



# LEAGUE OF WOMEN VOTERS OF VIRGINIA

## Study of the Restoration of Civil Rights of Felons in Virginia

### *Background*

At the 2007 spring convention, LWV-VA delegates approved a “Study of the Restoration of Civil Rights of Felons in Virginia.” Background information packets were distributed at the 2007 Fall Workshops and posted on the web site: [www.LWV-VA.org](http://www.LWV-VA.org) where they are still available. Workshop participants learned about the current process under Governor Kaine and the realities of the current political climate.

During 2007-2008, ten local Leagues conducted interviews which are part of this report. This fall, local Leagues will be holding consensus meetings on this topic with reports due **December 16, 2008**. This paper contains information to aid the consensus discussion. More information has been prepared for discussion leaders and also posted on the web site, [www.LWV-VA.org](http://www.LWV-VA.org). Please use this information and the websites listed below to prepare for discussion.

### *The Civil Rights in Question are the right to:*

- Register to Vote
- Hold public office
- Serve on a jury
- Serve as a notary public

These civil rights must be restored before applications to carry or own a firearm or to seek a pardon can be made. Since it is often the right to vote that is of most direct interest, our research focuses on this aspect.

### *Restoration of Voting Rights in Virginia Today*

In Virginia, only the Governor can restore voting rights. The Constitution of Virginia, Article II, Section I states: “*No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the governor or other appropriate authority.*” All applications are sent to the office of the Secretary of the Commonwealth for processing. An application can be filed through the Circuit Court, but this is an exceptional route. The number of felons who have had their voting rights restored by any one governor has varied greatly. For example: Gov. Robb restored rights to 1,180; Gov. Allen, to 480; Gov. Gilmore, to 238; Gov. Warner, to 3,486 and Gov. Kaine, to 878 during his first 15 months in office.

Nearly 300,000 Virginia citizens, representing 4-5% of Virginia citizens who are age 18 or older, are unable to vote because of a felony conviction, despite having completed their sentences and been released from probation or parole. About half of these citizens are African-American. As many as one in every six African-American men in Virginia cannot register to vote for this reason.

In 2002, Governor Warner established a modified system for non-violent felons: The

application form was reduced from 15 pages to 1 page and the waiting period from 5 years to 3 years.

All felons who want their civil and voting rights restored must:

- \*Complete their sentence
- \*Complete any assigned probation or parole
- \*Pay all fines and court costs
- \*Have no pending charges
- \*Have no DUI violations for the last 5 years.

For a non-violent felony conviction, the person must wait 3 years and complete a 1-page application. For a violent felony conviction, drug manufacture/distribution or an election law violation conviction, he/she must wait 5 years, complete a longer application form, and provide 3 letters of recommendation. Court records are checked to verify the information provided on all applications.

Applications may be obtained from:

<sup>35</sup><sub>17</sub> **Voter Registrars**

<sup>35</sup><sub>17</sub> **Probation and Parole Offices**

<sup>35</sup><sub>17</sub> **Secretary of the Commonwealth: Micah Womack, Restoration of Rights Director,**  
P.O. Box 2454, Richmond VA 23218-2454; (804) 692-2531

<http://www.commonwealth.virginia.gov/JudicialSystem/Clemency>

### ***Criminal Disenfranchisement Laws in the United States***

Nationwide, a patchwork of different state rules and laws prevents an estimated 5.3 million citizens from voting. Since 1997, sixteen states have enacted reforms. In 2002 there were nine states that permanently denied the right to vote to felons and now there are only two. Virginia and Kentucky are the only states left which bar people with felony convictions from voting for life. The Brennan Center for Justice at the New York School of Law gives the following summary. ([http://www.brennancenter.org/page/-/d/download\\_file\\_48642.pdf](http://www.brennancenter.org/page/-/d/download_file_48642.pdf))

<sup>35</sup><sub>17</sub> Permanent disenfranchisement for all people with felony convictions, unless governor approves individual rights restoration. KY, VA

<sup>35</sup><sub>17</sub> Permanent disenfranchisement for at least some people with criminal convictions, unless government approves individual rights restoration. AL, AZ, DE, FL, MS, NV, TN, WY

<sup>35</sup><sub>17</sub> Voting rights restored upon completion of sentence, including prison, parole, and probation. AK, AR, GA, ID, IA, KS, LA, MD, ME, MO, NE,\* NJ, NM, NC, OK, SC, TX, WA, WV, WI (\*2 year waiting period)

<sup>35</sup><sub>17</sub> Voting rights restored automatically after release from prison and discharge from parole (Probationers may vote). CA, CO, CT, NY, SD

<sup>35</sup><sub>17</sub> Voting rights restored automatically after release from prison. DC, HI, IL, IN, MA, MI, MT, NH, ND, OH, OR, PA, RI, UT

<sup>35</sup><sub>17</sub> No disenfranchisement for people with criminal convictions. ME, VT

## ***Highlights from Local League Interviews***

Interviews by Local Leagues discovered that, in general, most interviewees knew what their job required. However, their helpfulness varied greatly, probably depending upon their philosophy.

