completion of their sentence to have their voting ability restored.

[2003 Restoration of Voting Rights Bill](#) (123 KB)  (accessed June 8, 2012)

[Wyoming Restoration of Voting Rights Application](#) (10 KB)  (accessed June 8, 2012)

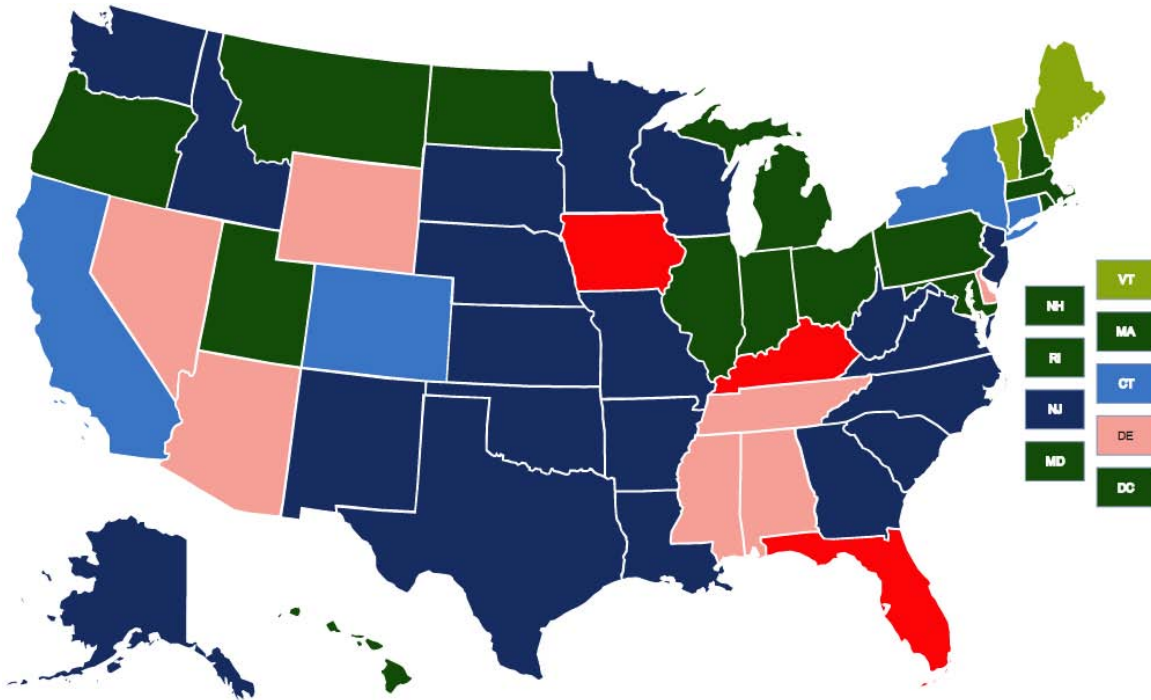
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Criminal Disenfranchisement Laws Across the United States



- **Permanent disenfranchisement for all people with felony convictions unless government approves individual rights restoration**
IA, FL, KY
- **Permanent disenfranchisement for at least some people with criminal convictions, unless government approves restoration**
AL, AZ, DE, MS, NV, TN, WY
- **Voting rights restored upon completion of sentence, including prison, parole, and probation**
AK, AR, GA, ID, KS, LA, MN, MO, NE*, NJ, NM, NC, OK, SC, SD, TX, VA**, WA, WV, WI
- **Voting rights restored automatically after release from prison and discharge from parole (people on probation may vote)**
CA, CO, CT, NY
- **Voting rights restored automatically after release from prison**
DC, HI, IL, IN, MA***, MD, MI, MT, NH, ND, OH, OR, PA, RI, UT
- **No disenfranchisement for people with criminal convictions**
ME, VT

States have a range of policies as to whether citizens with pending legal financial obligations (LFOs) relating to their conviction are eligible to vote, and also as to whether and in what circumstances misdemeanors are disenfranchising. These policies are not reflected in the above graphic.

* Nebraska imposes a two-year waiting period after completion of sentence. Nebraska also disenfranchises persons with treason convictions until they have their civil rights individually restored.

** Virginia's constitution imposes permanent disenfranchisement, but allows the governor to restore rights. The current governor's policy individually restores voting rights to those who have completed their sentences, prioritizing those with the earliest completed sentences and those who apply. See below for more details.

*** Massachusetts disenfranchises persons with convictions for "corrupt practices in respect to elections" until they have their civil rights individually restored.



