



514 10TH STREET NW, SUITE 1000
WASHINGTON, DC 20004
TEL: 202.628.0871 - FAX: 202.628.1091
STAFF@SENTENCINGPROJECT.ORG
WWW.SENTENCINGPROJECT.ORG

**BARRED FOR LIFE:
VOTING RIGHTS RESTORATION
IN PERMANENT DISENFRANCHISEMENT STATES**

BY MARC MAUER AND TUSHAR KANSAL

FEBRUARY 2005

This report was written by Marc Mauer and Tushar Kansal, Assistant Director and Research Associate respectively, of The Sentencing Project.

The Sentencing Project is a national non-profit organization engaged in research and advocacy on criminal justice policy issues. Funding for this project was made possible by support from the JEHT Foundation, Open Society Institute, and the Tides Foundation.

The Sentencing Project is a partner in the Right to Vote Campaign, a national campaign to remove barriers to voting faced by people with felony convictions. Further information can be found at www.righttovote.org.

Copyright © 2005 by The Sentencing Project. Reproduction of this document in full or part in print or electronic format only by permission of The Sentencing Project.

For further information:

The Sentencing Project
514 10th St. NW
Suite 1000
Washington, D.C. 20004
(202) 628-0871
www.sentencingproject.org

BARRED FOR LIFE: VOTING RIGHTS RESTORATION IN PERMANENT DISENFRANCHISEMENT STATES

Overview -- Rights Restoration in 14 States

An estimated 4.7 million Americans are not eligible to vote as a result of felony disenfranchisement laws that apply in 48 states and the District of Columbia. Election laws are determined by each state, and so disenfranchisement laws vary significantly across the country. Persons who are excluded from voting include people currently serving a felony sentence in prison or on probation or parole, as well as persons in 14 states which disenfranchise convicted persons even after completion of sentence.

Of the 14 states that disenfranchise persons after completion of sentence, 6 do so for all persons convicted of a felony¹ and 8 others do so either for certain categories of offenses or for certain time periods.² In all 14 states, some or all persons convicted of a felony can be considered to be permanently disenfranchised. In some states, for example, this can include an 18-year old convicted of a first-time non-violent offense and sentenced to probation.

The only means by which these persons can have their voting rights restored is through action by the state, variously by a pardon or restoration of rights from the governor or board of pardons, or by legislative action. In many of these 14 jurisdictions, restoration of rights is as a practical matter unattainable for most convicted persons.

Findings

This report represents the first national survey of the restoration process in each of the 14 states. We present data on the number of people seeking to have their rights restored in these states, along with estimates of the total number of disenfranchised persons who have completed a felony sentence. Due to great variation among the states in recordkeeping and reporting, the data presented here cover varying time frames with varying levels of specificity.

Legislative and executive changes in recent years have made the restoration process simpler in some states. For example, legislation passed in Alabama in 2003 permits many persons to apply for restoration of voting rights immediately after completion of sentence and establishes a 45-day time frame for review. In Virginia, Governor Mark Warner has expedited the application and review process. In each of these states, the number of rights restorations has increased as a result of these policy changes.

Despite these reforms, the number of persons who are denied voting rights following completion of a felony sentence is still about 1.5 million in these 14 states. Even with an expedited process in some states, procedures to register to vote remain far more complicated for persons with felony convictions than for other Americans.

¹ Alabama, Florida, Iowa, Kentucky, Nebraska, and Virginia.

² Arizona, Delaware, Maryland, Mississippi, Nevada, Tennessee, Washington, and Wyoming.

Our survey of the 14 states generally demonstrates a restoration process that is frequently confusing, cumbersome, and not widely used. Overall, we find broad problems with both policy and practice in the rights restoration process, as seen below:

Limited Rights Restoration

With the exception of Florida, the data indicate that the number of persons whose voting rights are restored in most states is very modest, particularly in comparison with the number of persons disenfranchised. For example, just 107 persons have had their rights restored in Mississippi since 1992, compared to a disenfranchised population of 82,002. In Nebraska, 343 people have regained their voting rights since 1993 out of a pool of 44,001. In 11 of the states for which data is available, less than 3% of ex-felons have had their rights restored.

The number of people who have regained voting rights in Florida – 48,000 in the past six years – is clearly significant, but, as detailed in the text, the total figure is a result of lengthy court battles in recent years and represents just a small fraction of the estimated overall disenfranchised population of 613,514.

Inadequate Data

In most states there is relatively little data available by which to track the rights restoration process. As can be seen in this report, the depth of data and time frames covered in most states are extremely fragile in most regards. In two states, Arizona and Nevada, no state agency compiles data on this process. In Tennessee, data is only available for the period 2001-04, and in Wyoming, the state tracks data on the number of persons whose rights have been restored but not on the number of applicants.

The failure to maintain comprehensive data on this process results in a system whereby state government is not accountable and where there is no means of assessing the impact of these practices over time.

Lengthy and Confusing Waiting Periods

Six states (Arizona, Delaware, Maryland, Nebraska, Virginia, and Wyoming) with a policy of permanent disenfranchisement impose a waiting period even after completion of sentence before a convicted person can apply to have rights restored. Such policies are problematic for several reasons. First, they impose an unnecessary restraint on regaining democratic rights. In Nebraska, the Board of Pardons requires persons to wait ten years before applying for restoration of rights; this applies even for a first-time conviction for a non-violent offense that results in probation.

