

Voting Rights in the Era of Mass Incarceration: A Primer

As of 2024, 4 million Americans were prohibited from voting due to laws that disenfranchise citizens convicted of felony offenses.¹ Voting rights vary by state, which result in a wide range of disenfranchisement policies.

The 10² most extreme states restrict voting rights for some or all individuals even after they have served their prison sentence and are no longer on probation or parole; such individuals make up 46% of the entire disenfranchised population. Only Maine, Vermont, Washington, DC, and the Commonwealth of Puerto Rico do not restrict the voting rights of anyone with a felony conviction, including those in prison.

Persons currently in prison or jail represent a minority of the total disenfranchised population. In fact, 75% of disenfranchised voters live in their communities, either under felony probation or parole supervision or having completed their sentence. An estimated 2 million people are disenfranchised due to state laws that restrict voting rights even after completion of sentences.³

Rights restoration practices vary widely across states and are subject to the turns of political climate and leadership, which has led some states to vacillate between reform and regression. In Iowa, then-Governor Vilsack issued an executive order in 2005 automatically restoring the voting rights of all persons who had completed their sentences, but this order was rescinded in 2011 by then-Governor Branstad. In 2020, Governor Reynolds signed an executive order automatically restoring voting rights to most people who have completed their sentences.⁴

In Florida, voters passed a 2018 amendment that restored the voting rights of most people who had completed their sentences. The following year, state legislators made restoration conditional on an individual's payment of all restitution, fines, and fees, meaning only people who have paid all legal financial obligations

have become eligible to vote.⁵ The Sentencing Project estimates that 730,000 people who owe legal financial obligations remain disenfranchised in the state.⁶ Voting rights advocates have called the move a “poll tax” and a “pay to vote” system.⁷

In addition to Florida, three other states (Alabama, Arizona, and Tennessee) condition eligibility for the restoration of voting rights on the repayment of some or all financial obligations. Tennessee requires that people be up to date on all child support payments in order to regain the right to vote.⁸

The denial of voting rights has a disproportionate impact on communities of color. One of every 22 Black adults is disenfranchised nationally. As of 2024, in five states – Arizona, Florida, Kentucky, South Dakota, and Tennessee – more than one in 10 Black adults are disenfranchised. In total, 1.3 million Black citizens are banned from voting. Nearly half a million Latino citizens are disenfranchised across the United States.⁹

HISTORY OF VOTING RESTRICTIONS

English colonists brought to North America the common law practice of “civil death,” a set of criminal penalties that included the revocation of voting rights. Early colonial laws limited the penalty of disenfranchisement to certain offenses related to voting or considered “egregious violations of the moral code.”¹⁰ After the American Revolution, states began codifying disenfranchisement provisions and expanding the penalty to all felony offenses.¹¹ Many states instituted felony disenfranchisement policies in the wake of the Civil War, and by 1869,

TABLE 1. Voting Restrictions in 2024

No restrictions (2)	Prison (23)	Prison, parole, & probation (15)	Prison, parole, probation, & post-sentence - some or all (10)
Maine Vermont	California Colorado Connecticut Hawaii Illinois Indiana Maryland Massachusetts Michigan Minnesota ¹ Montana Nevada New Hampshire New Jersey New Mexico ² New York North Dakota Ohio Oregon Pennsylvania Rhode Island Utah Washington ³	Alaska Arkansas Georgia Idaho Kansas Louisiana ⁴ Missouri Nebraska ⁵ North Carolina ⁶ Oklahoma South Carolina South Dakota Texas West Virginia Wisconsin	Alabama ⁷ Arizona ⁸ Delaware ⁹ Florida ¹⁰ Iowa ¹¹ Kentucky ¹² Mississippi ¹³ Tennessee ¹⁴ Virginia ¹⁵ Wyoming ¹⁶

1. Minnesota – In 2023, state lawmakers restored voting rights to persons on felony probation and parole.

2. New Mexico – In 2023, lawmakers enacted the New Mexico Voting Rights Act, House Bill 4, which included a provision automatically restoring voting rights to previously incarcerated residents following incarceration.

3. Washington – In 2021, Washington passed legislation to restore voting rights to people on probation and parole. The change took effect on January 1, 2022. Washington House Bill 1078. (2021). https://app.leg.wa.gov/bills/billssummary?_billnumber=1078&year=2021

4. Louisiana – Louisiana – In 2019, authorized voting for residents under an order of imprisonment for a felony who have not been incarcerated for five years, including those on probation and parole.

