

111TH CONGRESS
1ST SESSION

S. 1516

To secure the Federal voting rights of persons who have been released
from incarceration.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2009

Mr. FEINGOLD (for himself, Mr. WHITEHOUSE, and Mr. CARDIN) introduced
the following bill; which was read twice and referred to the Committee
on the Judiciary

A BILL

To secure the Federal voting rights of persons who have
been released from incarceration.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Democracy Restoration
5 Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) The right to vote is the most basic constitu-
9 tive act of citizenship. Regaining the right to vote

1 reintegrates offenders into free society, helping to
2 enhance public safety.

3 (2) Article I, section 4 of the Constitution of
4 the United States grants Congress ultimate super-
5 visory power over Federal elections, an authority
6 which has repeatedly been upheld by the Supreme
7 Court.

8 (3) Basic constitutional principles of fairness
9 and equal protection require an equal opportunity
10 for Americans to vote in Federal elections. The right
11 to vote may not be abridged or denied by the United
12 States or by any State on account of race, color,
13 gender or previous condition of servitude. The 14th,
14 15th, 19th, 24th, and 26th Amendments to the Con-
15 stitution empower Congress to enact measures to
16 protect the right to vote in Federal elections.

17 (4) There are three areas where discrepancies
18 in State laws regarding felony convictions lead to
19 unfairness in Federal elections—

20 (A) there is no uniform standard for voting
21 in Federal elections which leads to an unfair
22 disparity and unequal participation in Federal
23 elections based solely on where a person lives;

24 (B) laws governing the restoration of vot-
25 ing rights after a felony conviction vary

1 throughout the country and persons in some
2 States can easily regain their voting rights
3 while in other States persons effectively lose
4 their right to vote permanently; and

5 (C) State disenfranchisement laws dis-
6 proportionately impact racial and ethnic minori-
7 ties.

8 (5) Disenfranchisement results from varying
9 State laws that restrict voting while under some
10 form of criminal justice supervision or after the com-
11 pletion of a felony sentence in some States. Two
12 States do not disenfranchise felons at all (Maine and
13 Vermont). Forty-eight States and the District of Co-
14 lumbia have disenfranchisement laws that deprive
15 convicted offenders of the right to vote while they
16 are in prison. In 35 States, convicted offenders may
17 not vote while they are on parole and 30 of these
18 States disenfranchise felony probationers as well. In
19 10 States, a conviction can result in lifetime dis-
20 enfranchisement.

21 (6) An estimated 5,300,000 Americans, or
22 about 1 in 41 adults, currently cannot vote as a re-
23 sult of a felony conviction. Nearly 4,000,000 (74
24 percent) of the 5,300,000 disqualified voters are not
25 in prison, but are on probation or parole, or are ex-

1 offenders. Approximately 2,000,000 of those individ-
2 uals are individuals who have completed their entire
3 sentence, including probation and parole, yet remain
4 disenfranchised.

5 (7) In those States that disenfranchise ex-of-
6 fenders, the right to vote can be regained in theory,
7 but in practice this possibility is often granted in a
8 nonuniform and potentially discriminatory manner.
9 Offenders must either obtain a pardon or order from
10 the Governor or action by the parole or pardon
11 board, depending on the offense and State. Offend-
12 ers convicted of a Federal offense often have addi-
13 tional barriers to regaining voting rights.

14 (8) State disenfranchisement laws dispro-
15 portionately impact racial and ethnic minorities. Eight
16 percent of the African-American population, or
17 2,000,000 African-Americans, are disenfranchised.
18 Given current rates of incarceration, approximately
19 one in three of the next generation of African-Amer-
20 ican men will be disenfranchised at some point dur-
21 ing their lifetime. Hispanic citizens are also dis-
22 proportionately disenfranchised based upon their dis-
23 proportionate representation in the criminal justice
24 system.

1 (9) Disenfranchising citizens who have been
2 convicted of a felony offense and who are living and
3 working in the community serves no compelling
4 State interest and hinders their rehabilitation and
5 reintegration into society.

6 (10) State disenfranchisement laws can sup-
7 press electoral participation among eligible voters by
8 discouraging voting among family and community
9 members of disenfranchised persons. Future elec-
10 toral participation by the children of disenfranchised
11 parents may be impacted as well.

12 (11) The United States is the only Western de-
13 mocracy that permits the permanent denial of voting
14 rights to individuals with felony convictions.

15 **SEC. 3. RIGHTS OF CITIZENS.**

16 The right of an individual who is a citizen of the
17 United States to vote in any election for Federal office
18 shall not be denied or abridged because that individual has
19 been convicted of a criminal offense unless such individual
20 is serving a felony sentence in a correctional institution
21 or facility at the time of the election.

22 **SEC. 4. ENFORCEMENT.**

23 (a) ATTORNEY GENERAL.—The Attorney General
24 may, in a civil action, obtain such declaratory or injunctive
25 relief as is necessary to remedy a violation of this Act.

1 (b) PRIVATE RIGHT OF ACTION.—

2 (1) IN GENERAL.—A person who is aggrieved
3 by a violation of this Act may provide written notice
4 of the violation to the chief election official of the
5 State involved.

6 (2) RELIEF.—Except as provided in paragraph
7 (3), if the violation is not corrected within 90 days
8 after receipt of a notice under paragraph (1), or
9 within 20 days after receipt of the notice if the viola-
10 tion occurred within 120 days before the date of an
11 election for Federal office, the aggrieved person
12 may, in a civil action, obtain declaratory or injunc-
13 tive relief with respect to the violation.

