

## RIGHTS RESTORATION IN LOUISIANA

### I. DISENFRANCHISEMENT AND RESTORATION PROCESSES

#### **Who does Louisiana disenfranchise?**

In general terms, Louisiana currently disenfranchises parolees who have not yet completed five years of parole and a group of probationers who have not yet completed five years of probation, as well as people in prison.<sup>80</sup>

#### **What is Louisiana's restoration process for people with felony convictions?**

There is no formal application process for restoration. The restoration of the right to vote is automatic after a person completes their sentence or meets the voter eligibility requirements under Act 636 (2018), which eased voting restrictions for probationers and parolees.

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

Yes. A person sentenced to prison who is then paroled can vote after being on parole five years without being re-incarcerated pursuant to their sentence. Similarly, a person sentenced to prison who then is released from prison and placed on probation can vote after being on probation five years without being re-incarcerated pursuant to their sentence.

#### **What is the voter registration and verification process for voters with convictions?**

The voter registration process in Louisiana currently requires those with convictions who are seeking to reinstate their voter registrations to obtain documentation from a parole or probation office or "appropriate correction official" and go in-person to their local registrar's office with the documentation in order to register to vote. Louisiana appears to be applying this "documentation requirement" to all eligible voters who have past convictions.

### II. IMPACT

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

As of 2016, Louisiana's felony disenfranchisement laws disenfranchise three percent of its population.

#### **Who are the impacted people?**

Six percent of the African American population in Louisiana is disenfranchised through Louisiana's scheme.<sup>81</sup>

#### Current Session (2020)

- House
  - HB 6 (Booker) — No carve-outs
  - HB 119 (Brown) — Carve-outs
- Senate
  - SB 48 (Neal) — No explicit carve-outs; decision on carve-outs goes to the Legislature<sup>78</sup>
  - SB 62 (Higdon ) — Carve-outs and waiting periods<sup>79</sup>

#### Executive Order

Governor Andy Beshear issued an Executive Order.

#### Litigation

*Lostutter v. Commonwealth of Kentucky*, No. 6:2018-cv-00277 (E.D. Ky.) (filed Oct. 29, 2018) — Federal constitutional challenge; alleges arbitrary discretion of Governor violates the First Amendment.

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

Legislature: In even-numbered years, the Legislature can refer statewide ballot measures after each chamber approves the measure by 60%.

#### **IV. KEY ISSUES/WHERE THE FIGHT IS**

Kentucky Governor Andy Beshear recently issued an Executive Order automatically restoring voting rights to 140,000 Kentuckians. Going forward, key issues will involve the implementation of this Executive Order as well as how this new Governor handles individual applications for restoration. Specific questions include: How will the various state agencies coordinate to verify a person's voter eligibility under the EO? How will Kentucky inform 140,000 people of their newly restored voting rights? What will the Governor do with the pending federal lawsuit challenging the constitutionality of the Governor's restoration process?

We should also keep an eye on defense. Kentucky's EO is similar to Virginia's recent EO, which Virginia conservatives successfully attacked with a lawsuit, forcing the Virginia Governor to restore voting rights on an individual basis.

Finally, various restoration bills are moving through the legislature. Some have carve-outs and waiting periods. Some do not. None of the bills – even the best ones – restore the right to vote to people who are on probation or parole.

## II. IMPACT

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

Prior to the EO, Kentucky disenfranchised an estimated 312,046 persons from voting due to a felony conviction, amounting to 9.1%, or one out of every 11 residents in Kentucky. This was more than three times the national average of 2.47%, or one in 40.

The EO restores voting rights for an estimated 140,000 people, leaving approximately 172,000 people permanently disenfranchised.

### Who are the impacted people?

African Americans are disproportionately impacted. Prior to the EO, the state had the “highest African American disenfranchisement rate in the country with one of every four (26.2%) African Americans ineligible to vote. This rate is more than triple the national rate for African Americans.”<sup>75</sup>

Women are significantly impacted. Kentucky has the second-highest rate of incarceration for women.<sup>76</sup>

## III. STRATEGIES TO EXPAND RIGHTS RESTORATION

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

	Legislation	Litigation	Executive Order	Ballot Initiative	Administrative Advocacy
Interventions Attempted in the State	X	X	X		

### Legislation

HB 40 (2016) — Passed. Allowed certain people with Class D felony convictions to have those convictions vacated and expunged after a five-year waiting period and a fee of \$500. As of 2017, the number of former felons who may now vote because of HB 40 was something less than 389 people.<sup>77</sup>

HB 70 (2016 - 2019) — Failed every year. This is the constitutional amendment to restore voting rights to 250,000 people. Had carve-outs and waiting periods. Passed House, but did not pass Senate.

