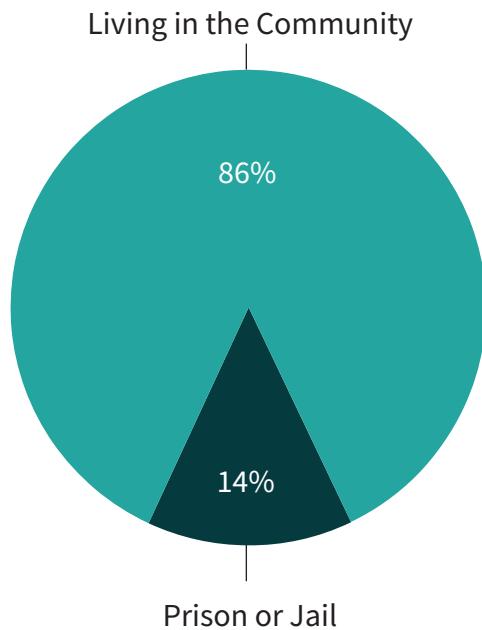


# Kentucky Bars Over 152,000 Citizens from Voting

Despite a gubernatorial executive order in 2019 designed to ease the burden of lifetime disenfranchisement for Kentuckians with felony convictions, Kentucky still denies the right to vote to more people with a felony conviction than 39 other states.<sup>1</sup> Over 152,000 Kentuckians are excluded from participation in our democracy, representing 4.5% of the state's voting age population.<sup>2</sup> Driving Kentucky's high disenfranchisement rate is its ban on voting for the almost 56,000 people on probation or parole, and 76,000 people who have completed their sentence.

## Location of Disenfranchised Citizens in Kentucky, 2022



Uggen, C., Larson, R., Shannon, S., & Stewart, R. (2022). *Locked out 2022: Estimates of people denied voting rights due to a felony conviction*. The Sentencing Project.

Kentucky also has the country's sixth highest rate of disenfranchisement for Latinx Americans (4.1%) and the eighth highest rate of disenfranchisement for African Americans (11.5%).<sup>3</sup> The commonwealth denies voting rights to 11% of Black voting age Kentuckians and 4% of Latinx voting age Kentuckians due to system involvement.<sup>4</sup> The rate of disenfranchisement for Black Kentuckians is more than twice the national average for Black Americans.

To ameliorate this injustice and protect its democratic values, Kentucky lawmakers should extend voting rights to all people affected by the criminal legal system.

## Racial Injustice Causes Disparities in Disenfranchisement

People of color are disproportionately disenfranchised in Kentucky because they are overrepresented in its criminal legal system. While Black Kentuckians make up only 9% of the population, they represent 21% of the correctional population and 18% of people disenfranchised due to being under felony probation or parole.<sup>5</sup>

Racial disparities in Kentucky's criminal legal system go beyond differences in criminal offending. Examples of how explain criminal justice practices have differential effects on racial and ethnic groups include:

- Black people incarcerated in Kentucky are granted parole at lower rates than whites, according to Kentucky Parole Board chair Ladeidra Jones, exacerbating racial disparities in the criminal justice system.<sup>6</sup>
- Kentucky's lack of racial data from which jury pools are drawn, in combination with prosecutorial bias, can lead to the repeated exclusion of Black citizens from juries.<sup>7</sup> In his study on the impact of jury race on trials, economist Patrick Bayer found that Black defendants are significantly disadvantaged in

trials with disproportionately small numbers of Black jurors.<sup>8</sup>

Racial bias and discrimination in the criminal legal system lock people of color out of the democratic process. Kentucky must re-enfranchise its citizens and invest in alternatives to incarceration that address racial injustice.

### **End Permanent Disenfranchisement**

In December of 2019, Governor Andy Beshear issued an executive order to re-enfranchise over 170,000 people with past nonviolent convictions.<sup>9</sup> However, voting rights advocates have criticized the order for excluding people with violent convictions who have completed their sentences, given that the severity of their crime had already been taken into account during conviction.