14 (3) EXCEPTION.—If the violation occurred
15 within 30 days before the date of an election for
16 Federal office, the aggrieved person need not provide
17 notice to the chief election official of the State under
18 paragraph (1) before bringing a civil action to obtain
19 declaratory or injunctive relief with respect to the
20 violation.

21 **SEC. 5. NOTIFICATION OF RESTORATION OF VOTING**
22 **RIGHTS.**

23 (a) STATE NOTIFICATION.—

24 (1) NOTIFICATION.—On the date determined
25 under paragraph (2), each State shall notify in writ-

1 ing any individual who has been convicted of a
2 criminal offense under the law of that State that
3 such individual has the right to vote in an election
4 for Federal office pursuant to the Democracy Res-
5 toration Act and may register to vote in any such
6 election.

7 (2) DATE OF NOTIFICATION.—

8 (A) FELONY CONVICTION.—In the case of
9 such an individual who has been convicted of a
10 felony, the notification required under para-
11 graph (1) shall be given on the date on which
12 the individual—

13 (i) is sentenced to serve only a term
14 of probation; or

15 (ii) is released from the custody of
16 that State (other than to the custody of
17 another State or the Federal Government
18 to serve a term of imprisonment for a fel-
19 ony conviction).

20 (B) MISDEMEANOR CONVICTION.—In the
21 case of such an individual who has been con-
22 victed of a misdemeanor, the notification re-
23 quired under paragraph (1) shall be given on
24 the date on which such individual is sentenced
25 by a State court.

1 (b) FEDERAL NOTIFICATION.—

2 (1) NOTIFICATION.—On the date determined
3 under paragraph (2), the Director of the Bureau of
4 Prisons shall notify in writing any individual who
5 has been convicted of a criminal offense under Fed-
6 eral law that such individual has the right to vote
7 in an election for Federal office pursuant to the De-
8 mocracy Restoration Act and may register to vote in
9 any such election.

10 (2) DATE OF NOTIFICATION.—

11 (A) FELONY CONVICTION.—In the case of
12 such an individual who has been convicted of a
13 felony, the notification required under para-
14 graph (1) shall be given on the date on which
15 the individual—

16 (i) is sentenced to serve only a term
17 of probation by a court established by an
18 Act of Congress; or

19 (ii) is released from the custody of the
20 Bureau of Prisons (other than to the cus-
21 tody of a State to serve a term of impris-
22 onment for a felony conviction).

23 (B) MISDEMEANOR CONVICTION.—In the
24 case of such an individual who has been con-
25 victed of a misdemeanor, the notification re-

1 required under paragraph (1) shall be given on
2 the date on which such individual is sentenced
3 by a State court.

4 **SEC. 6. DEFINITIONS.**

5 For purposes of this Act:

6 (1) **CORRECTIONAL INSTITUTION OR FACIL-**
7 **ITY.**—The term “correctional institution or facility”
8 means any prison, penitentiary, jail, or other institu-
9 tion or facility for the confinement of individuals
10 convicted of criminal offenses, whether publicly or
11 privately operated, except that such term does not
12 include any residential community treatment center
13 (or similar public or private facility).

14 (2) **ELECTION.**—The term “election” means—

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

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

19 (C) a primary election held for the selec-
20 tion of delegates to a national nominating con-
21 vention of a political party; or

22 (D) a primary election held for the expres-
23 sion of a preference for the nomination of per-
24 sons for election to the office of President.

1 (3) FEDERAL OFFICE.—The term “Federal of-
2 fice” means the office of President or Vice President
3 of the United States, or of Senator or Representa-
4 tive in, or Delegate or Resident Commissioner to,
5 the Congress of the United States.

6 (4) PROBATION.—The term “probation” means
7 probation, imposed by a Federal, State, or local
8 court, with or without a condition on the individual
9 involved concerning—

10 (A) the individual’s freedom of movement;

11 (B) the payment of damages by the indi-
12 vidual;

13 (C) periodic reporting by the individual to
14 an officer of the court; or

15 (D) supervision of the individual by an of-
16 ficer of the court.

17 **SEC. 7. RELATION TO OTHER LAWS.**

18 (a) STATE LAWS RELATING TO VOTING RIGHTS.—
19 Nothing in this Act shall be construed to prohibit the
20 States from enacting any State law which affords the right
21 to vote in any election for Federal office on terms less
22 restrictive than those established by this Act.

23 (b) CERTAIN FEDERAL ACTS.—The rights and rem-
24 edies established by this Act are in addition to all other
25 rights and remedies provided by law, and neither rights

1 and remedies established by this Act shall supersede, re-
2 strict, or limit the application of the Voting Rights Act
3 of 1965 (42 U.S.C. 1973 et seq.) or the National Voter
4 Registration Act (42 U.S.C. 1973–gg).

5 **SEC. 8. FEDERAL PRISON FUNDS.**

6 No State, unit of local government, or other person
7 may receive or use, to construct or otherwise improve a
8 prison, jail, or other place of incarceration, any Federal
9 grant amounts unless that person has in effect a program
10 under which each individual incarcerated in that person’s
11 jurisdiction who is a citizen of the United States is noti-
12 fied, upon release from such incarceration, of that individ-
13 ual’s rights under section 3.

14 **SEC. 9. EFFECTIVE DATE.**

15 This Act shall apply to citizens of the United States
16 voting in any election for Federal office held after the date
17 of the enactment of this Act.

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