5. Nebraska – In 2024, lawmakers approved legislation which eliminated the two-year period eligible residents who complete felony sentences must wait before registering to vote. Previously, the state's two-year waiting period was passed into law in 2005, as the result of a legislative compromise to end the state's lifetime disenfranchisement law. Prior to that, a full pardon was required to get one's voting rights restored.

6. North Carolina – In 2023, a legal battle concluded when the North Carolina State Supreme Court ruled to uphold the state's disenfranchisement law.

7. Alabama - In 2016, legislation eased the rights restoration process after completion of sentence for persons not convicted of a crime of “moral turpitude.” The state codified the list of felony offenses that are ineligible for re-enfranchisement in 2017.

8. Arizona - Permanently disenfranchises persons with two or more felony convictions. In 2019, removed the requirement to pay outstanding fines before rights are automatically restored for first time felony offenses only.

9. Delaware – In 2013, removed the five-year waiting period to regain voting eligibility. Apart from some disqualifying offenses, people convicted of a felony are now eligible to vote upon completion of sentence and supervision.

10. Florida – In 2018, voters passed an amendment to restore voting rights to most people after sentence completion. In 2019, legislation was passed that made restoration conditional on payment of all restitution, fees, and fines. As of October 2020, only the rights of those who had paid all legal financial obligations (fines and fees) had been restored.

11. Iowa – In 2020, Governor Reynolds signed an executive order restoring voting rights to people who have completed their sentences, except for those convicted of homicide. This follows previous executive orders from Governor Vilsack (restoring voting rights to individuals who had completed their sentences in 2005) and Governor Branstad (reversing this executive order in 2011).

12. Kentucky – In 2019, Governor A. Beshear issued an executive order restoring voting rights to those who had completed sentences for nonviolent offenses. This follows a similar 2015 executive order by Governor S. Beshear, which had been rescinded by Governor Bevin later that year.

13. Mississippi – Permanently disenfranchises individuals convicted of certain offenses.

14. Tennessee - Disenfranchises those convicted of certain felonies since 1981, in addition to those convicted of select crimes prior to 1973. Others must apply to the Board of Probation and Parole for restoration.

15. Virginia – In 2019, Governor Northam reported that his administration has restored voting rights to 22,205 Virginians previously convicted of felonies. Governor McAuliffe had earlier restored rights to 173,166.

16. Wyoming – In 2017, restored voting rights after five years to people who complete sentences for first-time, non-violent felony convictions.

29 states had enacted such laws.¹² Political scientist Ward Elliot argues that the elimination of the property test as a voting qualification may help to explain the popularity of felony disenfranchisement policies, as they served as an alternate means for wealthy elites to constrict the political power of the lower classes.¹³

In the post-Reconstruction period, several Southern states tailored their disenfranchisement laws in order to bar Black male voters; targeting those offenses believed to be committed most frequently by the Black population.¹⁴ For example, party leaders in Mississippi called for disenfranchisement for offenses such as burglary, theft, and arson, but not for robbery or murder.¹⁵ The author of Alabama's disenfranchisement provision "estimated the crime of wife-beating alone would disqualify sixty percent of the Negroes," resulting in a policy that would disenfranchise a man for beating his wife, but not for killing her. Such policies would endure for over a century.¹⁶ Whether or not felony disenfranchisement laws today are intended to reduce the political clout of communities of color, this is their undeniable effect.

LEGAL STATUS

Disenfranchisement policies have met occasional legal challenges in the last century. In *Richardson v. Ramirez*, 418 U.S. 24 (1974), three men from California who had served time for felony convictions sued for their right to vote, arguing that the state's felony disenfranchisement policies denied them the right to equal protection of the laws under the U.S. Constitution. Under Section 1 of the Fourteenth Amendment, a state cannot restrict voting rights unless it shows a compelling state interest. Nevertheless, the U.S. Supreme Court upheld California's felony disenfranchisement policies as constitutional, finding that Section 2 of the Fourteenth Amendment allows the denial of voting rights "for participation in rebellion, or other crime." In the majority opinion, Justice Rehnquist found that Section 2 – which was arguably intended to protect the voting rights of freed slaves by sanctioning states that disenfranchised them – exempts from sanction disenfranchisement based on a felony conviction. By this logic, the Equal Protection Clause in the previous section could not have been intended to

prohibit such disenfranchisement policies.

