

VIII. Disfranchisement of Felons

Disfranchisement of Felons

Task Force on the Federal Election System
John Mark Hansen
July 2001

Summary of conclusions

1. States currently deny the franchise to 4.2 million people on account of current or prior felony conviction. Every state but two disfranchises felons in current incarceration. Eleven states disfranchise felons for life.
2. One third of the people denied the franchise because of a felony conviction have already completed their sentences. The disfranchisement rate in the 11 states that permanently deny voting rights, 5.1 percent, is three times the rate in states that impose no disability beyond the period of incarceration, probation, and parole, 1.7 percent.
3. Felony disfranchisement has particular impact on the African American electorate. Nearly 7 percent of black Americans cannot participate in the electoral process because of a felony conviction.

States currently deny the franchise to nearly 4.2 million people, about 2.1 percent of the voting age population, on account of current or prior felony conviction. Every state but two, Maine and Vermont, disfranchises those currently serving prison or jail sentences for felony offenses. Twenty-nine states prevent felons from voting during the period of their parole or probation, or both. Fourteen states, primarily in the South and West, impose civil disability on felons beyond the term of their incarceration, probation, and parole. Eleven disfranchise felons for life, nine for a single felony conviction.¹

In states that permanently deny to felons the right to vote, the impact on the electorate is sizable.² The percentage of the voting age population disfranchised by felony conviction in states that disfranchise forever ranges from 3.2 percent in Maryland (which disfranchises permanently only upon a second felony conviction) to 6.2 percent in Alabama and Florida. No state that does not practice permanent disqualification has a rate of felony disfranchisement that exceeds Maryland's, the lowest among permanent disfranchisement states. Of people currently disqualified by a felony conviction, one third are felons who have already completed their sentences.

As is well known, disproportionately many African Americans pass through the justice system, and consequently the impact of disqualification for felony conviction is especially dramatic

¹ According to the Center for Policy Alternatives, within the last six months, Kentucky and New Mexico have approved legislation to repeal permanent disfranchisement of felons. Legislation in Maryland awaits the governor's signature. Repeal of permanent disfranchisement has cleared one chamber in Alabama and Nevada.

² The estimates reported here owe to the work of Jeff Manza, Christopher Uggen, and Marcus Britton, sociologists at Northwestern University and the University of Minnesota. Estimates of the number of felons currently in custody, on parole, or on probation are straightforwardly derived from the reports of state departments of justice. Manza and his colleagues estimated the number of felons no longer under sentence using careful and standard demographic techniques. The estimates reflect the numbers of felons newly discharged from sentence, the number returned to custody on subsequent felony convictions, and the number who have died.

for the black electorate. Nearly 7 percent of black Americans cannot participate in the electoral process because of felony convictions. Because 95 percent of felons are male, the felony disfranchisement rate for black men is almost double. All but one state, Hawaii, records felony disfranchisement rates for blacks that are larger than disfranchisement rates for whites and others, in most cases several times larger.

The impact of permanent disqualification is especially striking. The only states with African American disfranchisement rates that exceed the least of the rates in permanent disfranchisement states, 7.6 percent in Maryland, are states that disqualify felons during the term of their probation or parole. In states with small African American populations and lifetime disqualification, like Iowa and New Mexico, disfranchisement rates for black males exceed 40 percent. The lowest felony disfranchisement rate for blacks among the permanent disqualification states, Maryland's 7.6 percent, still surpasses the highest felony disfranchisement rate for whites and others, Florida's 5.1 percent.

The impact of the separate provisions for felony disqualification can be seen in estimates of the effect of rescission. Repeal of permanent disfranchisement would reduce the number excluded from the electorate on account of felony convictions by about a third. Repeal of disfranchisement during probation and parole would have somewhat larger effect, mostly because it is current policy in more and larger states. Repeal of both provisions would benefit white and other felons a little more than blacks. Overall, felony disfranchisement rates would fall to just 0.6 percent, about 1.2 million people, were disqualifications imposed only upon felons in current custody. Felony disfranchisement rates would remain at 2.5 percent for blacks, well above the felony disqualification rate for whites and others under current law, 1.5 percent.

In 28 of the 39 states that do not permanently bar felons from the franchise, restoration of voting rights occurs automatically upon completion of sentence, probation, or parole. About a third of felons eligible for restoration of voting rights, about 700,000 people, face some minimal barrier or complication for reinstatement (e.g., filing a legal document formally requesting restoration). In states that mandate permanent loss of voting rights for felons, restoration can be accomplished only through an executive pardon or a successful petition for restoration of rights.

The enforcement of a permanent disqualification for felony conviction is a difficult administrative task. Felons are easily identified for as long as they remain in the justice system. Once discharged, they cannot as readily be barred from participation in the electoral process. As recent events in Florida demonstrate, enforcement is especially difficult, if not impossible, when felons relocate to a state that denies voting rights to felons indefinitely.

Selected references

David S. Cloud, "Felons make up a large chunk of the missing electorate in U.S.," *Wall Street Journal*, 18 December 2000.

Jamie Fellner and Marc Mauer, *Losing the vote: The impact of felony disenfranchisement law in the United States* (Washington and New York Sentencing Project and Human Rights Watch, 1998).

