

**Felony Disenfranchisement in Georgia  
Recommendations to the Members of the General Assembly**

Written Testimony submitted to  
Chairman Randy Robertson & Members of the Senate Study Committee on  
“Revising Voting Rights for Nonviolent Felons”

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LaGrange College

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Good morning, Chairman Robertson and distinguished members of this study committee. Thank you for taking the time to come into the community to hear from individuals and organizations about Georgia's felony voter disenfranchisement policies, which I believe demonstrates whether or not Georgia is living up to our great nation's ideals of democracy, rights, liberty, opportunity and equality.

I am Roberta Meyers and I work as the Director of State Strategy and Reentry at the Legal Action Center ([www.lac.org](http://www.lac.org)). My job is to monitor and provide leadership on key public policy initiatives, particularly at the intersections of health and justice; promote policies that support the successful reintegration of people with justice-system involvement; and conduct advocacy at the federal level with Congress and the Administration and on the state and local levels. I also direct Legal Action Center's National H.I.R.E. (**H**elping **I**ndividuals with criminal records **R**eenter through **E**mployment (H.I.R.E.) Network ([www.hirenetwork.org](http://www.hirenetwork.org)), a national clearinghouse of information and policy advocacy project that aims to improve employment and other opportunities for people with criminal records.

The Legal Action Center (LAC) is the only non-profit law and policy organization in the United States whose sole mission is to fight discrimination against people with histories of addictions, HIV/AIDS, or criminal records, and to advocate for sound public policies in these areas. For over four decades, since spinning off from the Vera Institute of Justice, LAC has worked to combat stigma and prejudice that keep individuals out of the mainstream of society. LAC is committed to helping people reclaim their lives, maintain their dignity, and participate fully in society. Our work has always involved illuminating the relationship between racial disparities, drug laws and mass incarceration. Therefore, we have also worked to eliminate felony disenfranchisement laws because they continue to perpetuate inequality, marginalize communities of color, and challenges our ability to be a fully democratic society without exception.

America was founded upon some of the world's greatest democratic principles, including the right of all citizens to participate in the democratic process through voting. Yet when it comes to our treatment of people who have a criminal record, we fall short of these democratic ideals: our disenfranchisement policies with regard to people who have been convicted of a crime have resulted in well over 6 million people losing the precious right to vote nationally.<sup>1</sup> Further, millions of Americans are suffering today because of decades of unjust public policy favoring punishment over treatment. More people with substance use disorders are in the criminal justice system (6 million) than in treatment (2.3 million). And, 60-80% of people in the criminal justice system suffer from substance use disorders.

In 2018 in Georgia, over 266,000 Georgians could not vote due to felony disenfranchisement and 80% of those individuals were not incarcerated, but living in the community.<sup>2</sup> While I understand that the committee is here to discuss individuals convicted of "nonviolent offenses", I implore you to consider broadening voting rights to include all individuals who are serving their sentences in the community. It is time for Georgia to consider (1) the historical context from which disenfranchisement laws and policies have derived; 2) the relationship between race, drug

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<sup>1</sup> Christopher Uggen, Ryan Larson, & Sarah Shannon. *6 Million Lost Voters: State-Level Estimates of Disenfranchisement, 2016*. The Sentencing Project, (2016), 15-16.

<sup>2</sup> Reform Georgia, *Fact Sheet on Felony Disenfranchisement in Georgia*. (2019). Available at <http://www.senate.ga.gov/committees/Documents/ReportonFelonyDisenfranchisementinGeorgia.pdf>.

laws, and mass incarceration; 3.) sustaining Georgia’s commitment to being smart on crime, safety, and justice; and 4.) practicing redemption and restoring human dignity in our quest for criminal justice reform.

### The Criminalization of Race, Poverty, Health and Disenfranchisement

Though some states had adopted limited felony disenfranchisement laws as early as the 18th Century, the post-Civil War Reconstruction period saw a surge in the scope and breadth of these laws.<sup>3</sup> The spread of disenfranchisement laws was part of the larger backlash against adoption of the Thirteenth, Fourteenth and Fifteenth Amendments to the United States Constitution, which were enacted to guarantee equality, due process, and the right to vote to all Americans, including those who had been enslaved.<sup>4</sup> This backlash included not only violence and intimidation, but also structural barriers to equality, including poll taxes, literacy tests, grandfather clauses, residency requirements, and disenfranchisement laws.<sup>5</sup> Importantly, these disenfranchisement laws were not passed in a vacuum – they were enacted along with an expansion in penal provisions that criminalized behavior freed slaves were thought to commit more often, such as vagrancy, petit larceny, and bigamy, resulting in mass incarceration of those who had been enslaved.<sup>6</sup>

Put simply, disenfranchisement laws as one writer describes, “were one arrow in a quiver of laws such as the now-prohibited literacy tests and poll taxes, which were racially neutral on their face but which segregationists used to prohibit minorities (and to a large extent, poor whites) from voting.”<sup>7</sup> Georgia’s laws are deeply entrenched in some of this ugly and dark history. Some of our laws, including the State Constitution that was modified to include the adoption of the term “moral turpitude,” have been used as tools to silence and exclude large swaths of the population from certain civil liberties. Our state’s vague and ominous definition of moral turpitude appears to be race neutral but the impact has been undeniable – a disproportionate number of those who have lost the right to vote are African American or Latinx.