Regulations governing waiting periods are confusing as well. In Virginia, for example, persons convicted of non-violent offenses are required to wait three years after completion of sentence before applying for restoration, but those convicted of drug trafficking and violent offenses must wait five years.

In almost all cases, the burden of tracking the waiting period falls on the potential applicant. This is particularly challenging in states like Maryland, where advocates report that persons leaving parole supervision do not normally receive any documentation to this effect and therefore, cannot “prove” to election officials that the three-year waiting period has expired.

Cumbersome Restoration Processes

Whether intentional or not, the process by which persons can seek to regain their voting rights is often extremely cumbersome and arcane. Tennessee is the most extreme state in this regard. As a result of frequent legislative changes, the process for restoration of rights differs depending on which of five different time periods a felony conviction was acquired. Such procedures present obstacles to voting that are unnecessarily burdensome.

Arbitrariness

In a system as discretionary as rights restoration, the prospects for regaining one’s rights can shift dramatically depending on the state administration. In Virginia, for example, incoming Governor Mark Warner implemented a streamlined restoration process through executive order, resulting in a significantly increased number of applications and restorations. Conversely, Governor Ernie Fletcher of Kentucky made the process considerably more burdensome than it had previously been by requiring applicants to submit a written statement explaining why they wanted to regain their voting rights, and three letters of reference.

While governors are free to exercise their powers in this manner, such shifts in policy can result in overly arbitrary results depending on the time frame in which an application is considered.

Inappropriate Character Tests

Governors in Florida, Kentucky, and other states employ various types of character tests for applicants seeking to restore their rights. Governor Jeb Bush of Florida, for example, frequently asks applicants in interviews whether they drink alcohol. As noted, Governor Fletcher of Kentucky requires letters of reference attesting to the applicant’s good character.

Behavioral inquiries are appropriate in some situations regarding people with felony convictions. For example, parole officers may legitimately try to seek information regarding drug or alcohol use, living arrangements, and employment status of people on parole. But in a democracy, individual attributes or character flaws have no bearing on qualifications for voting. There is no more rational justification for employing such a standard to people with felony convictions than there would be for any other citizen.

Recommendations

This report has detailed that the process for regaining the right to vote in the 14 states that practice permanent disenfranchisement is generally little used, overly cumbersome, and anti-democratic. To remedy these problems, policymakers in these states should consider the following recommendations for reform.

Repeal permanent disenfranchisement laws

In a democracy there is no reasonable justification for a lifetime ban on voting by people with felony convictions. Internationally, the United States stands virtually alone in this regard, in the extent to which persons are disenfranchised after completing their sentence. Most industrialized nations restore voting rights immediately after release from prison, and many permit persons in prison to vote as well.

Within the U.S. there is growing momentum and support for such change. The American Bar Association, the American Correctional Association, and the Ford/Carter Commission on Electoral Reform have all adopted resolutions in support of voting rights after release from prison or completion of sentence.³ In 2001, the state of New Mexico repealed its lifetime ban. Other states should consider adopting such a change as well.

Provide transparency in the restoration process

To the extent that states maintain permanent disenfranchisement policies, they should be obligated to compile comprehensive data on the restoration process. At a minimum, this should include annual reporting of data on the number of applications, recommendations, and approvals by each administration. States should also establish efficient administrative processes, clear standards, and eliminate character tests.

Eliminate waiting periods for restoration

Restoration processes should be available to permanently disenfranchised persons immediately after completing a felony sentence. While there is no inherent right to receive a restoration of rights, there is no compelling rationale for imposing a waiting period, and doing so only results in far fewer people availing themselves of the process.

Aid eligible persons in the restoration process

Corrections officials in each state, including probation and parole officers, should be required to inform persons under supervision about the restoration process, and assist them in applying. This should include notification of relevant procedures prior to exiting from corrections supervision and assistance in obtaining or completing application forms.

³ Note that the ABA is on record as opposing any link between a felony conviction and loss of voting rights, but takes no position on whether persons in prison should be disenfranchised.

Establish a presumption of restoration

Given that there is no rationale for denial of voting rights based on a felony conviction, decisionmakers should establish a presumption of restoration for all eligible applicants unless there is a compelling justification for not doing so.

Use Discretion to Reduce the Number of Felony Convictions

Criminal justice practitioners should use their discretion in appropriate cases to reduce the number of persons acquiring a felony conviction. This could include diversion to treatment programs in cases involving substance abuse or trying young people in juvenile court rather than transferring their cases to adult court. Such practices would lead to appropriate resolution of cases without attaching all the collateral consequences of a felony conviction.

Note on Data Sources

Data on the restoration process for each state was obtained through contacts with officials in governors' offices and with probation, parole, and pardon agencies. Where not available, contacts were made with county officials and non-profit agencies engaged in restoration programs.

Estimates on the number of persons disenfranchised in each state after completing supervision are taken from Christopher Uggen and Jeff Manza, "Democratic Contraction? Political Consequences of Felon Disenfranchisement in the United States," *American Sociological Review*, 2002, Vol. 67 (December: 777-803). Data represent estimates as of 2000. These estimates are affected by changes in criminal justice populations and voting restorations since that time, but in most cases these changes are relatively modest.

