



CIVIL RIGHTS CLINIC  
GEORGETOWN LAW

# Can't Pay, Can't Vote:

A NATIONAL SURVEY  
ON THE MODERN POLL TAX



Automatic  
door

Automatic  
door

# POLLING STATION

## OPENING TIMES

**7.00am–10.00pm**

Note that as long as you are in the polling station, or in a queue outside, before 10.00pm you will be entitled to apply for a ballot

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# Executive Summary

Poll taxes, or taxes imposed on otherwise eligible voters as a condition of voting, were abolished across the country during the 1960s, with the ratification of the Twenty-Fourth Amendment and the U.S. Supreme Court's holding in *Harper v. Virginia State Board of Education* that wealth is not germane to voting. Since then, however, felony disenfranchisement statutes, mass incarceration, and the monetization of the carceral state have combined to create a modern-day equivalent to the poll tax—one that is imposed only on those individuals caught up in the criminal justice system. Nearly six million individuals are denied the right to vote in the United States due to a past conviction, and, for many of those individuals, the ability to vote is contingent upon

their ability to pay an increasing number of fines, fees, court costs, and restitution.

All but two states<sup>1</sup> have laws in place that disenfranchise citizens who are convicted of certain crimes. In a growing number of states, voting rights are restored automatically when an individual is released from incarceration, regardless of any outstanding legal debt. But, the majority of states condition rights restoration, either explicitly or implicitly, on the payment of legal financial obligations. As a result, whether an individual is able to vote after being convicted of a crime depends on his or her ability to pay off outstanding legal debt. For many individuals, it may take years to pay off legal debt, extending

<sup>1</sup> As this report was being published, lawmakers in the District of Columbia announced they would introduce a bill to repeal D.C.'s felony disenfranchisement laws. If passed, D.C. would join Maine and Vermont as the third jurisdiction in the country to allow people to vote regardless of any conviction. See Fenit Nirappil, *Felons from D.C. Could Be Able to Vote from Prison Under Proposed Bill*, WASH. POST (June 3, 2019), [https://www.washingtonpost.com/local/dc-politics/incarcerated-prisoners-from-dc-could-have-their-voting-rights-restored/2019/06/02/2194847a-854e-11e9-98c1-e945ae5db8fb\\_story.html](https://www.washingtonpost.com/local/dc-politics/incarcerated-prisoners-from-dc-could-have-their-voting-rights-restored/2019/06/02/2194847a-854e-11e9-98c1-e945ae5db8fb_story.html).

the period of disenfranchisement long past the person's release from incarceration. And, for individuals whose economic circumstances preclude them from paying off their fines and fees, disenfranchisement is permanent.

This report provides one of the first comprehensive studies of how voting rights restoration schemes deny the right to vote to those who cannot afford to pay legal debt. It finds that at least 30 states continue to disenfranchise some of their citizens based on wealth.

Well over half of the disenfranchised population in the United States is no longer incarcerated but is living in a state that could deny them their right to vote based on their ability to pay legal debt.<sup>2</sup>

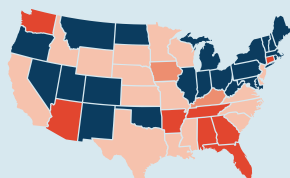
These policies impose a modern-day poll tax on individuals with past convictions: but for their inability to pay, otherwise eligible individuals are denied the right to vote. As they currently exist, anemic, limited, and confusing waiver processes do not provide an effective avenue for

indigent voters to regain their right to vote. Given the skyrocketing amount of legal financial obligations imposed on individuals caught up in the criminal justice system, substantial reforms are necessary to create a more equitable and representative democracy.

To ensure legal debt does not disenfranchise American citizens, states should adopt policies that either eliminate felony disenfranchisement entirely or restore the right to vote upon release from incarceration.

**Any policy that restricts access to the right to vote based on completion of parole or probation risks wealth-based disenfranchisement absent sufficient safeguards to ensure that legal debt does not prolong supervised release.**

2 See Appendix, Table 3.

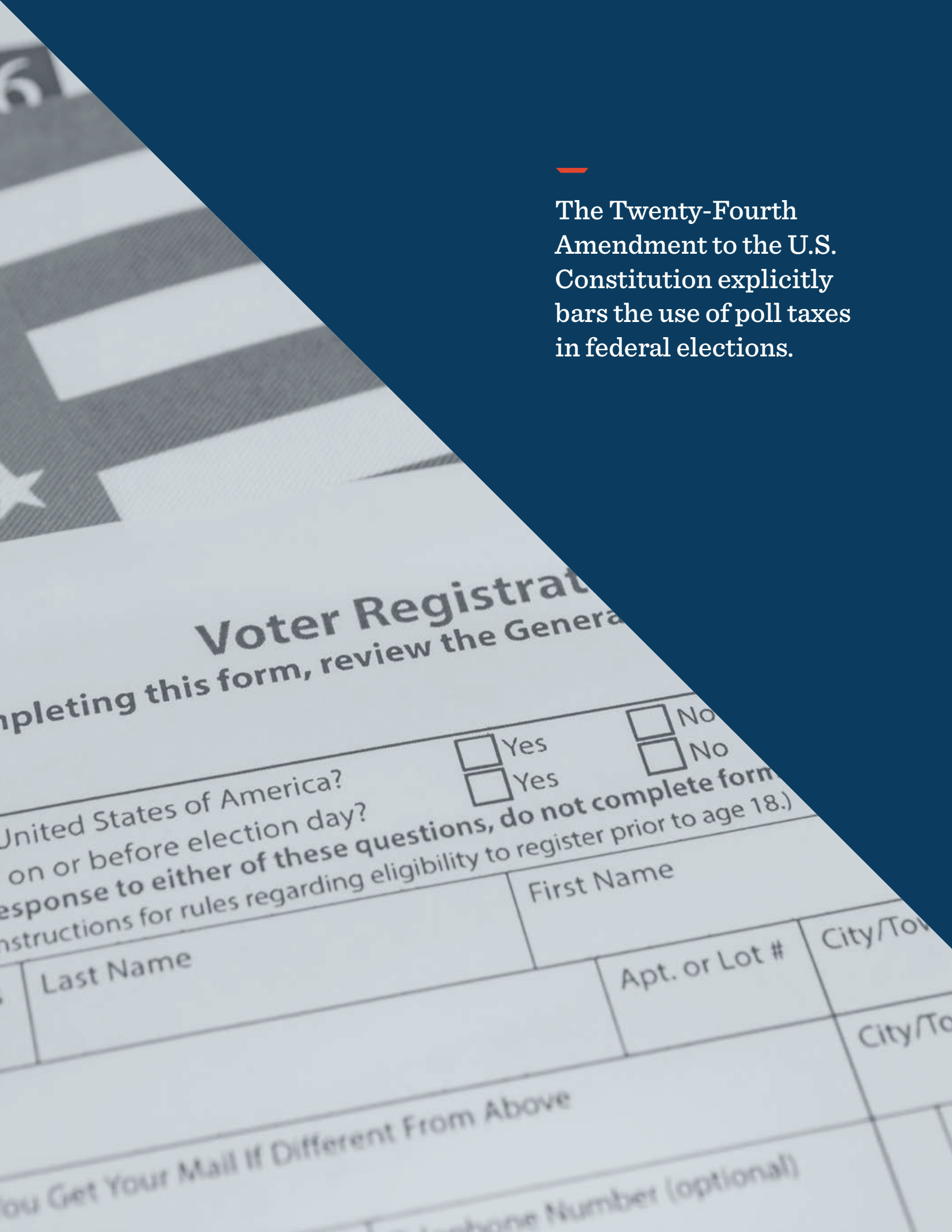


In 2019, at least  
**30 STATES**  
continue to  
disenfranchise some  
of their citizens  
based on wealth:

**8 STATES** include explicit payment requirements within their election laws

**2 STATES** retain permanent disenfranchisement laws and require payment of legal debt for clemency eligibility.

**20 STATES** require completion of parole and/or probation for voting rights restoration and payment of legal debt is included as a condition of parole or probation.



The Twenty-Fourth Amendment to the U.S. Constitution explicitly bars the use of poll taxes in federal elections.

## Voter Registration

Completing this form, review the General

United States of America?

☐ Yes  
☐ Yes

☐ No  
☐ No

on or before election day?  
response to either of these questions, do not complete form

Instructions for rules regarding eligibility to register prior to age 18.)

Last Name

First Name

Apt. or Lot #

City/Town

City/Town

Do You Get Your Mail If Different From Above

Telephone Number (optional)



# Introduction

The Twenty-Fourth and Fourteenth Amendments to the U.S. Constitution bar the use of poll taxes in voting. Despite this prohibition, states that disenfranchise individuals with felony convictions often condition the restoration of voting rights on payment of various fines, fees, and other legal financial obligations. As criminal codes expand and rates of incarceration have swelled, millions of citizens have lost their right to vote due to felony disenfranchisement provisions. For far too many of these individuals, access to the ballot depends on whether they have the resources to pay their fines and fees.

**In short, the rise in criminal disenfranchisement has provided states with a new way to disenfranchise citizens on the basis of wealth.**

Felony disenfranchisement laws vary from state to state, but every state except for Vermont and Maine revokes the franchise as punishment for the commission of certain felony crimes, at least during incarceration. Provisions for re-enfranchisement vary across states as well. A growing number of states provide for restoration

of voting rights at the time a person leaves prison. In many states, however, the restoration of voting rights hinges either explicitly or implicitly on the payment of fines and fees. This practice imposes a modern poll tax as a precondition of voting on those who interact with the criminal justice system. As the number of felony convictions and the rate of incarceration have swelled, millions of citizens' access to the franchise has been jeopardized because the ability to cast a ballot depends on whether they can pay their fines and fees.

Given the well-documented racial disparities within the criminal justice system, these modern poll taxes—like poll taxes in the pre-Civil Rights era—are imposed disproportionately on people of color. They also have a disproportionate impact on the poor. Not only does living in poverty dramatically increase an individual's risk of incarceration,<sup>3</sup> and therefore, disenfranchisement, but a prior criminal conviction can often limit opportunities for employment and increase the risk of living in poverty post-incarceration.<sup>4</sup> Faced with limited economic resources and opportunities, formerly incarcerated individuals often struggle to keep up with, much less pay entirely, legal financial obligations resulting from their past convictions.

3 Bernadette Rabuy & Daniel Kopf, *Prisons of Poverty*, PRISON POL'Y INITIATIVE (July 9, 2015), <https://www.prisonpolicy.org/reports/income.html> (last visited June 5, 2019).

4 Adam Looney & Nicholas Turner, *Work and Opportunity Before and After Incarceration*, BROOKINGS INST. (2018), [https://www.brookings.edu/wp-content/uploads/2018/03/es\\_20180314\\_looneyincarceration\\_final.pdf](https://www.brookings.edu/wp-content/uploads/2018/03/es_20180314_looneyincarceration_final.pdf); Devah Pager, *The Mark of a Criminal Record*, 108 AM. J. SOCIOLOGY. 937, 960 (2003).

Individuals with prior convictions can be barred from the polls for life if unable to pay the amount required to regain their right to vote.

Through our Restore Your Vote campaign, CLC has worked closely with dozens of individuals who have been turned away from the polls because they do not have the wealth to buy back their right to vote.

These are some of their stories.



## Bonnie Raysor

Bonnie Raysor is 58 years old, and a resident of Boynton Beach, Florida.<sup>5</sup> She has lived in Florida since she was 17 years old. After becoming addicted to opioids, Ms. Raysor was convicted in October 2010 on six felony drug-related charges. She was sentenced to and served eighteen months in prison. Ms. Raysor now works as an office manager, making thirteen dollars per hour. She has mortgage and car payments. She also supports her 19-year-old daughter, who is a full-time student.

Voting is very important to Ms. Raysor, and she was thrilled when Florida passed Amendment 4 in 2018 because she believed it would restore her voting rights. But Ms. Raysor has \$4,260 in outstanding fines and fees, and under a newly enacted Florida law, she is unable to register to vote until she pays off that balance.

**Ms. Raysor pays thirty dollars per month on a court-ordered payment plan based on her current ability to pay. Under this payment plan, Ms. Raysor will not be able to vote until**

**2031.**

<sup>5</sup> Bonnie Raysor, *Opinion: Florida Is Trying to Silence Me With a Poll Tax*, TAMPA BAY TIMES (May 6, 2019), <https://www.tampabay.com/opinion/columns/column-florida-is-trying-to-silence-me-with-a-poll-tax-20190506/>.



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## Edna Kathleen Lewis

Edna Kathleen Lewis lives in her home state of Florida with her husband, a disabled veteran. Despite completing her probation following a sentence for identity theft and theft of property, Ms. Lewis is unable to vote because she has outstanding fines and fees related to her conviction. Now 60 and living on Social Security disability benefits, Ms. Lewis pays approximately \$126 a month toward her fines and fees balance and has done so for more than four years without once missing a payment.

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**At that rate, Kathleen will be 95 years old before she pays off her fines to be eligible to vote again.**

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## Restore Your Vote

In collaboration with the Alabama Voting Rights Project,<sup>6</sup> Restore Your Vote organizers also assisted a resident of Baldwin County, Alabama. She was charged with and pled guilty to two counts of theft of property because she failed to report her ex-partner's income on her application for the Supplemental Nutrition Assistance Program (SNAP). He used to stay at her residence, and she did not realize that he had stayed at her home often enough to trigger a reporting requirement. She now owes a total of \$19,205.90 in debt related to her conviction.

Her failure to list her ex-partner's income on her SNAP application cost her the right to vote. She has described receiving the letter from the Baldwin County Board of registrars—informing her that she could not register to vote—as the

most hurtful consequence of her conviction. She has had trouble securing employment with a theft conviction on her record, making it even more difficult to pay her legal financial obligations.