Jeff Manza, Christopher Uggen, and Marcus Britton, "The truly disfranchised: Felon voting rights and American politics," typescript, Northwestern University, 3 January 2001.

United States Department of Justice, Office of the Pardon Attorney, "Civil disabilities for convicted felons: A state-by-state survey," October 1996.

Felony disfranchisement provisions, by state, as of 1 January 1999.

State	Circumstances of disfranchisement					Disfranchised as percentage of voting age population		
	Currently imprisoned for felony conviction	Currently jailed for felony conviction	On parole after felony conviction	On probation for felony conviction	Previously convicted of a felony	Black	White, Latino, and other	All
Alabama	•	•	•	•	•	12.41	4.26	6.21
Alaska	•	•	•	•		5.65	1.55	1.70
Arizona	•	•	•	•	2d conviction	11.75	3.29	3.58
Arkansas	•		•	•		7.60	1.78	2.61
California	•	•	•			4.84	0.87	1.18
Colorado	•	•	•			4.07	0.55	0.69
Connecticut	•		•	•		6.42	1.73	1.85
Delaware	•		•	•	For 5 years	15.60	3.45	5.63
D.C.	•	•				4.18	0.58	2.44
Florida	•	•	•	•	•	13.77	5.07	6.24
Georgia	•	•	•	•		6.08	1.62	2.80
Hawaii	•					0.26	0.42	0.42
Idaho	•	•	•	•		4.05	0.47	1.40
Illinois	•	•				2.39	0.21	0.51
Indiana	•	•				5.24	0.07	0.46
Iowa	•	•	•	•	•	22.52	3.81	4.14
Kansas	•	•	•			5.22	0.50	0.76
Kentucky	•	•	•	•	•	14.96	3.46	4.24
Louisiana	•	•				2.87	0.36	1.10
Maine								
Maryland	•	•	•	•	2d conviction	7.57	1.62	3.20
Massachusetts	†							
Michigan	•	•				2.72	0.34	0.65
Minnesota	•	•	•	•		7.54	0.91	1.07
Mississippi	•	•	•	•	•	9.71	3.06	5.28
Missouri	•	•	•	•		6.56	1.31	1.84
Montana	•	•				3.33	0.43	0.44
Nebraska	•	•	•	•		3.83	0.42	0.56
Nevada	•	•	•	•	•	16.53	3.66	4.56
New Hampshire	•	•				1.91	0.25	0.26
New Jersey	•	•	•	•		9.73	1.25	2.40
New Mexico	•	•	•	•	•	24.78	5.00	5.52
New York	•	•	•			3.11	0.57	1.00
North Carolina	•	•	•	•		3.72	0.68	1.31
North Dakota	•	•				1.04	0.20	0.20
Ohio	•	•				3.10	0.30	0.60
Oklahoma	•	•	•	•		8.00	1.47	1.93
Oregon	•	•				2.74	0.32	0.38
Pennsylvania	•	•				2.56	0.19	0.40
Rhode Island	•		•	•		11.68	1.65	2.09
South Carolina	•	•	•	•		3.90	0.88	1.72
South Dakota	•	•				2.64	0.46	0.47
Tennessee	•	•	•	•	‡	5.86	1.36	2.03
Texas	•	•	•	•		8.77	2.95	3.64
Utah	•		•			5.01	0.53	0.57
Vermont								

Virginia	•	•	•	•	•	13.82	3.35	5.33
Washington	•	•	•	•	‡	12.32	3.01	3.33
West Virginia	•	•	•	•		2.70	0.54	0.60
Wisconsin	•	•	•	•		10.61	0.86	1.32
Wyoming	•	•	•	•	•	14.94	4.46	4.55
United States	48 states + D.C.	41 states + D.C.	35 states	29 states	14 states	6.57	1.49	2.09

‡ In November 2000, Massachusetts voters approved an initiative to disfranchise persons currently imprisoned for a felony conviction.

‡ Tennessee and Washington deny voting rights to felons convicted before they eased their laws in the mid 1980s.

Source: Jeff Manza, Christopher Uggen, and Marcus Britton, "The truly disfranchised: Felon voting rights and American politics," Northwestern University, 3 January 2001.

Effect of repeal of disfranchisement provisions on percentage disqualified by felony disfranchisement

	Circumstances of disfranchisement					Disfranchised as percentage of voting age population		
	Currently imprisoned for felony conviction	Currently jailed for felony conviction	On parole after felony conviction	On probation for felony conviction	Previously convicted of a felony	Black	White, Latino, and other	All
State laws as of January 1999	47 states + D.C.	42 states + D.C.	35 states	30 states	14 states	6.57	1.49	2.09
If disabilities beyond imprisonment, probation, and parole repealed	47 states + D.C.	42 states + D.C.	35 states	30 states		4.63	0.95	1.38
If all provisions repealed except disqualification for current incarceration	47 states + D.C.	42 states + D.C.				2.46	0.35	0.60

Note: In November 2000, Massachusetts voters approved an initiative to disfranchise persons currently imprisoned for a felony conviction.

Source: Jeff Manza, Christopher Uggen, and Marcus Britton, "The truly disfranchised: Felon voting rights and American politics," Northwestern University, 3 January 2001.