



# Felony Disenfranchisement in Mississippi

State felony disenfranchisement laws in 48 states and the District of Columbia prevent 6.1 million American citizens from voting for a specified period of time because of their criminal record.<sup>1</sup> In Mississippi, 9.63% of citizens in the state are disenfranchised, or nearly 1 of every 10 adults. This rate is more than triple the national rate of disenfranchisement (2.47%), which affects 1 of every 40 American adults.

Mississippi is one of only 12 states where individuals may be disenfranchised while incarcerated, under criminal justice supervision outside of prison, or permanently in many cases. Restrictions on voting after completion of sentence apply to Mississippi residents convicted of disqualifying offenses outlined in the state constitution including: murder, rape, bribery, theft, arson, obtaining money or goods under false pretense, perjury, forgery, embezzlement or bigamy.<sup>2</sup> Today, there are 22 crimes<sup>3</sup> that disenfranchise Mississippi residents from voting. In 2005, the Mississippi Attorney General added 11 new disenfranchising crimes.<sup>4</sup>

Overall, an estimated 218,181 people in Mississippi were disenfranchised as of 2016. Of this total, only 7 percent are incarcerated. The remaining 93 percent are living in the community either under probation or parole supervision, or have completed their criminal sentence. The number of African American residents disenfranchised in Mississippi numbered 127,130 in 2016 or nearly 16% of the disenfranchised population.

Nationally, more than three-quarters of the 6.1 million disenfranchised citizens are not incarcerated, but are living in the community under felony probation or parole supervision, or have completed their sentences. The scale of disenfranchisement has risen dramatically along with the expansion of

the criminal justice system since the 1970s. In 1976 an estimated 1.2 million people were disenfranchised.

## HISTORY OF DISENFRANCHISEMENT

While felony disenfranchisement dates back to the time of the founding of the nation, it has undergone many changes over the past two centuries. The original states adopted disenfranchisement as a holdover from the Colonial period, and did so as they granted the right to vote to wealthy white male property holders.

Following the Civil War a number of Southern states tailored their disenfranchisement policies with the intent of disenfranchising black males who had recently gained the right to vote. These actions came about at the same time states were adopting poll taxes and literacy requirements. In a number of Southern states, including Mississippi, voting restrictions were adopted based on prevailing perceptions of the racial composition of particular offense categories. Crimes believed to be committed primarily by blacks would lead to disenfranchisement, while offenses identified with whites would not. Thus, political leaders in Mississippi called for disenfranchisement for offenses such as burglary, theft, and arson, but not for robbery or murder.<sup>5</sup>

## CATEGORIES OF DISENFRANCHISEMENT

States have the power to establish criteria for voting and over time the 50 states have created a patchwork of policies regarding voting restrictions for those with a felony conviction. Mississippi is among the 12 most restrictive states that disenfranchise persons after they complete their sentence. State disenfranchisement policies are as follows:

- 48 states and the District of Columbia restrict voting rights for persons incarcerated in a state prison. Two states – Maine and Vermont – do not place any restrictions on voting, including for those in prison.
- In 34 states individuals are also disenfranchised if they are under felony probation and/or parole supervision.
- In 12 states individuals may be disenfranchised for a period of time (up to life in some circumstances) even after they have completed all terms of their sentence.

## MISSISSIPPI RIGHTS RESTORATION ACTIVITY

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. The practice results in few people gaining their rights. Indeed, just 335 of 166,494 persons who completed their sentence had their rights restored from 2000 to 2015.<sup>6</sup>

Other states have enacted policies to restore voting rights to a substantial number of state residents with felony convictions. Florida, the state with the highest disenfranchised population, restored voting rights to 271,982 residents from 1990-2015. Kentucky restored voting rights to 10,479 persons with felony convictions from 2008-2010.<sup>7</sup> Tennessee expanded the franchise to 11,581 residents with a

felony record from 1990-2015. Virginia has restored voting rights to 174,000 persons with a felony conviction from 2016-2017.<sup>8</sup>

Whether intentional or not, requiring individual suffrage legislation is cumbersome and arcane. It limits rights restoration and reinforces unnecessary barriers to participating in the electoral process.

## LIMITS OF SUFFRAGE

Eligible residents can ask their state representative or state senator to introduce legislation on their behalf that grants them individual suffrage. In order to do this, they must submit a form to their legislator detailing their conviction and date of arrest. This information is submitted to a Suffrage Subcommittee under the Judiciary B Committee. A legislative assistant sends this information to the Department of Correction, where a thorough background check is performed. The chair of the Judiciary Committee selects the applications that are allowed to be voted on by the full committee. The selection process is very subjective. As noted earlier, very few submissions make it through the process. There are no known written criteria for these submissions, aside from the requirement that all terms of the sentence must be complete at the time of the application (including restitution, parole and fines).

### Legislative Clemency Activity by Year, 2007-2017<sup>9</sup>

Year	Bills of Suffrage Passed	Bills of Suffrage Failed
2007	10	17
2008	5	21
2009	0	19
2010	7	1
2011	7	4
2012	0	10
2013	1	7
2014	3	0
2015	4	1
2016	0	2
2017	7	1
<b>Total</b>	<b>45</b>	<b>83</b>

Only modest numbers of people have engaged the process of rights restoration and had their rights restored through a Bill of Suffrage. Only 30% of residents who have attempted rights restoration, have had their rights restored. During the period 2007-2017, 45 bills passed while 83 were defeated.