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**Unless she can find a way to pay off the**  
**\$19,205.90**  
**she owes to the state,**  
**she will not be able to vote again.**

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## Treva Thompson

Treva Thompson is a resident of Huntsville, Alabama.<sup>7</sup> In 2005, she got in the only legal trouble of her life when she confessed to her supervisor after committing a theft. She was convicted of a single count of a theft crime related to her prior employment. She never served time in prison for this single non-violent felony conviction. Nonetheless, Ms. Thompson cannot vote because she owes \$44,000 in restitution. She makes ten dollars per hour and struggles to pay even fifty dollars per month toward the balance. At this rate, it will take her seventy-four years to pay off her restitution and be able to vote again.

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**Ms. Thompson has grandchildren, nieces, and nephews, and wants to be able to have a say in our electoral process—to speak for her own and her family's interests.**

She believes it is wrong to be denied the right to vote simply because she cannot pay. She is the lead plaintiff in a lawsuit against Alabama challenging this requirement.<sup>8</sup>

6 For more information on the Alabama Voting Rights Project, please visit <https://www.alabamavotingrights.com/>.

7 Hear Ms. Thompson's story in her own words in *Uncounted*, CAMPAIGN LEGAL CTR. (Nov. 29, 2017), <https://youtu.be/MooNBLuN-no>.

8 *Thompson v. Alabama*, No. 2:16-cv-783-WKW (M.D. Ala. filed Sept. 16, 2016).

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## Alfonzo Tucker Jr.

Alfonzo Tucker Jr. of Tuscaloosa, Alabama remembers how excited he was to cast his ballot in the 2008 and 2012 elections.<sup>9</sup> After the 2012 election, however, Mr. Tucker received a letter informing him that the state had purged him from the voter rolls because of a disqualifying conviction from 1992. At the time of his conviction, Mr. Tucker was assessed \$1,515 in fines and fees. He signed up for a payment plan and paid \$1,511 towards his fines and fees. But because he failed to pay just four dollars of the total amount, the state imposed a late fee of \$135.



When Mr. Tucker applied for voting rights restoration, he was informed he could not regain his right to vote until he paid the full amount owed. Under Alabama law, however, late fees do not render a person ineligible for rights restoration. Mr. Tucker should have been only required to pay the four dollars remaining from his original fines and fees to be eligible for rights restoration.

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**In other words, Mr. Tucker was disenfranchised in the 2018 midterm and prior elections because of *four dollars*, while thinking—due to misinformation—that he had to pay the late fee as well.**

With the assistance of the Alabama Voting Rights Project, Mr. Tucker has paid his four dollars, received his Certificate of Eligibility to Register to Vote, and registered to vote.

<sup>9</sup> Alfonso Tucker, *Alabama Took My Voting Rights Away for Owing 4 Dollars*, CAMPAIGN LEGAL CTR. (Apr. 5, 2019), <https://campaignlegal.org/story/alabama-took-my-voting-rights-away-owing-4-dollars>.

For far too many individuals, access to the ballot depends on whether they have the resources to pay their fines and fees.





Poll taxes emerged to prevent African Americans from voting and also disenfranchised poor whites, Native Americans, and other marginalized groups.

# Part I: History & Context

## A. Poll Taxes

Poll taxes emerged during the Jim Crow Era to prevent African Americans from voting.<sup>10</sup> Although the goal was to create hurdles for African American voters, poll taxes also disenfranchised poor whites, Native Americans, and other marginalized groups, concentrating political power in the hands of a white, wealthy, property-owning elite.<sup>11</sup> Beginning with Tennessee in 1870, several southern states adopted laws or amended their constitutions to require citizens to pay a tax to be eligible to vote.<sup>12</sup> These provisions often included a “grandfather clause” waiving the tax for men whose ancestors had voted prior to the Civil War.<sup>13</sup> Although grandfather clauses exempted some poor whites from the tax, they expressly excluded African

Americans, whose ancestors were slaves and ineligible to vote before the passage of the Fifteenth Amendment.<sup>14</sup> While the poll tax was most common in the South, it was also deployed in other states, including California, Pennsylvania, and Massachusetts.<sup>15</sup>

The U.S. Supreme Court first heard a challenge to poll taxes in 1937.<sup>16</sup> A white male citizen in Georgia brought suit after he was not allowed to register to vote for declining to pay the tax.<sup>17</sup> In *Breedlove v. Suttles*, the U.S. Supreme Court upheld the payment of poll taxes as a prerequisite of voting, finding that poll taxes did not “deny any privilege or immunity protected by the Fourteenth Amendment.”<sup>18</sup> Rather, the Court viewed poll taxes as “familiar and reasonable

10 Kelly Phillips Erb, *For Election Day, A History of the Poll Tax in America*, FORBES (Nov. 5, 2018), <https://www.forbes.com/sites/kellyphillips/2018/11/05/just-before-the-elections-a-history-of-the-poll-tax-in-america/#23dd12194e44>.

11 *Id.*; see also ALEXANDER KEYSSAR, *THE RIGHT TO VOTE: THE CONTESTED HISTORY OF DEMOCRACY IN THE UNITED STATES* (Basic Books rev. ed. 2009).

12 David Schultz & Sarah Clark, *Wealth v. Democracy: The Unfulfilled Promise of the Twenty-Fourth Amendment*, 29 QUINNIPIAC L. REV. 375, 388-89 (2011).

13 Keyssar, *supra* note 11, at 90.

14 *Id.*

15 CAL. CONST. art. XIII, § 12 (repealed 1946) (“The Legislature shall provide for the levy and collection of an annual poll tax of not less than two dollars on every male inhabitant of this State, over twenty-one and under sixty years of age, except paupers, idiots, insane persons, and Indians not taxed.”); George G. Sause, Jr., & George H. Sause, Jr., *Municipal Poll Taxes in Pennsylvania*, 8 NAT’L TAX J. 400 (Dec. 1955) (describing the use of municipal poll taxes in Pennsylvania); Charles T. Bullock, *The Taxation of Property and Income in Massachusetts*, 31 Q. J. ECON. 1 (Nov. 1916) (describing the colonial roots of the poll tax in Massachusetts).

16 *Breedlove v. Suttles*, 302 U.S. 277 (1937).

17 *Id.*

18 *Id.* at 283.

Because “[w]ealth, like race, creed, or color, is not germane to one’s ability to participate intelligently in the electoral process,” the Court found that poll taxes constitute invidious discrimination against individuals based on socioeconomic status.

citizens to pay to vote in state elections until 1966.<sup>23</sup> In *Harper v. Virginia State Board of Elections*, however, the U.S. Supreme Court held that the use of poll taxes in state elections violated the Fourteenth Amendment.<sup>24</sup> Because “[w]ealth, like race, creed, or color, is not germane to one’s ability to participate intelligently in the electoral process,” the Court found that poll taxes constitute invidious discrimination against individuals based on socioeconomic status.<sup>25</sup> The Court explicitly overruled *Breedlove*, holding that “once the franchise [has been] granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause.”<sup>26</sup> Nonetheless, many modern-day barriers to voting, including voter ID requirements<sup>27</sup> and long lines on Election Day,<sup>28</sup> impose disparate burdens on voters’ right to vote based on socioeconomic status.

## B. Felony Disenfranchisement and Voting Rights Restoration

regulation[s] long enforced in many states.”<sup>19</sup> Georgia abolished its poll tax in 1945,<sup>20</sup> but *Breedlove* remained good law until it was overturned in 1966.<sup>21</sup>

Poll taxes were abolished nationwide in the 1960s, during the height of the Civil Rights Movement. The Twenty-Fourth Amendment, ratified in 1964, prohibited the use of poll taxes in federal elections.<sup>22</sup> Five states continued to require

Like poll taxes, felony disenfranchisement predates the Civil War, but its post-war history is inextricably linked to slavery and enduring discrimination against African Americans. Felony disenfranchisement in the United States began when Kentucky ratified its constitution in 1792.<sup>29</sup> However, disenfranchisement laws in the United States became widespread during the height of the Jim Crow Era, alongside other legal barriers to voting such as literacy tests (and, of course,

19 *Id.*

20 PATRICK NOTVOTNY, *THIS GEORGIA* 150 (2007).

21 See *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 669 (1966).

22 U.S. CONST. amend. XXIV, § 1. The Amendment guarantees that the right to vote in federal elections “shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.”

23 *Harper*, 383 U.S. at 668.

24 *Id.* at 666.

25 *Id.* at 668.

26 *Id.* at 665, 669.

27 Sari Hortwitz, *Getting a Photo ID So You Can Vote Is Easy. Unless You’re Poor, Black, Latino, or Elderly.*, WASH. POST (Mar. 23, 2016), [https://www.washingtonpost.com/politics/courts\\_law/getting-a-photo-id-so-you-can-vote-is-easy-unless-youre-poor-black-latino-or-elderly/2016/05/23/8d5474ec-20f0-11e6-8690-f14ca9de2972\\_story.html?utm\\_term=.70a81fc982c9](https://www.washingtonpost.com/politics/courts_law/getting-a-photo-id-so-you-can-vote-is-easy-unless-youre-poor-black-latino-or-elderly/2016/05/23/8d5474ec-20f0-11e6-8690-f14ca9de2972_story.html?utm_term=.70a81fc982c9).

28 Danielle Root & Adam Barclay, *Voter Suppression During the 2018 Midterm Elections*, CTR. FOR AM. PROGRESS (Nov. 20, 2018), <https://www.americanprogress.org/issues/democracy/reports/2018/11/20/461296/voter-suppression-2018-midterm-elections/>.

29 Ari Berman, *Kentucky Restores Voting Rights for Thousands of Ex-Felons*, THE NATION (Nov. 24, 2015), <https://www.thenation.com/article/kentucky-restores-voting-rights-for-thousands-of-ex-felons/>.



poll taxes).<sup>30</sup> During this period, states in the deep South adopted harsh penal codes, often referred to as “Black Codes,” which specifically targeted African Americans.<sup>31</sup> The purpose of the Black Codes was twofold—first, to create a new source of slave labor through the system of convict leasing,<sup>32</sup> and second, to disenfranchise African Americans who had won the right to vote with the ratification of the Fifteenth Amendment.<sup>33</sup> The Black Codes, in conjunction with Jim Crow laws, were incredibly effective, barring a large percentage of African Americans from voting.<sup>34</sup> Though much of the focus on felony disenfranchisement and its relation to race centers on the deep South, states across the country adopted felony disenfranchisement statutes during this era.<sup>35</sup>

Although the Civil Rights Movement was successful in eliminating many historical barriers to voting for African Americans and other minority groups, felony disenfranchisement escaped unscathed. Unlike many other forms of disenfranchisement, the landmark Voting Rights Act of 1965 did not explicitly prohibit felony disenfranchisement.<sup>36</sup> And in 1974, the U.S. Supreme Court held in *Richardson v. Ramirez* that the Equal Protection Clause of the Fourteenth Amendment does not prohibit felony disenfranchisement because a later clause in the same Amendment references the possibility of disenfranchisement for participation in “rebellion or other crime.”<sup>37</sup> And as of yet, no court has struck down a felony disenfranchisement scheme on the basis of Section 2 of the Voting Rights Act,

**Although the Civil Rights Movement was successful in eliminating many historical barriers to voting for African Americans and other minority groups, felony disenfranchisement escaped unscathed.**

30 Andrew L. Shapiro, *Challenging Criminal Disenfranchisement Under the Voting Rights Act: A New Strategy*, 103 YALE L.J. 537, 537 (1993).

31 In the aftermath of the Civil War, the South used the Black Codes as a means to incarcerate African Americans in large numbers. As prisoners, African Americans were then “leased” by the state during their sentence to southern companies for forced labor. In this manner, the South was able—in part—to replicate the systems of de jure slavery that preceded the Civil War. See generally DOUGLAS A. BLACKMON, *SLAVERY BY ANOTHER NAME* (2008).

32 *Id.*

33 See Shapiro, *supra* note 30.

34 See Shapiro, *supra* note 30, at 538.

35 See *Historical Timeline: US History of Felony Voting/Disenfranchisement*, PROCON.ORG (June 25, 2013), <https://felonvoting.procon.org/view.timeline.php?timelineID=000016> (last visited June 5, 2019).

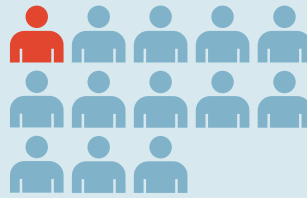
36 See, e.g., *Hayden v. Pataki*, 449 F.3d 305 (2d Cir. 2006), *Farrakhan v. Gregoire*, 623 F.3d 990 (9th Cir. 2010).

37 418 U.S. 24 (1974).

As of 2016,

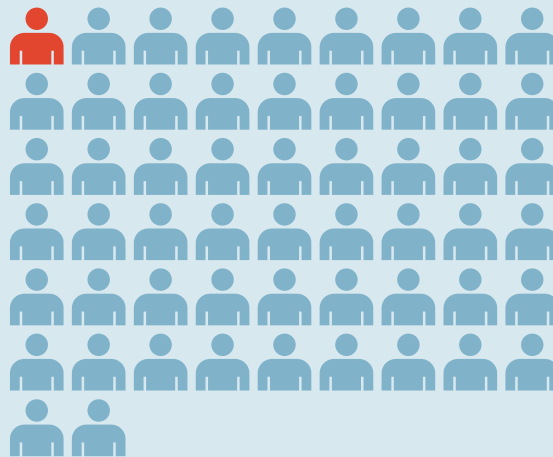
**1 in 13**

**African Americans**  
have had their right to vote  
revoked compared to only



**1 in 56**

**non-African Americans.**



which typically bars voting practices that produce discriminatory results in access to voting.<sup>38</sup>


Today, due to a massive increase in incarceration, criminal convictions disenfranchise millions of Americans. The Sentencing Project estimates that, as of 2016, 6.1 million Americans were prohibited from voting due to felony convictions.<sup>39</sup> And because the policies and practices that have given rise to mass incarceration disproportionately criminalize black and brown people, criminal

convictions disproportionately disenfranchise citizens of color. For example, as of 2016, 1 in 13 African Americans have had their right to vote revoked compared to only 1 in 56 non-African Americans.<sup>40</sup> And, as states and local jurisdictions increasingly adopt policies that monetize their criminal justice systems, rights restoration for many of these individuals depends on their ability to pay off any legal financial obligations arising out of their convictions.


