

110TH CONGRESS
2D SESSION

H. R. 6778

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

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2008

Ms. JACKSON-LEE of Texas (for herself, Mr. CLEAVER, Mr. JOHNSON of Georgia, Mr. JACKSON of Illinois, Ms. BALDWIN, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, and Mr. HINCHEY) 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.

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 “Ex-Offenders Voting
5 Rights Act of 2008”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) The right to vote is the most basic constitu-
2 tive act of citizenship and regaining the right to vote
3 reintegrates offenders into free society. The right to
4 vote may not be abridged or denied by the United
5 States or by any State on account of race, color,
6 gender, or previous condition of servitude. Basic con-
7 stitutional principles of fairness and equal protection
8 require an equal opportunity for United States citi-
9 zens to vote in Federal elections.

10 (2) Since the founding of the Nation, most
11 States have enacted laws disenfranchising convicted
12 felons and ex-felons. In the last 30 years, due to the
13 dramatic expansion of the criminal justice system,
14 these laws have significantly affected the political
15 voice of many American communities. The momen-
16 tum toward reform of these policies has been based
17 on a reconsideration of their wisdom in meeting le-
18 gitimate correctional objectives and the interests of
19 full democratic participation. Forty-eight States and
20 the District of Columbia prohibit inmates from vot-
21 ing while incarcerated for a felony offense.

22 (3) Congress has ultimate supervisory power
23 over Federal elections, an authority that has repeat-
24 edly been upheld by the Supreme Court.

1 (4) Although State laws determine the quali-
2 fications for voting in Federal elections, Congress
3 must ensure that those laws are in accordance with
4 the Constitution. Currently, those laws vary
5 throughout the Nation, resulting in discrepancies re-
6 garding which citizens may vote in Federal elections.

7 (5) Only two States (Maine and Vermont) per-
8 mit inmates to vote. Thirty-five States prohibit fel-
9 ons from voting while they are on parole and 30 of
10 these States exclude felony probationers as well. Two
11 States deny the right to vote to all ex-offenders who
12 have completed their sentences. Nine others dis-
13 enfranchise certain categories of ex-offenders or per-
14 mit application for restoration of rights for specified
15 offenses after a waiting period (e.g., 5 years in Dela-
16 ware and Wyoming, and 2 years in Nebraska). Each
17 State has developed its own process of restoring vot-
18 ing rights to ex-offenders but most of these restora-
19 tion processes are so cumbersome that few ex-of-
20 fenders are able to take advantage of them.

21 (6) An estimated 5,300,000 million Americans,
22 or one in 41 adults, have currently or permanently
23 lost their voting rights as a result of a felony convic-
24 tion.

1 (7) State disenfranchisement laws dispropor-
2 tionately impact ethnic minorities.

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

7 (9) In those States that disenfranchise ex-of-
8 fenders who have fully served their sentences, the
9 right to vote can be regained in theory, but in prac-
10 tice this possibility is often illusory.

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

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

23 (12) Few persons who seek to have their right
24 to vote restored have the financial and political re-
25 sources needed to succeed.

1 (13) Thirteen percent of the African-American
2 adult male population, or 1,400,000 African–Amer-
3 ican men, are disenfranchised. Given current rates
4 of incarceration, 3 in 10 African–American men in
5 the next generation will be disenfranchised at some
6 point during their lifetimes. Hispanic citizens are
7 also disproportionately disenfranchised, since those
8 citizens are disproportionately represented in the
9 criminal justice system.

10 (14) An estimated 676,730 women are cur-
11 rently ineligible to vote as a result of a felony convic-
12 tion. More than 2,000,000 White Americans (His-
13 panic and non-Hispanic) are disenfranchised as a re-
14 sult of a felony conviction. In five States that deny
15 the vote to ex-offenders, one in four Black men is
16 permanently disenfranchised.

17 (15) Given current rates of incarceration, three
18 in ten of the next generation of Black men can ex-
19 pect to be disenfranchised at some point in their life-
20 time. In States that disenfranchise ex-offenders, as
21 many as 40 percent of Black men may permanently
22 lose their right to vote. Two million one hundred
23 thousand disenfranchised persons are ex-offenders
24 who have completed their sentences.

1 (16) The discrepancies described in this sub-
2 section should be addressed by Congress, in the
3 name of fundamental fairness and equal protection.