Critics argue that the language of the Fourteenth Amendment does not indicate that the exemptions established in Section 2 should prohibit the application of the Equal Protection Clause to voting rights cases.¹⁷ Moreover, some contend that the Court's interpretation of the Equal Protection Clause in *Richardson* is inconsistent with its previous decisions on citizenship and voting rights, in which the Court has found that the scope of the Equal Protection Clause "is not bound to the political theories of a particular era but draws much of its substance from changing social norms and evolving conceptions of equality."¹⁸ Therefore, even if the framers of the Fourteenth Amendment seemingly accepted felony disenfranchisement, our interpretation of the Equal Protection Clause today should allow for the ways in which our concept of equality may have evolved since 1868.

GROWTH AND DECLINE OF THE DISENFRANCHISED POPULATION

As states began expanding voting rights in the civil rights era, the disenfranchisement rate dropped between 1960 and 1976. Although reform efforts have been substantial in recent years, the number of people disenfranchised because of a felony conviction increased dramatically, rising from 1.17 million in 1976 to 6.1 million by 2016, just as mass incarceration and criminalization took hold in the United States.

Recent state voter restoration reforms have led to a 31% decline in the number of people disenfranchised since 2016, with 4 million people disenfranchised in 2024. Some jurisdictions have even begun to address voting in prison. In 2020, Washington, DC became the first jurisdiction to restore voting rights for people in prison and state lawmakers across the country have considered similar legislation.¹⁹ In order to strengthen democracy and address significant racial disparities, The Sentencing Project supports expanding voting rights to all persons otherwise eligible to vote completing their sentence inside and outside of prisons and jails.²⁰

POLICY REFORMS IN RECENT YEARS

Public opinion surveys report that a clear majority of U.S. residents support voting rights for citizens who have completed their sentence. Public opinion polls show that a majority – 56% of likely American voters – support voting rights for people completing their sentence inside and outside of prison.²¹ In recent years, heightened public awareness of voting restrictions has resulted in successful state-level reform efforts, from legislative changes expanding voting rights to grassroots voter registration initiatives targeting individuals with felony convictions. Between 1997 and 2023, 26 states and Washington, DC expanded voter eligibility and/or informed persons with felony convictions of their voting rights either through legislative or executive action. As a result, over 2 million Americans have regained the right to vote.²² Among these:

- Eighteen states and Washington, DC enacted voting rights reforms between 2016 and 2023, either through legislation or executive action.
- Ten states either repealed or amended lifetime disenfranchisement laws since 1997.
- Twelve states have expanded voting rights to some or all persons on probation and/or parole since 1997.
- In 2020, Washington, DC became the first jurisdiction in the country to restore voting rights for people in prison.

DISENFRANCHISEMENT IN AN INTERNATIONAL CONTEXT

Although they are rooted in the “civil death” tradition of medieval Europe, disenfranchisement policies in the United States today are exceptional in their severity and the restriction of the voting rights of people who have completed their prison terms or were never incarcerated at all.²³ While in the United States, only Maine, Vermont, the District of Columbia, and Puerto Rico allow citizens to vote from prison, the European Court of Human Rights determined in 2005 that a blanket ban on voting from prison violates the European Convention on Human Rights, which guarantees the right to free and fair elections.²⁴ Indeed, almost half of European countries allow all incarcerated individuals to vote, facilitating voting within the prison or by absentee ballot.²⁵ In Canada, Israel, and South Africa, constitutional courts have ruled that any conviction-based restriction of voting rights is unconstitutional.

IMPACT OF VOTING RESTRICTIONS

Research suggests that restoring voting rights to people impacted by the criminal legal system could aid their transition back into community life. The revocation of voting rights for people with felony convictions compounds isolation from communities, even though civic participation has been linked with lower recidivism rates. In one study, among individuals who had been arrested previously, 27% of non-voters were rearrested, compared with 12% of voters.²⁶ Although the limitations of the data available preclude proof of direct causation, it is clear that voting is among several prosocial behaviors for justice impacted persons, like getting a college education, that is associated with reduced criminal conduct.²⁷ Having the right to vote or voting is related to reduced recidivism for persons with a criminal legal history.²⁸

CONCLUSION

The dramatic growth of the U.S. prison population and the corresponding reach of the criminal legal system over the last 40 years has led to high levels of disenfranchisement unparalleled among democratic nations. Nationwide, these policies disenfranchised 4 million adults in 2024. Disenfranchisement policies vary widely by state, ranging from no restrictions on voting to a lifetime ban upon conviction. Voting rights restrictions have potentially affected the outcomes of U.S. elections, particularly as disenfranchisement policies disproportionately impact people of color. Nationwide, as of 2024, one in every 22 Black adults could not vote as the result of a felony conviction, and in five states more than one in ten Black adults was disenfranchised.²⁹ Felony disenfranchisement laws remain a serious structural barrier to racial justice in this country.