<sup>38</sup> See, e.g., *Johnson v. Governor*, 405 F.3d 1214, 1234 (11th Cir. 2005) (holding that Section 2 does not apply to felony disenfranchisement schemes).

<sup>39</sup> The Sentencing Project, *Felony Disenfranchisement*, <https://www.sentencingproject.org/issues/felony-disenfranchisement/>.

<sup>40</sup> *Id.*

A close-up, blue-tinted photograph of a person's hand holding a pen, poised to fill out a ballot. The background is slightly blurred, showing an American flag and other people in a voting booth. A diagonal orange and blue graphic element cuts across the right side of the image.

As of the most recent  
study in 2016, 6.1 million  
Americans were prohibited  
from voting due to felony  
convictions.



Today, an estimated  
10 million people owe  
more than \$50 billion in  
fines and fees related to  
criminal convictions.

# Part II:

## Felony Disenfranchisement Meets The Poll Tax

At present, forty-eight states and the District of Columbia have laws limiting the voting rights of individuals convicted of felonies.<sup>41</sup> While many states provide a path for the restoration of voting rights post-conviction, those paths are often blocked by considerable court-imposed debt. Today, an estimated 10 million people owe more than \$50 billion in fines and fees related to criminal convictions.<sup>42</sup>

These court-imposed debts fall disproportionately on minority and poor communities who are often less able to pay them.<sup>43</sup>

### A. Court Fines and Fees Are Steep and Far-Reaching

Many states make criminal defendants pay—quite literally—for their prosecution.<sup>44</sup> Economic sanctions can include not only restorative payments to victims and punitive fines as elements of sentencing,<sup>45</sup> but also fees to raise revenues for the administration of the criminal justice system or unrelated municipal services.<sup>46</sup> In one notorious example, a U.S. Department of Justice investigation of the Ferguson Police Department in Missouri revealed that the town had set revenue targets for criminal justice fines and fees of over \$3 million in 2015.<sup>47</sup> The generated revenue was expected to cover over twenty percent of the town's operating budget.<sup>48</sup> Not all jurisdictions experience a net gain from criminal justice fines and fees, however, as the cost of collections can

41 Two states—Maine and Vermont—do not disenfranchise felons. See Jean Chung, *Felony Disenfranchisement: A Primer*, THE SENTENCING PROJECT (July 17, 2018), <https://www.sentencingproject.org/publications/felony-disenfranchisement-a-primer/>.

42 Douglas N. Evans, *The Debt Penalty: Exposing the Financial Barriers to Offender Reintegration*, JOHN JAY C. OF CRIM. JUST. 7 (2014), <https://jjrec.files.wordpress.com/2014/08/debtpenalty.pdf>.

43 *Id.*; Rachel L. McLean & Michael D. Thompson, Repaying Debts, Council of State Gov'ts, JUST. CTR. (2007), [http://csgjusticecenter.org/wp-content/uploads/2012/12/repaying\\_debts\\_full\\_report-2.pdf](http://csgjusticecenter.org/wp-content/uploads/2012/12/repaying_debts_full_report-2.pdf) ("In one study, three-fourths of people released from prison owing child support, restitution, and supervision fees reported having difficulty paying off these debts.").

44 Erika L. Wood & Neema Trivedi, *The Modern-Day Poll Tax: How Economic Sanctions Block Access to the Polls*, 41 CLEARINGHOUSE REV. 30, 35-36 (2007).

45 *Id.*

46 Patrick Liu, Ryan Nunn, & Jay Shambaugh, *Nine Facts About Monetary Sanctions in the Criminal Justice System*, BROOKINGS INST. (Mar. 15, 2019), <https://www.brookings.edu/research/nine-facts-about-monetary-sanctions-in-the-criminal-justice-system/> (describing reliance by state and local jurisdictions on revenue from court fines and fees to cover rising law enforcement and criminal justice expenses); McLean & Thompson, *supra* note 43 ("Criminal justice agencies are increasingly fee driven; administrative assessments on citations fund nearly all of the Administrative Office of the Court's budget in Nevada.").

47 U.S. Dep't of Justice, Civil Rights Div., *Investigation of the Ferguson Police Department* 10 (2015), [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf).

48 *Id.*

outstrip the revenue gained.<sup>49</sup> For example, Los Angeles County spent \$3.9 million on collections to bring in only \$3.4 million in probation fees in its most recent fiscal year.<sup>50</sup>

The legal financial obligations (“LFOs”) imposed on individuals as a result of a criminal conviction fall largely into three categories: restitution, fines, and fees.<sup>51</sup> Paying these debts in full is often a prerequisite to fully completing a sentence and regaining eligibility for rights restoration. This can be difficult, if not impossible, for impoverished returning citizens, especially when faced with several competing financial obligations and

debts.<sup>52</sup> Indeed, most returning citizens grapple with at least one, but often many, such obligations.<sup>53</sup> These LFOs can quickly add up to substantial sums, particularly in jurisdictions that assess late payment fees or charge interest. In one study, the average family of a returning citizen owed approximately \$13,600 in fines and fees alone.<sup>54</sup> Many individuals face even higher costs. In one case, a woman owed \$33,000 in LFOs related to her conviction; after making monthly payments for thirteen years, she owed \$72,000 due to the interest accrued on her initial balance.<sup>55</sup> In such cases, fees, fines, and restitution may take more than a lifetime to pay off. In states that condition

Type of Legal Financial Obligation	Definition	Example
<b>Restitution</b>	court-ordered sums assessed at sentencing that compensate crime victims for their loss	reimbursing the victim of a burglary for the price of the stolen item
<b>Fines</b>	penalties that serve as punishment for specific offenses or levels of offenses; can be mandatory or discretionary	\$1000 discretionary drug conviction fine (first offense)
<b>Fees</b>	amounts charged to criminal defendants for the costs to agencies involved in the administration of the criminal justice system	probation supervision fees, court costs, attorney appointment fees, costs of incarceration

49 Anne Stuhldreher, *Counties Rarely Collect Fees Imposed on Those Formerly Jailed. So Why Keep Charging Them?*, L.A. TIMES (May 16, 2019), <https://www.latimes.com/opinion/op-ed/la-oe-stuhldreher-fees-criminal-justice-reform-20190516-story.html>.

50 *Id.*

51 For additional information on different types of LFOs, see McLean & Thompson, *supra* note 43; see also Monica Llorente, *Criminalizing Poverty Through Fines, Fees, and Costs*, AM. BAR ASS’N (Oct. 3, 2016), <https://www.americanbar.org/groups/litigation/committees/childrens-rights/articles/2016/criminalizing-poverty-fines-fees-costs/>.

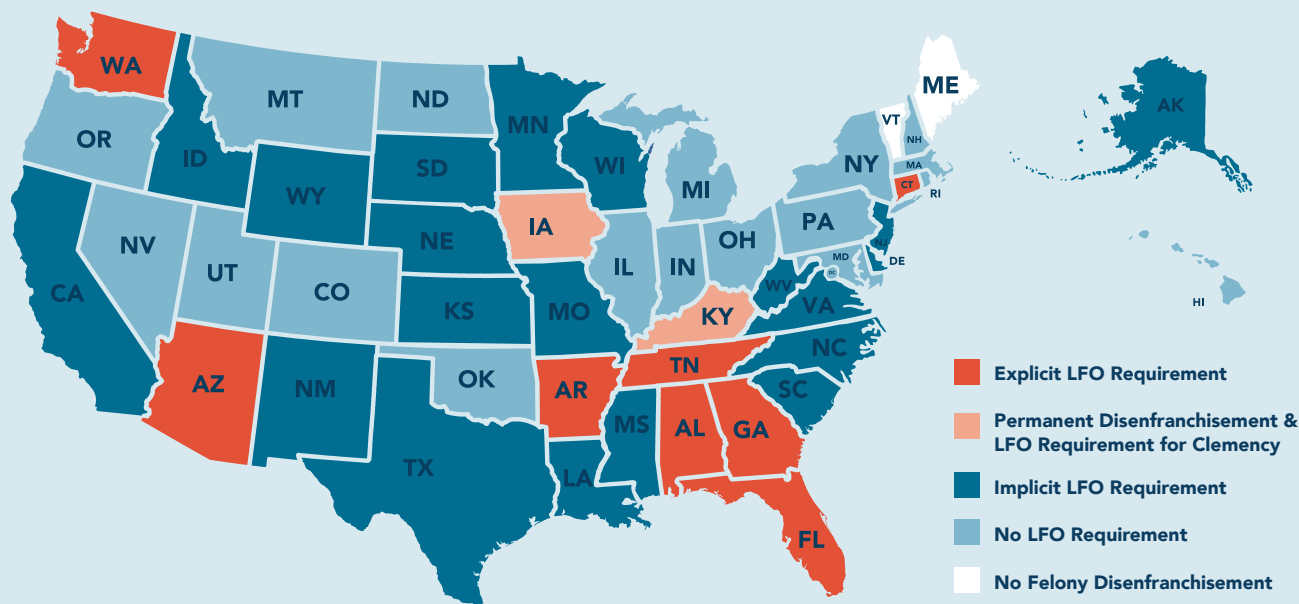
52 See McLean & Thompson, *supra* note 43, at 2.

53 *Id.* at 7.

54 Saneta deVuono-Powell et al., *Who Pays? The True Cost of Incarceration on Families*, ELLA BAKER CTR. 9 (2015), <http://ellabakercenter.org/sites/default/files/downloads/who-pays.pdf>.

55 Alana Semuels, *The Fines and Fees That Keep Former Prisoners Poor*, ATLANTIC (July 5, 2016), <https://www.theatlantic.com/business/archive/2016/07/the-cost-of-monetary-sanctions-for-prisoners/489026/>.





eligibility for rights restoration on a complete payment of all LFOs, these debts exclude many from the voting booth for life.<sup>56</sup>

## B. 30 States Hinge Voting Rights Restoration on Ability to Pay LFOs.

An analysis of all 50 states and the District of Columbia’s rights restoration schemes reveals that there are 30 jurisdictions where returning citizens may be required to pay LFOs to regain the right to vote. These jurisdictions’ schemes fall into two broad categories: (1) schemes that *explicitly* require full payment of LFOs as part of the voting rights restoration statutes; and (2) schemes that *implicitly* require payment of LFOs for voting rights restoration because they condition completion of parole or probation on payment of LFOs.

This system simply does not accord with the Twenty-Fourth Amendment’s guarantee that “the right of citizens of the United States to vote not be denied or abridged by the United States or any State by reason of failure to pay a poll tax or

other tax.” Nor does it accord with the U.S. Supreme Court’s 1966 ruling in *Harper v. Virginia State Board of Elections* that wealth is never germane to voting qualifications.<sup>57</sup>

### 1. Eight states across the country have explicitly included some form of this modern poll tax in their election laws.

In Alabama, Arizona, Arkansas, Florida, and Tennessee, citizens must fully pay LFOs to restore their right to vote under applicable restoration statutes.<sup>58</sup> In Georgia, the Attorney General has required the payment of certain, but not all, fines as a condition of rights restoration.<sup>59</sup> In Connecticut, this requirement applies only to those with federal or out-of-state convictions.<sup>60</sup> In Washington, the right to vote is provisionally restored upon completion of probation and parole but can be revoked for failure to pay LFOs.<sup>61</sup>

The issue of modern-day poll taxes have taken center stage in 2019 because of recent events in

<sup>56</sup> *Id.*

<sup>57</sup> 383 U.S. 663, 669 (1966).

<sup>58</sup> See Appendix, Table 4.

<sup>59</sup> Ga. Op. Att’y Gen. No. 84-33, 1984 WL 59904 (May 24, 1984).

<sup>60</sup> CONN. GEN. STAT. § 9-46a.

<sup>61</sup> WASH. REV. CODE § 29A.08.520.

## In states that condition eligibility for rights restoration on a complete payment of all LFOs, these debts exclude many from the voting booth for life.

Florida. In 2018, Florida voters overwhelmingly passed a constitutional amendment to automatically restore the right to vote to individuals with felony convictions upon completion of “all terms of sentence including parole or probation.”<sup>62</sup> The passage of Amendment 4 was a landmark event. Prior to 2018, Florida disenfranchised more citizens than any other state for felony convictions.<sup>63</sup> Thus, Amendment 4 was forecast to enfranchise over a million Floridians.<sup>64</sup>

In 2019, however, the Florida Legislature passed S.B. 7066 to “implement” the Amendment. The law defined “all terms of sentence” to include all court fines, fees, and restitution ordered at sentencing or as a condition of parole, probation, or supervision.<sup>65</sup> These LFOs include a variety of fines and fees assessed to generate revenue for various judicial and law enforcement expenses,<sup>66</sup> but also debts for medical care incurred during incarceration and fees and legal costs imposed specifically on indigent defendants who are represented by public defenders.<sup>67</sup>

These requirements are onerous. An internal analysis by the Florida Department of Corrections of 22,012 individuals on probation, parole, or community supervision found that they owed an average of \$8,195 in restitution alone.<sup>68</sup> This figure does not include fines and fees. Yet, this returning population is ill-equipped to pay these debts. Reentering citizens in Florida have an estimated monthly income of \$1,559.<sup>69</sup> S.B. 7066’s restrictions will therefore preclude rights restoration for

<sup>62</sup> FLA. CONST. art. VI, § 4(a). The newly adopted provision excludes individuals with convictions for murder or felony sexual offenses. *Id.* Individuals with disqualifying convictions can apply for discretionary rights restoration through the Florida Office of Executive Clemency. That application process specifically considers payment of LFOs. See Fla. Office of Exec. Clemency, *Rules of Executive Clemency* (Mar. 9, 2011), [https://www.fcor.state.fl.us/docs/clemency/clemency\\_rules.pdf](https://www.fcor.state.fl.us/docs/clemency/clemency_rules.pdf).