As evidenced by Kentucky's history with executive reform, legislative action and constitutional change are crucial to making re-enfranchisement permanent. Several other states have made significant legislative changes to their lifetime felony disenfranchisement laws. Maryland repealed lifetime disenfranchisement in 2007, and restored voting rights to people on probation and parole in 2016. New Mexico has also abandoned lifetime disenfranchisement, restoring the right to vote to people upon completion of their sentence in 2001.<sup>10</sup>

### **Supporting Voting Rights Improves Public Safety**

Research shows that an opportunity to participate in democracy has the potential to reduce one's perceived status as an "outsider."<sup>11</sup> The act of voting can have a meaningful and sustaining positive influence on justice-impacted citizens by making them feel they belong to a community.<sup>12</sup> Having a say and a stake in the life and well-being of your community is at the heart of our democracy.

Re-enfranchisement can facilitate successful re-entry and reduce recidivism. The University of Minnesota's Christopher Uggen and New York University's Jeff Manza find that among people with a prior arrest, there are

"consistent differences between voters and non-voters in rates of subsequent arrest, incarceration, and self-reported criminal behavior."<sup>13</sup> Research also suggests having the right to vote immediately after incarceration matters for public safety. Individuals in states which continued to restrict the right to vote after incarceration were found to have a higher likelihood of experiencing a subsequent arrest compared to individuals in states who had their voting rights restored post-incarceration.<sup>14</sup> Given re-enfranchisement misinformation and obstacles facing justice-impacted citizens upon re-entry into our communities, one path to bolster public safety and promote prosocial identities is to preserve voting rights during incarceration.

Allowing people to vote, including persons completing felony sentences in prisons and jails, under community supervision for a felony conviction, and those who have completed their sentences prepares them for more successful reentry and bolsters a civic identity. By ending disenfranchisement as a consequence of incarceration, Kentucky can improve public safety while also promoting reintegrative prosocial behaviors.

### **Kentucky Can Preserve its Democracy by Restoring the Right to Vote**

Excluding an entire population of people from exercising their right to vote undermines democracy. Fran Wagner, President of the League of Women Voters Kentucky says:

The most sacred principle of democracy is that individuals be allowed to impact how they are governed by voting. The right to vote grounds all other rights, empowering citizens to become participants in government rather than mere petitioners. It should not be denied to citizens who are trying to build new, productive lives.<sup>15</sup>

While Governor Beshear's 2019 executive order was a monumental step towards re-enfranchisement, advocates in Kentucky have expressed frustration at its limited attempts to alert its citizens of their rights.<sup>16</sup> As of 2021, only 17% of Kentuckians with felony convictions

have successfully submitted a voting application—approximately 31,000 people.<sup>17</sup> Dispelling notions that people with convictions do not wish to engage in the political process, studies have found that voter turnout is greater in states that actively inform formerly incarcerated people of their rights.<sup>18</sup>

Felony disenfranchisement is the ultimate form of voter suppression, as it results in lifelong disenfranchisement that is onerous for Kentuckians to reverse. The restoration of voting rights has already become a bipartisan cause in Kentucky, with members of law enforcement, religious leaders, elected officials and civil rights groups from both sides of the aisle supporting the cause.<sup>19</sup> Across Kentucky, organizers are pushing for a constitutional amendment that would institute automatic re-enfranchisement for people who have completed their felony sentence.<sup>20</sup> Universal voting promotes fair and equal representation and establishes trust between communities and their governments. Kentucky should continue its momentum of voting rights reform to re-enfranchise its entire voting age population.

# ENDNOTES

- <sup>1</sup> Uggen, C., Larson, R., Shannon, S., & Stewart, R. (2022). *Locked out 2022: Estimates of people denied voting rights due to a felony conviction*. The Sentencing Project.
- <sup>2</sup> Uggen et al. (2022), see note 1.
- <sup>3</sup> Uggen et al. (2022), see note 1.
- <sup>4</sup> Uggen et al. (2022), see note 1.
- <sup>5</sup> U.S. Census Bureau. 2020. *Quickfacts: Kentucky*. <https://www.census.gov/quickfacts/KY>; Uggen et al. (2022), see note 1.
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- <sup>13</sup> Uggen & Manza (2004), see note 11.
- <sup>14</sup> Hamilton-Smith, G. P., & Vogel, M. (2012). The violence of voicelessness: The impact of felony disenfranchisement on recidivism. *Berkeley La Raza Law Journal*, 22, 407- 432. <https://doi.org/10.15779/Z38Z66F>
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- <sup>16</sup> Raymond, A. (2020, Sep 16). 170,000 Ex-felons can now vote in Kentucky. Who's going to tell them? *Spectrum News 1*. <https://spectrumnews1.com/ky/louisville/news/2020/09/16/registering-ex-felons-to-vote>
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