Permanent disenfranchisement for all people with felony convictions, unless government approves individual rights restoration

Iowa

Florida

Kentucky



Permanent disenfranchisement for at least some people with criminal convictions, unless government approves individual rights restoration

Alabama: People with certain felony convictions involving moral turpitude can apply to have their voting rights restored upon completion of sentence and payment of fines and fees; people convicted of some specific crimes - including murder, rape, treason, and crimes involving children - are permanently barred from voting.

Arizona: People convicted of one felony can have their voting rights restored upon completion of sentence, including all prison, parole, and probation terms and payment of legal financial obligations. People convicted of two or more felonies are permanently barred from voting unless pardoned or restored by a judge.

Delaware: People with most felony convictions have their voting rights restored automatically after completion of sentence, including prison, parole, and probation. People who are convicted of certain disqualifying felonies - including murder, bribery, and sexual offenses - are permanently disenfranchised. People convicted of election offenses are disenfranchised for 10 years following their sentences.

Massachusetts: See below for Massachusetts.

Mississippi: People who are convicted of specified disqualifying offenses are permanently disenfranchised.

Nebraska: See below for Nebraska.

Nevada: Voting rights automatically restored to people completing sentences for most first-time felony convictions. People with certain felony convictions - including those defined as "category A" felonies - or with multiple felony convictions arising from separate instances are permanently disenfranchised unless they are pardoned or granted a restoration of civil rights from a court.

Tennessee: Tennessee has one of the most complex disenfranchisement policies in the country. People completing sentences for some felony convictions, who have paid all restitution and court costs, and are current with child support payments may apply for rights restoration. Individuals with certain types of convictions, including rape, murder, and bribery, among others, are permanently disenfranchised.

Wyoming: Voting rights automatically restored after five years to people who complete sentences for first-time, non-violent felony convictions in 2016 or after. Applications are required from people who completed sentences for first-time, non-violent felony convictions before 2016, and from people convicted outside Wyoming, or under federal law.

People with violent convictions or with multiple felony convictions are permanently disenfranchised, unless pardoned by the governor.



Voting rights restored upon completion of sentence, including prison, parole and probation

Alaska

Arkansas

Georgia

Idaho

Kansas

Louisiana

Minnesota

Missouri

Nebraska: In Nebraska, voting rights are restored two years after the completion of sentence. Nebraska disenfranchises persons with treason convictions until they have their civil rights individually restored.

New Jersey

New Mexico

North Carolina

Oklahoma: In Oklahoma, citizens are disenfranchised for the time period set out in their original sentence. Voting rights are restored once this time period has elapsed.

South Carolina

Texas

Virginia: Virginia is one of four states whose constitution permanently disenfranchises citizens with past felony convictions, but grants the state's governor the authority to restore voting rights. After a July 2016 Virginia Supreme Court decision invalidated an executive order restoring voting rights to over 200,000 citizens, the state's governor announced his plan to issue individual restorations for citizens who have completed the terms of their sentence, including probation and parole.

Washington

West Virginia

Wisconsin



Voting rights restored automatically after release from prison and discharge from parole (people on probation may vote)

California

Colorado

Connecticut

New York: People on parole who have no more than one felony conviction may have their voting rights restored by a Certificate of Relief from Disabilities or a Certificate of Good Conduct.



Voting rights restored automatically after release from prison

Hawaii

Illinois

Indiana

Maryland: As of March 10th, 2016, voting rights restored automatically after release from prison.

Massachusetts: People with convictions for "corrupt practices in respect to elections" are permanently disenfranchised.

Michigan

Montana

New Hampshire

North Dakota

Ohio

Oregon

Pennsylvania

Rhode Island

Utah



No disenfranchisement for people with criminal convictions

Maine

Vermont

Tab 5

Florida and Other State Legislation

By the Committee on Ethics and Elections; and Senator Wilson

582-2265-06

1 A bill to be entitled

2 An act relating to restoration of voting

3 rights; providing a short title; providing

4 findings and purpose; creating s. 944.294,

5 F.S.; providing for automatic restoration of a

6 former felon's right to vote following

7 completion of his or her sentence of

8 incarceration and community supervision;

9 providing conditions for and exemptions from

10 automatic restoration; providing for education

11 on the voting rights of people with felony

12 convictions; amending ss. 97.052, 97.053,

13 98.045, 98.093, 940.061, 944.292, 944.293, and

14 944.705, F.S., to conform; providing

15 applicability; providing a contingent effective

16 date.

17

18 Be It Enacted by the Legislature of the State of Florida:

19

20 Section 1. Short title.--This act may be cited as the

21 "Restoration of Voting Rights Act."