<sup>63</sup> Christopher Uggen et al., *6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, 2016*, THE SENTENCING PROJECT (Oct. 6, 2016), <https://www.sentencingproject.org/publications/6-million-lost-voters-state-level-estimates-felony-disenfranchisement-2016/>.

<sup>64</sup> *Id.*

<sup>65</sup> S.B. 7066, 2019 Leg., Reg. Sess. (Fla. 2019) (see Section 25, enacted in Fla. Stat. § 98.0751(2) (effective July 1, 2019)).

<sup>66</sup> See generally FLA. STAT. ch. 938.

<sup>67</sup> See, e.g., FLA. STAT. § 948.03.

<sup>68</sup> Rebekah Diller, *The Hidden Costs of Florida’s Criminal Justice Fees*, BRENNAN CTR. FOR JUST. (2010), <http://www.brennancenter.org/sites/default/files/legacy/Justice/FloridaF&F.pdf>.

<sup>69</sup> *Id.*

hundreds of thousands of Floridians solely on the basis of wealth.<sup>70</sup>

Unfortunately, Florida's Legislature is following a model established in other states. In Arkansas, for example, individuals can restore their voting rights once they have been discharged from probation or parole, all probation or parole fees have been paid, all terms of imprisonment have been satisfied, and all applicable court fees, fines, or restitution have been paid.<sup>71</sup> Moreover, persons convicted of a felony must provide the voter registrar with proof that they have paid in full all fines and fees associated with their conviction before they can register to vote post-conviction.<sup>72</sup> Likewise, Alabama requires citizens to pay all fines, fees, and restitution ordered at sentencing before they can apply for a Certificate of Eligibility to Register to Vote.<sup>73</sup> Arizona requires payment of restitution to be eligible for automatic voting rights restoration.<sup>74</sup>

Tennessee not only requires full payment of conviction-related fines and fees, but also requires full payment of child support obligations before

**Reentering citizens in Florida have an estimated monthly income of \$1,559.**

**S.B. 7066's restrictions will preclude rights restoration for hundreds of thousands of Floridians solely on the basis of wealth.**

voting rights restoration.<sup>75</sup> Meanwhile, in Georgia, certain fines must be paid under the voting rights restoration statute, even though the state constitution specifies that voting rights are restored upon "completion of [the] sentence."<sup>76</sup> In 1984, the Georgia Attorney General issued an advisory opinion stating that fines imposed as a condition of probation do not necessarily need

70 Indeed, with these restrictions, estimates of newly re-enfranchised individuals in Florida under Amendment 4 drop significantly. Marc Maurer & Howard Simon, *The Number of People Who Could Be Directly Impacted by Amendment 4* (Feb. 11, 2018), <https://docs.google.com/document/d/1om20yURi8GKBdtYUuur-R-RyAagoY1SvmWDWRYghVss/edit#heading=h.gjdgxs> (last visited May 30, 2019) (Memo to Executive Board, Second Chances Team). Although initially estimating that approximately 1.4 million Floridians would be eligible for re-enfranchisement under Amendment 4, that number drops significantly when eligibility is conditioned on LFOs. Based on a 2007 survey by the Florida Department of Corrections, which showed that forty percent of individuals awaiting rights restoration (then only available by application through executive clemency) had outstanding restitution, Maurer and Simon estimated in a memo that requiring payment of restitution alone would decrease the number of citizens eligible for rights restoration to 840,000. That number does not include individuals who do not have outstanding restitution, but do have outstanding court fees and fines, and are also ineligible for rights restoration under SB 7066. As such, the decrease in individuals eligible for rights restoration is likely steeper than anticipated by Maurer and Simon.

71 ARK. CONST. amend. 51, § 11(a)(4), (d)(2)(A)-(B).

72 *Id.* § 11(d)(2)(A).

73 ALA. CODE § 15-22-36.1 (requiring payment of all LFOs imposed at the time of sentencing for the disqualifying crime). Importantly, this statute does not require payment of post-sentencing fines and fees such as late penalties or probation fees. *Id.* Alabama citizens have challenged this requirement in an ongoing federal lawsuit. *Thompson v. Merrill*, No. 2:16-cv-783-WKW (M.D. Ala.).

74 See ARIZ. REV. STAT. § 13-912. A federal court upheld this requirement when previously challenged. *Harvey v. Brewer*, 605 F.3d 1067 (9th Cir. 2010). In the 2019 legislative session, Arizona revised its felony disenfranchisement scheme to only require payment of restitution—not fines—for automatic rights restoration. See H.B. 2080, 54 Leg., 1st Reg. Sess. (Ariz. 2019), <https://apps.azleg.gov/BillStatus/GetDocumentPdf/470934>.

75 TENN. CODE § 40-29-202(c). The Sixth Circuit upheld Tennessee's child support requirements against a Twenty-Fourth Amendment challenge. *Johnson v. Bredesen*, 624 F.3d 742, 750-51 (6th Cir. 2010).

76 GA. CODE § 21-2-216(b). There are two additional states—Kansas and Texas—that may have statutory LFOs requirements depending on their interpretation of their respective rights restoration statutes. In Kansas, the relevant statute requires "complet[ion of] the terms of the authorized sentence." KAN. STAT. § 21-6613. There is no publicly available authority on whether this includes LFOs. However, according to Professor Colgan, an election official has reported including payments of fines and fees in this requirement. Beth Colgan, *Wealth-Based Penal Disenfranchisement*, 72 VANDERBILT L. REV. 55, 67 n. 44 (2019). Likewise, in Texas, the relevant statute suspends the right to vote until full discharge of "the person's sentence, including any term of incarceration, parole, or supervision, or complet[ion of] a period of probation ordered by any court." TEX. ELEC. CODE § 11.002. This statute only specifically discusses the inclusion of supervision in the discharge of sentence. However, a separate provision states that "[w]hen the sentence against an individual defendant is for fine and costs, he shall be discharged from the same: when the amount thereof has been fully paid" unless it is remitted or otherwise discharged. TEX. CRIM. PRO. § 43.01(a). We have not identified any guidance indicating whether this definition therefore requires discharge of fines and fees prior to voting rights restoration.

to be paid before voting rights are restored.<sup>77</sup> But, fines imposed as part of a sentence, pursuant to a statute authorizing the imposition of the fine, must be paid before the state will restore an individual's voting rights.<sup>78</sup> A fine of this kind is considered "a separate sentence in addition to a sentence of incarceration or a sentence of probation."<sup>79</sup>

In Washington, the right to vote is provisionally restored for those not under the authority of the state department of corrections, which includes not just incarceration but also parole.<sup>80</sup> This means that, for individuals convicted in a federal court or the court of another state, the right to vote is restored once the person is no longer incarcerated.<sup>81</sup> For individuals convicted in Washington State court, however, the sentencing court may revoke the provisional restoration of voting rights if it determines that the individual has willfully failed to comply with the terms of an order to pay LFOs.<sup>82</sup> A prosecutor is required to seek revocation of voting rights for failure to make three payments in one year if the county clerk or restitution recipient requests revocation.<sup>83</sup> Upon

revocation, individuals must demonstrate a good-faith effort to pay their LFOs to restore their voting rights.<sup>84</sup>

Finally, in Connecticut, individuals with in-state felony convictions have their voting rights restored upon completion of their prison sentence and any term of parole. Individuals with federal or out-of-state convictions are required by statute to pay all fines related to their disqualifying conviction to have their rights restored.<sup>85</sup>

## 2. Two states have permanent disenfranchisement and require payment of LFOs for clemency eligibility.

In Iowa and Kentucky, the only way to regain the right to vote after a conviction is through executive clemency, which in each state hinges on full payment of fines, fees, and/or restitution.

Individuals with felony convictions in Iowa who wish to vote must apply for a pardon to the Office of the Governor or the President of the United

77 Ga. Att'y Gen., Voting Rights Restoration, Advisory Opinion (No. 84-33), 1984 WL 59904, at \*1 (May 24, 1984)

78 *Id.* at \*2. Notwithstanding the Attorney General opinion, election officials continue to provide Georgians with conflicting information about what must be paid to be eligible to vote—and many county officials routinely inform people with convictions that they must pay *all* fines, fees, and restitution to register to vote. *See, e.g.,* Dep't of the Columbus, Ga. Consol. Gov't, *Elections & Registration*, <https://www.columbusga.gov/elections/electFAQ.htm> (last visited June 5, 2019) ("Can a felon vote? Yes, once all aspects of your felony sentence is completed to include probation, restitution, or fine."); Wilkinson Cty. Bd. of Elections & Registrations, *Voter Registration*, <http://www.wilkinsoncounty.net/departments.php?Departments-Board-of-Elections-14> (last visited June 5, 2019) ("You may NOT register if you: . . . Have been convicted of a felony and you are currently serving your sentence, this includes any fines and probation."). Despite multiple requests from advocacy groups, Georgia's Secretary of State has failed to address the impact of outstanding fees or restitution on a person's right to vote in Georgia. *See* Campaign Legal Center & Southern Center for Human Rights, Letter to Georgia Secretary of State (Feb. 26, 2019), <https://campaignlegal.org/document/georgia-felony-disenfranchisement-and-legal-financial-obligations-nvra-notice-letter>. The state's contradictory guidance on rights restoration has left Georgians incapable of discerning the requirements for voting rights restoration—further exacerbating the disenfranchising effect of LFOs.

79 *Id.*

80 WASH. REV. CODE § 29A.08.520(1).

81 *Id.*

82 *Id.* § 29A.08.520(2)(a).

83 *Id.* § 29A.08.520(2)(b).

84 *Id.* § 29A.08.520(3).

85 CONN. GEN. STAT. § 9-46a. In early 2019, the Connecticut House of Representatives introduced and passed a bill that would have removed the financial restrictions and re-enfranchised all citizens post-incarceration, regardless of whether their conviction was in-state, out-of-state, or federal. However, the Senate did not vote on it before the end of the January session. *See* H.B. 7160, 2019 Gen. Assemb., Jan. Sess. (Conn. 2019), <https://www.cga.ct.gov/2019/TOB/h/pdf/2019HB-07213-R00-HB.pdf>. *See also* Substitute H.B. No. 7160, 2019 Gen. Assemb., Jan. Sess. (Conn. 2019), <https://www.cga.ct.gov/2019/FC/pdf/2019HB-07160-R001015-FC.PDF>.

States.<sup>86</sup> The Governor of Iowa has created a streamlined application process for the restoration of voting rights.<sup>87</sup> The current application asks whether an applicant has completed payment of fines, fees, and restitution.<sup>88</sup> If the applicant has not yet completed payment, the application asks whether the applicant is on a payment plan.<sup>89</sup> The Governor of Iowa has instructed that individuals can only apply for voting rights restoration if they have either paid their LFOs or are currently on a payment plan for their LFOs.<sup>90</sup>

Likewise, in Kentucky, citizens with felony convictions are permanently disenfranchised unless they obtain a pardon from the Governor.<sup>91</sup> And, to apply for a pardon, they must not owe any restitution.<sup>92</sup> Outstanding fines or fees are also considered.<sup>93</sup>

### 3. Twenty states implicitly require payment of fines and fees as a prerequisite for voting rights restoration by requiring completion of parole and/or probation.

Twenty states—Alaska, California, Delaware, Idaho, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, South Carolina, South Dakota, Texas, Virginia, West Virginia, Wisconsin, and Wyoming—have built implicit poll taxes into their provisions for voting rights restoration.<sup>94</sup> These states do not explicitly require that individuals

pay fines and fees to restore their right to vote. Instead, they require completion of parole and/or probation before a person with a past conviction can restore their right to vote.

The American criminal justice system, however, almost uniformly intertwines payment of legal debt, parole, and probation. Every state that ties the right to vote to completion of parole and/or probation also allows payment of legal debt to be a condition of parole and/or probation. The discharge of parole and/or probation can be reduced or prolonged depending upon compliance with conditions of supervision. Thus, access to the right to vote in these states can be delayed because of an inability to pay off legal debts, even though restoration is not expressly conditioned on payment of LFOs.

Conditioning voting rights restoration on completion of parole and/or probation inevitably creates the potential for wealth-based disenfranchisement. For example, in Missouri, individuals may not vote unless they have completed parole and probation.<sup>95</sup> Missouri also requires individuals to pay any restitution imposed as a result of their conviction before they are released from supervision.<sup>96</sup> If restitution is not paid within the original term of the probation, the court will impose the maximum term for probation allowed for that offense.<sup>97</sup> Similarly, a person will not be released from parole until restitution is paid, or until the maximum term for parole under

<sup>86</sup> IOWA CONST. art. II, § 5; IOWA CODE § 48A.6(1).

<sup>87</sup> *Voting Rights Restoration*, IOWA OFFICE OF THE GOVERNOR, <https://governor.iowa.gov/services/voting-rights-restoration> (last visited May 31, 2019).

<sup>88</sup> *Application for Restoration of Voting Rights*, IOWA OFFICE OF THE GOVERNOR, <https://governor.iowa.gov/sites/default/files/Application%20for%20Restoration%20of%20Voting%20Rights.pdf> (last visited May 15, 2019).

<sup>89</sup> *Id.*

<sup>90</sup> *Voting Rights Restoration*, *supra* note 87.

<sup>91</sup> KY. CONST., § 145; KY. REV. STAT. § 196.045.

<sup>92</sup> *Application for Restoration of Civil Rights*, DEP'T OF CORR., DIV. OF PROB. & PAROLE (Nov. 2015), <https://corrections.ky.gov/Probation-and-Parole/Documents/Civil%20Rights%20Application%20Rev%2011-25-2015.pdf>.

<sup>93</sup> *Id.*

<sup>94</sup> See Appendix, Table 4.

<sup>95</sup> MO. REV. STAT. § 217.690.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

that offense is served.<sup>98</sup> This wealth-based prolongment of supervision is not limited to restitution. Completion of probation and parole may also be conditioned on the payment of supervision fees of up to sixty dollars per month.<sup>99</sup> Furthermore, failure to meet any probation condition can prevent or delay discharge.<sup>100</sup> Thus, individuals who are unable to pay their monthly supervision fees can have their term of supervision extended, delaying their rights restoration.

