

Memorandum

To: Chairman Randy Robertson & Members of the Senate Study Committee on Revising Voting Rights for Nonviolent Felons

From: Marissa Dodson, Public Policy Director, Southern Center for Human Rights

RE: Felony Disenfranchisement in Georgia and Proposals for Recommendation to the Members of General Assembly

Date: 22 Oct 2019

The following memorandum serves as a response to the questions that we received during our presentation at the September 21st meeting.

I. It would be most effective for the Study Committee to recommend a list of offenses that are determined to include moral turpitude, instead of creating a list of felonies do not.

As discussed in our previous memorandum and presentation, we strongly encourage the study committee to recommend the statutory creation of an explicit list of offenses deemed to involve moral turpitude. We believe that creating an exhaustive list of offenses that include moral turpitude is the most effective way to clarify the law and avoid ambiguity. Indeed, with more than 1,000 felony offenses, and the Georgia's criminal code is usually explicit when identifying conduct subject to a particular treatment, as demonstrated by the laws on the sex offender registry¹, serious violent felonies² and offenses eligible for first offender treatment³ to name a few. Moreover, other southern states such as Alabama and Mississippi also provide list of the offenses that disqualify people from voting. In 2017, Alabama lawmakers finally defined the term "moral turpitude" to apply to 46 felony offenses such as serious violent offenses and crimes against children.⁴ Mississippi similarly maintains a list of 22 permanently disqualifying felonies.

Based on a review of Georgia's criminal code and the recent reforms in Alabama –SCHR proposes the following offenses be disqualifying until the sentence is complete:

1. Murder or felony murder as defined in Code Section 16-5-1
2. Voluntary manslaughter as defined in Code Section 16-5-2
3. Aggravated assault as defined in Code Section 16-5-21
4. Aggravated battery as defined in Code Section 16-5-24
5. Kidnapping as defined in Code Section 16-5-40
6. Trafficking a person for labor or sexual servitude as defined in Code Section 16-5-46
7. Cruelty to children in the first and second degrees as defined in subsections (a), (b) and (c) of Code Section 16-5-70
8. Feticide as defined in Code Section 16-5-80
9. Exploitation, threat, intimidation, or attempt to intimidate a disabled adult or elder person as defined in Code Section 16-5-102
10. Neglect of a disabled adult, elder person, or resident of a long-term care facility as defined in Code Section 16-5-101
11. Rape as defined in Code Section 16-6-1
12. Aggravated sodomy as defined in Code Section 16-6-2
13. Aggravated child molestation as defined in Code Section 16-6-4
14. Enticing a child for indecent purposes as defined in Code Section 16-6-5
15. Improper sexual contact as defined in Code Section 16-6-5.1
16. Sexual battery as defined in subsection (d) of Code Section 16-6-22.1
17. Aggravated sexual battery as defined in Code Section 16-6-22
18. Burglary as defined in Code Section 16-7-1
19. Home invasion in the first degree as defined in Code Section 16-7-5

¹ Ga. Code Section § 42-1-12 (e) (2019).

² Ga. Code Section §17-10-6.1 (2010).

³ Ga. Code Section § 42-8-60 (2019).

⁴ Ala. Code Section 17-3-30.1 (2017).

20. Arson in the first degree as defined in Code Section 16-7-60
21. Possession, manufacturer, etc. of destructive devices as defined in Code Sections 16-7-82 and 16-7-83
22. Distribution of destructive device, explosive, poison gas, or detonator to person under 21 years of age as defined in Code Section 16-7-84
23. Possession, transportation, receipt or use of destructive device or explosive with intent to kill, injure or intimidate or to destroy any public building as defined in Code Section 16-7-88
24. Theft by taking as defined in Code Section 16-8-2 when the property was more than \$5000
25. Theft by deception as defined in Code Section 16-8-3 when the property was more than \$5000
26. Theft of services as defined in Code Section 16-8-5 when the property was more than \$5000
27. Theft by receiving stolen property as defined in Code Section 16-8-7 when the property was more than \$5000
28. Theft by receiving property stolen in another state as defined in Code Section 16-8-8 when the property was more than \$5000
29. Theft by bringing stolen property into this state as defined in Code Section 16-8-9 when the property was more than \$5000
30. Theft by extortion as defined in Code Section 16-8-16
31. Robbery as defined in Code Section 16-8-40
32. Armed robbery as defined in Code Section 16-8-41
33. Forgery in the first and second degrees as defined in Code Section 16-9-1
34. Identity fraud as defined in Code Section 16-9-121
35. Aggravated identity fraud as defined in Code Section 16-9-121.1
36. Violation of oath by public officer as defined by Code Section 16-10-1
37. Bribery as defined in Code Section 16-10-2
38. Receiving funds for enforcement of penal laws or regulations as defined in 16-10-3
39. Improperly influencing legislative action as defined in Code Section 16-10-4
40. Treason as defined in Code Section 16-11-1
41. Insurrection as defined in Code Section 16-11-2
42. Inciting to insurrection as defined in Code Section 16-11-3
43. Domestic terrorism as defined in Code Section 16-11-221
44. Terroristic threats and acts as defined in subsection (d) of Code Section 16-11-37
45. Possession of dangerous weapons as defined in Code Section 16-11-122
46. Sexual exploitation of children as defined in Code Section 16-12-100
47. Electronically furnishing obscene material to minors as defined in subsection (d) of Code Section 16-12-100.1
48. Trafficking of certain controlled substances as defined in Code Section 16-13-31

II. Disenfranchising Georgians based on criminal justice debt is confusing and discriminates against people without financial resources

As we have said previously, we encourage the Study Committee to recommend to the General Assembly that Georgia's law is clarified to allow voting rights restoration regardless of outstanding criminal justice debt. People who have been convicted of a felony offense, service providers, and even many poll workers are unclear about which debts must be paid to restore voting rights. Moreover, deciding voting rights restoration based on whether someone can afford to pay a financial debt only perpetuates a two-tiered system for people without financial wealth. Thus, if two people are charged with the same offense, but only one has the resources to pay the corresponding debt then that person can vote, but the person who cannot pay is unable to civically engage. Not only is this wealth-based discrimination, the practice is also counterintuitive to promoting the health and safety of Georgia's communities. We know that when people can participate in the democratic process and exercise their right to vote, there are reductions in recidivism and positive impacts on communities.⁵ In fact, one study found that voting reduces the likelihood of re-arrest by half.⁶ Participating in civic engagement also increases political trust which has been proven to effect voter choices, political preferences and government efficiency.⁷

⁵ Guy Padraic Hamilton-Smith and Matt Vogel, "The Violence of Voicelessness: The Impact of Felony Disenfranchisement on Recidivism," *Berkeley La Raza Law Journal*. 22 La. Raza L.J. 2, 414 (2015).

⁶ Christopher Uggen & Jeff Manza, Voting and Subsequent Crime and Arrest: Evidence from a Community Sample, 36 Colum. Hum. Rts. L. Rev. 193, 205 (2004).

⁷ Victoria Shineman, *Restoring Rights, Restoring Trust: Evidence that Reversing Felon Disenfranchisement Penalties Increases Both Trust and Cooperation with Government* (2018).