Information on state restoration policies is generally taken from the "50-State Report on Re-Enfranchisement: A Guide to Restoring Your Right to Vote," by the Lawyers' Committee for Civil Rights Under Law, 2004.

RESTORATION OF VOTING RIGHTS FOR EX-FELONS

State	Number Disenfranchised	Restorations
Alabama	148,830	1,697 (est., 2004)
Arizona	58,936	N/A
Delaware	14,384	800 (est., 2000)
Florida	613,514	48,000 (1998-2004)
Iowa	80,257	2,210 (1999-2004)
Kentucky	109,132	1,320 (2002-2004)
Maryland	78,206	147 (1996-2003)
Mississippi	82,002	107 (1992-2004)
Nebraska	44,001	343 (1993-2004)
Nevada	43,395	50 (est., 2004)
Tennessee	28,720	393 (2001-2004)
Virginia	243,902	5,043 (1982-2004)
Washington	32,856	53 (1996-2004)
Wyoming	12,797	17 (1995-2002)

Alabama

Estimated Number of Disenfranchised Ex-Felons: 148,830

Felony Disenfranchisement Laws and the Process of Restoration

Alabama disenfranchises all people who are convicted of a crime involving “moral turpitude,” a list which includes all felonies. In 2003, the state passed legislation to streamline the process of restoring voting rights. Individuals seeking to regain their right to vote can now apply for a Certificate of Eligibility to Register to Vote from the Board of Pardons and Paroles. The Board is obligated to issue a certificate within 45 days if all requirements are satisfied.

The process is generally only available to persons convicted of non-violent offenses. Persons with a conviction for a violent offense and certain other offenses are required to apply for a pardon from the Board of Pardons and Parole.

Reenfranchisement Activity — Restorations: 1,697 (estimated, 2004)

As of September 2004, 1,697 persons had received their Certificate of Eligibility, and an additional 5,000 requests were still pending.⁴ These figures are the result of the law change in 2003 and a vigorous advocacy campaign by community organizations to inform eligible people of the rights restoration process. State officials have reported that they have insufficient staff to handle the volume of applications and that the 45-day time period may not always be met.

⁴ Source: Paul Robinson, 1 For Life, communication on September 13, 2004.

Arizona

Estimated Number of Disenfranchised Ex-Felons: 58,936

Felony Disenfranchisement Laws and the Process of Restoration

Arizona automatically restores the vote upon completion of sentence to people with a single felony conviction, but permanently disenfranchises people who have been convicted of two or more unrelated felonies. Persons seeking to regain the right to vote can obtain a Certificate of Absolute Discharge from the Bureau of Prisons, if they have served a prison term for the most recent conviction, or an affidavit of discharge from a judge if the most recent sentence was to a term of probation. Once either of these documents has been obtained, the individual can submit an application for restoration of civil rights to the superior court in his or her county of residence. However, persons who served a prison term as a consequence of their most recent conviction must wait two years from the date of final discharge before applying for the restoration of civil rights.

Reenfranchisement Activity — Restorations: no available data

The Arizona Supreme Court does not maintain statewide records regarding the restoration of rights process, and neither Maricopa County (which includes Phoenix) nor Pima County (which includes Tucson) maintains statistical information regarding the application process for the restoration of rights. Anecdotal evidence suggests that the number of persons applying for restoration is very modest.

Delaware

Estimated Number of Disenfranchised Ex-Felons: 14,384

Felony Disenfranchisement Laws and the Process of Restoration

Following legislative reform in 2000, Delaware now permanently disenfranchises only those persons convicted of murder, manslaughter, sexual offenses, or any felony that involves a violation of the public trust (including election law offenses). All others can apply for restoration of their voting rights five years after completion of sentence, which is an automatic process for those who meet the criteria. Persons who are not automatically restored (meaning those who were convicted for one of the crimes listed above) must apply for a pardon in order to be reenfranchised.

Reenfranchisement Activity — Restorations: 800 (estimated, 2000)

Following the law change, it has been reported that an estimated 1,200 persons submitted applications to have their rights restored in 2000, and 800 successfully met the criteria.⁵ While restoration of rights has now been established as an automatic process for qualifying persons, the burden on tracking the time period and applying for restoration falls on the individual, with no notice from the state.

In addition to the persons applying for automatic restoration of rights, a relative handful of non-qualifying persons have applied for a gubernatorial pardon in recent years, as seen below:

Pardon Activity by Year⁶		
Year	Applications Submitted	Pardons Granted
2000	0	0
2001	3	1
2002	5	0
2003	0	0
2004 ⁷	4	—

⁵ Source: Communication with Janet Leban, Delaware Center for Justice, August 25, 2004.

⁶ Source: Judy Smith, Board of Pardons Assistant, Delaware Board of Pardons, Secretary of State's Office. Received by telephone on July 30, 2004.

⁷ As of July 30, 2004, all four pardon applications submitted during 2004 were still pending final decisions.

