

111th CONGRESS
1st Session
H. R. 59

To secure the Federal voting rights of certain qualified ex-offenders who have served their sentences.

IN THE HOUSE OF REPRESENTATIVES

January 6, 2009

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To secure the Federal voting rights of certain qualified ex-offenders who have served their sentences.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Ex-Offenders Voting Rights Act of 2009'.

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings- Congress makes the following findings:

(1) The right to vote is the most basic constitutive act of citizenship and regaining the right to vote reintegrates offenders into free society. The right to vote may not be abridged or denied by the United States or by any State on account of race, color, gender, or previous condition of servitude. Basic constitutional principles of fairness and equal protection require an equal opportunity for United States citizens to vote in Federal elections.

(2) Since the founding of the Nation, most States have enacted laws disenfranchising convicted felons and ex-felons. In the last 30 years, due to the dramatic expansion of the criminal justice system, these laws have significantly affected the political voice of many American communities. The momentum toward reform of these policies has been based on a reconsideration of their wisdom in meeting legitimate correctional objectives

and the interests of full democratic participation. Forty-eight States and the District of Columbia prohibit inmates from voting while incarcerated for a felony offense.

(3) Congress has ultimate supervisory power over Federal elections, an authority that has repeatedly been upheld by the Supreme Court.

(4) Although State laws determine the qualifications for voting in Federal elections, Congress must ensure that those laws are in accordance with the Constitution. Currently, those laws vary throughout the Nation, resulting in discrepancies regarding which citizens may vote in Federal elections.

(5) Only two States (Maine and Vermont) permit inmates to vote. Thirty-five States prohibit felons from voting while they are on parole and 30 of these States exclude felony probationers as well. Two States deny the right to vote to all ex-offenders who have completed their sentences. Nine others disenfranchise certain categories of ex-offenders or permit application for restoration of rights for specified offenses after a waiting period (e.g., 5 years in Delaware and Wyoming, and 2 years in Nebraska). Each State has developed its own process of restoring voting rights to ex-offenders but most of these restoration processes are so cumbersome that few ex-offenders are able to take advantage of them.

(6) An estimated 5,300,000 million Americans, or one in 41 adults, have currently or permanently lost their voting rights as a result of a felony conviction.

(7) State disenfranchisement laws disproportionately impact ethnic minorities.

(8) Thirteen States disenfranchise some or all ex-offenders who have fully served their sentences, regardless of the nature or seriousness of the offense.

(9) In those States that disenfranchise ex-offenders who have fully served their sentences, the right to vote can be regained in theory, but in practice this possibility is often illusory.

(10) In eight States, a pardon or order from the Governor is required for an ex-offender to regain the right to vote. In two States, ex-offenders must obtain action by the parole or pardon board to regain that right.

(11) Offenders convicted of a Federal offense often have additional barriers to regaining voting rights. In at least 16 States, Federal ex-offenders cannot use the State procedure for restoring their voting rights. The only method provided by Federal law for restoring voting rights to ex-offenders is a Presidential pardon.

(12) Few persons who seek to have their right to vote restored have the financial and political resources needed to succeed.

(13) Thirteen percent of the African-American adult male population, or 1,400,000 African-American men, are disenfranchised. Given current rates of incarceration, 3 in 10 African-American men in the next generation will be disenfranchised at some point during their lifetimes. Hispanic citizens are

also disproportionately disenfranchised, since those citizens are disproportionately represented in the criminal justice system.

(14) An estimated 676,730 women are currently ineligible to vote as a result of a felony conviction. More than 2,000,000 White Americans (Hispanic and non-Hispanic) are disenfranchised as a result of a felony conviction. In five States that deny the vote to ex-offenders, one in four Black men are permanently disenfranchised.

(15) Given current rates of incarceration, 3 in 10 of the next generation of Black men can expect to be disenfranchised at some point in their lifetime. In States that disenfranchise ex-offenders, as many as 40 percent of Black men may permanently lose their right to vote. Two million one hundred thousand disenfranchised persons are ex-offenders who have completed their sentences.

(16) The discrepancies described in this subsection should be addressed by Congress, in the name of fundamental fairness and equal protection.

(b) Purpose- The purpose of this Act is to restore fairness in the Federal election process by ensuring that ex-offenders who have fully served their sentences are not denied the right to vote.

SEC. 3. RIGHTS OF CITIZENS.

(a) Protecting Right To Vote in Federal Elections- The right of an individual who is a citizen of the United States to vote in any election for Federal office shall not be denied or abridged because that individual has been convicted of a criminal offense unless, at the time of the election, such individual is serving a felony sentence in a correctional institution or facility.