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

8 **SEC. 3. RIGHTS OF CITIZENS.**

9 (a) PROTECTING RIGHT TO VOTE IN FEDERAL
10 ELECTIONS.—The right of an individual who is a citizen
11 of the United States to vote in any election for Federal
12 office shall not be denied or abridged because that indi-
13 vidual has been convicted of a criminal offense unless, at
14 the time of the election, such individual is serving a felony
15 sentence in a correctional institution or facility.

16 (b) DEFINITIONS.—In this Act:

17 (1) CORRECTIONAL INSTITUTION OR FACIL-
18 ITY.—The term “correctional institution or facility”
19 means any prison, penitentiary, jail, or other institu-
20 tion or facility for the confinement of individuals
21 convicted of criminal offenses, whether publicly or
22 privately operated, except that such term does not
23 include any residential community treatment center
24 (or similar public or private facility).

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

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

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

5 (C) a primary election held for the selec-
6 tion of delegates to a national nominating con-
7 vention of a political party; or

8 (D) a primary election held for the expres-
9 sion of a preference for the nomination of per-
10 sons for election to the office of President.

11 (3) FEDERAL OFFICE.—The term “Federal of-
12 fice” means the office of President or Vice Presi-
13 dent, or of Senator or Representative in, or Delegate
14 or Resident Commissioner to, Congress.

15 **SEC. 4. NOTIFYING INDIVIDUALS WHO REGAIN RIGHT TO**
16 **VOTE.**

17 (a) REQUIRING NOTIFICATION.—

18 (1) IN GENERAL.—The Chief State correctional
19 officer of each State shall ensure that, not later than
20 30 days after an individual who is serving a felony
21 sentence in a correctional institution or facility in
22 the State is released from the institution or facility,
23 including an individual who is released on parole or
24 probation, the individual is notified of the individ-
25 ual’s right to vote in elections for Federal office and

1 of the date of the next such election in which the in-
2 dividual may vote.

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

9 (3) DEFINITIONS.—In this subsection—

10 (A) the term “parole” means parole (in-
11 cluding mandatory parole) or conditional or su-
12 pervised release (including mandatory super-
13 vised release) which is imposed by a Federal,
14 State, or local court; and

15 (B) the term “probation” means probation
16 imposed by a Federal, State, or local court with
17 or without a condition on the individual in-
18 volved concerning—

19 (i) the individual’s freedom of move-
20 ment,

21 (ii) the payment of damages by the in-
22 dividual,

23 (iii) periodic reporting by the indi-
24 vidual to an officer of the court, or

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

3 (b) APPLICATION TO INDIVIDUALS RELEASED FROM
4 FEDERAL INSTITUTIONS OR FACILITIES.—Subsection (a)
5 shall apply to the Director of the Bureau of Prisons with
6 respect to individuals released from an institution or facil-
7 ity under the Director’s jurisdiction in the same manner
8 as such subsection applies to the Chief State correctional
9 officer of a State with respect to individuals released from
10 institutions or facilities in that State.

11 **SEC. 5. ENFORCEMENT.**

12 (a) ATTORNEY GENERAL.—The Attorney General
13 may bring a civil action in a court of competent jurisdic-
14 tion to obtain such declaratory or injunctive relief as is
15 necessary to remedy a violation of this Act.

16 (b) PRIVATE RIGHT OF ACTION.—

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

21 (2) ACTION.—Except as provided in paragraph
22 (3), if the violation is not corrected within 90 days
23 after receipt of a notice provided under paragraph
24 (1), or within 20 days after receipt of the notice if
25 the violation occurred within 120 days before the

1 date of an election for Federal office, the aggrieved
2 person may bring a civil action in such a court to
3 obtain the declaratory or injunctive relief with re-
4 spect to the violation.

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

13 **SEC. 6. RELATION TO OTHER LAWS.**

14 (a) NO PROHIBITION ON LESS RESTRICTIVE
15 LAWS.—Nothing in this Act shall be construed to prohibit
16 a State from enacting any State law that affords the right
17 to vote in any election for Federal office on terms less
18 restrictive than those terms established by this Act.

19 (b) NO LIMITATION ON OTHER LAWS.—The rights
20 and remedies established by this Act shall be in addition
21 to all other rights and remedies provided by law, and shall
22 not supersede, restrict, or limit the application of the Vot-
23 ing Rights Act of 1965 (42 U.S.C. 1973 et seq.) or the

- 1 National Voter Registration Act of 1993 (42 U.S.C.
- 2 1973gg et seq.).