Florida

Estimated Number of Disenfranchised Ex-Felons: 613,514

Felony Disenfranchisement Laws and the Process of Restoration:

Florida permanently disenfranchises any person with a felony conviction. In order to regain the right to vote, interested individuals generally must apply for a restoration of civil rights or a pardon. The Department of Corrections is obligated by statute to assist all offenders departing prison or supervision in completing the application for restoration. The name and other identifying data of each offender leaving prison or supervision is submitted electronically to the Parole Commission for its consideration of civil rights restoration without a hearing. At present, fewer than 15% of persons leaving prison qualify for this process, which is based on a combination of offense history and current offense. Persons going through this process have their names forwarded to the Clemency Board for a twenty-day review for a restoration of civil rights. If two or more members of the Clemency Board, which is composed of the Governor and members of his Cabinet, object to the restoration of civil rights, then the individual's request is denied and he or she must go through the longer application and hearing process. The decision on restoration without a hearing process can take up to a year or longer to determine.

Persons who do not qualify for restoration without a hearing process can call, write or email the Clemency Board requesting restoration of civil rights with a hearing or a pardon.

In order to be eligible for the restoration of civil rights, the applicant must have completed all sentences and conditions of supervision, including probation and parole; must have no outstanding detainers or warrants and no pecuniary penalties or liabilities which total more than \$1,000 and result from any criminal conviction or traffic infraction; and must have paid all victim restitution. Persons meeting these conditions and being granted a hearing are required to appear before the Clemency Board, which meets four times a year, and respond to questions from the Governor and cabinet.

Reenfranchisement Activity – Restorations: 48,000 (1998-2004)

The restoration process in Florida has varied significantly over time, dependent in large part on gubernatorial policies. In 1975, Governor Reubin Askew enacted a policy of automatically restoring voting rights to persons completing a felony sentence. In the mid-1980s as many as 15,000 persons a year had their rights restored without a hearing. But in the 1990s, gubernatorial decisions produced a more restrictive process that has resulted in far fewer qualifying persons. Beginning in 1991, various governors imposed restrictions on this process, based on type of offense and prior record. In 1999, Governor Bush added more than 200 offenses to the list of disqualifying crimes. Subsequently the Governor relaxed rules disqualifying persons who owed court costs or traffic fines in response to litigation that it was a poll tax. Since Governor Bush took office in 1999, the Clemency Board has rejected more than 200,000 applications for civil rights.

Litigation filed in 2001 resulted in a court ruling that the Department of Corrections had failed to inform and assist 124,769 eligible persons leaving prison of their right to apply for restoration. As a result, 14,527 persons had their rights restored and an additional 7,265 were expected to regain their rights after review by the Clemency Board. At least 56,649 of the total were required to request a hearing by the Board.⁸ Overall, the Governor's office reports that 48,000 persons have had their rights restored in the past six years.

Due to increased advocacy efforts in recent years, the number of persons applying for rights restoration with a hearing has risen considerably. Despite this, the Governor's Cabinet only meets four times a year to consider these cases, reviewing an average of 134 cases a year. Currently, more than 4,000 persons have filed applications to the Clemency Board and are awaiting a hearing. Over the past 16 years, the Board has heard fewer than 1,500 cases and restored rights in fewer than 1,000 of these.⁹

In December 2004, Governor Bush enacted modifications to the clemency process. Persons convicted of non-violent felonies will now be able to apply for restoration of rights without a hearing five years after completion of sentence if they have been crime-free. Persons convicted of violent felonies will be required to wait 15 years before applying. The governor also eliminated some factors that prevent applicants from qualifying for restoration without a hearing.

⁸ Press release, Department of Corrections, "Department of Corrections Urges Inmates to call toll-free Hot Line for Assistance with Voting Rights Restoration."

⁹ Jason Grotto and Debbie Cenziper, "The long road to clemency," *Miami Herald*, November 7, 2004.

Iowa

Estimated Number of Disenfranchised Ex-Felons: 80,257

Felony Disenfranchisement Laws and the Process of Restoration

Iowa disenfranchises any person who has been convicted of a felony. In order to regain the right to vote, individuals must apply for a Pardon from the Governor or for a Restoration of Citizenship through the Iowa Board of Parole, at any time following conviction. After reviewing the case, the Board of Parole makes a recommendation to the Governor regarding restoration.

Reenfranchisement Activity – Restorations: 2,210 (1999-2004)

As detailed in the charts below, a significant number of persons have applied to the Board of Parole for restoration of rights in recent years, totaling more than 3,067 from 1998-2003. Of these, 79% (2,245) have been recommended to the Governor for restoration. (Note that recommendations made in a given year may result from applications filed in a previous year.) Of the 2,654 applications reaching the Governor’s office from 1999-2004, 81% (2,158) were approved for restoration of rights. Of the 238 persons requesting a pardon during this period, 52 were granted.

Both the number of persons seeking restoration of rights and the approval rate in Iowa are significantly higher than in a number of states. Despite this, the number of persons who have had their rights restored as a proportion of the overall population of permanently disenfranchised persons – 80,257 – is quite modest.

Clemency Activity of the Iowa Board of Parole¹⁰				
Fiscal Year ¹¹	Restoration of Citizenship Applications	Restorations Recommended to the Governor	Pardon Applications	Pardons Recommended to the Governor
FY 1998 ¹²	685	610	21	5
FY 1999 ¹³	578	524	29	17
FY 2000	558	423	32	8
FY 2001	487	320	16	17
FY 2002	402	285	30	9
FY 2003	357	263	9	2

¹⁰ “Annual Report,” *Iowa Board of Parole*, retrieved from <http://www.bop.state.ia.us/annual.asp> on June 22, 2004. For the relevant statistics, see the “Executive Clemency” table for the relevant fiscal year, and for fiscal years 1998 and 1999, see the “Performance Summary FY 1998 & 1999” table.