22 Section 2. Findings and purpose.--

23 (1) FINDINGS.--The Legislature finds that:

24 (a) Voting is both a fundamental right and a civic

25 duty. Restoring the right to vote strengthens our democracy by

26 increasing voter participation and ensuring fair

27 representation of the diverse constituencies that make up our

28 communities.

29 (b) Restoring the right to vote helps felons who have

30 completed their sentences to reintegrate into society. Their

31 participation in the most fundamental of democratic practices

1 reinforces their ties to the community and thus helps to
2 prevent recidivism.

3 (c) Under current law, the state permanently denies
4 the right to vote to all persons convicted of felonies unless
5 they receive discretionary executive clemency.

6 (d) The restoration of voting rights through the
7 clemency process is cumbersome and costly and produces long
8 delays. The clemency process imposes administrative burdens on
9 the state and economic burdens on state taxpayers, and it
10 should be reserved for extraordinary cases. Streamlining the
11 restoration process for the majority of former offenders will
12 advance administrative efficiency, fiscal responsibility,
13 fairness, and democracy.

14 (2) PURPOSE.--The purposes of this act are to
15 strengthen democratic institutions by increasing participation
16 in the voting process, to help felons who have completed their
17 sentences to become productive members of society, and to
18 streamline procedures for restoring the right to vote.

19 Section 3. Section 944.294, Florida Statutes, is
20 created to read:

21 944.294 Restoration of voting rights.--

22 (1) A person who has been convicted of a felony, other
23 than those set forth in subsection (3), shall be restored the
24 right to vote upon completion of his or her sentence.

25 (2) For purposes of this section, "completion of
26 sentence" occurs when a person is released from incarceration
27 upon expiration of his or her sentence and has completed all
28 other terms and conditions of the sentence or subsequent
29 supervision or, if the person has not been incarcerated for
30 the felony offense, has completed all terms and conditions of
31 supervision imposed on him or her.

1 (3)(a) Persons convicted of crimes defined by the
2 following statutes shall be ineligible for restoration of
3 voting rights under this section:

4 1. Section 782.04, relating to murder.

5 2. Section 782.07(3), relating to aggravated
6 manslaughter of a child.

7 3. Section 794.011, relating to sexual battery.

8 4. Section 796.03, relating to procuring a person
9 under 18 for prostitution.

10 5. Section 796.035, relating to selling or buying
11 minors into sex trafficking or prostitution.

12 6. Section 826.04, relating to incest.

13 7. Section 827.071, relating to sexual performance by
14 a child.

15 8. Section 847.0145, relating to selling or buying
16 minors.

17 (b) Persons convicted of treason or whose impeachment
18 has resulted in conviction, as referred to in s. 8, Art. IV of
19 the State Constitution, shall also be ineligible for
20 restoration of voting rights under this section.

21 (4) Nothing in this section shall be construed to
22 impair the ability of any person convicted of a felony to
23 apply for executive clemency under s. 8, Art. IV of the State
24 Constitution.

25 (5) A court shall, before accepting a plea of guilty
26 or nolo contendere to a felony without trial or, if a trial is
27 held, before imposing sentence for a felony, notify the
28 defendant as follows:

29 (a) If the felony is described in subsection (3), that
30 conviction will result in permanent loss of the right to vote
31

1 unless he or she receives executive clemency under s. 8, Art.
2 IV of the State Constitution.

3 (b) If the felony is not described in subsection (3),
4 that conviction will result in loss of the right to vote until
5 the defendant completes his or her sentence and that voting
6 rights will be restored thereafter.

7 (6) The Secretary of State shall ensure that persons
8 who become eligible to vote upon completion of sentence face
9 no continued barriers to registration or voting resulting from
10 their felony convictions.

11 (7) The Secretary of State shall develop and implement
12 a program to educate attorneys; judges; election officials;
13 corrections officials, including parole and probation
14 officers; and members of the public about the requirements of
15 this section, ensuring that:

16 (a) Judges are informed of their obligation to notify
17 criminal defendants of the potential loss and restoration of
18 their voting rights as required by subsection (5).

19 (b) The Department of Corrections, including offices
20 of probation and parole, is prepared to assist people with
21 registering to vote in anticipation of their completion of
22 sentence, including forwarding their completed voter
23 registration forms to the appropriate voter registration
24 official.

25 (c) Accurate and complete information about the voting
26 rights of people who have been charged with or convicted of
27 crimes, whether disenfranchising or not, is made available
28 through a single publication to government officials and the
29 public.