## STATE DISENFRANCHISEMENT REFORMS

In recent years 23 states have reviewed their disenfranchisement policies and enacted reforms designed to reduce the categories of disenfranchisement and/or engage in outreach to inform individuals with felony convictions of their right to vote.

Some states with restrictive felony disenfranchisement policies similar to that of Mississippi have worked to expand voting rights. Alabama lawmakers authorized the Definition of Moral Turpitude Act in 2017. Previously, Alabama law stripped people of their right to vote if they committed a “felony involving moral turpitude,” but the state had never provided a definitive list of such felonies. This omission resulted in inconsistent application of the law across counties, as determined by local registrars. The new law codifies a list of 50 crimes of moral turpitude and notably excludes low-level drug offenses like possession—the most common felony conviction in the state. In 1997, Texas lawmakers repealed the state’s two-year waiting ban following sentence completion. New Mexico repealed its lifetime disenfranchisement law in 2001. And Maryland lawmakers approved automatic restoration of voting rights for persons at the completion of sentence in 2007; in 2016 policymakers expanded the franchise to persons living in the community under supervision.

## EXPANDING THE VOTE IN MISSISSIPPI

Although felony disenfranchisement policies have been in effect for more than two centuries it is only in recent decades that there has been a concerted effort to examine the wisdom and impact of these laws. Mississippi stakeholders should consider reforms as well.

- **Automatic rights restoration for persons who complete their prison sentence:** State lawmakers should authorize a constitutional amendment automatically restoring voting rights to persons who complete their criminal sentence. During 2017, legislation to automatically restore voting rights to Mississippi residents with felony convictions after a 3-year waiting period was introduced.<sup>10</sup>
- **Data collection on disenfranchisement:** Agency officials with the Mississippi Department of Corrections and the Secretary of State should report, on an annual basis, the number of state residents who are disenfranchised due to a felony conviction. The report should also include the number of state residents whose rights have been restored.
- **Notify persons who complete their sentence about their right to petition for suffrage:** States like Louisiana require the Department of Corrections to notify individuals who have completed their sentence of their right to vote and assist with registration.
- **Notify individuals at sentencing of collateral consequences including voting rights:** Many individuals are unaware of the collateral consequences of conviction and how those consequences impact their future. Defendants should be notified at sentencing of the impact of their criminal conviction. The Uniform Law Commission, a nonpartisan group that promotes law uniformity among states, recommends legislation that addresses the penalties and disqualifications that individuals face incidental to criminal sentencing. To date several states, including Minnesota, Nevada, New Mexico, New York, have introduced notification legislation while Vermont lawmakers have enacted it.

## Endnotes

- 1 Christopher Uggen, Ryan Larson, and Sarah Shannon. *6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, 2016*. The Sentencing Project, 2016. Unless otherwise noted all disenfranchisement data in this publication from this source.
- 2 See Miss. Const. art. 12, § 241.
- 3 Offenses include: Armed robbery, arson, bigamy, bribery, carjacking, embezzlement, extortion, felony bad check, felony shoplifting, forgery, larceny, murder, obtaining money or goods under false pretense, perjury, rape, receiving stolen property, robbery, statutory rape, theft, timber larceny and unlawful taking of a vehicle.
- 4 Mississippi Attorney General, “Disenfranchising Crimes” (2009). Online here: <http://www.sos.ms.gov/Elections-Voting/Documents/SummaryofAttorneyGeneralOpinionsonElectionIssues.pdf>.
- 5 Mauer, M. (2002). Mass imprisonment and the disappearing voters. In M. Mauer & M. Chesney-Lind (Eds.), *Invisible punishment: The collateral consequences of mass imprisonment* (pp. 50-58). New York, NY: The New Press.
- 6 Uggen supra.
- 7 Ibid.
- 8 Laura Vozzella and Fenit Nirappil, “Gillespie goes after Northam with TV ad on felon rights restoration.” *Washington Post* (October 23, 2017). Online: [https://www.washingtonpost.com/local/virginia-politics/gillespie-goes-after-northam-on-felon-rights-restoration-in-new-tv-ad/2017/10/23/afdcc4b8-b82c-11e7-a908-a3470754bbb9\\_story.html?utm\\_term=.8aefec489866](https://www.washingtonpost.com/local/virginia-politics/gillespie-goes-after-northam-on-felon-rights-restoration-in-new-tv-ad/2017/10/23/afdcc4b8-b82c-11e7-a908-a3470754bbb9_story.html?utm_term=.8aefec489866).
- 9 “Mississippi Legislative Bill Status System.” The Mississippi Legislature. Retrieved from <http://billstatus.ls.state.ms.us/default.htm> on September 5, 2017.
- 10 Mississippi House Bill 618 (2017). Online here: <http://index.ls.state.ms.us/isysnative/UzpcRG9jdW1lbnRzXDlwMTdcccGRmXGhiXDA2MDAtMDY5OVxoYjA2MTlpci5wZGY=/hb0619in.pdf#xml=http://10.240.72.35/isysquery/irlf73d/4/hilite>.