Denying the right to vote to an entire class of citizens is deeply problematic, undemocratic, and counterproductive to effective reentry. Fortunately, many states are reconsidering their archaic disenfranchisement policies, with more than half the states and the District of Columbia enacting reforms since 1997. But there is still much to be done before the United States will resemble comparable nations in allowing, honoring and promoting the full democratic participation of its citizens.

State	Change
Alabama	Streamlined restoration process (2003); established list of felony offenses that result in loss of voting rights (2017)
California	Restored voting rights to people on community supervision under Realignment (2014); restored voting rights to people convicted of a felony offense housed in jail, but not in prison (2016); expanded voting rights to persons on parole (2021).
Colorado	Authorized persons on parole to pre-register to vote prior to completing their sentence (2018); expanded voting rights to persons on parole (2019).
Connecticut	Restored voting rights to persons on felony probation (2001); repealed requirement to present proof of restoration in order to register (2006); expanded voting rights to persons on parole (2021).
Delaware	Repealed lifetime disenfranchisement and replaced with five-year waiting period for most offenses (2000); repealed five-year waiting period for most offenses (2016).
District of Columbia	Expanded voting rights to incarcerated persons with a felony conviction (2020).
Florida	Simplified clemency process (2004, 2007); adopted requirement for county jail officials to assist with restoration (2006); reversed modification in clemency process (2011); ended lifetime disenfranchisement.
Georgia	The Secretary of State clarified that anyone who has completed their sentence, even if they owe outstanding monetary debt, can vote (2020).
Hawaii	Codified data sharing procedures for removal and restoration process (2006).
Iowa	Restored voting rights post-sentence via executive order (2005); rescinded executive order (2011); simplified application process (2016); restored voting rights post-sentence via executive order (2020).
Kentucky	Simplified restoration process (2001, 2008); restricted restoration process (2004, amended in 2008); restored voting rights post-sentence for nonviolent felony convictions via executive order (2015); rescinded executive order (2015); restored voting rights post-sentence via executive order to persons with non-violent offenses (2019).
Louisiana	Established notification of rights restoration process (2008); authorized voting for residents who have not been incarcerated for five years including those on probation or parole (2017).
Maryland	Repealed lifetime disenfranchisement (2002 & 2007); restored voting rights to persons on felony probation and parole (2016).
Minnesota	Restored voting rights to persons on felony probation and parole (2023).
Nebraska	Eliminated the two-year period eligible residents who complete felony sentences must wait before registering to vote (2024). Repealed lifetime disenfranchisement, replaced with two-year waiting period (2005).
Nevada	Repealed five-year waiting period to restore rights (2001), restored voting rights to persons convicted of first-time nonviolent offense (2003), restored voting rights to people dishonorably discharged from felony probation or parole, allowed people convicted of category B offenses to have their rights restored after two-year waiting period (2017); restored voting rights to persons on felony probation or parole (2019).
New Jersey	Established procedures requiring state criminal justice agencies to notify persons of their voting rights when released (2010); expanded voting rights to people on felony probation and parole (2019).
New Mexico	Repealed lifetime disenfranchisement (2001); streamlined restoration process and established notification system (2005); expanded voting rights to people on felony probation and parole (2023).
New York	Required criminal justice agencies to provide voting rights information to persons who are again eligible to vote after a felony conviction (2010); restored voting rights to persons on parole via executive order (2018); legislature codified voting rights restoration for persons on parole (2021).

