

Recommended Program

Right to Vote

RIGHT TO VOTE Study Proposal

The Voting & Elections Issues Group proposes a new study addressing universal suffrage as expressed in SJ 272. That bill would have removed the stipulations in Section 1, Article II of the Virginia Constitution that disenfranchise citizens convicted of a felony and those adjudicated to be mentally incompetent. It would also have added a “*fundamental right to vote*” clause in both the title and body of Section 1. The study would examine the history and underpinnings of the concept of a right to vote and the rationale for universal suffrage. It could additionally consider the need for an explicit right to vote, as distinguished from the implicit rights in the federal Bill of Rights.

Other topics that might fall within the scope of the study are:

- Which specific rights are conferred upon a citizen
- Youth Voting Rights Act and HJ 459 to lower voting age in certain localities
- Recent decisions by the US Supreme Court invalidating sections of the Voting Rights Act of 1965
- Actions by Virginia and other states to restore some of the protections of the VRA
- Mental competency

VA Constitution Article II, Section 1

Qualification of Voters

<https://law.lis.virginia.gov/constitution/article2/section1/>

In elections by the people, the qualifications of voters shall be as follows: Each voter shall be a citizen of the United States, shall be eighteen years of age, shall fulfill the residence requirements set forth in this section, and shall be registered to vote pursuant to this article. 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. As prescribed by law, no person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been reestablished...

Current LWV-VA Position

P. 2 ELECTION LAWS The League of Women Voters of Virginia believes that democratic government depends on the informed and active participation of its citizens; that voting is a right and responsibility; and that election laws, regulations and administrative procedures should be uniformly designed and applied, and adequately funded to facilitate and increase voter participation throughout Virginia....

P. 32 The League of Women Voters of Virginia believes that: The civil rights of felons in Virginia should be restored automatically either upon their release from incarceration or upon completion of probation and parole. The procedure should be identical for all felons, regardless of the nature of their crime. The process should be easy to understand, accessible, transparent and fair. Information about the process should be available to felons, the justice and correction system and the general public. (2009)

SJ 272 Summary

2021 SESSION

[SJ 272](#) Constitutional amendment; qualifications of voters and the right to vote (first reference).

SENATE PATRONS: [Mamie E. Locke \(chief patron\)](#), [Jennifer B. Boysko](#), [Adam P. Ebbin](#), [Jennifer L. McClellan](#), [Joseph D. Morrissey](#), [Scott A. Surovell](#).

SUMMARY AS INTRODUCED: Establishes that the sole qualifications to vote in the Commonwealth are being a United States citizen, at least 18 years of age, a resident of the Commonwealth, and registered to vote in accordance with the requirements set out in the Constitution of Virginia. The amendment further provides that any person who meets those qualifications has the right to vote and that such right cannot be abridged by law. The bill lifts restrictions on qualifications to vote for those who have been convicted of a felony or adjudicated to be mentally incompetent.

HJ 459 Summary

2023 SESSION

[HJ459](#) Constitutional amendment; qualifications of voters, 16-year-olds permitted to vote (first reference).

HOUSE PATRONS: [Sam Rasoul \(chief patron\)](#), [Jackie H. Glass \(chief co-patron\)](#), [Nadarius Clark-Resigned 3/17](#), [Wendy W. Gooditis](#), [Elizabeth R. Guzman](#), [Patrick A. Hope](#), [Kaye Kory](#), [Candi Mundon King](#), [Kathleen Murphy](#), [Irene Shin](#), [Marcus B. Simon](#), [Angelia Williams Graves](#)

SUMMARY AS INTRODUCED: Provides that, notwithstanding the requirement that a voter shall be 18 years of age, any person who is 16 years of age or older and is otherwise qualified to vote shall be permitted to register to vote and to vote in local elections.

Governors' Actions

In May 2013, Gov. Robert McDonnell ended permanent disenfranchisement of citizens with felony convictions by providing for restoration of rights to those who had completed their sentences, plus payment of fees, fines, and restitution. By the end of his term, he restored the rights of over 8,000 people.