¹¹ The Iowa Fiscal Year begins on July 1 and concludes on June 30.

¹² The data for FY 1998 replaces the categories “Number of Restoration of Citizenship Applications Received” and “Number of Pardon Applications Received” with “Number of Restoration of Citizenship Applications Reviewed” and “Number of Pardon Applications Reviewed” as the Board of Parole 1999 Annual Report does not report information on the number of applications received for the two categories.

¹³ The data for FY 1999 replaces the categories “Number of Restoration of Citizenship Applications Received” and “Number of Pardon Applications Received” with “Number of Restoration of Citizenship Applications Reviewed” and “Number of Pardon Applications Reviewed” as the Board of Parole 1999 Annual Report does not report information on the number of applications received for the two categories.

Clemency Activity of the Governor of Iowa¹⁴				
Year	Restoration of Citizenship Applications	Citizenships Restored	Pardon Applications	Pardons Granted
1999	581	496	39	12
2000	462	515	30	7
2001	456	358	37	5
2002	466	227	60	6
2003	397	387	41	14
2004 (through 6/21/04)	292	175	31	8

¹⁴ Source: Kristen Hardt, Legal Assistant, Office of the Governor. Received by e-mail on July 19, 2004.

Kentucky

Estimated Number of Disenfranchised Ex-Felons: 109,132

Felony Disenfranchisement Laws and the Process of Restoration

Kentucky disenfranchises all persons convicted of a felony, subject to restoration of rights by the Governor. Individuals seeking to restore their right to vote must submit an Application for Restoration to Civil Rights to the Division of Probation and Parole, which then forwards it to the Governor for consideration. In order to be eligible for this type of restoration, the applicant must have reached the maximum expiration of sentence or have received final discharge from the Division of Probation and Parole, cannot have any pending warrants, charges, or indictments, and must have paid full restitution as ordered by the court. In 2001, the legislature passed a bill requiring that the Department of Corrections aid eligible persons in the process of rights restoration.

Reenfranchisement Activity – Restorations: 1,320 (2002-2004)

Application for Restoration to Civil Rights Activity by Year¹⁵			
Year	Applications for Restoration	Applications sent to the Governor	Applications approved by the Governor
2002	561	174	163
2003	1,226	1,118	1,056
2004 ¹⁶	550	523	101

The doubling of applicants seeking to restore their civil rights between 2002 and 2003, and the numbers for the first six months of 2004, indicate greater use of reenfranchisement in this period. Especially significant in this regard is the increase in the proportion of applications that the Division of Probation and Parole forwarded to the Governor from 2002 (31%) to 2003 (91%), and through June 2004 (95%).

Under the current administration of Gov. Ernie Fletcher, however, the reenfranchisement process has become considerably more onerous.¹⁷ Governor Fletcher now requires that applicants for rights restoration submit three character references and an explanation in writing of why they seek to vote. Beginning July 26, 2004, the governor had signed 101 orders to restore rights, compared to the previous governor's 637 restorations during a comparable period in his first year in office. As of September, 600 applications were still pending.

¹⁵ Source: Connie Westmoreland, Department of Corrections, Division of Probation and Parole. Received facsimile on June 28, 2004.

¹⁶ Applications as of June 28, 2004, restorations as of August 31, 2004.

¹⁷ Associated Press, "Steps added for restoring felons' voting rights," *Lexington Herald Leader*, September 7, 2004.

Maryland

Estimated Number of Disenfranchised Ex-Felons: 78,206

Felony Disenfranchisement Laws and the Process of Restoration

As a result of legislative change in 2002, individuals convicted of two or more nonviolent crimes must wait for three years from the final completion of all terms of their sentence, including probation, parole, community service, restitution, and fines, to be eligible to register to vote. Previously, such persons were permanently disenfranchised. Data is not available regarding how many people have registered to vote three years after the final disposition of their sentence for a second or subsequent nonviolent crime. Individuals convicted of two or more violent crimes, and individuals convicted of buying and selling votes, are permanently disenfranchised in Maryland. Persons who have been permanently disenfranchised must apply to the Governor of Maryland for a pardon.

Reenfranchisement Activity – Restorations: 147 (1996-2003)

As seen below, few permanently disenfranchised individuals in Maryland have been reenfranchised through the pardon process since 1996. These figures include both misdemeanor and felony convictions, and do not differentiate between first convictions and subsequent convictions. As indicated above, additional numbers of people may have had rights restored as a result of the 2002 legislative change.

Pardon Activity by Year¹⁸	
Year	Number granted
1996	5
1997	20
1998	8
1999	20
2000	27
2001	21
2002	32
2003	14

While the 2002 law change in Maryland theoretically opens up the application process for a significant number of disenfranchised persons, widespread reports indicate that there are many technical problems with the new policy. Persons terminating from parole supervision are not generally given any documentation certifying the completion of sentence and therefore are not able to demonstrate to election officials that the three-year post-supervision time period has been completed.

¹⁸ Source: Linda Dodge, Maryland Parole Commission. E-mail received on June 18, 2004.