Interestingly, people in contact with felons during arrest, trial and sentencing (prosecutors, judges and many lawyers) often know little about the procedures for getting Civil Rights restored. A probation officer is best able to help prepare the application. Several localities have organizations using volunteers as coaches or mentors to help felons reenter society.

**PROBATION/PAROLE OFFICERS**, if asked, provide the needed forms and can help felons obtain the information needed. On the long form, the probation officer must write a letter outlining the period of supervision and send a confidential pre-sentencing report, if one exists, directly to the Secretary of the Commonwealth.

**VOTER REGISTRARS** provide information to felons who ask by giving them the long or short form, the web address and/or the mailing address of the Secretary of the Commonwealth. Some registrars were particularly helpful.

**CIRCUIT COURTS** provide information no longer available from probation offices, where it is purged after 5 years. A new law requires circuit courts to help felons complete the application process. The Governor has 90 days to approve or deny these applications. Some Circuit Court Clerks are not well informed.

In addition to the interviews, several Leagues spoke with felons whose comments are listed below. One league collected completed questionnaires from 35 felons and found that most had not tried to get their civil rights restored, nor had anyone encouraged them to do so. Only two persons knew someone who had had their rights restored and one of those was in Texas! When asked *“Is getting your civil rights restored important to you? Please say why.”* on the questionnaires, 50% responded “yes” with the following written comments:

<sup>35</sup><sub>17</sub> *“Being part of the community,”*

<sup>35</sup><sub>17</sub> *“Having kids,”*

<sup>35</sup><sub>17</sub> *“Voicing my opinion,”*

<sup>35</sup><sub>17</sub> *“ Having vote count because “my say has value.”*

<sup>35</sup><sub>17</sub> *“The present system is strict and have no help for the mistake made once in a lifetime.”*

<sup>35</sup><sub>17</sub> *“I would like to feel like this is not being held against me for the rest of my life.”*

<sup>35</sup><sub>17</sub> *“I feel once a person finishes their sentence, their civil rights should be restored or at least considered because that person would have paid their debt to society.”*

Other quotes from Felons:

*“Before going to prison, I never felt that my one vote could make a difference. But over the years I have learned that voting is about more than a single person’s vote. It is about participation in the political process no matter what race or socio-economic class you belong to. For the previously incarcerated, it is about “making the walk back into society.” Paul Robinson*

*“Without a vote, a voice, I am a ghost inhabiting a citizen’s space.” Joe Loya*

## ***Definitions***

**Clemency:** Action by the Governor to grant full or conditional pardons and commutations of sentences. There are two types: Restoration of Civil Rights and Pardons. (In some places clemency refers to the restoration of civil rights.)

**Felon:** Person who has been convicted of a felony; restoration of rights does not necessarily eliminate the designation.

**Felony:** A crime punishable by death or confinement in the penitentiary. There are 6 classes of felonies, with applicable sentences and fines. Examples include robbery of \$200 or more, grand larceny, malicious wounding, murder, rape.

**Long Form:** Application for Violent Offenders / Drug Offenders / Election Law Offenders for the Restoration of Rights. A five-year waiting period is required before submission of the form.

**Misdemeanor:** A crime punishable by up to a year in jail, a fine of up to \$2500, or both. There are 4 classes of misdemeanors with applicable sentences and fines. Examples include driving offenses, possession of marijuana, assault and battery and shoplifting of less than \$200.

**Pardon:** Official forgiveness of conviction and/or sentence given by the Governor. There are three types.; Simple, Conditional and Absolute. Absolute allows for the conviction to be removed from the record after court action; Conditional applies only to incarcerated persons; Simple does not remove the conviction from the record. All three types require felons to have their Civil Rights restored first.

**Parole:** Conditional release from incarceration.

**Probation:** Suspension of sentence and release from incarceration, with supervision by probation officer.

**Restitution:** act of making good or giving equivalency for loss, damage or injury.

**Short Form:** Application for Non-violent Offenders for the Restoration of Rights. A three-year waiting period is required before submission of the form.

**Transparency:** Openness; clarity; lack of guile and attempts to hide damaging information. \* The word is used of financial disclosures, organizational policies and practices, lawmaking, and other activities where organization interaction (sic) with the public. from Black's Law Dictionary; 2004

**Violent felony:** Behavior that intentionally threatens, attempts, or actually inflicts physical harm. Examples include aggravated assault, arson, assault and battery, domestic violence, homicide, manslaughter, mayhem, murder and terrorism.