(b) Definitions- In this Act:

(1) CORRECTIONAL INSTITUTION OR FACILITY- The term 'correctional institution or facility' means any prison, penitentiary, jail, or other institution or facility for the confinement of individuals convicted of criminal offenses, whether publicly or privately operated, except that such term does not include any residential community treatment center (or similar public or private facility).

(2) ELECTION- The term 'election' means--

(A) a general, special, primary, or runoff election;

(B) a convention or caucus of a political party held to nominate a candidate;

(C) a primary election held for the selection of delegates to a national nominating convention of a political party; or

(D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President.

(3) FEDERAL OFFICE- The term 'Federal office' means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, Congress.

SEC. 4. NOTIFYING INDIVIDUALS WHO REGAIN RIGHT TO VOTE.

(a) Requiring Notification-

(1) IN GENERAL- The Chief State correctional officer of each State shall ensure that, not later than 30 days after an individual who is serving a felony sentence in a correctional institution or facility in the State is released from the institution or facility, including an individual who is released on parole or probation, the individual is notified of the individual's right to vote in elections for Federal office and of the date of the next such election in which the individual may vote.

(2) EXCEPTION FOR INDIVIDUALS CONTINUING TO SERVE SENTENCES- Paragraph (1) does not apply in the case of an individual who is released from a correctional institution or facility to serve a felony sentence in a different correctional institution or facility.

(3) DEFINITIONS- In this subsection--

(A) the term `parole' means parole (including mandatory parole) or conditional or supervised release (including mandatory supervised release) which is imposed by a Federal, State, or local court; and

(B) the term `probation' means probation imposed by a Federal, State, or local court with or without a condition on the individual involved concerning--

(i) the individual's freedom of movement,

(ii) the payment of damages by the individual,

(iii) periodic reporting by the individual to an officer of the court, or

(iv) supervision of the individual by an officer of the court.

(b) Application to Individuals Released From Federal Institutions or Facilities-

Subsection (a) shall apply to the Director of the Bureau of Prisons with respect to individuals released from an institution or facility under the Director's jurisdiction in the same manner as such subsection applies to the Chief State correctional officer of a State with respect to individuals released from institutions or facilities in that State.

SEC. 5. ENFORCEMENT.

(a) Attorney General- The Attorney General may bring a civil action in a court of competent jurisdiction to obtain such declaratory or injunctive relief as is necessary to remedy a violation of this Act.

(b) Private Right of Action-

(1) NOTICE- A person who is aggrieved by a violation of this Act may provide written notice of the violation to the chief election official of the State involved.

(2) ACTION- Except as provided in paragraph (3), if the violation is not corrected within 90 days after receipt of a notice provided under paragraph

(1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may bring a civil action in such a court to obtain the declaratory or injunctive relief with respect to the violation.

(3) ACTION FOR VIOLATION SHORTLY BEFORE A FEDERAL ELECTION- If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person shall not be required to provide notice to the chief election official of the State under paragraph (1) before bringing a civil action in such a court to obtain the declaratory or injunctive relief with respect to the violation.

SEC. 6. RELATION TO OTHER LAWS.

(a) No Prohibition on Less Restrictive Laws- Nothing in this Act shall be construed to prohibit a State from enacting any State law that affords the right to vote in any election for Federal office on terms less restrictive than those terms established by this Act.

(b) No Limitation on Other Laws- The rights and remedies established by this Act shall be in addition to all other rights and remedies provided by law, and shall not supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) or the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

END

Congressional Research Service (CRS) SUMMARY AS OF:

1/6/2009--Introduced.

Ex-Offenders Voting Rights Act of 2009 - Declares that the right of a U.S. citizen to vote in any **election** for federal office shall not be denied or abridged because that individual has been convicted of a criminal offense unless, at the time of the **election**, such individual is serving a felony sentence in a correctional institution or facility.

Requires the chief correctional officer of each state to inform convicted felons within 30 days after their release of their right to vote in **elections** for federal office and the date of the next **election** in which they are eligible to vote.

Provides for enforcement and remedies for violations of this Act.

Specifies that: (1) nothing in this Act shall be construed to prohibit a state from enacting any state law that affords the right to vote in any **election** for federal office on terms less restrictive than those terms established by this Act; and (2) the rights and remedies established by this Act shall be in addition to all other rights and remedies provided by law, and shall not supersede, restrict, or limit the application of the Voting Rights Act of 1965 or the National Voter Registration Act of 1993.