Mississippi

Estimated Number of Disenfranchised Ex-Felons: 82,002

Felony Disenfranchisement Laws and the Process of Restoration

Persons convicted of murder, rape, bribery, theft, arson, obtaining money or goods under false pretense, perjury, forgery, embezzlement or bigamy in a Mississippi State Court lose their right to vote. Persons seeking to regain the right to vote can attempt to do so in three different ways: they can apply for a Pardon from the Governor; they can apply for an Executive Order Restoring Civil Rights from the Governor; or they can seek to have the Mississippi State Legislature pass a Bill of Suffrage on their behalf, which must pass with a two-thirds majority.

Reenfranchisement Activity – Restorations: 107 (1992-2004)

Data relevant to restoration of voting rights by Pardon and Executive Order Restoring Civil Rights shows just 26 persons have had their rights restored since 1992.

Gubernatorial Clemency Activity by Term¹⁹		
Years	Restorations	Pardons
1992-1996	0	1
1996-2000	2	12
2000-2004	10	1

Data relevant to restoring voting rights by Bill of Suffrage shows similarly modest numbers of rights restoration cases. While the number of persons having their rights restored over the past decade is fairly trivial, there has been a modest increase in the number of legislative bills introduced in the past several years, with 36 persons regaining their voting rights through this method in 2004. At the same time, a significantly greater proportion of legislative bills have been opposed as well. During the period 2001-2004, 55 bills passed while 57 were defeated.

Legislative Clemency Activity by Year²⁰		
Year	Bills of Suffrage Passed	Bills of Suffrage Failed
1997	7	0
1998	5	0
1999	3	2
2000	1	0
2001	4	10
2002	13	14
2003	2	23
2004	36	10

¹⁹ Source: Donna Rogers, Special Projects Officer, Secretary of State's Office, by facsimile on July 15, 2004.

²⁰ Source: "Mississippi Legislative Bill Status System," The Mississippi Legislature. Retrieved from <http://billstatus.ls.state.ms.us/default.htm> on June 22, 2004.

Nebraska

Estimated Number of Disenfranchised Ex-Felons: 44,001²¹

Felony Disenfranchisement Laws and the Process of Restoration

The State of Nebraska permanently disenfranchises persons convicted of felonies or treason. From 1969 to 2002 a legislative statute provided that a prisoner would be issued a certificate of discharge upon release from confinement to restore civil rights, but it is believed that this provision was not widely understood or used. In 2002, the Nebraska Supreme Court ruled that the statute conflicted with the constitutional power of the Board of Pardons; the statute was subsequently amended so that the certificate does not result in a restoration of rights. As a result, persons who had previously had their rights restored through a certificate of discharge became ineligible. Persons seeking to regain the right to vote now must apply for a pardon from the Nebraska Board of Pardons. All persons convicted of a crime, except those convicted of treason or having been impeached, can apply for a pardon. However, one must normally wait ten years from the date of final discharge (from jail, a state correctional facility, probation, parole, or payment of a fine) with no further convictions before a pardon application will be considered by the Board.

Reenfranchisement Activity – Restorations: 343 (1993-2004)

Nebraska maintains a record of its pardon process, catalogued by fiscal year. The Board of Pardons records the number of applications for consideration for a pardon and number of persons granted it each fiscal year. Since 1993, 815 persons have applied for a pardon, of whom 42% (343) have been granted one.

Pardon Activity by Fiscal Year²²		
Fiscal Year	Applications	Granted
1993/1994	59	32
1994/1995	36	13
1995/1996	60	23
1996/1997	67	10
1997/1998	45	17
1998/1999	53	21
1999/2000	82	31
2000/2001	64	33
2001/2002	84	38
2002/2003	120	56
2003/2004	145	69

²¹ Estimate from Uggen and Manza assuming all persons with felony convictions are disenfranchised, including the period 1969-2002.

²² Source: Rachel Marden, Administrative Assistant, Nebraska Board of Pardons. Received e-mail on June 8, 2004.

Nevada

Estimated Number of Disenfranchised Ex-Felons: 43,395

Felony Disenfranchisement Laws and the Process of Restoration

With one exception, all categories of persons convicted of a felony in Nevada are permanently disenfranchised. The exception relates to passage of a law in 2003 that provided for automatic restoration of rights for first-time non-violent felons upon completion of sentence. All other persons seeking to regain the right to vote must either obtain a pardon or petition for the restoration of civil rights in the court in which they were convicted.

The pardon power is vested in the Board of Pardons Commissioners, which consists of the Governor, the Justices of the Supreme Court, and the State Attorney General; a majority of the Board can grant a pardon, but the Governor must be among the majority. A pardon may or may not restore civil rights, as the pardon document specifies.

Reenfranchisement Activity – Restorations: 50 (estimated, 2004)

Nevada maintains little information regarding the restoration of rights process. The Secretary of State's Office, the Nevada Supreme Court, the Board of Pardons Commissioners, and the Board of Probation do not keep records of the restoration process. In addition, the county clerks and district courts in Clark (Las Vegas), and Washoe counties (Reno), and in Carson City do not maintain statistics regarding the number of disenfranchised individuals seeking to regain their vote.

