



October 22, 2020

*By Hand Delivery, Facsimile, and U.S. Mail*

The Honorable R. Kyle Ardoin  
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Sherri Wharton Hadskey  
Commissioner of Elections  
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Re: Notice of National Voter Registration Act Non-Compliance

Dear Secretary Ardoin and Commissioner Hadskey:

On behalf of Voice of the Experienced (“VOTE”), its members, and similarly situated eligible voters, we write to notify you that the state of Louisiana is not in compliance with the National Voter Registration Act of 1993, 52 U.S.C. § 20501, *et seq.* (the “NVRA”). The NVRA obligates the state of Louisiana to ensure that any program or activity to protect the integrity of the electoral process be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965. 52 U.S.C. § 20507(b)(1). The NVRA also restricts state administrators from removing individuals from the official list of eligible voters except under limited circumstances. 52 U.S.C. § 20507(a)(3).

As you know, during the 2018 legislative session, the governor signed into law Act 636, expanding the right to vote to some people with felony convictions who are under an “order of imprisonment.” After Act 636, Louisiana law now states that:

a person who is under an order of imprisonment for conviction of a felony and who has not been incarcerated pursuant to the order within the last five years shall not be ineligible to register or vote based on the order if the person submits documentation to the registrar of voters from the appropriate correction official

showing that the person has not been incarcerated pursuant to the order within the last five years.<sup>1</sup>

R.S. § 18:102(A)(1)(b). Louisiana law further provides that:

a person whose registration has been suspended by the registrar of voters pursuant to R.S. 18:176(A) shall be reinstated when the person appears in the office of the registrar and provides documentation from the appropriate correction official showing that such person is no longer under an order of imprisonment or, if the person is under such an order, that the person has not been incarcerated pursuant to the order within the last five years . . . .

R.S. § 18:177(A)(1).

We have identified significant problems in the State’s implementation of Act 636 and its procedures and processes of voter registration for people with felony convictions, resulting in uneven application of state law and arbitrary and unlawful disenfranchisement of voters. For example:

- Certain individuals convicted of a felony but never placed under an order of imprisonment, such as those with deferred sentences pursuant to Louisiana Code of Criminal Procedure § 893(E), are being inappropriately removed from the voting rolls.
- Certain individuals convicted of a felony but who have completed their sentence, and are therefore no longer under an order of imprisonment, are being unlawfully required to provide documentation under Act 636.
- Certain individuals convicted of a felony are being unlawfully required to provide documentation when attempting to register using the national voter registration form (“Federal Form”). 52 U.S.C. § 20505. As you know, the State is required to accept the Federal Form and the Federal Form’s state-specific instructions for Louisiana do not include any documentary requirement for individuals eligible to vote under Act 636.
- The requirement for in-person appearance at a Registrar of Voters (“ROV”) office under Act 636 is unnecessary, arbitrary, and discriminatory in light of electronic records available to the State, particularly for individuals with disabilities and particularly during the current pandemic.

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<sup>1</sup> Those “convicted of a felony offense of election fraud or any other election offense pursuant to R.S. 18:1461.2 and [who are] under an order of imprisonment” are exempted from subsection (b). R.S. 18:102(A)(1)(b), (c).

- People on parole are incorrectly being told by certain government officials that they need to complete their sentence before registering to vote, contrary to the terms of Act 636 that permit certain people on parole to register to vote if they meet the eligibility requirements of R.S. § 18:102(A)(1)(b).
- Your Office and the ROVs are applying inconsistent requirements for documentation under R.S. 18:102(A)(1)(b), based on insufficient guidance on what papers are acceptable for reinstatement under R.S. § 18:177.
- There are no uniform rules or procedures for how those with federal or out-of-state convictions are identified for potential suspension from the voter rolls, or what documentation those individuals must provide under R.S. § 18:177 to avoid suspension or be reinstated.
- Your Office and the ROVs are providing newly registered voters with inconsistent timelines to provide documentation under R.S. 18:102(A)(1)(b) to ensure the processing of their voter registration application (*e.g.*, some registrars use 10 days; others use 21 days).

We request that you take immediate steps, in conjunction with the ROVs, to bring the State into compliance with the law. Specifically, we request that the State establish and implement across all parishes processes and procedures to address the problems above, including:

- Uniform processes and criteria for suspension of individuals convicted of felonies and under an “order of imprisonment.” Such processes should make clear that ROVs should not suspend the voting rights of (a) those never subject to an order of imprisonment, such as those with deferred sentences, and (b) those no longer under an “order of imprisonment,” such as those who have completed their sentences.
- Uniform reinstatement processes for individuals convicted of felonies who have had their voting rights suspended. Such processes should at least (a) provide reasonable alternatives to requiring individuals to appear in person at the ROV to provide documentation under Act 636; (b) address how those with out-of-state or federal convictions can prevent suspension or obtain reinstatement; and (c) establish what forms are acceptable to meet the documentary requirements of Act 636 for all individuals potentially eligible for reinstatement.
- Uniform registration processes and guidance for newly registered voters who qualify under Act 636. Such processes and guidance should at least provide consistent timelines to provide documentation under R.S. 18:102(A)(1)(b) and make clear that individuals using the Federal Form do not need to provide any documentary evidence to prove eligibility to vote under Act 636.

The Honorable R. Kyle Ardoin  
Commissioner Sherri Wharton Hadskey  
October 22, 2020  
Page 4

Uniform processes to inform individuals whose voting rights are subject to suspension of their rights and the timelines and documentary requirements to prevent suspension or obtain reinstatement, in language a lay person can understand. We further request that you communicate these processes and criteria to all relevant governmental agencies and offices that work on voter registration or interact with individuals with felony convictions, including the Department of Public Safety and Corrections, the Office of Motor Vehicles, and other offices designated as voter registration agencies by the State under Section 7 of the NVRA.

Louisiana must make prompt changes to ensure that the NVRA is properly implemented so that all of its citizens, including the thousands of individuals with felony convictions who are eligible to vote, are able to register to vote and/or have their suspended voter registrations reinstated in order to participate in future elections.

We look forward to receiving your response and stand ready to work cooperatively with you to develop a plan that will quickly bring the state into compliance with the law. Please be aware that if the state does not take corrective action to address these concerns, we are prepared to proceed with litigation of these issues, asserting claims under the NVRA and other applicable causes of action.

The Honorable R. Kyle Ardoin  
Commissioner Sherri Wharton Hadskey  
October 22, 2020  
Page 5

We are available to discuss these issues should you wish to do so.

Sincerely,



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Cc: Voice of the Experienced (VOTE) (Norris Henderson, Bruce Reilly, Checo Yancy, Ilona Prieto)