

In California...On Probation? Off Parole? YOU *Can* VOTE!

The little known story behind denial of voting rights for citizens with felony records

An estimated 4 million U.S. citizens of voting age face lifetime denial of the right to vote — disenfranchisement — because of prior felony convictions, even after they have completed their sentence and paid their debt to society. A 2001 U.S. Civil Rights Commission report concluded that the disenfranchisement of ex-convicts is “the biggest hindrance to black voting since the poll tax.”¹ Many of us were unaware of this injustice until the Presidential election of 2000, when national publicity focused on denial of voting rights to former felons in Florida. Voting restrictions in that one state alone may have forever changed the course of history. If former felons had been allowed to vote in Florida, Al Gore most likely would have been elected president of the United States instead of George W. Bush.²

With increased public awareness, voting rights for people with felony convictions is now becoming a major civil rights issue. We believe it is helpful to understand how felon disenfranchisement in the U.S. has its roots in our country’s history of slavery and racial injustice. *And we believe it is time to spread the word that many ex-felons in California have the right to vote.*

Early felon disenfranchisement in the United States

In colonial America (1500-1775), denying citizens the right to vote was seen as acceptable punishment for criminal behavior.² During this period, withdrawal of voting privileges for criminal acts was not racially motivated since only property-owning (i.e., white) males could vote under any circumstances. After Independence, the framers of the U.S. Constitution considered voting a privilege that could be taken away, not a right guaranteed to all citizens.

The 14th Amendment to the Constitution (passed in 1868), established equal protection for all male citizens, including newly freed slaves. The 15th Amendment (approved in 1870) extended voting privileges to all male citizens by declaring that the right to vote “shall not be denied or abridged ... on account of race, color, or previous condition of servitude.” However,



the 14th Amendment also established “states’ rights” and, clearly, granted states the right to deny the right to vote to anyone who engaged in “rebellion” or other crimes.

By 1861, when the Civil War began, 19 of the 34 states (56%) prohibited ex-felons from voting. By 1869, after the Civil War and the establishment of equal protection for former slaves, the number of states that prohibited ex-felons from voting increased to 29 out of 37 (78%).

Post Civil War: New ways to deny the vote to African-Americans

After the Civil War and passage of the 14th and 15th Amendments to the U.S. Constitution, a number of states passed Jim Crow laws — grandfather clauses, literacy requirements, and poll taxes — designed to prevent voting by former slaves and other people of color. In addition, many Southern and Border States adopted lifetime voting restrictions for former felons as a way to deny the vote to black citizens. In Mississippi, Alabama and some other Southern states, laws were passed forbidding voting by people convicted of certain

crimes that were considered “black crimes.” Often more serious crimes, considered “white crimes,” did not result in voting restrictions.³ The combined impact of all these voting laws was a severe reduction in the African-American vote in many states. For example, shortly after the Civil War, Blacks were 44% of the Louisiana electorate but by 1920, had been reduced to only 1%. In Mississippi, 70% of eligible Blacks were registered to vote in 1867, but fewer than 6% were registered in 1890. By 1940, only 3% of eligible African Americans in Southern states were registered to vote.

A 2001 U.S. Civil Rights Commission report concluded that the disenfranchisement of ex-convicts is “the biggest hindrance to black voting since the poll tax.”

The Civil Rights Movement of the 1960s

By the 1960s, some of the most deliberate racist restrictions on voting were finally outlawed in the United States. In 1964, the 24th Amendment, struck down the poll tax, and the Voting Rights Act of 1965 prohibited laws and practices that denied or abridged voting rights on the basis of race or color. Despite these huge changes, the courts have ruled that disenfranchise-

ment of people with felony convictions does not violate the Constitution if everyone in the same legal status is treated the same way— *even if there is racial discrimination in law enforcement and in the legal and prison systems.*² As a result, states continue to have the right to force lifelong disenfranchisement for citizens who have committed felonies, even after successful completion of a legal sentence.

In many other countries, people who have committed felonies can vote—even while in prison.

of parole, while on probation, or if they are committed to county jail with a felony conviction.

Although most of this code was passed in 1974, these important legal rights have been mostly hidden, unspoken, and unknown by the general public. As a result, many California citizens have been denied their right to vote. We are now speaking out. Please help us spread the word that many ex-felons can vote in California.

The situation today—United States and elsewhere

In the United States, a patchwork of voting restrictions still exists. In Maine and Vermont (two Northern, predominantly White states), there are no felony-related restrictions and citizens can vote even while in prison. Two states (Kentucky and Virginia) deny the right to vote to all ex-offenders who have completed their sentences and 9 others disenfranchise selected categories of ex-offenders and/or permit ex-offenders to apply for restoration of rights after a waiting period. Other states prohibit voting for people of certain legal status (e.g., on parole, on probation, while incarcerated). Not surprisingly, many of the states with the most restrictive laws are in the South. (For updated information, see www.sentencingproject.org)

Contrary to the situation in the U.S., in many other parts of the world — including 18 European countries and South Africa, Canada, Israel, Japan, Kenya, Peru, Puerto Rico, and Zimbabwe — people who have committed felony crimes have the right to vote — even while they are incarcerated.⁴

In California—On Probation? Off Parole? You Can Vote!

California allows former felons to vote, but the state prohibits voting by people incarcerated in prison or on parole. According to the California Constitution and Elections Code, “A person entitled to register to vote shall be a United States citizen, a resident of California, not in prison or on parole for the conviction of a felony, and at least 18 years of age.” (Cal. Const. Art. II, Sec. 4; Cal. Elec. Code Sec. 2101) ***This means that California residents who have a felony conviction can vote after completion***

What you can do.

- Be informed about the American history of denial of voting rights.
- Spread the word that many ex-felons in California are eligible to vote.
- Advocate for less restrictive voting laws (e.g., so that people living in the community on parole can vote).

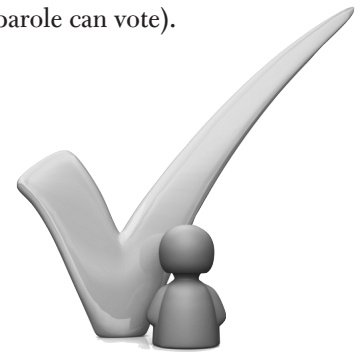
For more information:

California:

www.votingrightsforall.org
www.ss.ca.gov/elections

National and international:

www.sentencingproject.org



Hull, Elizabeth A. *The Disenfranchisement of Ex-Felons*, Temple University Press, 2006

Abramsky, Sasha *Conned: How Millions Went to Prison, Lost the Vote, and Helped Send George W. Bush to The White House*, New Press, 2006

Manza, Jeff, and Uggen, Christopher. *Locked Out: Felon Disenfranchisement and American Democracy (Studies in Crime and Public Policy)*, Oxford University Press, 2006.

Footnotes:

¹U. S. Commission on Civil Rights, Staff Report, “Voting Irregularities in Florida during the 2000 Presidential Election,” (approved by the commissioners on June 8, 2001), <http://news.findlaw.com/hdocs/docs/election2000/USCCRFLvoterprt60701.pdf>

²Liles, William Walton, “Challenges to felony disenfranchisement laws: past present, and future,” *Alabama Law Review*, 2007

³Mauer, Marc, *Civil Rights Journal*, Winter 2002.

⁴Hull, Elizabeth A. *The Disenfranchisement of Ex-Felons*, Temple University Press, 2006.

Voting Rights for All

is a non-partisan community project based in Oakland-Berkeley and supported by donations. For more information:
info@votingrightsforall.org • www.votingrightsforall.org
We encourage local groups to reproduce and distribute this information.