## **RIGHTS RESTORATION IN KENTUCKY**

### **I. DISENFRANCHISEMENT AND RESTORATION PROCESSES**

#### **Who does Kentucky disenfranchise?**

People convicted of crimes considered “violent” under Kentucky state law suffer permanent lifelong disenfranchisement unless they successfully apply to the Governor for restoration. Legal financial obligations (“LFOs”) must be paid before making this application to the Governor.<sup>70</sup> “Violent” crimes include any capital offense, second-degree manslaughter, second-degree assault, and any felony sexual offense.<sup>71</sup>

In accordance to a new executive order issued by Governor Andy Beshear last December, people convicted of crimes considered “non-violent” receive automatic restoration of their right to vote following completion of their sentences, including probation and parole, but excluding payment of LFOs.<sup>72</sup> Note, however, there are some LFOs that must be paid before probation and parole are considered complete.

#### **What is Kentucky’s restoration process for people with felony convictions?**

Only those convicted of crimes considered violent must apply to the Governor for restoration of the right to vote. Applicants must have a Final Discharge from parole or their sentence must have expired, must not be under felony indictment, and must not have pending charges or any outstanding fines or restitution.<sup>73</sup>

Those convicted of non-violent offenses do not have to make an application for restoration. Their voting rights are automatically restored upon completion of sentence.

#### **What is the voter registration and verification process for voters with convictions?**

To date, once a person’s right to vote is restored there is no known special procedure or documentation required to register to vote. The person becomes like any other eligible, but unregistered voter.

Governor Beshear’s recent Executive Order directs the Department of Corrections to provide information about any Kentuckian who qualifies for automatic restoration to the “necessary election officials.” It also provides Kentuckians with the right to request “verification” from the DOC. Finally, it directs the Justice and Public Safety Cabinet and all state agencies to comply with the order.<sup>74</sup>

The Governor has committed her office to reviewing all pending applications before the Iowa Caucus on February 3, 2020.<sup>67</sup>

Advocates have also recently challenged the accuracy of the Secretary of State's list of people with felony convictions.

The Secretary of State has audited the list, and after finding numerous errors, is committed to rebuilding the list from scratch.<sup>68</sup>

### **What is the process for bringing forward a ballot initiative in Iowa?**

Legislature: There must be a majority vote in both houses of the legislature in two successive legislative sessions. Then voters must approve the proposed amendment by a majority.<sup>69</sup>

## **IV. KEY ISSUES/WHERE THE FIGHT IS**

Iowa is the only remaining state that permanently disenfranchises those with felony convictions. Advocates previously introduced legislation that would restore the right to vote to those who complete all terms of their sentence. The bill did not pass in 2019, but advocates plan to introduce it again in 2020.

Advocates are also urging Governor Kim Reynolds to issue an executive order that would provide a blanket restoration of rights for those with felony convictions. The governor has expressed reluctance because she views this as a temporary fix. Instead, she is advocating for legislation as a means of re-enfranchisement.

## Who are the impacted people?

One in 10 African American adults cannot vote because of a felony conviction.<sup>64</sup>

African Americans comprise about 3.5% of Iowa’s total population, but 25.3% of Iowa’s total prison population.<sup>65</sup>

### III. STRATEGIES TO EXPAND RIGHTS RESTORATION

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

	Legislation	Litigation	Executive Order	Ballot Initiative	Administrative Advocacy
Measures Attempted in the State	X		X		

#### Legislation

House Bill (2019) – There was a proposed amendment to the Iowa Constitution that would have restored voting rights upon a person’s completion of sentence. The Governor and the House supported the bill, but Senate Republicans killed the bill. They wanted more clarity on what “completion of sentence” meant and to what extent it included LFOs, similar to the issues with Florida SB 7066.

The Governor says she will push for another proposed bill this session that would restore the right to vote.