**Organizations Providing Information and Conducting Research on Felons  
Seeking Restoration of Civil Rights.**

**The Advancement Project** - The most complete information on the process of restoration of rights.

Main Web site: <http://www.advancementproject.org/>  
Virginia Clemency Project: <http://www.advancementproject.org/ourwork/power-and-democracy/felony-re-enfranchisement/about.php>

Virginia: Guide to Restoration of Voting Rights:  
<http://www.advancementproject.org/pdfs/vp/062508/VAHandbook.pdf>

**American Civil Liberties Union of Virginia: Project Restore our Vote**

Adisa Muse, Director, Virginia Voter Restoration Project  
<http://www.acluva.org/restoreourvote/>     [vote@acluva.org](mailto:vote@acluva.org)

**The Brennan Center for Justice at the New York School of Law** - This website shows a map of the status of restitution of rights on a state-by-state basis.

[http://www.brennancenter.org/page/-/d/download\\_file\\_48642.pdf](http://www.brennancenter.org/page/-/d/download_file_48642.pdf)

**Right to Vote** a national collaboration of the [American Civil Liberties Union](#), [Brennan Center for Justice at NYU School of Law](#), and [The Sentencing Project](#). Its mission is to remove barriers to voting by people with felony convictions.

**The Sentencing Project** – A good information source for advocacy on disenfranchisement  
<http://www.sentencingproject.org>

**Organizations Providing Assistance to & Support for Felons Seeking  
Restoration of Civil Rights. [Gleaned from LWV-VA interviews]**

**Human Rights Watch** lists comprehensive resources for prisoners and their families:

<http://www.hrw.org/prisons/states/va.htm>

**NAACP Virginia State Conference** <http://www.virginianaacp.org/>

**NAACP National Prison Project** <http://www.naacp.org/programs/prison/>

**OAR, Offender Aid and Restoration** –national organization dedicated to promoting a community-based justice system.

**OAR of Arlington County, Inc.** Phone: 703.228.7030

**OAR of Richmond, Inc.** [www.oarric.org](http://www.oarric.org)

**OAR of Charlottesville** <http://www.oar-jacc.org/>

**OAR of Fairfax: Opportunities, Alternatives and Resources** <http://www.oarfairfax.org>

**STEP-UP, Inc.**, a non-profit corporation involved in training and job placement  
[brandts@verizon.net](mailto:brandts@verizon.net) <http://stepupincorporated.com/>

**Virginia C.A.R.E.S (COMMUNITY ACTION RE-ENTRY SYSTEM)**, statewide  
<http://www.vacares.com> <http://www.vacares.org/ServiceSites.htm>

**Virginia C.U.R.E. Citizens United for Rehabilitation of Errants- Virginia, Inc.**  
e-mail: [info@vacure.org](mailto:info@vacure.org) [http://www.vacure.org/agenda\\_list.php](http://www.vacure.org/agenda_list.php)

**Virginia Conference United Methodist Church** <http://www.vaumc.org>  
2008 conference, Book of Reports, pp151-154

**The Virginia Organizing Project** - statewide grassroots organization dedicated to challenging injustice by empowering people in local communities  
<http://www.virginia-organizing.org/>

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## RESTORATION OF CIVIL RIGHTS OF FELONS IN VIRGINIA STUDY

### CONSENSUS QUESTIONS

1. **Should the restoration of civil rights be automatically granted to felons?**

\_\_\_\_\_ YES \_\_\_\_\_ NO

**If yes should it be restored:** (Please place a checkmark in the space)

- \_\_\_\_\_ A. Immediately upon release from incarceration  
\_\_\_\_\_ B. Immediately upon completion of probation or parole  
\_\_\_\_\_ C. Upon fulfillment of all legal obligations, including payments of fees, fines, court ordered restitution, and A and B listed above.

2. **Should the procedures for the Restoration of Civil Rights be the same for all felons?**

\_\_\_\_\_ YES \_\_\_\_\_ NO

**If no, which of the following should have more stringent procedure:**  
(Please place a checkmark in the space)

- \_\_\_\_\_ A. Non-violent offenses  
\_\_\_\_\_ B. Violent offenses  
\_\_\_\_\_ C. Drug distribution offenses  
\_\_\_\_\_ D. Drug manufacture offenses  
\_\_\_\_\_ E. Election Law offenses

3. **Should the current process be made:**

<sup>35</sup><sub>17</sub> **easier to understand** \_\_\_\_\_ YES \_\_\_\_\_ NO  
<sup>35</sup><sub>17</sub> **more accessible,** \_\_\_\_\_ YES \_\_\_\_\_ NO  
<sup>35</sup><sub>17</sub> **more transparent and fair?** \_\_\_\_\_ YES \_\_\_\_\_ NO

**If yes, in what ways?** (Please list suggestions below)