

RIGHTS RESTORATION IN FLORIDA

I. DISENFRANCHISEMENT AND RESTORATION PROCESSES

Who does Florida disenfranchise?

Florida's constitution disenfranchises all people with felony convictions while they are incarcerated and while they are on probation and parole.³⁶

What is Florida's restoration process for people with felony convictions?

Amendment 4 to the Florida constitution automatically restores voting rights after completion of probation and parole for most felony convictions.

Alternatively, a person may wait 5-7 years to apply for clemency from the governor.

Is payment of all legal financial obligations required before rights restoration?

Yes. According to SB 7066 that was enacted in June 2019, a person's sentence is only complete after they pay all fines, fees, costs, and restitution.³⁷

Is there a waiting period required after completion of sentence and before rights restoration?

Only for people that choose to apply for clemency directly from the governor. If the person is covered by Amendment 4, there is no waiting period after completion of sentence.

Are there any carve-outs for rights restoration eligibility based on the type of conviction?

Yes. The felonies not covered by Amendment 4 are murder and felony sexual assault. Individuals with these convictions remain disenfranchised, absent clemency.

What state resources are available to assist people in registering in vote?

Four Florida counties have adopted modification plans to assist citizens with their inability to pay fines and fees. The other 63 counties have not taken similar action to clarify requirements or provide resources for citizens.

II. IMPACT

How many people are directly impacted by disenfranchisement and mass incarceration?

As of 2016, Florida's felony disenfranchisement laws disenfranchised 10.43% of its population, and 21.35% of the African American population.³⁸

Florida has an incarceration rate of 833 people per 100,000 residents — higher than the United States’ 698 per 100,000.³⁹

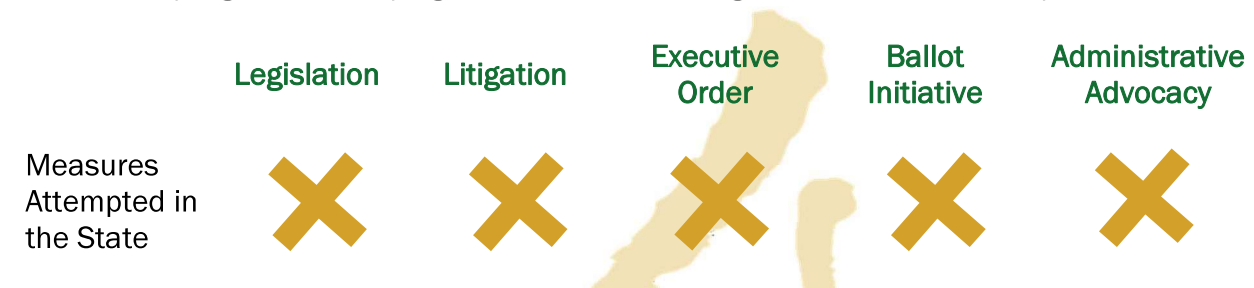
Who are the impacted people?

As of June 30, 2018, Florida had correctional control of its citizens at the following rates:⁴⁰

| | Number Total | White | Black | Latino/a | Other |
|--------------|--------------|-------|-------|----------|-------|
| Incarcerated | 96,253 | 40.1% | 47.0% | 12.4% | 0.3% |
| Supervision | 166,157 | 51.5% | 30.7% | 17.3% | 0.5% |

III. STRATEGIES TO EXPAND RIGHTS RESTORATION

What are key legal and policy rights restoration strategies tried as of February 2020?



Legislation

The legislature passed SB 7066 interpreting Amendment 4’s language of “completion of all terms of sentence” as requiring the payment of fines, fees, costs, and restitution.⁴¹

A currently proposed bill, SB 1354, would modify the voter registration application to simplify the checked box regarding whether someone has a felony conviction.⁴²

Governor DeSantis and his cabinet have proposed a rule to remove a requirement that all restitution must be paid before applying for clemency with a hearing.⁴³

Ballot Initiative

On November 6, 2018, Florida citizens voted to pass Amendment 4 to the Florida constitution. The initiative passed with over 64% of voters supporting the measure.

Litigation

Jones v. DeSantis (2019)⁴⁴— Plaintiffs sued the Secretary of State and several Supervisors of Elections to challenge the LFO requirement in SB 7066. They argue that the requirement of paying all LFOs discriminates on the basis of wealth and violates the federal constitution.

The federal district court issued an order requiring state officials to determine a registrant’s inability to pay when determining eligibility. The order only applied to the 17 plaintiffs in the case.

The State of Florida appealed the court's ruling to the 11th Circuit. The 11th Circuit heard oral arguments on January 28, 2020.

The Florida Supreme Court ruled in an advisory opinion that the statute's requirements do include payment of all LFOs.

Hand v. Scott (2017)⁴⁵— Plaintiffs sued the governor, arguing that the state's clemency process is arbitrary and unconstitutional.

The federal district court ruled in favor of plaintiffs, finding that the clemency process was unconstitutional, but the Eleventh Circuit dismissed the case as moot after the passage of Amendment 4.

Administrative Advocacy (Rulemaking/Regulations/Executive Order)

Several counties (Miami-Dade, Broward, Palm Beach, and Hillsborough) have agreed to create modification plans for those who cannot pay fines and fees. Throughout the years, governors have also issued Executive Orders impacting the clemency process.

What is the process for bringing forward a ballot initiative in Florida?

Citizen: Citizens must collect 10% percent of the required signatures across the state and 10% percent in each of one-eighth of the state's Congressional districts. After collecting these signatures, the Florida Supreme Court must review whether the ballot title and summary comply with the legal requirements for an amendment. Upon the court's approval and fiscal analysis, the measure is placed on the ballot.⁴⁶

Legislative: In order to place an amendment on the ballot, lawmakers in each chamber must pass a resolution with a three-fifths majority vote.

IV. KEY ISSUES/WHERE THE FIGHT IS

SB 7066 included language that the "completion of all terms of sentence" includes a requirement that a person pay all fines, fees, and restitution. There is currently litigation and anticipated legislation to address the payment of LFOs prior to having one's voting rights restored.

There are also implementation issues in how the state shares data regarding whether someone has paid all LFOs and satisfied all terms of a sentence. Payment of restitution is a particular issue. Some advocates are worried that there may be a lack of data or incorrect data used to determine voter eligibility.

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requirements or provide resources for citizens. People are waiting to see what the other counties decide to do regarding LFOs.