From 1999-2005, African Americans constituted roughly 13% of drug users on average, but 36% of those arrested for drug offenses, and 46% of those convicted for drug offenses. From 1980-2000, drug arrests rate rose from 6.5 to 29.1 per 1,000 persons for black Americans. During the same period, drug arrest rates only increased from 3.5 to 4.6 per 1,000 persons for white Americans. Yet the disparity between the increase in black and white drug arrests does not correspond to any significant disparity in drug activity.

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<sup>3</sup> Erica Wood & Neema Trivedi, *The Modern-Day Poll Tax: How Economic Sanctions Block Access to the Polls*, *Clearinghouse Review*, J. POV’Y L. POL’Y, 32, (May-June 2007).

<sup>4</sup> Alysia Robben, *A Strike at the Heart of Democracy: Why Legal Challenges to Felon Disenfranchisement Laws Should Succeed*, 10 U. D.C. L. Rev. 15, 19 (2007).

<sup>5</sup> *Id.* at 19.

<sup>6</sup> Katherine Irene Pettus, *Felony Disenfranchisement In America: Historical Origins, Institutional Racism, And Modern Consequences*, 12 (2005); Carl N. Frazier, *Removing the Vestiges of Discrimination: Criminal Disenfranchisement Laws and Strategies for Challenging Them*, 95 KY. L.J. 481, 484 (2006).

<sup>7</sup> New York State Bar Association, “Re-entry and Reintegration.” at 304. Available at <https://www.nysba.org/WorkArea/DownloadAsset.aspx?id=26857>

Nearly 80% of people in federal prison and almost 60% of people in state prison for drug offenses are black or Latino. There is a significant amount of research and scholarship that have proven this phenomenon to not be coincidental.<sup>8</sup>

Large numbers of American citizens have been deprived from having a voice in our government. Though there continues to be various court challenges under state constitutions, legislative action presents the most promising means of reform.<sup>9</sup> Leaders such as yourselves have the power to correct the course of our country and expand voter enfranchisement laws.

### Georgia Overview

For the past eight years, Georgia has done significant work to reshape its adult and juvenile correctional systems and has earned widespread acclaim for its comprehensive approach to criminal justice reform. According to the Georgia Council on Criminal Justice Reform:

*Georgia is creating a criminal justice system that keeps the public safe while ensuring people in prison who are motivated to change receive the support they need to rebuild their lives upon release.<sup>10</sup>*

At year end 2018 Georgia had:

- 202,421 people on felony probation and living in their community
  - 35% (71,667) for felony drug offenses (possession, sale, etc.)
  - 32% (64,579) for property offenses (burglary, vehicle theft, fraud, etc.)
  - 1% (1,723) for driving while intoxicated or under influence of alcohol or drugs<sup>11</sup>
- **Probation sentences in Georgia average 6.3 years, nearly double the US average**
- 20,426 Georgians were on felony parole (8.7%)
  - Over 60% are minorities and 57% of those individuals had non-violent crimes (property, drug)<sup>12</sup>

Many of these convictions also come with hefty legal financial obligations or monetary sanctions that will padlock these individuals to a perpetual cycle of poverty and debt and to the legal system itself. These monetary sanctions are usually a combination of fines, fees, and restitution that are imposed as part of a sentence, even for defendants who are indigent. This debt could start at thousands of dollars and quickly accrue to double or triple the principal amount due to unpaid interest. The subjects of these fines, fees, restitution, and interest are mostly low-income individuals and there is usually a significant gap between amounts owed and capacity to pay.<sup>13</sup>

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<sup>8</sup> Michelle Alexander. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: New Press, 2010.

<sup>9</sup> *See Richardson v. Ramirez*, 418 U.S. 24 (1974).

<sup>10</sup> Report of the Georgia Council on Criminal Justice – 2018, (February 2018). Available at

<https://dcs.georgia.gov/document/publication/2016-2017-criminal-justice-reform-council-report/download>

<sup>11</sup> U.S. Department of Justice, Bureau of Justice Statistics. “2018 Annual Probation and Parole Survey, Georgia.” (Obtained under the Freedom of Information Act from Georgia Department of Community Supervision on Probation and Parole for 2010-2017 U.S. Information Agency; requested as “Materials on Radio Marti” May 1983; received June 1983).