State	Change
North Carolina	Established process to notify people of their voting rights (2007); Lawsuit was filed challenging the constitutionality of North Carolina's felony disenfranchisement law, arguing that the law, which disproportionately impacts Black residents, restricts people from voting "based on impermissible race and class-based classifications." (2019); Following a series of court rulings, people who were not serving felony sentences in jail or prison were authorized to vote through 2023; the legal battle concluded when the North Carolina State Supreme Court ruled to uphold the state's disenfranchisement law (2023).
Rhode Island	Restored voting rights to persons on probation and parole (2006)
Tennessee	Streamlined restoration process for most persons upon completion of sentence (2006)
Texas	Repealed two-year waiting period after completion of sentence (1997)
Utah	Clarified state law pertaining to federal and out-of-state convictions (2006)
Virginia	Established notification of rights and restoration process (2000); streamlined restoration process (2002); decreased waiting period for nonviolent offenses from three years to two years and established a 60-day deadline to process voting rights restoration applications (2010); eliminated waiting period and application for nonviolent offenses (2013); restored voting rights post-sentence via executive order (2016); expanded rights restoration to post-incarceration via executive order (2020); scaled back rights restoration provision to post-sentence (2023).
Washington	Restored voting rights for citizens who exit the criminal justice system but still have outstanding financial obligations (2009); restored voting rights after incarceration (2021).
Wyoming	Allowed persons convicted of first-time nonviolent offenses to apply for rights restoration after five year waiting period (2003); removed application process and waiting period for people convicted of first-time nonviolent offenses (2015); automatically restored voting rights to people convicted of all nonviolent offenses (2017)

ENDNOTES

¹ Chris Uggen, Ryan Larson, Sarah Shannon, and Robert Stewart. 2024. “Locked Out 2024: Four Million Denied Voting Rights Due to a Felony Conviction.” Washington: Sentencing Project. <https://www.sentencingproject.org/reports/locked-out-2024-four-million-denied-voting-rights-due-to-a-felony-conviction/>

² This excludes data from Mississippi.; NOTE ON MISSISSIPPI: The Sentencing Project retracts all Mississippi estimates regarding disenfranchisement by reason of criminal conviction, as these estimates were calculated assuming that all felonies in Mississippi are disenfranchising, when in fact, only a subset of felonies that appear on an enumerated list should be considered in this calculation. The actual size of Mississippi’s disenfranchised population is significantly smaller than we estimated; we will publish corrected estimates in our 2024 report. The Sentencing Project does not retract its conclusion that Black Mississippians continue to be disproportionately impacted by Mississippi’s disenfranchisement scheme.

³ Uggen, C., Larson, R., Shannon, S., & Stewart, R. (2024), see note i.

⁴ Sostaric, K. (2020, August 5). *Governor acts to restore voting rights to Iowans with felony convictions*. NPR. <https://www.npr.org/2020/08/05/899284703/governor-acts-to-restore-voting-rights-to-iowans-with-past-felony-convictions?e-Type=EmailBlastContent&eId=e2f996b9-6c74-4bd4-9946-854c9813783f>

⁵ Uggen, C., Larson, R., Shannon, S., & Stewart, R. (2024), see note i.; Florida Senate Bill 7066, (2019). <https://www.flsenate.gov/Session/Bill/2019/07066>

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⁹ Uggen, C., Larson, R., Shannon, S., & Stewart, R. (2024), see note i.

¹⁰ Ewald, A. (2002). “Civil death”: The ideological paradox of criminal disenfranchisement law in the United States. *Wisconsin Law Review*, 2002(5), 1045-1137.

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¹² Shapiro, D. (1976). Mr. Justice Rehnquist: A preliminary view. *Harvard Law Review*, 90(2), 335

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¹⁴ Holloway, P. (2009). ‘A chicken-stealer shall lose his vote’: Disenfranchisement for larceny in the South, 1874-1890. *Journal of Southern History*, 75(4), 931-962.

¹⁵ Mauer, M. (2002). Mass imprisonment and the disappearing voters. In Mauer, M. & Chesney-Lind, M. (Eds.), *Invisible punishment: The collateral consequences of mass imprisonment* (pp. 50-58). The New Press.

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¹⁷ Shapiro, D. (1976). Mr. Justice Rehnquist: A preliminary view. *Harvard Law Review*, 90(2), 335.

¹⁸ Tribe, L. (1988). *American constitutional law* (2nd ed.). Foundation Press.

¹⁹ D.C. Law 23-277. Restore the Vote Amendment Act of 2020. (2020). <https://code.dccouncil.us/dc/council/laws/23-277.html>; Oregon House Bill 2366. (2021). <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB2366>

²⁰ Muhitch, K. & Ghandnoosh, N. (2021). Expanding voting rights to all citizens in the era of mass incarceration. The Sentencing Project. <https://www.sentencingproject.org/publications/expanding-voting-rights-to-all-citizens-in-the-era-of-mass-incarceration/>

²¹ The Sentencing Project. (2022). New National Poll shows Majority Favor Guaranteed Right to Vote for All. <https://www.sentencingproject.org/fact-sheet/new-national-poll-shows-majority-favor-guaranteed-right-to-vote-for-all/>

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see note 1.

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The Sentencing Project promotes effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice.

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