Felony Disenfranchisement in Georgia

A Presentation to The Senate Study Committee on Revising Voting Rights for Nonviolent Felons

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The ACLU of Georgia

- The ACLU of Georgia is dedicated to protecting the civil rights and civil liberties enshrined in the U.S. Constitution, Bill of Rights and Georgia Constitution.

- It is our position that no one should lose their right to vote.
Felony Disenfranchisement in Georgia

“No person who has been convicted of a felony involving moral turpitude may register, remain registered, or vote except upon completion of the sentence.”

1. Georgia Const. art. II, § 1.
Moral Turpitude circa 1877

- The “moral turpitude” provision is meant to single out actions that are “contrary to justice, honesty, modesty, or good morals.”
- Due to the lack of clear guidelines to apply the term, it has in effect led to all Georgians convicted of felonies being disenfranchised regardless of the crime.
  - 264,000 Georgians were disenfranchised in 2018 due to felony convictions.
  - 248,751 Georgians were disenfranchised in 2016 due to felony convictions.
  - Georgia also has the largest correctional supervision population in the country at over 404,000 people.

2. Holloway v. Holloway, 126 Ga. 459, 460 (1906)
3. Reform Georgia, Fact Sheet on Felony Disenfranchisement in Georgia
Moral Turpitude

• If all felonies were meant to disenfranchise citizens, then there wouldn’t need to be a “moral turpitude” distinction.

• The Supreme Court has never weighed in on the term “moral turpitude” as it relates to its application to voting rights in Georgia.

  • The Supreme Court has ruled that disenfranchisement provisions that result in “purposeful racial discrimination” are unconstitutional.\(^6\)

  • In 2016, 58% of Disenfranchised Georgians were Black, despite only making up 32% of the population.\(^7\)

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\(^6\) Hunter v. Underwood, 471 U.S. 222 (1985)

Our Neighbors In The South: Alabama

- 2017: Alabama passed the “Felony Voter Disqualification Act.”
  - Passed unanimously in both chambers
- Alabama’s law lists specific felony convictions that involve moral turpitude.
Our Neighbors In The South: Louisiana

- 2018: Louisiana passed legislation to allow for the restoration of voting rights for some convicted felons.
  - In cases where the convicted felon “has not been incarcerated within the last five years…” 9

Our Neighbors In The South: Florida

• 2018: Florida voters passed a Constitutional Amendment to restore voting rights to Ex-Offenders.

  • “…automatically restore the right to vote for people with prior felony convictions, except those convicted of murder or a felony sexual offense, upon completion of their sentences.”

10. Florida Association of Counties, “Voting Rights Restoration For Felons Initiative”, Available at: https://www.fl-counties.com/amendment-4
Georgia Recommendations

• Create and make publicly available a list of specific felony offenses that involve “moral turpitude” and therefore will result in the loss of the right to vote until completion of the criminal sentence.

  • Our recommendation is still that no one should be stripped of their right to vote. However, if a list is created then Georgians should be given notice at all proceedings that their right to vote is being jeopardized.

• Automatically restore citizens convicted of the listed felonies the right to vote, once they have been freed from incarceration, regardless of any outstanding term of probation or parole.