Alaska, California, Delaware, Idaho, Kansas, Minnesota, Nebraska, New Jersey, New Mexico, North Carolina, South Carolina, South Dakota, Texas, West Virginia, Wisconsin, and Wyoming all have similar frameworks, requiring that individuals complete payment of LFOs before they are

eligible to be released from probation or parole. These states place conditions of payment on probation or parole, requiring payment of LFOs for early release from supervision, and/or creating the risk of extended probation or parole while LFOs are outstanding.<sup>101</sup> All of these schemes create a possibility that an inability to pay LFOs will prolong disenfranchisement.

In Virginia, a similar scheme has been created by executive action. The Virginia Constitution disenfranchises all citizens with felony convictions,<sup>102</sup> unless the Governor (or other appropriate authority) restores their voting rights. Several recent governors have made efforts to re-enfranchise large numbers of returning citizens.<sup>103</sup> Under current practice, returning

<sup>98</sup> *Id.*

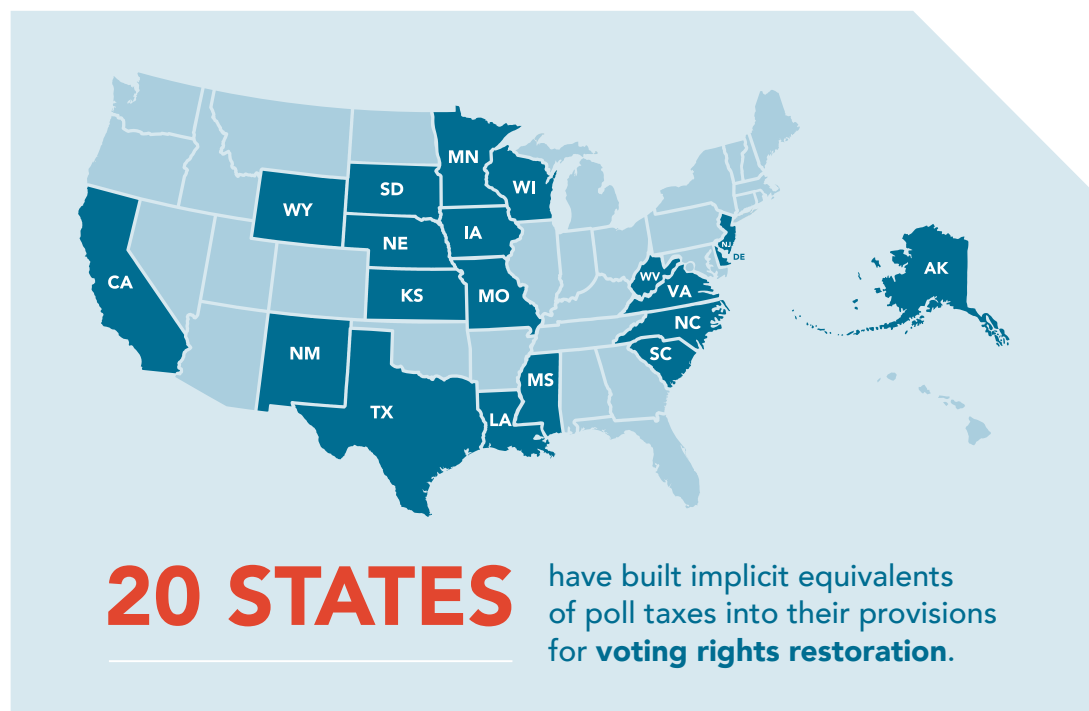
<sup>99</sup> *Id.*

<sup>100</sup> *Id.* § 559.036(3).

<sup>101</sup> See Appendix, Table 4.

<sup>102</sup> VA. CONST. art. 2, § 1; *id.* art. 5, § 12; VA. CODE ANN. § 19.2-356.

<sup>103</sup> Errin Whack, *McDonnell to Expedite Rights Restoration Process for Non-Violent Felons in Virginia*, WASH. POST (May 29, 2013), [https://www.washingtonpost.com/local/va-politics/mcdonnell-to-expedite-rights-restoration-process-for-non-violent-felons-in-virginia/2013/05/29/ae34cbe0-c873-11e2-8da7-d274bc611a47\\_story.html](https://www.washingtonpost.com/local/va-politics/mcdonnell-to-expedite-rights-restoration-process-for-non-violent-felons-in-virginia/2013/05/29/ae34cbe0-c873-11e2-8da7-d274bc611a47_story.html); Laura Vozzella, *Va. Gov. McAuliffe Says He Has Broken*





citizens are eligible for rights restoration so long as they are no longer under supervision.<sup>104</sup> While this executive action has enfranchised hundreds of thousands of Virginians, inability to pay legal debt can still extend supervision in Virginia and therefore prolong disenfranchisement.

Louisiana presents a special case. Louisiana passed a new law, effective on March 1, 2019, restoring voting rights to some returning citizens.<sup>105</sup> Previously, those with felony convictions could only regain their right to vote when their sentences, including completion of parole and probation, were complete.<sup>106</sup> To be discharged from parole and probation, one would have to complete payment of any outstanding fines, fees, or restitution.<sup>107</sup> Under the new law, persons who have not been incarcerated for the last five years may register to vote, regardless of whether they are still on probation or parole (unless they have committed election offenses or fraud).<sup>108</sup> Payment of LFOs should not be a permanent barrier to voting for anyone; thus the Louisiana law has greatly improved as a result of this new bill. But, during the five years immediately following incarceration, failure to pay legal debts can still prolong supervision.<sup>109</sup>

**Thus, Louisiana continues to function as a “can’t pay, can’t vote” state for some citizens for at least five years post-sentence.**

Finally, Mississippi permanently disenfranchises people with convictions absent legislative or

**In many states, individuals who are unable to pay their monthly supervision fees or other LFOs can have their term of supervision extended, delaying their rights restoration.**

executive clemency, but its pardon process appears to implicitly require payment of LFOs. Only those convicted of certain crimes (including perjury, bigamy, receiving stolen property, robbery, theft, felony bad check, felony shoplifting, forgery, and statutory rape) are permanently disenfranchised.<sup>110</sup> These individuals are only eligible to vote if each chamber of the state legislature votes by a two-thirds majority to restore their rights, or by application to the

*U.S. Record for Restoring Voting Rights*, WASH. POST (Apr. 27, 2017), [https://www.washingtonpost.com/local/virginia-politics/va-gov-mcauliffe-says-he-has-broken-us-record-for-restoring-voting-rights/2017/04/27/55b5591a-2b8b-11e7-be51-b3fc6ff7faee\\_story.html](https://www.washingtonpost.com/local/virginia-politics/va-gov-mcauliffe-says-he-has-broken-us-record-for-restoring-voting-rights/2017/04/27/55b5591a-2b8b-11e7-be51-b3fc6ff7faee_story.html).

<sup>104</sup> See *Restoration of Rights*, SEC’Y OF THE COMMONWEALTH OF VA., <https://www.restore.virginia.gov/>.

<sup>105</sup> LA. STAT. ANN. § 18:177.

<sup>106</sup> See *Id.* § 15:574.4.2, 574.7; see also Melinda Deslatte, *Voting Rights Bill for Some Louisiana Felons Wins Passage*, U.S. NEWS & WORLD REP. (May 17, 2018), <https://www.usnews.com/news/best-states/louisiana/articles/2018-05-17/voting-rights-bill-for-louisiana-ex-felons-wins-passage>.

<sup>107</sup> *Id.*

<sup>108</sup> LA. STAT. ANN. § 18:177.

<sup>109</sup> See Whack, *supra* note 103.

<sup>110</sup> MISS. CONST. art. 12, § 241; see also Miss. Att’y Gen. Op. 2009-00077, 2009 WL 927963.

Governor.<sup>111</sup> Under either method, rights restoration is infrequent and irregular. Under informal Mississippi policy, eligibility for restoration of voting rights begins seven years after completion of sentence.<sup>112</sup> According to a recent analysis of legislative voting rights restoration in the past decade, every person whose right to vote was restored had completed their sentence, including parole and/or probation.<sup>113</sup> To complete the sentence, Mississippi law lists payment of a fine as a condition of probation and parole.<sup>114</sup> The failure to successfully fulfill the terms and conditions of post-release supervision, including payment of a fine as a condition of probation and parole, can extend parole or probation.<sup>115</sup>

### 3. Twenty states and the District of Columbia do not condition the right to vote upon payment of fines and fees.

Not all states with felony disenfranchisement provisions condition restoration of returning

citizens' rights on their ability to pay their fines and fees. First and foremost, two states impose no restrictions on the right to vote on the basis of criminal convictions: Maine and Vermont.<sup>116</sup> In sixteen states—Colorado, Hawaii, Illinois, Indiana, Maryland, Massachusetts,<sup>117</sup> Michigan, Montana, New Hampshire, Nevada, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, and Utah—and the District of Columbia, voting rights are restored automatically by statute after release from incarceration.<sup>118</sup> Colorado and Nevada are among recent additions; both states revised their statutes to re-enfranchise individuals upon release from incarceration in 2019.<sup>119</sup> These laws went into effect on July 1, 2019.<sup>120</sup>

In New York, access to the right to vote regardless of fines and fees is a function of executive action by the Governor (and thus could be reversed by a different Governor).<sup>121</sup> In early 2018, New York's Governor signed an executive order stating that all people released into parole supervision are eligible to have their voting rights restored.<sup>122</sup> As a result, New York is currently categorized as a

111 MISS. CONST. art. 12, § 253.

112 Restoration of Rights Project, *Mississippi Restoration of Rights, Pardon, Expungement & Sealing*, COLLATERAL CONSEQUENCES RES. CTR., <http://ccresourcecenter.org/state-restoration-profiles/mississippi-restoration-of-rights-pardon-expungement-sealing/> (last visited April 8, 2019).

113 Beth Colgan, *Wealth-Based Penal Disenfranchisement*, 72 VAND. L. REV. 55, 78 (2019).

114 MISS. CODE ANN. § 47-7-35(1)(h).

115 *Id.* §§ 47-7-37(1), 47-7-38(5)(e).

116 ME. CONST. art. II, §1; VT. CONST. ch. II, §42

117 Massachusetts disenfranchises persons with convictions for "corrupt practices in respect to elections" until they have their civil rights individually restored. MASS. CONST. amend. art. III, XL. We have categorized Massachusetts according to its treatment of the vast majority of people with convictions, this exception notwithstanding.

118 See Appendix, Table 4.

119 H.B. 19-1266, 2019 Gen. Assemb., Reg. Sess. (Colo. 2019), [https://leg.colorado.gov/sites/default/files/documents/2019A/bills/2019a\\_1266\\_enr.pdf](https://leg.colorado.gov/sites/default/files/documents/2019A/bills/2019a_1266_enr.pdf); A.B. 431, 80th Sess. (Nev. 2019), <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6819/Text>.

120 H.B. 19-1266 (Colo. 2019); A.B. 431 (Nev. 2019).

121 The use of executive authority to restore voting rights has often led to inconsistent application by different administrations. In both Iowa and Kentucky, rights restoration has waxed and waned depending entirely on the political temperament of the person in office. See, e.g., Ky. Exec. Order No. 2015-052, *Relating to Restoration of Civil Rights for Convicted Felons* (2015), <http://apps.sos.ky.gov/Executive/Journal/execjournalimages/2016-MISC-2015-0052-243103.pdf>; Iowa Exec. Order No. 70 (2011), <http://publications.iowa.gov/10194/1/BranstadEO70.pdf> (rescinding Executive Order No. 42).

122 N.Y. Exec. Order No. 181, *Restoring the Right to Vote for New Yorkers on Parole* (2018), [https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Executive\\_Order\\_181.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Executive_Order_181.pdf).

state where individuals are eligible for rights restoration at the completion of their term of incarceration.

In Oklahoma, rights restoration is based on the length of an individual's sentence. A person convicted of a felony is only disenfranchised for a period of time equal to the term a person is sentenced to serve.<sup>123</sup> Thus, if a person is sentenced for a term of four years, voting rights will be restored after the expiration of four years regardless of any fines or fees owed.

#### **4. Certain states allow returning citizens to apply for waivers of LFOs.**

Certain states that require full payment of LFOs as a condition of voting rights restoration—either explicitly or implicitly—allow returning individuals to apply for waivers of LFOs if they are unable to pay them. These waiver processes can allow people to bypass onerous LFOs that they otherwise cannot meet. In this sense, waivers have the potential to mitigate the disenfranchising effect of LFOs.

As currently implemented, however, many, if not most, state waiver processes have significant flaws, and are not effective remedies for those who cannot afford to pay. States commonly require people to seek such waivers from state or county courts, and grant those courts substantial discretion, including whether to grant a waiver in full or in part. The rules for seeking waivers for LFOs vary widely both across and within states, and the varied, complex application processes can—and usually do—serve as yet another hurdle on the path to rights restoration. Returning citizens are often not informed that waiver processes exist, let alone how to navigate

**In 2019, Colorado and Nevada revised their laws to re-enfranchise individuals upon release from incarceration.**

the obscure and complicated steps involved. In some states, applying for a waiver may even require formal legal representation. The bottom line is this: simply having a process for granting waivers of fines, fees, and restitution mitigates the wealth-based barriers to the ballot box but does not remove them.


The following examples of state laws on waivers illustrate this point.

In Alaska, a defendant sentenced to pay a fine or restitution may request a hearing regarding the defendant's ability to pay.<sup>124</sup> If defendants can show by a preponderance of evidence that they would not be able to pay off the fines and restitutions, courts must modify the order so that they can pay through good faith efforts.<sup>125</sup> In these instances, the court may "reduce the fine ordered, change the payment schedule, or

<sup>123</sup> OKLA. STAT. tit. 22, § 4-101 (2017).

<sup>124</sup> ALASKA STAT. § 12.55.051(c).