30 Section 4. Paragraph (s) of subsection (2) of section
31 97.052, Florida Statutes, is amended to read:

1 97.052 Uniform statewide voter registration
2 application.--

3 (2) The uniform statewide voter registration
4 application must be designed to elicit the following
5 information from the applicant:

6 (s) Whether the applicant has been convicted of a
7 felony, and, if convicted, has had his or her voting ~~civil~~
8 rights restored by including the statement "I affirm I am not
9 a convicted felon, or, if I am, my voting rights ~~relating to~~
10 ~~voting~~ have been restored." and providing a box for the
11 applicant to check to affirm the statement.

12
13 The registration application must be in plain language and
14 designed so that convicted felons whose civil rights have been
15 restored and persons who have been adjudicated mentally
16 incapacitated and have had their voting rights restored are
17 not required to reveal their prior conviction or adjudication.

18 Section 5. Paragraph (a) of subsection (5) of section
19 97.053, Florida Statutes, is amended to read:

20 97.053 Acceptance of voter registration
21 applications.--

22 (5)(a) A voter registration application is complete if
23 it contains the following information necessary to establish
24 the applicant's eligibility pursuant to s. 97.041, including:

- 25 1. The applicant's name.
26 2. The applicant's legal residence address.
27 3. The applicant's date of birth.
28 4. A mark in the checkbox affirming that the applicant
29 is a citizen of the United States.

1 5.a. The applicant's current and valid Florida
2 driver's license number or the identification number from a
3 Florida identification card issued under s. 322.051, or

4 b. If the applicant has not been issued a current and
5 valid Florida driver's license or a Florida identification
6 card, the last four digits of the applicant's social security
7 number.

8
9 In case an applicant has not been issued a current and valid
10 Florida driver's license, Florida identification card, or
11 social security number, the applicant shall affirm this fact
12 in the manner prescribed in the uniform statewide voter
13 registration application.

14 6. A mark in the checkbox affirming that the applicant
15 has not been convicted of a felony or that, if convicted, has
16 had his or her voting ~~civil~~ rights restored.

17 7. A mark in the checkbox affirming that the applicant
18 has not been adjudicated mentally incapacitated with respect
19 to voting or that, if so adjudicated, has had his or her right
20 to vote restored.

21 8. The original signature or a digital signature
22 transmitted by the Department of Highway Safety and Motor
23 Vehicles of the applicant swearing or affirming under the
24 penalty for false swearing pursuant to s. 104.011 that the
25 information contained in the registration application is true
26 and subscribing to the oath required by s. 3, Art. VI of the
27 State Constitution and s. 97.051.

28 Section 6. Paragraph (c) of subsection (1) of section
29 98.045, Florida Statutes, is amended to read:

30 98.045 Administration of voter registration.--
31

1 (1) ELIGIBILITY OF APPLICANT.--The supervisor must
2 ensure that any eligible applicant for voter registration is
3 registered to vote and that each application for voter
4 registration is processed in accordance with law. The
5 supervisor shall determine whether a voter registration
6 applicant is ineligible based on any of the following:

7 (c) The applicant has been convicted of a felony for
8 which his or her voting ~~civil~~ rights have not been restored.

9 Section 7. Paragraph (g) of subsection (2) of section
10 98.093, Florida Statutes, is redesignated as paragraph (h),
11 and a new paragraph (g) is added to that subsection to read:

12 98.093 Duty of officials to furnish lists of deceased
13 persons, persons adjudicated mentally incapacitated, and
14 persons convicted of a felony.--

15 (2) To the maximum extent feasible, state and local
16 government agencies shall facilitate provision of information
17 and access to data to the department, including, but not
18 limited to, databases that contain reliable criminal records
19 and records of deceased persons. State and local government
20 agencies that provide such data shall do so without charge if
21 the direct cost incurred by those agencies is not significant.

22 (g) The Department of Corrections shall furnish
23 monthly to the department a list of those persons who, in the
24 preceding month, have been released from incarceration upon
25 expiration of sentence and have completed all other terms and
26 conditions of the sentence or subsequent supervision, or who
27 were not incarcerated for the felony offense but have
28 completed all terms and conditions of supervision imposed upon
29 them. The Department of Corrections shall also furnish any
30 updates to prior records which have occurred in the preceding
31 month. The list shall contain the name, address, date of

1 birth, race, sex, social security number, Department of
2 Corrections record identification number, and associated
3 Department of Law Enforcement felony conviction record number
4 of each person.