<sup>12</sup> *Id.*

<sup>13</sup> Alexes Harris, Beth Huebner, Karin Martin, Mary Pattillo, Becky Pettit, Sarah Shannon, Bryan Sykes, and Christopher Uggen. *United States Systems of Justice, Poverty and the Consequences of Non-Payment of Monetary*

Individuals can be in compliance with their supervision mandates; work, pay taxes, take care of themselves and their families but never get the opportunity to become a registered voter. It could be decades before many of them would ever be able to pay off their legal financial obligations. Wealth should not be a barrier or determining factor of whether or not someone can have their right to vote restored.

There are twenty-one states and the District of Columbia that permit individuals with felony convictions and who under community correctional supervision to register to vote. Georgia, however, is one of eighteen (18) states that restores voting eligibility to individuals convicted of a felony upon completion of sentence, which also includes payment of all legal financial obligations.<sup>14</sup> One problem is Georgia doles out long sentences, with long incarceration and community supervision terms.<sup>15</sup> Although, Georgia has for the past several years been working to redesign its criminal legal system to hopefully shed the label of being the state that is the most punitive from any angle that we look at correctional control—incarceration or community supervision—to one that focuses on reconciliation, restoration, and redemption; it still has a long way to go.

### Voting Rights Matter to Public Safety

Stripping away voting rights from people serving their sentence under community supervision counteracts the goal of successfully facilitating positive engagement with community. Felony disenfranchisement in many respects equates to “reintegrative shaming.”<sup>16</sup> It reinforces the idea that the individual is an outsider or outcast and ultimately “become[s] a self-fulfilling prophecy resulting in increased criminal activity by virtue of the psychological effects that the label has on the individual themselves.”<sup>17</sup> What is truly our goal when seeking justice? It should not simply be about punishment but changing behavior.

In the end, we want individuals to not engage in criminal activity, have good physical and mental health, strong family relationships, and improve their financial situations. Moreover, we want them to have strong community ties and be accountable to others in their community: “Empirical research supports the argument that democratic participation is positively associated with a

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*Sanctions: Interviews from California, Georgia, Illinois, Minnesota, Missouri, Texas, New York, and Washington.* (2017). Available at <https://finesandfeesjusticecenter.org/articles/united-states-systems-of-justice-poverty-and-the-consequences-of-non-payment-of-monetary-sanctions-interviews-from-california-georgia-illinois-minnesota-missouri-texas-new-york-and-washington/>

<sup>14</sup> The Sentencing Project. “Felony Disenfranchisement: A Primer.” (update 2019). Available at <https://www.sentencingproject.org/publications/felony-disenfranchisement-a-primer/>

<sup>15</sup> Peter Wagner & Wendy Sawyer, (June 2018). “States of Incarceration: The Global Context 2018.” Available at <https://www.prisonpolicy.org/global/2018.html>

<sup>16</sup> Guy Padraic Hamilton-Smith & Matt Vogel, *The Violence of Voicelessness: The Impact of Felony Disenfranchisement on Recidivism*, 22.2 BERKELEY LA RAZA L.J., 414 (2012).

<sup>17</sup> *Id.* at 415.

reduction in recidivism...because active participants in the democratic process are more likely to adopt the shared values of their broader community.”<sup>18</sup>

### Lived Experience

My brother was convicted of a felony offense in his late 20’s. He mistakenly let his financial distress and addiction lead him to a path of selling and using drugs. He was convicted of a felony, served a short sentence on Rikers Island, was diverted to inpatient drug treatment, and finished his 5-year sentence on probation in the community. Fortunately, he never lost his right to vote under New York State law and he never had to feel like an outcast in the community he lived in. He attained his GED and his Associates degree while under community supervision. He was able to get a job at the college he attended. He later earned a Bachelor of Science degree in Information Technology. He has a 6-year old daughter to care for and became determined to be more active in her life, particularly her education.

He is a member of her school’s PTA, attends field trips, volunteers in her classroom, and is extremely active in supporting teachers and the administrators in his daughter’s school. The Department of Education Superintendent was up for reelection last year and he could not wait to have a say in who would lead the district he was raising his daughter in. It was my first time seeing my brother excited about elections and the political process. He was thrilled and excited to be able to have a voice in deciding who would lead and establish the educational experience his daughter would get to have in the public school system. Being able to vote mattered to him. As a family member and advocate for justice reform, I was extremely proud to see him exercise his voting right with pride.

### Recommendations for the Study Committee

- 1) **Automatically restore voting rights of all individuals who are serving their sentence under community supervision** along with those who completed their sentences; **or**
- 2) **Limit criminal disenfranchisement to a list of specific offenses** – Georgia law should be clarified to define a list of disqualifying felony offenses to be considered felonies of moral turpitude. Individuals convicted of any other offense not listed should have their voting rights automatically restored; **and**
- 3) **Allow people to register to vote regardless of outstanding legal financial obligations** – Clarify the law to ensure that voting rights restoration is not conditioned on a person’s ability to pay any fines, fees or other criminal justice debt.

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<sup>18</sup> *Id.*