<sup>125</sup> *Id.*




## The rules for seeking waivers for LFOs vary widely both across and within states, and the complex application processes can—and usually do—serve as yet another hurdle on the path to rights restoration.

otherwise modify the order.”<sup>126</sup> The court may change the payment schedule for restitution, but it cannot reduce the amount.<sup>127</sup>

In Idaho, individuals on parole or probation must pay supervision fees, but the division of probation

and parole may exempt a person if the offender 1) “has diligently attempted but been unable to obtain employment”; or 2) “has a disability affecting employment, as determined by a physical, psychological or psychiatric examination acceptable to the division of probation and parole.”<sup>128</sup> However, this waiver provision does not apply to the payment of any other costs and fees.<sup>129</sup> In other words, an individual in Idaho would still need to pay any non-supervision-related costs or fees associated with his sentence or risk prolonged disenfranchisement.

The process for obtaining a waiver can be complex and can even require legal representation to navigate. In Tennessee, for instance, individuals can request a waiver of certain LFOs,<sup>130</sup> but the process for doing so is onerous. In Davidson County, where Nashville is located, the criminal court has an “Application and Financial Affidavit for Payment Plan or Indigency Docket,” colloquially referred to as a “cost waiver.” The application must be filed with the court; it requests three pages of detailed information about the applicant’s expenses, income, assets, and liabilities.



**The court does not publicize the availability of cost waivers, nor does it provide substantive guidance for filling out the application and affidavit and filing.**

And the process for reviewing, granting, or denying cost waivers remains fairly opaque.<sup>131</sup>

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> IDAHO CODE § 20-225.

<sup>129</sup> *Id.*

<sup>130</sup> TENN. CODE ANN. § 40-25-123(b). Litigation taxes are a distinct category of LFOs in Tennessee, where a fee “is imposed for the purpose of regulating a specific activity or defraying the cost of providing a service or benefit to the party paying the fee,” while a tax “is a revenue raising measure levied for the purpose of paying the government’s general debts and liabilities.” *City of Tullahoma v. Bedford Cty.*, 938 S.W.2d 408, 412 (Tenn. 1997). For instance, Tennessee imposes a tax of \$29.50 on all criminal charges upon conviction or by order. TENN. CODE ANN. § 67-4-602(a); see also *id.* § 67-4-606 (delineating the apportionment of the revenue from litigation taxes).

<sup>131</sup> Due to the lack of public information about this process, this report relies on the experience of individuals who have tried to navigate this process, and on conversations with those familiar with it, including public defenders and advocates working in the Davidson Court system.


Other counties in Tennessee do not even have a form for cost waivers or a centralized docket for processing them. In those counties, disenfranchised individuals who want to demonstrate their inability to pay typically must either have a lawyer prepare a formal motion for a cost waiver and then docket the motion before the local criminal court, or attempt to do so themselves acting *pro se* (i.e. on their own, without legal representation). To complicate matters further, the court systems and procedures for preparing and processing cost waivers vary dramatically from county to county.<sup>132</sup> Thus, although cost waivers are available, the people who need them most often have the least access to the resources necessary to navigate the system for obtaining them. After all, many of the same individuals who are too indigent to pay their LFOs are also too indigent to afford the legal help, and many legal aid organizations do not have the capacity or resources to fill this gap.<sup>133</sup>

States with waivers have taken a step in the right direction, both in acknowledging that many people who interact with the criminal justice system and are saddled with LFOs are unable to pay them, and in recognizing that these people should not be permanently disenfranchised on the basis of their inability to pay. But as a practical matter, the waiver processes currently offered do not effectively eliminate fines, fees, and restitution as barriers to democratic participation.

**The waiver processes currently offered do not effectively eliminate fines, fees, and restitution as barriers to democratic participation.**

<sup>132</sup> As the Tennessee Advisory Commission on Intergovernmental Relations ("TACIR") found, "[b]ecause of judges' discretion, there is variation in who is declared indigent across the state," though "stakeholders and court clerks agreed that indigency is a critical issue to address." TACIR, *Tennessee's Court Fees and Taxes: Funding the Courts Fairly* 28 (2017), [https://www.tn.gov/content/dam/tn/tacir/documents/2017\\_CourtFees.pdf](https://www.tn.gov/content/dam/tn/tacir/documents/2017_CourtFees.pdf).

<sup>133</sup> See *id.* ("In criminal circuit court cases, a defendant who is found guilty is responsible for court costs, even if a defendant [is] qualified for a public defender or appointed counsel.").

A black and white photograph of a hand holding a ballot box. The hand is wearing a watch and is positioned on the left side of the frame. The ballot box is a dark, rectangular object. The background is a solid dark blue color. The text is white and is located in the upper right quadrant of the image.

There is evidence that  
suggests voting rights  
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# Conclusion

The surest way to eliminate the impact of wealth on access to the ballot for people with convictions is to abolish felony disenfranchisement. But states can take important steps short of that to ensure that wealth does not pose a barrier to the ballot box.

**Absent abolition, the most effective way to ensure that inability to pay does not preclude ability to vote is to restore voting rights automatically upon release from incarceration.**

This is because, in most states, current forms of post-incarceration supervision are inextricably bound up with legal debt, such that rights restoration conditioned on completion of probation or parole is implicitly conditioned on ability to pay. Not only is automatic restoration easier to administer and on stronger constitutional footing, it is sound policy for everyone. Evidence

suggests voting rights restoration improves re-entry and reduces recidivism.<sup>134</sup> And, states are slowly moving in this direction, with both Colorado and Nevada adopting automatic restoration statutes in 2019.

Absent automatic restoration upon release from prison, states that condition rights restoration on completion of probation or parole must introduce policies that ensure individuals are never kept on supervision due to unpaid legal debt and introduce robust and easy to access waiver programs for those who cannot afford to pay. Similarly, states that explicitly condition voting rights restoration on payment of outstanding legal financial obligations must eliminate those requirements and introduce the programs described above. Absent such steps, states will continue to violate the U.S. Supreme Court's mandate in *Harper* that "[w]ealth, like race, creed, or color, is not germane to one's ability to participate intelligently in the electoral process."

<sup>134</sup> See, e.g., Christopher Uggen & Jeff Manza, *Voting and Subsequent Crime and Arrest: Evidence from a Community Sample*, 36 COLUMBIA HUMAN RIGHTS L. REV. 193 (2004); Fl. Parole Comm'n, Status Update: Restoration of Civil Rights' (RCR) Cases Granted 2009 and 2010 (2011), <https://www.fcor.state.fl.us/docs/reports/2009-2010ClemencyReport.pdf>.

# Appendix

## Note on Methodology


While this report was being researched, UCLA Law Professor Beth Colgan made a major contribution to the research on this topic, publishing *Wealth-Based Penal Disenfranchisement* in the *Vanderbilt Law Review*, analyzing the intersection of LFOs and felony disenfranchisement and describing a theory for constitutional challenge of these restrictions.<sup>135</sup> The authors of this report recognize this important contribution to the field and relied in part upon Professor Colgan's research to verify their findings.

This report's approach to categorizing states based on their rights restoration provisions differs from Professor Colgan's in several respects. Unlike

Professor Colgan's report, which lists all forms of potential wealth-based disenfranchisement in every state, here states are categorized according to their most restrictive form of wealth-based disenfranchisement. For example, per an Attorney General opinion, Georgia explicitly requires the payment of certain fines to restore voting rights. Therefore, Georgia's rights restoration scheme is categorized as an *explicit* form of wealth-based disenfranchisement. With respect to other fees, however, non-payment is not an explicit bar to voting rights restoration but may delay completion of parole and probation. That creates an *implicit* financial barrier as well, thus Georgia also could be included in that category, though the authors have not done so in this report. That said, where

135 72 VANDERBILT L. REV. 55 (2019).





both forms of disenfranchisement could impact access to the right to vote, that is noted in Table 4. Further, this report does not consider the impact of LFOs on clemency applications unless a pardon is the only available option for voting rights restoration. This is because where automatic restoration is available, it will be the primary mechanism for restoring voting rights for most people.

In this report, we categorize states that enfranchise individuals upon release from incarceration as states without the modern poll tax. Professor Colgan's paper argues that even these states could lead to wealth-based disenfranchisement because parole or probation might be revoked—and the individual may return to prison—because

of failure to pay.<sup>136</sup> But under *Bearden v. Georgia*,<sup>137</sup> a state cannot constitutionally re-incarcerate a person on parole or probation for failure to pay LFOs without consideration of their ability to pay. Thus, absent *Bearden* violations (which may, of course, occur), states that grant the right to vote upon release from incarceration should not disenfranchise individuals solely for inability to pay their financial obligations. As such, we consider these states to have eliminated the modern-day poll tax. Because *Bearden* does not necessarily bar states from considering payment of LFOs when considering early release or extension of parole or probation, states that condition the right to vote on completion of parole or probation are far more likely to result in wealth-based disenfranchisement.

<sup>136</sup> Colgan, *supra*, at 79-80.

<sup>137</sup> 461 U.S. 660 (1983).

**Table 1:**  
**Survey of Disenfranchisement Laws**

State	Restrictions	Citation
Alabama	Prison, Parole, Probation, & Post-Sentence	Alabama Code Title 17 § 3-30-31
Alaska	Prison, Parole, & Probation	Alaska Statutes § 15.05.030
Arizona	Prison, Parole, Probation, & Post-Sentence	Arizona Revised Statutes § 16-101
Arkansas	Prison, Parole, & Probation	Arkansas Constitution amendment LI, § 11
California	Prison & Parole	California Constitution Article 2 § 4
Colorado	Prison & Parole	Colorado Constitution Article 7 § 10
Connecticut	Prison & Parole	Connecticut General Statutes § 9-45
Delaware	Prison, Parole, Probation, & Post-Sentence	Delaware Code Title 15 § 6102-3
District of Columbia	Prison Only	D.C. Code § 1-1001.02
Florida	Prison, Parole, Probation	Florida Constitution Article VI § 4
Georgia	Prison, Parole, & Probation	Georgia Code § 21-2-216
Hawaii	Prison Only	Hawaii Revised Statutes § 831-2
Idaho	Prison, Parole, & Probation	Idaho Code § 18-310
Illinois	Prison Only	Illinois Compiled Statutes § 5-5-5
Indiana	Prison Only	Indiana Code § 3-7-13-4
Iowa	Prison, Parole, Probation, & Post-Sentence	Iowa Code § 48A.6
Kansas	Prison, Parole, & Probation	Kansas Statutes § 21-6613
Kentucky	Prison, Parole, Probation, & Post-Sentence	Kentucky Constitution § 145
Louisiana	Prison, Parole, & Probation unless 5 years have passed on probation or since release from prison	Louisiana Statutes 18:102
Maine	No restrictions	Maine Constitution Article II § 1

**Table 1:**  
**Survey of Disenfranchisement Laws (cont.)**

State	Restrictions	Citation
Massachusetts	Prison Only	Massachusetts Constitution Article III
Maryland	Prison Only	Maryland Constitution § 3-102
Michigan	Prison Only	Michigan Election Law § 168.758b
Minnesota	Prison, Parole, & Probation	Minnesota Statutes § 201.014
Mississippi	Prison, Parole, Probation, & Post-Sentence	Mississippi Constitution Article 12 § 241
Missouri	Prison, Parole, & Probation	Missouri Statutes § 115.133
Montana	Prison Only	Montana Constitution Article IV § 2
Nebraska	Prison, Parole, Probation, & Post-Sentence	Nebraska Statutes § 29-112
Nevada	Prison, Parole, Probation, & Post-Sentence	Nevada Statutes 176A.850
New Hampshire	Prison Only	New Hampshire Statutes § 607-A:2
New Jersey	Prison, Parole & Probation	New Jersey Statutes § 19:4-1
New Mexico	Prison, Parole, & Probation	New Mexico Statutes § 1-4-27.1
New York	Prison & Parole	New York Election Law § 5-106
North Carolina	Prison, Parole & Probation	North Carolina Statutes § 163A-841
North Dakota	Prison Only	North Dakota Century Code § 12.1-33-03
Ohio	Prison Only	Ohio Constitution Article 5 § 4
Oklahoma	Prison, Parole, & Probation	Oklahoma Statutes Title 26 § 26-4-101
Oregon	Prison Only	Oregon Statutes § 137.281
Rhode Island	Prison Only	Rhode Island Constitution Article II § 1
Pennsylvania	Prison Only	Pennsylvania Statutes 25 § 2602(w)(14)

**Table 1:**  
**Survey of Disenfranchisement Laws (cont.)**

State	Restrictions	Citation
South Carolina	Prison, Parole, & Probation	South Carolina Code § 7-5-120(B)(2)-(3)
South Dakota	Prison, Parole, & Probation	South Dakota Statutes § 12-4-18
Tennessee	Prison, Parole, Probation, & Post-Sentence	Tennessee Constitution Article 4 § 2
Texas	Prison, Parole, & Probation	Texas Election Code § 11.002
Utah	Prison Only	Utah Code 20A-1 § 101.5
Vermont	No restrictions	Vermont Constitution Chapter II § 42
Virginia	Prison, Parole, Probation, & Post-Sentence	Virginia Constitution Article II § 1
Washington	Prison, Parole, & Probation	Washington Code 29A.08.520
West Virginia	Prison, Parole, & Probation	West Virginia Code § 3-2-2
Wisconsin	Prison, Parole, & Probation	Wisconsin Statutes § 304.078
Wyoming	Prison, Parole, Probation, & Post-Sentence	Wyoming Statutes Title 7 § 7-13-1057-15

**Table 2:**  
**Poverty Rates of States with Modern Poll Taxes**

State	Poverty Rate*	African American Poverty Rate	State (cont.)	Poverty Rate*	African American Poverty Rate
Alabama	15.8%	24%	Mississippi	19.5%	29%
Alaska	12.1%	N/A	Missouri	11.3%	21%
Arizona	15.5%	19%	Nebraska	10.1%	25%
Arkansas	15.6%	25%	New Jersey	9.7%	15%
California	13.4%	17%	New Mexico	18.7%	23%
Connecticut	9.9%	12%	North Carolina	14.4%	19%
Delaware	10.6%	17%	South Carolina	14.6%	22%
Florida	14.3%	19%	South Dakota	12.9%	N/A
Georgia	15.6%	19%	Tennessee	13.7%	22%
Idaho	11.7%	54%	Texas	14.0%	17%
Iowa	9.7%	29%	Virginia	10.8%	16%
Kansas	13.4%	24%	Washington	10.7%	17%
Kentucky	16%	22%	West Virginia	16.6%	28%
Louisiana	20.0%	31%	Wisconsin	10.5%	27%
Minnesota	8.6%	26%	Wyoming	11.0%	N/A

\*U.S. Census Bureau, Current Population Survey, 2015 to 2018 Annual Social and Economic Supplements.