5 Section 8. Section 940.061, Florida Statutes, is
6 amended to read:

7 940.061 Informing persons about executive clemency and
8 restoration of ~~civil~~ rights.--The Department of Corrections
9 shall inform and educate inmates and offenders on community
10 supervision about:

11 (1) The restoration of voting rights and assist
12 eligible inmates and offenders on community supervision with
13 the completion of a voter registration application, unless the
14 inmate or offender on community supervision declines such
15 assistance.

16 (2) The restoration of civil rights and assist
17 eligible inmates and offenders on community supervision with
18 the completion of the application for the restoration of civil
19 rights.

20 Section 9. Subsection (1) of section 944.292, Florida
21 Statutes, is amended to read:

22 944.292 Suspension of civil rights.--

23 (1) Upon conviction of a felony as defined in s. 10,
24 Art. X of the State Constitution, the civil rights of the
25 person convicted shall be suspended in Florida until such
26 rights are restored by a full pardon, conditional pardon, or
27 restoration of civil rights granted pursuant to s. 8, Art. IV
28 of the State Constitution or, as to voting rights, until
29 restoration of voting rights pursuant to s. 944.294.

30 Section 10. Section 944.293, Florida Statutes, is
31 amended to read:

1 944.293 Initiation of restoration of ~~civil~~
2 rights.--With respect to those persons convicted of a felony,
3 the following procedures ~~procedure~~ shall apply:

4 (1) Prior to the time an eligible offender is
5 discharged from supervision, an authorized agent of the
6 department shall obtain from the Department of State the
7 necessary application for registering to vote. An authorized
8 agent shall provide this application to the eligible offender
9 and inform him or her that the decision whether to register to
10 vote is voluntary and that applying to register or declining
11 to register to vote will not affect any term or condition of
12 the offender's supervision.

13 (2) The authorized agent shall inform the eligible
14 offender of the opportunity to file a complaint with the
15 Secretary of State on the belief that someone has interfered
16 with the offender's right to register or to decline to
17 register to vote, the right to privacy in deciding whether to
18 register or in applying to register to vote, or the right to
19 choose a political party or other political preference. The
20 authorized agent shall provide the address and telephone
21 number of the appropriate office in the Department of State
22 where a complaint may be filed.

23 (3) The authorized agent shall offer the eligible
24 offender assistance with the voter registration application
25 but shall make clear that the offender may fill out the
26 application in private. Unless the offender declines
27 assistance, the authorized agent shall assist the offender in
28 completing the application and shall ensure that the completed
29 application is forwarded to the appropriate voter registration
30 official before the eligible offender is discharged from
31 supervision.

1 ~~(4)~~ Prior to the time an offender is discharged from
2 supervision, an authorized agent of the department shall
3 obtain from the Governor the necessary application and other
4 forms required for the restoration of civil rights. The
5 authorized agent shall assist the offender in completing these
6 forms and shall ensure that the application and all necessary
7 material are forwarded to the Governor before the offender is
8 discharged from supervision.

9 Section 11. Paragraph (g) of subsection (2) of section
10 944.705, Florida Statutes, is redesignated as paragraph (h),
11 and a new paragraph (g) is added to that subsection to read:

12 944.705 Release orientation program.--

13 (2) The release orientation program instruction must
14 include, but is not limited to:

15 (g) Restoration of voting rights and restoration of
16 civil rights.

17 Section 12. This act shall take effect on the
18 effective date of House Joint Resolution ____ or another
19 amendment to the State Constitution which authorizes, or
20 removes impediments to, enactment of this act by the
21 Legislature and shall apply retroactively to all persons who
22 are eligible to vote under its terms, regardless of whether
23 they were convicted or discharged from sentence prior to its
24 effective date.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2230
4
5 The committee substitute differs from the original bill in
6 that it: requires as a condition of automatic restoration of
7 voting rights that former felons complete all the terms and
8 conditions of their sentences, both monetary (i.e., victim's
9 restitution) and nonmonetary; and removes findings relating to
10 the number of disenfranchised felons in Florida and the
11 corresponding disproportionate impact on minority communities.
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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Criminal Justice Committee

BILL: CS/SB 2230

INTRODUCER: Ethics and Elections Committee and Senator Wilson

SUBJECT: Restoration of Voting Rights Act

DATE: April 19, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Rubinas	EE	Fav/CS
2.	Davis	Cannon	CJ	Favorable
3.			JU	
4.			JA	
5.				
6.				

I. Summary:

The bill provides for the automatic restoration of a former felon's right to vote following the completion of the terms and conditions of his or her sentence of incarceration and community supervision, except for felons convicted of certain reprehensible crimes or whose impeachment has resulted in conviction who must seek restoration through the clemency process. The bill also contains certain notice and education requirements aimed at assisting former convicted felons in exercising their right to register to vote.