Between 2014 and 2016, Gov. McAuliffe gradually loosened the requirements, first removing a waiting period, then ending the requirement that all fees and fines be paid, and finally issuing blanket restorations of the franchise to those who had been released from incarceration and had completed supervised release (probation or parole). The Virginia Supreme Court ruled in *Howell v. McAuliffe* (2016) that the governor must decide to restore rights only on an individualized basis. By the end of his term, Gov. McAuliffe had restored the civil rights of about 173,000 people.

Governors' Actions

In March 2021, Gov. Ralph Northam took executive action to restore rights to citizens upon completion of their prison sentences. He restored the franchise to around 126,000 formerly incarcerated individuals.

Initially, Gov. Glenn Youngkin followed Gov. Northam's practice, restoring rights to about 3,500 people in his first year in office but since then he has restored rights to only 800 people. It appears that he has re-established certain requirements because individuals must complete an application form that includes questions about post-release supervision and payment of fees, fines, and restitution. A pending lawsuit challenges the Governor's total discretion and lack of any discernible criteria for deciding whose rights to restore.

What Do Other States Do?

According to the National Conference of State Legislatures:

Two states, Maine and Utah, and the District of Columbia never disenfranchise citizens who are incarcerated for a felony offense.

Fourteen states automatically restore an eligible individual's rights upon completion of the sentence, although that can include probation/parole and sometimes payment of fines, fees, and restitution.

Eleven states deprive citizens incarcerated for a felony of the right to vote until completion of their sentences plus either a waiting period or some other action. Virginia is in this category. Virginia is one of three states where disenfranchisement is permanent unless the governor restores the individual's rights.

What Is League Program?

<https://lwv-va.org/lwv-va-positioned-for-action/forming-positions/>

In the League, a “position” is a statement of the League’s policy regarding a particular issue. Each level of the League—local, state, regional, and national, can take a position on an issue, although positions cannot conflict with a higher level League’s position.

The term League “Program” includes all of the positions that have been adopted by the respective League (local, state, regional or national Leagues). The term also covers the entire process from proposing a topic for study to action on the position reached through that study.

How Does a League Develop a Position?

There are four major steps in developing a position:

- The League selects the issue to be studied at a state League Convention or Council or by a local League at its annual meeting.
- A committee of League members studies the issue in a non-partisan, unbiased and objective manner. They then make recommendations and offer questions to direct conversation.
- Members come to an agreement about the issue using the process either of consensus or concurrence.
- Based upon the result of the consensus or concurrence, a position statement is written, adopted by the respective League board, and subsequently approved by the League membership at an annual meeting or convention.

Schedule of study: Year 1

Year 1 through June 30, 2024

- In odd-numbered years, studies can be adopted at LWV-VA Convention. (June 2023)
- Study Committees organize, develop scope, begin research & share timeline, information, suggested activities with local Leagues. (July 2023)
- Local Leagues may have speakers, reading discussions, other activities to learn about the issues being studied.

Schedule of study: Year 2

Year 2 through June 30, 2025

- Study Committees develop consensus questions, state board approves and (program director) disseminates to local Leagues. (July 2024)
- Local Leagues plan their study consensus calendars to complete reports before the deadline.
- Local Leagues continue learning, hold consensus meetings and report results at least 3 months (ca. Jan 2025) before Convention. (August 2024-February 2025)
- Study Committees & Program Director tabulate consensus reports, determine areas of consensus, draft positions and submit to state board. (ca. Feb 2025)
- Board adopts final position wording and shares with League members.
- Positions are debated and voted on at LWV-VA Convention (2025).

Avenues for Research

- Constitutions & Citizenship
- Virginia Voting Rights Act
- Arguments for Franchise: women, 18 year-olds
- Are there limits?
 - Citizenship
 - Age
 - Incarceration
 - Other Civil Rights?
- Origin of felony disenfranchisement
- Recidivism
- Prison gerrymandering
- Mental capacity

How to join the study

- You must be a League member. Join here: <https://lww-va.org/joining-is-easy/>
- Email Program@lww-va.org

Questions?