**Table 3:**  
**2016 Sentencing Project Estimates of Disenfranchisement**

State	Total	Disenfranchised But not Incarcerated	AA Disenfranchised	AA Disenfranchised But not Incarcerated
Alabama*	286266	254103	143924	141326
Alaska	14439	8935	1450	929
Arizona*	221170	175320	25492	19252
Arkansas	66705	46506	26106	17520
California	222557	86255	63390	23939
Connecticut	17345	2419	7263	1041
Delaware	15716	8858	8113	4203
Florida*				
Georgia	248751	193739	144546	112668
Idaho	23106	14919	580	311
Iowa	52012	42475	6879	4379
Kansas	17594	7449	5601	2185
Kentucky	312046	287039	69771	63302
Louisiana*	108035	69210	68065	42113
Minnesota	63340	51363	15432	11273
Mississippi	218181	203007	127130	117448
Missouri	89665	55678	30374	17298
Nebraska	17564	10803	3540	1750
New Jersey	94315	72955	47470	34709
New Mexico	24286	16190	1581	970
North Carolina	91179	51845	42905	21393
South Carolina	47238	26086	38916	25425
South Dakota	10392	6758	363	150
Tennessee	421227	389193	173895	158939
Texas	495928	327665	147727	89240
Virginia*	508680	467081	271944	248167
Washington	48552	28975	7987	4493
West Virginia	14727	7296	1792	763
Wisconsin	65606	41637	22447	12535
Wyoming	23847	21170	966	837

The Sentencing Project, 6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement (2016), <https://www.sentencingproject.org/wp-content/uploads/2016/10/6-Million-Lost-Voters.pdf#page=17>.

\*Estimates are not yet available for Florida in light of the constitutional and statutory changes to the law in 2018 and 2019. Due to changes in the law or executive action, the estimates from 2016 for the starred states may not reflect current disenfranchisement rates.

**Table 4:**  
**Explicit and Implicit LFO Requirements**  
**for Voting Rights Restoration**

State	Type of Restriction	Governing Statutes and/or Constitutional Provisions	Explicit LFO Obligation
Alabama	Post-Sentence – Some or All	Ala. Const. Art. VIII § 177; Ala. Code § 17-3-30.1, § 15-22-36.1, § 17-3-31.	Yes
	<b>Implicit LFO Obligation:</b> Not relevant since Alabama requires full payment of LFOs to restore voting rights even if parole or probation is complete.		
Alaska	Completion of Sentence Including Probation	Alaska Stat. §§ 15.05.030, 15.80.010(10), 12.55.185(18), 33.16.210, 33.16.150(b)(6), 12.55.051(c), 12.55.090(g)(4), 12.55.100(a)(2).	No
	<b>Implicit LFO Obligation:</b> Yes, failure to pay LFOs can foreclose early discharge from parole or probation. Alaska Stat. §§ 33.16.150(b)(6). 12.55.100(a)(2) provides that payment of restitution or fines may be imposed as condition of parole or probation. Alaska Statutes section 33.16.210 makes early discharge from parole conditional upon compliance with all parole requirements. Section 12.55.090(g)(4) provides that a probation officer shall recommend early discharge from probation if the defendant is in compliance with all conditions of probation. But, per section 12.55.051(c), an individual may request the opportunity to demonstrate inability to pay. If he or she succeeds, the court may modify the fine.		
Arizona	Post-Sentence – Some or All	Ariz. Rev. Stat. Ann. §§ 16-101(A)(5), 13-912, 13-908, 13-910, 13-905, 13-906, 31-411, 31-412.	Yes, but H.B. 2800 eliminates this requirement except for restitution.
	<b>Implicit LFO Obligation:</b> Yes, completion of sentence is required for both automatic rights restoration and rights restoration through a state court petition. Under Arizona Statute sections 31-411 and 31-412, payment of restitution, fines, and fees are conditions of parole and failure to pay can extend time under supervision.		
Arkansas	Completion of Sentence Including Probation	Ark. Const. amend. 51, §§ 11(a) (4), 11(d)(2)(A), 11(d)(2)(B).	Yes
	<b>Implicit LFO Obligation:</b> Not relevant since Arkansas requires full payment of LFOs to restore voting rights even if parole or probation is complete.		

**Table 4:**  
**Explicit and Implicit LFO Requirements**  
**for Voting Rights Restoration (cont.)**

State	Type of Restriction	Governing Statutes and/or Constitutional Provisions	Explicit LFO Obligation
California	Prison and Parole Only	Cal. Const. art. 2, § 4; Cal. Elec. Code § 2101(a); Cal. Penal Code § 3000(b)(7); 15 CCR § 2535.	No
	<b>Implicit LFO Obligation:</b> Yes, early parole may be withheld because of failure to pay fines or restitution. Under California Penal Code section 3000(b)(7), payment of fines or restitution may be a condition of parole. The California Department of Corrections and Rehabilitation indicates that parolees are not eligible for early release absent reasonable payments of restitution. However, the regulations governing the discretion of the Board of Parole Hearings, 15 CCR § 2535 does not list fines or fees among the factors relevant to whether an individual should be discharged from parole.		
Colorado	Prison Only	Colo. Const. art. 7 §10, Colo. Rev. Stat. § 1-2-103(4); H.B. 19-1266 (2019).	No
	<b>Implicit LFO Obligation:</b> No, as of July 1, 2019, Colorado grants persons with past convictions the right to vote immediately upon release from incarceration.		
Connecticut	Prison and Parole Only	Conn. Gen. Stat. §§ 9-46a(a)-(b), 45, 54-125e, 53a-30, 54-129.	Yes (but pending bill HB 7160 may remove this provision).
	<b>Implicit LFO Obligation:</b> Yes, under sections 54-125e and 53a-30 of the Connecticut Statutes, payment of restitution may be a condition of parole and thus payment could affect discharge from parole. However, section 54-129, which governs discharge from parole, does not appear to require payment of fines as a precondition to discharge.		
Delaware	Post-Sentence -Some or All	Del. Const., art. 5, § 2; Del. Code Ann. tit. 15 §§ 6102, 6103; Del. Code Ann. tit. 11, § 4104.	No. SB 242, effective 2016, eliminated a previous explicit fines/fees requirement.
	<b>Implicit LFO Obligation:</b> Yes, for individuals without a disqualifying felony, voting rights are restored upon completion of parole and probation. Section 4104 of title 11 of the Delaware Code provides that payment of fines, costs or restitution “shall be a condition of the probation.” For individuals with disqualifying felonies, the pardon procedure includes consideration of outstanding LFOs. See Delaware Board of Pardons Checklist, Del. Bd. Pardons, <a href="https://pardons.delaware.gov/wp-content/uploads/sites/42/2017/03/PardonApp-pack.pdf">https://pardons.delaware.gov/wp-content/uploads/sites/42/2017/03/PardonApp-pack.pdf</a> .		
District of Columbia	Prison Only	D.C. Code §§ 1-1001.02, 1-1001.02(7); D.C. Mun. Regs. tit. 3, §§ 500.2(c), 500.15.	No
	<b>Implicit LFO Obligation:</b> No, the District of Columbia grants persons with past convictions the right to vote immediately upon release from incarceration.		

**Table 4:**  
**Explicit and Implicit LFO Requirements**  
**for Voting Rights Restoration (cont.)**

State	Type of Restriction	Governing Statutes and/or Constitutional Provisions	Explicit LFO Obligation
Florida	Post-Sentence -Some or All	Fla. Const. art. VI §4, Fla. Stat. §§ 97.041(2)(b), 940.05, 951.29.	Yes
	<b>Implicit LFO Obligation:</b> Not relevant since Florida requires full payment of LFOs to restore voting rights even if parole or probation is complete.		
Georgia	Completion of Sentence Including Probation	Ga. Laws §§ 17-10-8, 21-2-216(b), 42-9-44(a); Ga. Const. art. 2, § 1, ¶ III; Ga. Op. Att’y. Gen. No. 86-15, 1986 WL 79908; Ga. Op. Att’y. Gen. No. 84-33, 1984 WL 59904.	Yes. The Georgia Attorney General’s office has interpreted the completion of sentence requirement to require the payment of fines imposed as part of the sentence. Ga. Op. Atty. Gen. No. 84-33, 1984 WL 59904.
	<b>Implicit LFO Obligation:</b> Yes, Georgia Code section 17-10-8 provides that a judge may impose a fine as a condition of probation. Georgia Code section 42-9-44(a) provides that payment of restitution and payments to dependents may be made conditions of parole.		
Hawaii	Prison Only	Haw. Rev. Stat. § 831-2.	No
	<b>Implicit LFO Obligation:</b> No, Hawaii grants persons with past convictions the right to vote immediately upon release from incarceration.		
Idaho	Completion of Sentence Including Probation	Idaho Const. art. VI, § 3; Idaho Code §§ 18-310(2), 19-2601, 20-225, 20-233.	No
	<b>Implicit LFO Obligation:</b> Yes, Idaho Code Section 20-225 requires individuals on parole or probation to pay the cost of supervision fees. An individual who demonstrates an inability to work may be relieved from this obligation. More broadly, the court can impose whatever conditions of probation it “deems necessary and appropriate” under Section 19-2601. Thus, early release from supervision under Section 20-233 could be affected by failure to meet these conditions.		
Illinois	Prison Only	Ill. Const. art. III, § 2; 10 Ill. Comp. Stat. 5/3-5; 730 Ill. Comp. Stat. 5/5-5-5(c).	No
	<b>Implicit LFO Obligation:</b> No, Illinois grants persons with past convictions the right to vote immediately upon release from incarceration.		

**Table 4:**  
**Explicit and Implicit LFO Requirements**  
**for Voting Rights Restoration (cont.)**

State	Type of Restriction	Governing Statutes and/or Constitutional Provisions	Explicit LFO Obligation
Indiana	Prison Only	Ind. Const. art. II, § 8; Ind. Code § 3-7-13-4; see <i>Snyder v. King</i> , 958 N.E.2d 764, 785-86 (Ind. 2011).	No
	<b>Implicit LFO Obligation:</b> No, Indiana grants persons with past convictions the right to vote immediately upon release from incarceration.		
Iowa	Post-Sentence -Some or All	Iowa Const. art. II, § 5; Iowa Code §§ 48A.6, 905.14, 907.7, 907.9; Iowa Admin. Code r. 201-45.2(906), 201-45.6(906), 205-13.1(906).	Yes, the Governor's restoration application process requires completion of LFOs or compliance with payment plan.
	<b>Implicit LFO Obligation:</b> Yes, an application for voting rights restoration requires completion of sentence, including parole and probation. Payment of restitution and other legal debt can be conditions for parole or probation, and failure to pay can affect the length of supervision. Iowa Code § 905.14; Iowa Admin. Code r. 201-45.2(906); 201-45.6(906); 205-13.1(906). Indeed, the Iowa Code specifically hinges early discharge from probation upon payment of fees. Iowa Code §§ 907.7, 907.9		
Kansas	Completion of Sentence Including Probation	Kan. Stat. §§ 21-6607(b)(7), 21-6607(b)(13), 22-3717(d)(5)(m), -3722; Kan. Admin. Regs. § 45-1000-1.	<b>Unclear.</b> Voting rights restoration requires completion of "terms of the authorized sentence." There is no publicly available definition of this term as used here.
	<b>Implicit LFO Obligation:</b> Yes, restitution may be a condition of parole or probation. Kan. Admin. Regs. § 45-1000-1. Kansas Statute section 21-6607(b)(7) provides that a court may impose a fine as a condition of probation, and section 21-6607(b)(13) provides that a court must require the defendant to pay a probation fee. Parolees may also be required to pay certain fees and costs. Kan. Stat. § 22-3717(d)(5)(m). Thus, failure to pay legal debt can affect the length of supervised release. See Kan. Stat. §§ 22-3717, -3722.		
Kentucky	Post-Sentence -Some or All	Ky. Const. § 145; Ky. Rev. Stat. §§ 196.045, 439.563, 533.020.	Yes, the Governor's restoration application requires payment of all restitution and considers other outstanding LFOs.
	<b>Implicit LFO Obligation:</b> Yes, the Governor's restoration application requires completion of sentence. See Ky. Rev. Stat. § 196.045. Restitution is a required condition of parole, and supervised release must be extended until restitution is fully paid or the maximum sentence is reached. Ky. Rev. Stat. § 439.563. Kentucky law also permits imposition of certain costs as conditions of probation. Ky. Rev. Stat. § 533.020.		