The bill takes effect on the effective date of an amendment to the State Constitution which authorizes, or removes impediments to, the provisions of this bill.

This bill creates section 944.294 of the Florida Statutes, and amends sections 97.052, 97.053, 98.045, 98.093, 940.061, 944.292, 944.293 and 944.705, Florida Statutes, to conform.

II. Present Situation:

The restoration of the civil rights of a convicted felon, which includes the right to register to vote, is a form of executive clemency --- a power granted by the Florida Constitution to the Governor with the consent of at least two members of the Cabinet.¹ The Florida Constitution specifically bars any person convicted of a felony from being qualified to vote or hold office until that person's civil rights have been restored.² Florida Statutes implement the constitutional

¹ Article IV, s. 8(a), Florida Constitution.

² Article VI, s. 4(a), Florida Constitution.

bar against felons voting by providing that any person convicted of a felony, who has not had his or her right to vote restored pursuant to law, may not register or vote.³

The FAQ section of Board of Executive Clemency's web site provides a summary of the basic procedure for the restoration of civil rights, including the right to vote:

1. If I am released from custody or supervision from the Florida Department of Corrections, how can my civil rights be restored?

At the completion of your sentence, the Florida Department of Corrections will automatically submit an electronic application for you to the Parole Commission for eligibility review for restoration of civil rights without a hearing. If determined eligible, your name will go to the Clemency Board for a 30-day review, and if no objection from two or more Board Members is received, your rights will be restored and a certificate of restoration of civil rights will be mailed to your last known address. If you are determined ineligible by the Commission, or receive objections from the Board, you will be notified that the restoration process may continue if you contact the Office of Executive Clemency and request a hearing and agree to participate in the investigative process.

Each of the fifty states has statutes governing the restoration of civil rights of convicted felons. These varied approaches range from a life time ban on voting in some states to allowing felons to vote while incarcerated in other states.⁴

III. Effect of Proposed Changes:

Section 1. Provides a short title.

Section 2. Contains a list of legislative findings and defines the purpose of the bill.

Section 3. Creates s. 944.294, F.S.; provides for the automatic restoration of the right to vote for certain former felons who complete the terms and conditions of their sentence of incarceration and community supervision; excludes former felons convicted of crimes relating to murder, aggravated manslaughter of a child, sexual battery, procuring a person under 18 for prostitution, selling or buying minors into sex trafficking or prostitution, incest, sexual performance by a child, selling or buying minors, and treason, or whose impeachment has resulted in conviction; requires a court to notify convicted felony defendants of how their voting rights can be restored; mandates that the Secretary of State ensure that those persons who become eligible to vote upon completion of their sentence face no continued barriers to voter registration; requires the Secretary of State to develop an educational program ensuring that (1) judges are informed of their new notice obligations, (2) that the Department of Corrections is prepared to assist people with registering to vote in anticipation of the completion of their sentence, including forwarding completed voter registration forms to the appropriate voter registration official, and (3) that

³ Section 97.041(2)(b), F.S.

⁴ See The Florida House of Representatives interim project, *Report on the Restoration of Felons' Voting Rights in Florida*, December 16, 2005.

accurate and complete information about the voting rights of convicted criminals is made available through a single publication to government officials and the public.

Sections 4, 5, and 6. Amends ss. 97.052, 97.053, and 98.045, F.S.; technical; makes conforming changes to the Florida Election Code.

Section 7. Amends s. 98.093, F.S.; requires the Department of Corrections to furnish a monthly list to the Department of State of persons who have been released from incarceration and community supervision who have completed all terms and conditions of their sentence. The list must include the person's name, address, date of birth, race, sex, social security number, Department of Correction identification number, and associated FDLE felony conviction record number.

Section 8. Amends s. 940.061, F.S.; requires the Department of Corrections to inform and educate inmates and offenders on community supervision about the restoration of voting rights and assist eligible inmates and offenders with the completion of a voter registration application unless the person declines such assistance.

Section 9. Amends s. 944.292, F.S.; technical; conforming.

Section 10. Amends s. 944.293, F.S.; adopts extensive procedures for the Department of Corrections with respect to providing notice and assisting felons with voter registration proximate to their release from incarceration and community supervision, to conform.

Section 11. Amends s. 944.705, F.S.; technical; conforming.

Section 12. Contains a contingent effective date, making the Act effective on the effective date of an amendment to the State Constitution which authorizes, or removes impediment to, enactment of the Act by the Legislature; providing for retroactive application.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The educational, notice and procedural requirements in the bill will result in indeterminate fiscal costs to the Department of State, Department of Corrections, and county supervisors of elections. This may be offset somewhat by a reduced workload for the Office of Executive Clemency.

