

Virginia Restoration of Rights Fact Sheet

Virginians who are convicted of felonies permanently lose their civil rights, including the right to vote, the right to serve on a jury, the right to run for public office, the right to serve as a notary public, and the right to carry a firearm, unless those rights are personally restored by the Governor. Common Cause Virginia is campaigning for the removal of this archaic statute from our state Constitution. As an organization dedicated to civil rights, free and fair elections, and equitable representation for all, we are committed to ending unjust “disenfranchisement,” the removal of a person’s right to vote. Here, we introduce the history and current state of this democratic crisis and explain how you can tell the General Assembly that it is far beyond time to act.

Fast Facts

According to a 2022 study by The Sentencing Project,

- ★ Approximately 312,540 Virginians are disenfranchised. This is the fifth highest number in the United States.
- ★ Approximately 5.04% of voting-eligible Virginians are disenfranchised. This is the fifth highest rate in the United States.
- ★ Approximately 147,164 Black Virginians are disenfranchised. This is the third highest number in the United States.
- ★ Black Virginians comprise approximately 47% of all disenfranchised Virginians, despite making up less than 20% of the Commonwealth’s population.
- ★ Approximately 12.16% of voting-eligible Black Virginians are disenfranchised. This is the sixth highest rate in the United States.
- ★ Approximately 67.6% of those disenfranchised in Virginia have already served their sentences, including any necessary parole. They are ostensibly free citizens, but they lack civil rights such as ballot access.
- ★ These numbers are undoubtedly on the rise, as Governor Glenn Youngkin has restored few Virginians’ voting rights since this 2022 study.

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History

- ★ Felony disenfranchisement in Virginia dates back to 1830. At its genesis, it only affected those who committed a handful of serious crimes. In 1902, however, Virginia instituted a new Constitution that included a much longer list of crimes that would lead to disenfranchisement, including all felonies. This was written with the express intention of restricting the votes of Black Virginians; however, as early as the Reconstruction Era in the 1870s, Virginia was disproportionately applying its disenfranchisement measures to Black voters.
- ★ Virginia's felony disenfranchisement clause, while not entirely unique, is the only Jim Crow disenfranchisement measure that remains unchallenged. All other similar Constitutional provisions from its era have since been removed.
- ★ It was only after the Civil Rights Movement that the Virginia Constitution was amended to allow the Governor to individually restore voting rights to individual returning citizens. Prior to 1971, voters who committed felonies were permanently disenfranchised with no redress.

How do we know the framers of Virginia's 1902 Constitution had racist intentions?

These are their own words.

"I told the people of my county before they sent me here that I intended, as far as in me lay, to disenfranchise every negro that I could disenfranchise under the Constitution of the United States, and as few white people as possible."

The Constitutional Convention had "the fixed and inalterable intention of enacting a clause which will...forever remove the negro as a factor in our political affairs."

[Allowing the Black vote was] "a crime against civilization and Christianity."

"[We will] cut from the existing electorate four-fifths of the negro voters... That was the purpose of this convention; that will be its achievement."

Recent Developments

- ★ In 2013, Republican Bob McDonnell created the rights restoration system as it exists today. He radically simplified the process, offering to restore civil rights to anyone who has finished all jail time, probation, and parole and also paid all fees. The system was far from perfect and often failed to track eligible citizens, but McDonnell changed the game by reinstating over 8,000 Virginians' civil rights, including current Speaker of the Virginia House of Delegates Don Scott.
- ★ Democrat Terry McAuliffe, taking office after McDonnell, made an effort to alter the disproportionate burden placed on drug offenders in the process of restoring their civil rights. He reclassified drug crimes from the category of violent to nonviolent, affecting large swaths of Black Virginians who were newly eligible to have their rights restored. He also sought to level the playing field by removing the requirement that all fees must be paid before a returning citizen could seek the restoration of their civil rights. McAuliffe was then forbidden by the Virginia Supreme Court to issue blanket civil rights restorations, so he began signing restorations one by one while not actually examining them individually. By the end of his term, he had restored 173,166 Virginians' civil rights.
- ★ Democrat Ralph Northam continued his predecessor's project, restoring over 126,000 Virginians' civil rights. He was the first to include returning citizens who were still under parole or probation in civil rights restoration efforts.
- ★ After initially following McAuliffe and Northam's lead, Republican Glenn Youngkin abruptly began individually considering each candidate for restoration without publicizing any standards by which he was judging applications. He did, however, re-add questions about violent versus nonviolent offenses, court and legal fees, and probation and parole to his application. In addition, nearly 3,400 returning citizens were purged from the voting rolls in 2023 after having their right to vote restored due to mistaken actions by the Youngkin administration.
- ★ There are multiple pending court cases hoping to reform the current system of voter disenfranchisement. *Hawkins v. Youngkin* seeks to institute an objective standard for restoration of civil rights, and *King v. Youngkin* seeks to limit felony disenfranchisement to only "common law felonies," excluding drug crimes and other "newer" crimes. Finally, the Virginia NAACP has sued Youngkin under the Freedom of Information Act to provide more details about how he has changed the restoration of rights process and what standards successful applicants must meet.
- ★ There are also legislative efforts to amend the Virginia Constitution and eliminate the felony disenfranchisement clause for non-incarcerated returning citizens. Nearly 70% of Americans, including a majority of both Republicans and Democrats, favor this measure, but it has found no success in the General Assembly.

How do we fix this?

Common Cause Virginia is building a statewide coalition to pressure Virginia's legislators to take action on this issue. In order to amend the Virginia Constitution, we need the General Assembly to pass an amendment twice so that it will be placed on the ballot for voters to decide. That means we can't win this fight without support from all over the Commonwealth. Join us today by clicking [here](#) to read more, sign our petition, and/or volunteer to help with the campaign!!

Sources

- ★ Christopher Uggen et al., **Locked Out 2022: Estimates of People Denied Voting Rights**, SENT'G PROJECT (Oct. 25, 2022), <https://www.sentencingproject.org/reports/locked-out-2022-estimates-of-people-denied-voting-rights/>.
- ★ Lucas Della Ventura, **The History of Felony Disenfranchisement & Restoration of Civil Rights in Virginia: 1830-2024**. Prepared for the William & Mary Law School Rights Restoration Summit, March 21, 2024. Not yet published.