The only available information is from election officials in Clark County, which contains approximately 70% of the state's population. From January 1, 2004 to June 17, 2004, the Clark County Voter Registrar registered 50 former felons to vote.²³

²³ Source: Cathy Smith, Clark County Voter Registrar. By way of Launa Hall, Progressive Leadership Alliance of Nevada. Received by e-mail on June 18, 2004.

Tennessee

Estimated Number of Disenfranchised Ex-Felons: 28,720

Felony Disenfranchisement Laws and the Process of Restoration

The state of Tennessee maintains the most complex disenfranchisement scheme in the nation, with disenfranchisement based on the date of the conviction and the type of crime. Persons convicted before January 15, 1973, for any felony that falls within eight categories lose the right to vote but can apply to their local circuit court or the court in which they were convicted to have their voting rights restored after completing their sentence. Persons convicted of a felony between January 15, 1973 and May 17, 1981 are eligible to vote after completion of sentence. Any felony conviction after May 18, 1981 results in disenfranchisement, but the procedure changed from time to time regarding regaining the right to vote. Any person convicted of a felony between May 18, 1981 and June 30, 1986 can apply to their local circuit court or the court in which they were convicted to have their voting rights restored after completing their sentence. Persons convicted of felonies other than first degree murder, aggravated rape, treason, or voter fraud between July 1, 1986 and June 30, 1996 had their right to vote restored automatically upon completion of sentence, and can apply to the Board of Probation and Parole for a Certificate of Restoration of Voting Rights. Persons convicted of one of the four crimes mentioned are not eligible to regain the right to vote and must gain a pardon from the Governor in order to do so. The law was amended again in 1996, so that persons convicted of felonies (except for those convicted of murder, rape, treason, or voter fraud) after June 30, 1996 must once again apply to their local circuit court or the court in which they were convicted to have their voting rights restored.

Reenfranchisement Activity – Restorations: 393 (2001-2004)

The only data that the State of Tennessee has available regarding the restoration of voting rights for convicted persons was for a two-year period at the Board of Probation and Parole (which handles requests for Certificates of Restoration of Voting Rights for people convicted between July 1, 1986 and June 30, 1996). Between December 2001 and February 2004, the Board of Probation and Parole received 454 requests for Certificates, and granted 393 of these requests. The 61 requests that were denied were because the applicant did not fit the criteria for the Board to consider the request or because no information could be found on the conviction.²⁴

²⁴ Source: Vickie Moreland, Board of Probation and Parole. Received by e-mail on July 20, 2004.

Virginia

Estimated Number of Disenfranchised Ex-Felons: 243,902

Felony Disenfranchisement Laws and the Process of Restoration

An individual convicted of a felony is ineligible to vote in the Commonwealth of Virginia. There are two avenues by which one can regain the right to vote: one which only restores that right, and a second which restores a broader array of civil rights, such as the right to run for office or serve on a jury. The first option is done through either the local circuit court of residence or the circuit court in which the individual was convicted. To qualify, the applicant must be free from criminal convictions for at least five years after the completion of the sentence and supervisory period, and must demonstrate civic responsibility through community or comparable service. The petition for the right to vote is not open to persons convicted of violent offenses or drug manufacturing or distribution. While the application process goes through the circuit courts, an affirmative recommendation by the court for the restoration of the right to vote must still be approved by the Governor.

The second process, by way of which one can regain all civil rights lost as a result of conviction (although the right to possess and transport firearms is not reinstated), is an application for restoration of rights directly to the Governor, handled through the Office of the Secretary of the Commonwealth. Individuals with convictions for nonviolent crimes, including drug possession, must be free from any felony or misdemeanor convictions and have no pending charges for three years from the date of final discharge from the criminal justice system, meaning that all sentences, including probation and parole, and all associated fees and court costs have been paid. The terms for individuals with convictions for violent crimes and individuals convicted of drug manufacturing or distribution are the same as for convictions for nonviolent crimes, although the waiting period is five years from the date of final discharge.

Reenfranchisement Activity – Restorations: 5,043 (1982-2004)

Neither the Office of the Governor, nor the Office of the Secretary of the Commonwealth, nor the Virginia Supreme Court maintain records regarding the reinstatement of the right to vote process through Virginia's circuit courts (the first process described above). Data is maintained by gubernatorial term on the application for restoration of rights that is handled by the Office of the Secretary of the Commonwealth (the latter process described above).

The increase in the number of people who have had their rights restored since 2002 is largely attributable to a procedural change instituted by Governor Warner in August 2002 that greatly streamlined the application process for persons convicted of nonviolent offenses. As can be seen, the number of persons whose rights have been restored since 2002 (1,885) is greater than for the entire period of 1990-2002 (through January 12, 2002). Further, the discretionary nature of this process can be seen in the significant variations in the number of restorations approved during each gubernatorial term.

Restoration of Rights Activity by Gubernatorial Administration²⁵		
Governor	Applications approved during 4-year term	Approval average per year
Robb (1982-1986)	1,180	295
Baliles (1986-1990)	853	213
Wilder (1990-1994)	427	107
Allen, Jr. (1994-1998)	460	115
Gilmore, III (1998-2002)	238	60
Warner (2002-present) ²⁶	1,885	685

²⁵ Source: Alan Brittle, Clemency Specialist, Secretary of the Commonwealth. Received e-mail on June 11, 2004.