VI. Technical Deficiencies:

As specified by the contingent effective date in Section 12 of the bill, a constitutional amendment is necessary in order to give effect to the provisions of this bill. CS/SB 2230, therefore, is an “implementing bill.”

Although Senate bill history does not identify a constitutional amendment linked to CS/SB 2230, SJR 1082 by Senator Dawson or SJR 2734 by Senator Siplin could serve to provide the necessary underlying constitutional amendment proposal.

VII. Related Issues:

On November 14, 2005, the U.S. Supreme Court denied certiorari and refused to hear a Florida case concerning the restoration of a felon’s voting rights. In refusing to accept the case the Court upheld Florida’s 160 year old law which created a life long ban on convicted felons voting unless those voting rights are restored by the governor.⁵

This Senate staff analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

⁵ Johnson v. Bush, 126 S.Ct. 650, 2005 WL 3027725 (U.S.).

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

**COMMONWEALTH OF KENTUCKY
STATE FISCAL NOTE STATEMENT**

**GENERAL ASSEMBLY
2008 REGULAR SESSION**

**LEGISLATIVE RESEARCH COMMISSION
2008-2010 INTERIM**

MEASURE

(x) 2008 BR No. 0194 (x) House Bill No. 70 GA

() Resolution No. _____ () Amendment No. _____

SUBJECT/TITLE An Act proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

SPONSOR Representatives Owens and Crenshaw

NOTE SUMMARY

Fiscal Analysis: _____ Impact x No Impact _____ Indeterminable Impact

Level(s) of Impact: _____ State _____ Local _____ Federal

Budget Unit(s) Impact _____

Fund(s) Impact: _____ General _____ Road _____ Federal
_____ Restricted Agency (Type) _____ (Other)

FISCAL SUMMARY

<u>Fiscal Estimates</u>	<u>2007-2008</u>	<u>2008-2009</u>	<u>2009-2010</u>	<u>Future Annual Rate of Change</u>
Revenues (+/-)				
Expenditures (+/-)				
Net Effect				

MEASURE'S PURPOSE: The primary purpose of the bill is to make it easier and simpler for most persons convicted of a felony to regain their right to vote.

PROVISION/MECHANICS: Persons convicted of certain felonies defined in the bill could only regain voting rights through a pardon by the Governor. All others convicted of felonies would have their rights automatically returned after expiration of probation, final discharge of parole, or maximum expiration of sentence. Four of the amendments add certain felonies to the list requiring gubernatorial action. The fifth amendment requires that persons must obtain a "receipt of a certificate of completion of a civics review course as determined by general law".

FISCAL EXPLANATION: The original bill and the amendments have no fiscal impact on state or local government.

DATA SOURCE(S) _____

NOTE NO. 102.1 **PREPARER** Mike Mullins **REVIEW** LBH **DATE** 4/11/08

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 340 (Senator Conway)

Education, Health, and Environmental Affairs

Ways and Means

Election Law - Voting Rights - Ex-Felons

This bill limits the disqualification of a person from registering to vote for a felony conviction to the period when the individual is serving a court-ordered sentence of imprisonment for the conviction (eliminating the inclusion of any term of parole or probation).

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$10,000 in FY 2015 to revise and reprint Motor Vehicle Administration (MVA) forms containing voter registration qualifications. Revenues are not affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	10,000	0	0	0	0
Net Effect	(\$10,000)	\$0	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An individual is not qualified to be a registered voter if the individual has been convicted of a felony and is actually serving a court-ordered sentence of imprisonment, including any term of parole or probation, for the conviction.

Background: State law regarding disqualification from registering to vote based on a criminal conviction or convictions was last modified under Chapter 159 of 2007. The changes under Chapter 159 included the repeal of a provision requiring an individual with a second or subsequent conviction of theft or other infamous crime to allow three years to elapse after completing the individual's court-ordered sentence as well as the repeal of a provision permanently disqualifying an individual who had been convicted of a second or subsequent crime of violence.

The National Conference of State Legislatures (NCSL) indicates that state approaches to felon disenfranchisement vary significantly, but in 38 states and the District of Columbia, most ex-felons automatically gain the right to vote on the completion of their sentence. According to NCSL, most recent legislation, since 1996, has sought to expand felon voting rights and ease the process of voting rights restoration.

