

110TH CONGRESS  
2D SESSION

# H. R. 7136

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

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2008

Mr. CONYERS introduced the following bill; which was referred to the  
Committee on the Judiciary

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## 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 2008”.

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 and 15th Amendments to the Constitution empower  
15 Congress to enact measures to protect the right to  
16 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: (A) there is no uni-  
20 form standard for voting in Federal elections which  
21 leads to an unfair disparity and unequal participa-  
22 tion in Federal elections based solely on where a per-  
23 son lives; (B) laws governing the restoration of vot-  
24 ing rights after a felony conviction are unequal  
25 throughout the country and persons in some States

1 can easily regain their voting rights while in other  
2 States persons effectively lose their right to vote per-  
3 manently; and (C) State disenfranchisement laws  
4 disproportionately impact racial ethnic minorities.

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

18 (6) An estimated 5,300,000 Americans, or  
19 about one in forty-one adults, currently cannot vote  
20 as a result of a felony conviction. Nearly 4,000,000  
21 (74 percent) of the 5,300,000 disqualified voters are  
22 not in prison, but are on probation or parole, or are  
23 ex-offenders. Approximately 2,000,000 of those indi-  
24 viduals are individuals who have completed their en-

1       tire sentence, including probation and parole, yet re-  
2       main disenfranchised.

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

11              (8) In at least 16 States, Federal offenders  
12      cannot use the State procedure for restoring their  
13      civil rights. The only method provided by Federal  
14      law for restoring voting rights to ex-offenders is a  
15      Presidential pardon. Few persons who seek to have  
16      their right to vote restored have the financial and  
17      political resources needed to succeed.

18              (9) State disenfranchisement laws dispropor-  
19      tionately impact ethnic minorities. Thirteen percent  
20      of the African American adult male population, or  
21      1,400,000 African American men, are  
22      disenfranchised. Given current rates of incarcer-  
23      ation, three in ten of the next generation of black  
24      men will be disenfranchised at some point during  
25      their lifetime. Hispanic citizens are also dispropor-

1 tionately disenfranchised since they are dispropor-  
2 tionately represented in the criminal justice system.

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

8 (11) State disenfranchisement laws suppress  
9 electoral participation among eligible voters and  
10 damage the integrity of the electoral process. State  
11 disenfranchisement laws significantly impact the rate  
12 of electoral participation among the children of  
13 disenfranchised parents.

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

17 **SEC. 3. RIGHTS OF CITIZENS.**

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

1 **SEC. 4. ENFORCEMENT.**

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

5 (b) PRIVATE RIGHT OF ACTION.—

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

9 (2) Except as provided in paragraph (3), if the  
10 violation is not corrected within 90 days after receipt  
11 of a notice under paragraph (1), or within 20 days  
12 after receipt of the notice if the violation occurred  
13 within 120 days before the date of an election for  
14 Federal office, the aggrieved person may, in a civil  
15 action obtain declaratory or injunctive relief with re-  
16 spect to the violation.

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

23 **SEC. 5. NOTIFICATION OF RESTORATION OF VOTING**  
24 **RIGHTS.**

25 (a) STATE NOTIFICATION.—

1           (1) NOTIFICATION.—On the date determined  
2           under paragraph (2), each State shall notify in writ-  
3           ing any individual who has been convicted of a  
4           criminal offense under the law of that State that  
5           such individual has the right to vote in an election  
6           for Federal office pursuant to the Democracy Res-  
7           toration Act and may register to vote in any such  
8           election.

9           (2) DATE OF NOTIFICATION.—

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

15                   (i) is sentenced to serve only a term  
16                   of probation; or

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

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

1           the date on which such individual is sentenced  
2           by a State court.

3           (b) FEDERAL NOTIFICATION.—

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

12          (2) DATE OF NOTIFICATION.—

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

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

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

1           (B) MISDEMEANOR CONVICTION.—In the  
2 case of such an individual who has been con-  
3 victed of a misdemeanor, the notification re-  
4 quired under paragraph (1) shall be given on  
5 the date on which such individual is sentenced  
6 by a State court.

7 **SEC. 6. DEFINITIONS.**

8 For purposes of this Act:

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

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

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

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

22               (C) a primary election held for the selec-  
23 tion of delegates to a national nominating con-  
24 vention of a political party; or

1 (D) a primary election held for the expres-  
 2 sion of a preference for the nomination of per-  
 3 sons for election to the office of President.

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

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

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

14 (B) the payment of damages by the indi-  
 15 vidual;

16 (C) periodic reporting by the individual to  
 17 an officer of the court; or

18 (D) supervision of the individual by an of-  
 19 ficer of the court.

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

21 (a) STATE LAWS RELATING TO VOTING RIGHTS.—  
 22 Nothing in this Act shall be construed to prohibit the  
 23 States enacting any State law which affords the right to  
 24 vote in any election for Federal office on terms less restric-  
 25 tive than those established by this Act.

1           (b) CERTAIN FEDERAL ACTS.—The rights and rem-  
2 edies established by this Act are in addition to all other  
3 rights and remedies provided by law, and neither rights  
4 and remedies established by this Act shall supersede, re-  
5 strict, or limit the application of the Voting Rights Act  
6 of 1965 (42 U.S.C. 1973 et seq.) or the National Voter  
7 Registration Act (42 U.S.C. 1973–gg).

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

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

17 **SEC. 9. EFFECTIVE DATE.**

18           This Act shall apply to citizens of the United States  
19 voting in any election for Federal office held after the date  
20 of the enactment of this Act.

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