

AN ANALYSIS OF THE IMPACT OF HB 70 AND PROPOSED AMENDMENTS REGARDING VOTING RIGHTS FOR PERSONS WITH FELONY CONVICTIONS

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Overview

The Commonwealth of Kentucky is currently one of the four most restrictive states in regard to voting rights restoration for individuals convicted of a felony. Along with Florida, Iowa, and Virginia, all felony convictions in Kentucky result in a lifetime ban on voting unless rights are restored by the governor. In most of these four states the rights restoration process is discretionary and often cumbersome, leaving few individuals who avail themselves of the opportunity to apply. The overall disenfranchisement rate of 7.35% of the population, or 1 of every 14 adults, is nearly three times the national average.[1] Disenfranchisement rates are particularly dramatic among African Americans, with 1 of every 5 (22.34%) adults prohibited from voting, second in the nation only to Florida.

Under HB 70 as originally proposed, permanent disenfranchisement would be eliminated for all but a handful of offenses and all rights would be restored at completion of sentence. Amendments introduced in the Senate, though, would substantially limit the number of individuals who would benefit from the policy change, as well as create greater administrative burdens for election officials. We estimate that as many as 55% of the ex-felon population currently disenfranchised in Kentucky would be excluded from the automatic rights restoration process if these amendments were enacted. This briefing sheet provides an overview of the impact of these proposed amendments.

Kentucky as an Outlier State

The Commonwealth of Kentucky's disenfranchisement policies stand out as harsh not only in comparison to most states, but even by the standards of neighboring states. Three of these states (Illinois, Indiana, Ohio) restore voting rights immediately upon release from prison, and three (Missouri, Tennessee, West Virginia) restore rights upon completion of probation or parole supervision. None of these states impose any restriction on the right to vote for any offense after completion of sentence.

Adoption of the amendments in the Senate legislation would leave Kentucky in an extremely punitive position on rights restoration. Even for the serious crimes of murder and sexual assault, 39 states restore voting rights upon leaving prison or completing supervision. Only two states maintain a bar on rights restoration for persons with multiple convictions and only one has an exception for both sexual offenses *and* multiple felony convictions.

Impact on Disenfranchised Population

As of 2010 (most recent data available), an estimated 180,000 people in Kentucky had permanently lost the right to vote as a result of a felony conviction. Under the provisions of the original HB 70 virtually all of these individuals would have had their rights restored. Two key Senate amendments to the legislation would substantially reduce the scope of the proposed reform. These amendments are:

- *Limiting the impact of rights restoration to individuals with one felony conviction*
- *Imposing a five-year waiting period after completion of sentence before rights can be restored*

If approved, these two amendments would prevent an estimated 100,000 people with felony convictions from having their voting rights restored under this legislation, while also creating inefficiencies for voter registrars in addition to uncertainty and delays for people with felony convictions.

The impact of each amendment is considered independently below.

- *Limiting the impact of rights restoration to individuals with one felony conviction. This amendment disqualifies 100,000 people from rights restoration.*

The most substantial impact of these amendments would be produced by the exclusion of persons with more than one felony conviction. Although there are no detailed data available in Kentucky on the issue of multiple convictions, national data from the Bureau of Justice Statistics can be used to estimate the number of people affected by these provisions. Of the total disenfranchised population of 180,000 in Kentucky, we estimate that about 55%, or approximately 100,000 citizens, would be excluded from the rights restoration process due to this provision. (Note that a portion of this total reflects the number of defendants convicted of more than one felony resulting from related charges and whether such cases would fall under the amendment's definition of a person who

“has been previously convicted of a felony arising from a different incident” may be subject to court interpretation.)

- *Imposing a five-year waiting period after completion of sentence before rights can be restored. This amendment creates inefficiencies for voter registrars and uncertainty for people with felony convictions.*

In addition, the five-year waiting period provision would impose a major impediment to rights restoration even though it would not explicitly exclude any persons based on offense histories. This provision would create substantial inefficiencies for voter registrars who would be obligated to certify that individuals had completed the full waiting period. At best, this would involve having to make extensive use of Kentucky Department of Corrections or court databases, and at worst, it would involve staff having to track down decades-old court documents on a case-by-case basis to obtain the necessary data.

For persons completing a period of parole supervision, there is often a great deal of uncertainty about the precise date at which supervision has been formally terminated, leading to uncertainty about when the five-year waiting period has been completed. In addition, it imposes a burden on these individuals to keep track of this issue for five years, an obligation that few citizens have to endure to secure a fundamental right of citizenship.

The amendment would also preclude access to rights restoration for individuals convicted of even a misdemeanor during the five-year period. Thus, a shoplifting conviction for a person who had completed parole supervision four years previously would result in the five-year waiting period beginning anew. In addition, the Senate version of the bill would modestly expand the range of persons excluded due to convictions for intentional killings and felony sex crimes.

Public Safety Considerations

Research on reentry into the community from prison has documented that engagement with positive institutions is a critical ingredient of success in avoiding becoming engaged in criminal activity. Thus, employment, housing, and a supportive social network are important to reentry success. Recent research also documents that engagement in the electoral process contributes to such outcomes as well.

Christopher Uggen and Jeff Manza, of the University of Minnesota and New York University, analyzed data from the Youth Development Study of adolescents in St. Paul, Minnesota regarding participation in voting and self-reports on arrest histories. They found that of those teenagers with a previous arrest, 27% of non-voters were rearrested compared to 12% of voters. Recognizing that multiple factors may influence rearrest prospects, the authors conclude that “a relationship between voting and subsequent crime and arrest is not only plausible, but also supported by empirical evidence.”[2] Furthermore, “While the single behavioral act of casting a ballot is

unlikely to be the sole factor that turns felons' lives around, the act of voting manifests the desire to participate as a law-abiding stakeholder in a larger society.”

Conclusion

The Commonwealth of Kentucky has long maintained disenfranchisement policies that are extremely restrictive by national or regional standards. These policies have limited democratic participation, have produced sharp racial disparities, and run counter to promoting effective public safety strategies. HB 70 as originally introduced would bring Kentucky policy in this regard into the mainstream nationally, but the amendments to the legislation introduced in the Senate would sharply restrict the impact of the legislation and leave the state in its position as one of the most restrictive in the nation.

[1] Christopher Uggen, Sarah Shannon, and Jeff Manza, “State-Level Estimates of Felon Disenfranchisement in the United States, 2010,” The Sentencing Project, July 2012.

[2] Christopher Uggen and Jeff Manza, “Voting and Subsequent Crime and Arrest: Evidence from a Community Sample,” *Columbia Human Rights Law Review*, 36:1, p. 213.

The League of Women Voters of Kentucky, a nonpartisan political organization, encourages the informed and active participation of citizens in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. Members include both women and men.

The League of Women Voters is an outgrowth of the suffragist movement. Carrie Chapman Catt founded the organization in 1920 during the convention of the National American Woman Suffrage Association. The convention was held only six months before the 19th amendment to the U.S. Constitution was ratified, giving women the right to vote after a 57-year struggle.

*The League works with citizens through the American political process to bring about constructive change. We **REGISTER** voters and **DEFEND** voting rights. We **MONITOR** government activities - including city councils, school boards, state legislatures and the U.S. Congress. We **EDUCATE** citizens about their rights and responsibilities. We **SPONSOR** candidate forums and public issue forums. We **STUDY** issues in order to reach member consensus. And we **TAKE ACTION** by lobbying, testifying and educating legislators on issues we care about. As a nonpartisan body, the League takes action on **ISSUES**. We do not support or oppose candidates or parties.*