²⁶ John Hopkins, "Governor Warner has restored voting rights to 1,885 ex-convicts." *Virginian-Pilot*, October 1, 2004.

Washington

Estimated Number of Disenfranchised Ex-Felons: 32,856

Felony Disenfranchisement Laws and the Process of Restoration

The State of Washington disenfranchises all individuals convicted of “infamous crimes,” meaning crimes punishable by incarceration in a state correctional institution. In order to register to vote, a person convicted of an infamous crime needs to present a “certificate of discharge” to the registering authority. For those who were convicted before July 1, 1984, and who completed all terms of sentence before 1993, reinstatement of the right to vote is not automatic; such individuals seeking to regain the right to vote can apply to the Indeterminate Sentence Review Board (ISRB) for a certificate of discharge. Beginning in 1993, individuals who were convicted before July 1, 1984 automatically began receiving a certificate of discharge from the ISRB three years after completing all terms of their sentence. Individuals who are convicted in a court of the State of Washington after July 1, 1984 automatically receive a certificate of discharge upon final completion of their sentence. Individuals who are convicted in federal court or in another state (and now reside in Washington) do not automatically receive a certificate of discharge, even if their conviction was after July 1, 1984, and so must petition the Clemency and Pardons Board for a Restoration of Rights in order to regain the right to vote. The Clemency and Pardons Board has final authority on decisions regarding Restoration of Rights and does not submit these cases for Gubernatorial review. Finally, certain sex offenders who committed their crimes after September 1, 2001 are also under the jurisdiction of the Indeterminate Sentence Review Board; there is currently no procedure in place for these individuals to obtain a certificate of discharge.

Reenfranchisement Activity – Restorations: 53 (1996-2004)

The Indeterminate Sentence Review Board only maintains data for the period July 2003 through June 14, 2004. During this period, the ISRB received 8 applications for final discharge from people who had been convicted before July 1, 1984 and had completed all terms of their sentence by 1993. Out of these 8 applications, the ISRB approved 4 for receipt of final discharge and rejected 4 applications. During this same period, the ISRB also automatically granted 11 certificates of discharge to individuals who were convicted before July 1, 1984 and who, after completing their sentences, waited for a period of three years (meaning that, most likely, the certificates of discharge automatically granted by the ISRB from July 2003 to June 2004 were to people who were convicted before July 1, 1984 and who completed their sentences between July 2000 and June 2001).²⁷

The Clemency and Pardons Board does not maintain statistics on the applications for pardons, clemency, and restoration of rights, but rather only on those applications that an internal subcommittee decides to recommend to the full Board.

²⁷ Source: Robin Riley, Correctional Records Specialist, Indeterminate Sentence Review Board. Received facsimile on June 14, 2004.

Restoration of Rights cases considered by the Clemency and Pardons Board²⁸		
Year	Internal Subcommittee Referrals	Board Approvals
1996 ²⁹	7	6
1997	1	0
1998	6	6
1999	6	6
2000	6	6
2001	5	5
2002	3	3
2003	7	6
2004 ³⁰	—	—

²⁸ Source: Shelby Hultman, Legal Affairs Assistant, Office of the Governor. Received e-mail on June 16, 2004.

²⁹ From May, 1996 through December, 1996.

³⁰ As of May 23, 2004.

Wyoming

Estimated Number of Disenfranchised Ex-Felons: 12,797

Felony Disenfranchisement Laws and the Process of Restoration

Wyoming law disenfranchises all people convicted of felonies, and anyone seeking to regain the right to vote must apply to do so. Historically, Wyoming law has required an application to the Governor for either a pardon or a restoration of rights. Since July 1, 2003, however, persons convicted of a first-time non-violent felony have been able to apply to the Wyoming Board of Parole for a certificate that restores voting rights. Applicants must wait for a period of five years after successfully completing all aspects of their sentence in order to be eligible to apply. Other persons seeking to reinstate the right to vote must still apply to the Governor for either a pardon or a restoration of rights, although the Governor's policy generally excludes from consideration persons convicted of sexual crimes or crimes involving a child as a victim. Persons seeking a pardon or restoration of rights must wait ten years and five years respectively (previously twenty years and ten years) from the time of completion of sentence before applying.

Reenfranchisement Activity – Restorations: 17 (1995-2002)

From July 1, 2003 until July 31, 2004, 6 people applied for a certificate that restores voting rights from the Board of Parole (the new procedure that applies to non-violent offenders). Five of these six applicants have been approved, and the sixth denied, although this denial was because the applicant was ineligible for the certificate.³¹

The Office of the Attorney General of the State of Wyoming does not maintain statistics regarding the number of applicants for pardons and restoration of rights, but only for actions affirmatively granted, totaling 12 for the period 1995-2002.

:

Restoration of Rights and Pardons Granted by Year³²		
Year	Restoration	Pardons
1995	0	0
1996	0	0
1997	3	0
1998	0	0
1999	1	1
2000	1	1
2001	1	0
2002 ³³	4	0

³¹ Source: Tony Escamia, Wyoming Board of Parole Coordinator. Telephone conversations dating: 6/30/2004, 7/23/2004.

³² Source: Facsimile received from Deputy Attorney General of Wyoming, Paul S. Rehurek on June 14, 2004.

³³ The four Restoration of Rights granted during 2002 includes a Restoration of Rights granted on January 2, 2003.