**Table 4:**  
**Explicit and Implicit LFO Requirements**  
**for Voting Rights Restoration (cont.)**

State	Type of Restriction	Governing Statutes and/or Constitutional Provisions	Explicit LFO Obligation
Louisiana	Completion of Sentence Including Probation	La. Const. art. I, § 10; La. Stat. §§ 18:177, 18:177.1, 18:102, 15:574.4.2, 15:574.9.	No
	<b>Implicit LFO Obligation:</b> Yes, Louisiana Statutes section 15:574.4.2 permits the imposition of supervision fees and restitution as conditions of parole. Compliance with these financial conditions of parole can impact the length of supervision. See La. Rev. Stat. § 15:574.9.		
Maine	None	Me. Const. art. II §1.	No
	<b>Implicit LFO Obligation:</b> No, Maine has no restrictions on voting on the basis of felony convictions.		
Maryland	Prison Only	Md. Code Ann., Elec. § 3-102	No
	<b>Implicit LFO Obligation:</b> No, Maryland grants persons with past convictions the right to vote immediately upon release from incarceration.		
Massachusetts	Prison Only	Mass. Const. amend. art. III.	No
	<b>Implicit LFO Obligation:</b> No, Massachusetts grants persons with past convictions the right to vote immediately upon release from incarceration.		
Michigan	Prison Only	Mich. Const. art. II, § 2; Mich. Comp. Laws §§ 168.758b, 168.492a.	No
	<b>Implicit LFO Obligation:</b> No, Michigan grants persons with past convictions the right to vote immediately upon release from incarceration.		
Minnesota	Completion of Sentence Including Probation	Minn. Stat. §§ 609.135, 609.3751, 609B.610, 201.014.	No
	<b>Implicit LFO Obligation:</b> Yes, Minnesota Statutes section 609.135 states that fines and restitution payments may be made conditions of probation and failure to pay can lead to modified probation terms. See also § 609.3751 (making failure to comply with a written agreement for payment of child support and arrearage an obstacle to discharge from probation).		

**Table 4:**  
**Explicit and Implicit LFO Requirements**  
**for Voting Rights Restoration (cont.)**

State	Type of Restriction	Governing Statutes and/or Constitutional Provisions	Explicit LFO Obligation
Mississippi	Post-Sentence -Some or All	Miss. Const. art. 12, § 241; Miss. Code §§ 23-15-11, 47-7-35(1)(h), 47-7-37(1), 47-7-38(1), 47-7-41; Op. Atty. Gen. No. 2000-0473, 2000 WL 1511821.	No
	<b>Implicit LFO Obligation:</b> Yes, informal policy appears to require completion of sentence for rights restoration applications to the legislature or Governor. Mississippi Code section 47-7-35(1)(h) lists payment of a fine as a condition of probation and parole, and failure to pay can extend supervision. Miss. Code §§ 47-7-37(1), 47-7-38(1).		
Missouri	Completion of Sentence Including Probation	Mo. Rev. Stat. §§ 115.133, 217.690, 217.703, 559.036, 559.105.	No
	<b>Implicit LFO Obligation:</b> Yes, Missouri Statutes section 217.690 provides for the (discretionary) imposition of a supervision fee for probation and parole. Sections 217.703 and 559.105 explicitly condition discharge from probation or parole on full payment of restitution. Section 559.036 permits a court to extend probation upon violation of conditions of probation or parole.		
Montana	Prison Only	Mont. Const. art. IV, § 2; Mont. Code § 46-18-801.	No
	<b>Implicit LFO Obligation:</b> No, Montana grants persons with past convictions the right to vote immediately upon release from incarceration.		
Nebraska	Post-Sentence -Some or All	Neb. Rev. Stat. §§ 29-112, 32-313, 83-1,116.	No
	<b>Implicit LFO Obligation:</b> Yes, Nebraska Statutes section 83-1,116 provides permissible conditions for parole, which do not explicitly include fines or fees, but do include “any other conditions specially related to the cause of his or her offense and not unduly restrictive of his or her liberty or conscience.” The Nebraska Board of Parole Rules include parole fees and provide that failure to pay “fines, court costs, restitution, or any fees” is a violation of parole. See Nebraska Board of Parole Rules, <a href="https://parole.nebraska.gov/sites/parole.nebraska.gov/files/doc/10-3-2017%20Board%20of%20Parole%20Rules%20-%20website.pdf">https://parole.nebraska.gov/sites/parole.nebraska.gov/files/doc/10-3-2017%20Board%20of%20Parole%20Rules%20-%20website.pdf</a> .		
Nevada	Prison Only	Nev. Const. art. 2, § 1; Nev. Rev. Stat. §§ 176A.850, 213.157, 213.155, 213.1076, 213.020.	No
	<b>Implicit LFO Obligation:</b> No, as of July 1, 2019 Nevada grants persons with past convictions the right to vote immediately upon release from incarceration.		



**Table 4:**  
**Explicit and Implicit LFO Requirements**  
**for Voting Rights Restoration (cont.)**

State	Type of Restriction	Governing Statutes and/or Constitutional Provisions	Explicit LFO Obligation
New Hampshire	Prison only	N.H. Stat. §607-A:2.	No
	<b>Implicit LFO Obligation:</b> No, New Hampshire grants persons with past convictions the right to vote immediately upon release from incarceration.		
New Jersey	Completion of Sentence Including Probation	N.J. Const. art. 2, § 1, ¶ 7; N.J. Rev. Stat. §§ 19:4-1, 2c:45-1, 2c:45-2; 30:4-123.59, 30:4-123.60.	No
	<b>Implicit LFO Obligation:</b> Yes, the New Jersey Revised Statutes section 30:4-123.59 makes payment of restitution and fines conditions of parole. Section 30:4-123.60 authorizes extension of parole based on violations of conditions of parole. Section 2c:45-1 lists paying a fine, as well as restitution or an oversight fee, as acceptable probation conditions. Section 2c:45-2 authorizes extension of probation upon failure to meet probation conditions.		
New Mexico	Completion of Sentence Including Probation	N. M. Stat. §§1-4-27.1, 31-13-1; N.M. Corr. Dep't, Policy CD-050200 (Mar. 9, 2017); N.M. Corr. Dep't, Policy CD-051500 1, 3-4 (July 31, 2015).	No
	<b>Implicit LFO Obligation:</b> Yes, New Mexico Corrections Department policies indicate that paying any fines levied by the court is an element of completing parole, and paying supervision fees is an element of completing probation. The policies also specify that payment of restitution and fines shall be conditions of supervision and payment is a condition for early release from supervision. See N.M. Corr. Dep't, Policy CD-050200 (Mar. 9, 2017) N.M. Corr. Dep't, Policy CD-051500 1, 3-4 (July 31, 2015).		
New York	Prison Only (by Executive Order)	N.Y. Elec. Law § 5-106; N.Y. Exec. Order No. 181 (2018).	No
	<b>Implicit LFO Obligation:</b> No, pursuant to Executive Order No. 181, citizens with past convictions are eligible for rights restoration after release from incarceration even if they remain on parole or probation.		
North Carolina	Completion of Sentence Including Probation	N.C. Gen. Stat. §§ 163A-841, 13-1, 163A-885, 15A-1374, 15A-1343, 15A-1371.	No
	<b>Implicit LFO Obligation:</b> Yes, supervision conditions may include supervision fees, court costs, fines, restitution, and reparations. N.C. Gen. Stat. § 15A-1374. Failure to abide by those conditions can affect eligibility for early release from supervision. N.C. Gen. Stat. § 15A-1371.		

**Table 4:**  
**Explicit and Implicit LFO Requirements**  
**for Voting Rights Restoration (cont.)**

State	Type of Restriction	Governing Statutes and/or Constitutional Provisions	Explicit LFO Obligation
North Dakota	Prison only	N.D. Cent. Code §12.1-33-03.	No
	<b>Implicit LFO Obligation:</b> No, North Dakota grants persons with past convictions the right to vote immediately upon release from incarceration.		
Ohio	Prison Only	Ohio Const. art. 5 §4; Ohio Rev. Code Ann. § 2961.01.	No
	<b>Implicit LFO Obligation:</b> No, Ohio grants persons with past convictions the right to vote immediately upon release from incarceration.		
Oklahoma	Post-Sentence-Some or All	Okla. Stat. tit. 26 § 4-101.	No
	<b>Implicit LFO Obligation:</b> No, since Oklahoma restores the right to vote automatically and only upon expiration of the maximum sentence, the impact of fines and fees on parole and/or probation is irrelevant.		
Oregon	Prison Only	Or. Rev. Stat. §137.281.	No
	<b>Implicit LFO Obligation:</b> No, Oregon grants persons with past convictions the right to vote immediately upon release from incarceration.		
Pennsylvania	Prison Only	25 Pa. Cons. Stat. §§ 2602(w) (14), 3146.1.	No
	<b>Implicit LFO Obligation:</b> No, Pennsylvania grants persons with past convictions the right to vote immediately upon release from incarceration.		
Rhode Island	Prison Only	RI Const. art. 2, § 1.	No
	<b>Implicit LFO Obligation:</b> No, Rhode Island grants persons with past convictions the right to vote immediately upon release from incarceration.		
South Carolina	Completion of Sentence Including Probation	S.C. Code Ann. §§ 7-5-120(B) (2), (B)(3), 24-21-80, 24-21-430, 24-21-440.	No
	<b>Implicit LFO Obligation:</b> Yes, section 24-21-430 of the South Carolina Code lists payment of fines as a condition of probation, and Section 24-21-80 says that both probationers and parolees have to pay supervision fees. Section 24-21-440 permits a court to extend probation so long as it does not exceed five years.		

**Table 4:**  
**Explicit and Implicit LFO Requirements**  
**for Voting Rights Restoration (cont.)**

State	Type of Restriction	Governing Statutes and/or Constitutional Provisions	Explicit LFO Obligation
South Dakota	Completion of Sentence Including Probation	S.D. Codified Laws §§ 12-4-18, 16-22-29, 23A-27-18, 23-A-27-25.1, 23A-27-35, 24-15-11, 24-15A-24, 24-15A-50.	No
	<b>Implicit LFO Obligation:</b> Yes, sections 23A-27-18, 23-A-27-25.1, 24-15-11, and 24-15A-24 of the South Dakota Codified Laws provide for payment of LFOs as a condition of parole or probation. Per sections 16-22-29 and 24-15A-50, discharge from supervision may depend upon compliance with all conditions of supervision.		
Tennessee	Post-Sentence -Some or All	Tenn. Const. art. 4, § 2; Tenn. Code Ann. §§ 40-29-204, § 40-29-202.	Yes
	<b>Implicit LFO Obligation:</b> Not relevant. Tennessee requires full payment of LFOs to restore voting rights even if parole or probation is complete.		
Texas	Completion of Sentence Including Probation	Tex. Const. art. 6, § 1; Tex. Election Code Ann. § 11.002; Tex. Code Crim. Proc. Ann. art. 42.037, 42A.651, 42A.652, 42A.701 (b)(1), 42A.753; BPP-Pol. 145.258; Tex. Gov't Code Ann. §§ 508.182, 508.1555.	Unclear. Texas law requires a person to be "fully discharged" from their sentence to vote. Definitive interpretation of this phrase for purposes of voting is not publicly available.
	<b>Implicit LFO Obligation:</b> Yes, Texas law requires the payment of restitution as a condition of supervised release. Tex. Code Crim. Proc. Ann. §§ 42.037, 42A.651; see also BPP-Pol. 145.258. Texas law also provides for the imposition of fines and fees as conditions of supervision. See Tex. Gov't Code Ann. § 508.182, Tex. Crim. Proc. Ann. § 42A.652. Payment of legal debt affects eligibility for early release from supervision. Tex. Gov't Code Ann. § 508.1555, Tex. Code Crim. Proc. Ann. § 42A.753. Indeed, reduction of probation cannot be considered if the defendant "is delinquent in paying required [LFOs]." Tex. Code Crim. Proc. Ann. § 42A.701(b)(1).		
Utah	Prison Only	Utah Code Ann. §§ 20A-2-101, 20A-1-101.5.	No
	<b>Implicit LFO Obligation:</b> No, Utah grants persons with past convictions the right to vote immediately upon release from incarceration.		
Vermont	None	Vt. Const. chap. II, §42.	No
	<b>Implicit LFO Obligation:</b> No, Vermont has no restrictions on voting on the basis of felony convictions.		

**Table 4:**  
**Explicit and Implicit LFO Requirements**  
**for Voting Rights Restoration (cont.)**

State	Type of Restriction	Governing Statutes and/or Constitutional Provisions	Explicit LFO Obligation
Virginia	Completion of Sentence Including Probation (by executive action)	Va. Const. art. 2, § 1; Va. Const. art. 5, § 12; Va. Code Ann. §§ 19.2-305, 19.2-356.	No
	<b>Implicit LFO Obligation:</b> Yes, under the Governor's current policy, voting rights may be restored after completion of sentence, including parole and/or probation. Sections 19.2-305 and 19.2-356 of the Virginia Code establish that fines and costs may be established as a condition of probation. While section 19.2-305(C) provides that failure to pay LFOs should not be the sole reason for prolonged supervision, that provision only applies if the relevant officials do not object.		
Washington	Completion of Sentence Including Probation	Wash. Rev. Code § 29A.08.520(1).	Yes.
	<b>Implicit LFO Obligation:</b> Not relevant, the state of Washington explicitly requires good faith payments toward LFOs to maintain voting rights.		
West Virginia	Completion of Sentence Including Probation	W. Va. Const. art. IV, § 1; W. Va. Code §§ 3-2-2, 62-12-9, 62-12-11, 62-12-17.	No
	<b>Implicit LFO Obligation:</b> Yes, section 62-12-9 of the West Virginia Code lists fees, fines and restitution as conditions of probation. Section 62-12-17 allows supervision fees as a condition of parole. Discharge from probation—which can be extended up to seven years—depends upon completion of conditions of supervision. W. Va. Code § 62-12-11 (2017).		
Wisconsin	Completion of Sentence Including Probation	Wis. Stat. §§ 6.03, 304.078, 973.05, 973.09.	No
	<b>Implicit LFO Obligation:</b> Yes, section 973.05 of the Wisconsin Statutes lists fines, costs, fees, and surcharges as acceptable conditions for probation. Section 973.09 requires restitution to be a condition of probation unless the court finds a “substantial reason” not to, in which case it has to state why on the record.		
Wyoming	Post-Sentence -Some or All	Wyo. Stat. Ann. §§ 7-9-109, 7-13-421, 7-13-302, 7-13-305 7-13-1057-15, 22-3-102(a)(v).	No
	<b>Implicit LFO Obligation:</b> Yes, under sections 7-9-109 and 7-13-421 of the Wyoming Statutes, payment of restitution must be a condition of parole or probation. Section 7-13-302 authorizes a fine as a condition of probation. Compliance with all conditions of probation can determine when a person is discharged from probation. See Wyo. Stat. Ann. § 7-13-305.		