State Expenditures: TTF expenditures increase by \$10,000 in fiscal 2015 for one-time revision and reprinting of MVA forms containing voter registration qualifications. Costs are incurred in fiscal 2015 to implement changes prior to the bill's effective date of July 1, 2015.

Additional Information

Prior Introductions: None.

Cross File: HB 980 (Delegate McCray, *et al.*) - Ways and Means.

Information Source(s): State Board of Elections, Department of Public Safety and Correctional Services, Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, National Conference of State Legislatures, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2015
md/hlb Revised - Senate Third Reader - March 24, 2015

Analysis by: Scott D. Kennedy

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45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

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FISCAL IMPACT REPORT

SPONSOR: SRC DATE TYPED: 03/01/01 HB

SHORT TITLE: Restore Voting Rights SB CS/204/aSJC

ANALYST: Woodlee

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates Senate Joint Resolution 8.

SOURCES OF INFORMATION

LFC Files
Secretary of State

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment for SRC Substitute for Senate Bill 204 makes technical changes to the bill. The amendment ensures that references to a felon being “registered” means “registered to vote.” Also, the amendment clarifies that the clerk of the court shall notify the county clerk of the county where the convicted felon is registered to vote.

Synopsis of Substitute Bill

The Senate Rules Committee Substitute for Senate Bill 204 amends the Election Code and allows for a convicted felon to have full voting rights upon completion of probation or parole requirements.

Significant Issues

The bill provides for a process of canceling an individual’s voter registration following a felony conviction. In addition, the bill provides that after the conditions of probation or parole have been met by the individual, the state or federal institution will notify the Secretary of State and the Clerk of the County in which he or she resides. The bill proposes to not allow a person who has been convicted of a felony to be permitted to vote in any statewide, county, municipal, or district election unless they:

1. Have satisfactorily completed the terms of a suspended or deferred sentence imposed by a court;
2. Was unconditionally discharged from a state correctional facility and has satisfactorily completed all conditions of probation or parole;
3. Was unconditionally discharged from a federal correctional facility and has satisfactorily completed all conditions of probation or parole; or
4. Has presented the Governor with a certificate verifying the completion of the sentence and was granted a pardon or a certificate by the Governor restoring full rights of citizenship.

The bill provides that after serving the entire sentence, including probation or parole, the individual must request a certificate of completion, which is to be presented to the county clerk. In addition to this certificate, the county clerk may accept a judgement or sentence from a court which shows completion of the sentence or a certificate of completion from another state or the federal government. Also, the bill indicates a convicted felon shall not be permitted to hold an office of public trust for the state, a county, a municipality or a district unless the person has presented the Governor with a certificate, as in item 4 above.

The bill provides for penalties and exception for allowing prisoners to vote.

FISCAL IMPLICATIONS

There is no appropriation contained within this bill.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

Senate Rules Committee Substitute for Senate Bill 204 is a companion to Senate Joint Resolution 8 which proposes a constitutional amendment to allow persons convicted of a felony to vote.

MW/ar

BILL ANALYSIS

Senate Research Center

H.B. 1001
By: Dutton (Cain)
State Affairs
5-17-97
Engrossed

DIGEST

Under current Texas law, there is considerable confusion regarding the time at which ex-felons regain their right to vote. Current law states at least two years must pass, since the issuance of discharge papers, before the ex-felon is eligible to vote again. The confusion arises because discharge papers are issued upon release from a Texas Department of Criminal Justice facility, however, a person may continue on parole for some period.

H.B. 1001 would clarify when an ex-felon regains the right to vote.

PURPOSE

As proposed, H.B. 1001 clarifies when an ex-felon regains the right to vote.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.002, Election Code, to redefine "qualified voter."

SECTION 2. Amends Section 13.001(a), Election Code, to require a person convicted of a felony, in order to be eligible for registration as a voter in this state, to have fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court. Deletes text regarding discharge papers by the pardons and paroles division or the institutional division of the Texas Department of Criminal Justice and elapsed time from the date of issuance of discharge papers or completion of probation.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

May 9, 1997

TO: Honorable Kenneth Armbrister, Chair
Committee on State Affairs
Senate
Austin, Texas

IN RE: House Bill No. 1001, As Engrossed
By: Dutton

FROM: John Keel, Director

In response to your request for a Fiscal Note on HB1001 (Relating
to eligibility requirements for voting by persons convicted
of a felony.) this office has detemined the following:

Biennial Net Impact to General Revenue Funds by HB1001-As Engrossed

No fiscal implication to the State is anticipated.

No fiscal implication to units of local government is anticipated.

Source: Agencies:

LBB Staff: JK ,JD ,PE ,JC