#### Executive Order

In 2005, Governor Tom Vilsack issued an executive order that restored voting rights to those with felony convictions who completed their sentence. In 2011, Governor Terry Branstad reversed this executive order, returning Iowa to a status of permanently disenfranchising those with felony convictions.

Advocates are currently pushing Governor Kim Reynolds to issue an executive order similar to the one issued by Vilsack, but Governor Reynolds says she does not want another executive order that can be reversed again with a new administration. She says she would prefer a more permanent fix in the form of legislation that will restore voting rights.<sup>66</sup>

#### Administrative Advocacy (Rulemaking/Regulations)

The Governor’s office has a backlog of applications for rights restoration. Advocates pressured Governor Reynold’s office to address the backlog in advance of the Iowa Caucus.

## RIGHTS RESTORATION IN IOWA

### I. DISENFRANCHISEMENT AND RESTORATION PROCESSES

#### Who does Iowa disenfranchise?

Iowa **permanently** disenfranchises those with felony convictions while they are incarcerated and on probation or parole.<sup>58</sup>

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

After completing their sentence, a person's rights can only be restored by the governor. Individuals complete an application for restoration and submit it to the governor's office.<sup>59</sup> The governor recently simplified the application to one page.

Regarding LFOs, one must either complete repayment of fines, fees, and restitution or be current on a payment plan.

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

The Secretary of State has the application for rights restoration on the state's website.

The Iowa Department of Corrections automatically completes 12 of the 14 questions on the application for each person being discharged. A DOC officer then works with the person to complete the last two questions, and the person leaves DOC supervision with a completed rights restoration application form.<sup>60</sup>

### II. IMPACT

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

As of 2016, Iowa's felony disenfranchisement laws disenfranchised 2.17% of its population, and 9.84% of the African American population.<sup>61</sup>


In fiscal year 2019, the total number of people housed in Iowa's nine prisons increased by 54 people (to 8,473 people total). This is the most since the count stood at 8,778 in the 2011 fiscal year.<sup>62</sup>

As of January 31, 2020, Iowa incarcerated 8,445 people and had 38,467 people on community supervision.<sup>63</sup>

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### III. STRATEGIES TO EXPAND RIGHTS RESTORATION

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#### Legislation

On April 2, 2019, the Georgia legislature approved a study to determine whether it should propose a bill allowing those with nonviolent felony convictions to vote.<sup>54</sup> On December 18, 2019, the study committee voted 3-2 against proposing such legislation.<sup>55</sup>

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

Legislature: The legislature can put a proposed amendment on the ballot upon a two-thirds majority vote in both the legislative chambers.<sup>56</sup>

### IV. KEY ISSUES/WHERE THE FIGHT IS

The Georgia constitution contains language similar to the Alabama state constitution wherein it bars from voting those convicted of crimes of “moral turpitude.”<sup>57</sup> Georgia law does not officially define “moral turpitude.” Election officials simply interpret it as encompassing all felonies. Alabama was in a similar position before its legislature passed a bill defining a list of crimes of “moral turpitude.”



## RIGHTS RESTORATION IN GEORGIA

### I. DISENFRANCHISEMENT AND RESTORATION PROCESSES

#### Who does Georgia disenfranchise?

Georgia disenfranchises all people with convictions while they are incarcerated and while they are on probation and parole.<sup>47</sup>

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

Rights are automatically restored after a person completes their full sentence, including probation and parole.

It is unclear whether a person must first satisfy all fines, fees, and restitution.<sup>48</sup> There are no laws or rules that clearly require payment of fines and fees, but some news articles mention a requirement to pay fines and fees first.

### II. IMPACT

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

As of 2016, Georgia's felony disenfranchisement laws disenfranchised 3.23% of its population, and 6.28% of the African American population.<sup>49</sup>

Georgia has the largest correctional supervision population in the country at over 404,000 people.<sup>50</sup> Georgia is the top jailer and probationer in the country.<sup>51</sup>

According to the U.S. Bureau of Justice Statistics, Georgia had 410,964 people on probation as of 2016, the most recent year for which data is available. That's far more than any other state. California had 288,911 probationers; its population is nearly four times that of Georgia.<sup>52</sup>

#### Who are the impacted people?

Georgia had correctional control of its citizens at the following rates:

	Number Total	White	Black	Latino/a	Other
Incarcerated <sup>53</sup>	55,556	36.19%	59.46%	3.83%	0.52%