

Felony Re-Enfranchisement in the Era of Decarceration and Reform: An Empirical Analysis of the Changing Nature of Criminal Justice Control and Felony Re-Enfranchisement in Florida

Executive Summary
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Project Overview

The purpose of the current study is to assess the consequences of the simultaneous decarceration and felony re-enfranchisement movements, focusing on recent changes to Florida's felony disenfranchisement laws and their impact on the restoration of voting rights. To do so, we use data from Florida's Office of the State Court Administrator's Offender Based Transaction System to analyze trends in felony sentences and LFOs in Florida from 1994 to 2018, drawing on the Tampa metro area for our analyses. Additionally, we conducted interviews with the Leon County Clerk of Court and Comptroller's Office (Clerk), State Attorney, Public Defender, Supervisor of Elections (SOE), and non-profit reentry services providers to obtain detailed information on the re-enfranchisement process for people with felony convictions.

Key Findings

The number of felony prison and jail sentences and felony sentences containing any LFOs followed similar trends across the study period, though notably the decline in LFOs beginning in 2008 was not as steep as that for prison and jail sentences. Interviews with Leon County government agencies and non-profit organizations revealed a complex, multi-step process for those wishing to restore their voting rights.

Step 1. Determining LFOs. A person's LFOs can be determined through the "Notice of Court Ordered Payments" form (Form) received at the plea or sentencing hearing or by submitting a request to the Clerk's or State Attorney's offices. Importantly, the Clerk's and State Attorney's offices are often limited to convictions that occurred within their county. Thus, persons with convictions in multiple counties will need to contact the Clerk & State Attorney within each county to determine their LFO amounts.

Step 2. Paying LFOs. The Form provides information about setting up a payment plan with the Clerk's office, where and how to make payments, and the consequences of failing to pay. A person's right to vote is automatically restored once the principal LFO balance has been paid. However, one does not receive their "Satisfaction of Judgment" until they have paid any and all interest that has accrued in addition to their LFOs, thus potentially delaying notification of their eligibility.

Step 3. Registering to Vote. Once a person's right to vote has been restored, they may go to their county SOE and register to vote. Notably, no documentation is required to prove eligibility and the SOE does not conduct any front-end checks to see if someone is eligible to vote. It is up to the individual to know whether they are eligible. However, the voter registration form does not provide information on what it means to have had the right to vote restored. Importantly, receiving a voter registration card is not legal verification of eligibility to vote.

Step 4. Voting. There is substantial ambiguity in the legal penalties for those who believe they are eligible, register, and vote, but are later found ineligible. While an individual cannot be prosecuted if they cast a provisional ballot while under review for ineligibility, it is unclear what legal penalty there is for those who affirm they have not satisfied the eligibility criteria.

Policy Recommendations

Despite reform efforts, the results of this study show not much has changed in the materiality of felony disenfranchisement laws, due to conditioning re-enfranchisement on the payment of LFOs. Given these challenges, we offer the following policy recommendations. First, the Department of State should create a statewide restoration of voting rights system that allows a person to verify their eligibility status without having to contact each individual county Clerk's and State Attorney's offices. Second, once the principal LFO amount has been paid, a person should be provided a certification form from the Clerk's office indicating their right to vote has been restored. Third, the voter registration form should be amended by the SOE to provide information on what it means to have had the right to vote restored.