

From: Civil Justice Clinic, Quinnipiac University School of Law
Date: October 29, 2019
Re: Voter Disenfranchisement in Connecticut

I. CURRENT LAW IN CONNECTICUT

In Connecticut, individuals are disenfranchised while incarcerated for a felony or while on parole following release from incarceration.¹ In contrast, individuals on probation may vote. People held in pretrial detention or incarcerated for misdemeanors retain their right to vote but may have difficulty doing so as a practical matter.

II. APPROACHES OF OTHER STATES

Connecticut's felony disenfranchisement law is the most restrictive in New England. In Maine and Vermont, individuals convicted of felonies retain their right to vote, even during their time in prison.² In Massachusetts, Rhode Island, and New Hampshire, voting rights are restored automatically when people are released from incarceration.³ In New York, the governor recently issued an executive order restoring voting rights to parolees.⁴ Nevada and Colorado passed legislation in 2019 providing that as soon as someone is released from incarceration, their franchise will now be automatically restored.⁵ A bill restoring voting rights for parolees recently passed the California State Assembly and awaits action in the Senate.⁶

There is a growing national movement to eliminate felony disenfranchisement entirely. In 2019, bills were introduced in multiple states around the country that would permit incarcerated citizens to vote including in Connecticut, Hawaii, Massachusetts, Nebraska, New Mexico, New Jersey, Virginia, and Washington D.C.⁷ Around the world, many countries do not restrict the voting rights of prisoners.⁸

¹ See Conn. Gen. Stat. § 9-46(a) (“A person shall forfeit such person’s right to become an elector and such person’s privileges as an elector upon conviction of a felony and committal to the custody of the Commissioner of Correction for confinement in a correctional institution or facility or a community residence, committal to confinement in a federal correctional institution or facility, or committal to the custody of the chief correctional official of any other state or a county of any other state for confinement in a correctional institution or facility or a community residence in such state or county.”); *id.* § 9-46a(b) (“Upon the release from confinement in a correctional institution or facility or a community residence of a person who has been convicted of a felony and committed to the custody of the Commissioner of Correction and, if applicable, the discharge of such person from parole, (1) the person shall have the right to become an elector . . .”).

² Brennan Center for Justice, *Criminal Disenfranchisement Laws Across the United States* (May 2019), <https://www.brennancenter.org/our-work/research-reports/criminal-disenfranchisement-laws-across-united-states>

³ *Id.*

⁴ Executive Order 181 (2018), Restoring the Right to Vote for New Yorkers on Parole, https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO_181.pdf

⁵ AB 431 (Nev. 2019), <https://legiscan.com/NV/votes/AB431/2019>; HB 1266 (Colo. 2019), <https://legiscan.com/CO/votes/HB1266/2019>

⁶ ACA 6 (Cal. 2019), http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200ACA6

⁷ See Political Report, *Disenfranchisement and Rights Restoration: Spotlight on States*, The Appeal, <https://www.appealpolitics.org/disenfranchisement-states/>

⁸ International Comparison of Felony Voting Laws, <https://felonvoting.procon.org/view.resource.php?resourceID=000289>; Aubrey Menarndt, *Let Prisoner’s Vote*, N.Y. Times, May 8, 2019, <https://www.nytimes.com/2019/05/08/opinion/let-prisoners-vote.html>

III. HISTORY OF DISENFRANCHISEMENT IN CONNECTICUT

Connecticut has a long history of disenfranchisement. Throughout our history, the state has restricted voting rights on numerous grounds including based on race, gender, literacy, English language abilities, intellectual capacity, and criminal record. Historically, as neighboring states have moved to expand the franchise and promote equality, Connecticut has often lagged behind.

Our original 1818 Constitution provided that only “white male” citizens over the age of 21 who owned property, paid taxes, or served in the military could vote.⁹ Connecticut denied African Americans the right to vote until 1876, when the state was forced to extend the franchise by the Fifteenth Amendment to the U.S. Constitution.¹⁰ In contrast, as of 1855, all other New England states “allowed African Americans to vote without significant restrictions.”¹¹ Similarly, Connecticut denied women the franchise until the Nineteenth Amendment to the U.S. Constitution was ratified in 1920.¹² From the 1877 until 1975, a Connecticut statute provided that “[n]o idiot or mentally ill person shall be admitted as an elector.”¹³

Connecticut’s strict literacy and English-language requirements, and their manner of enforcement, disenfranchised minority voters at disproportionate rates. In 1855, Connecticut amended its Constitution to add a literacy requirement, restricting the right to vote to those who could read the state’s Constitution and statutes.¹⁴ In 1897, the Constitution was amended to require that voters be able to read in the English language.¹⁵ These literacy and English language requirements remained in place until the 1970s—when Congress’s amendment to the federal Voting Rights Act brought an end to these practices.¹⁶

Connecticut’s original 1818 Constitution provided that voting rights were “forfeited by a conviction of bribery, forgery, perjury, duelling, fraudulent bankruptcy, theft, or other offence for which an infamous punishment is inflicted.”¹⁷ The Constitution continued to disfranchise citizens based on criminal record until 1948, when the Constitution was amended to provide that the General Assembly would have the power to determine the rules regarding forfeiture of voting

⁹ Conn. Const. of 1818 art. VI.

¹⁰ Conn. Const. of 1818, amend. XXIII; U.S. Const. amend. XV.

¹¹ Elizabeth Normen, Our Hard-Won Right to Vote, Connecticut Explored (Feb. 26, 2016) (quoting Steven Mintz, *Winning the Vote: A History of Voting Rights*), <https://www.ctexplored.org/our-hard-won-right-to-vote/>

¹² Connecticut History, 19th Amendment: The Fight Over Woman Suffrage in Connecticut, <https://connecticuthistory.org/19th-amendment-the-fight-over-woman-suffrage-in-connecticut/>; Christopher Hoffman, A Look at Movement To Give Women The Vote, *Hartford Courant*, March 16, 2015, <https://www.courant.com/hc-wethersfield-suffragette-0316-20150314-story.html>.

¹³ Pub. Act. 75-210.

¹⁴ Conn. Const. of 1818 amend. XI.

¹⁵ Conn. Const. of 1818 amend. XXIX.

¹⁶ Conn. Const. amend. IX. The 1970 amendments to the federal Voting Rights Act eliminated literacy tests and English-language requirements nationwide. *See* Voting Rights Act Amendments of 1970, Pub. L. No. 91-285, § 3, 84 Stat. 315 (1970); *see also* Steve Thornton, Connecticut History, *Literary Tests and the Right to Vote*, <https://connecticuthistory.org/literacy-tests-and-the-right-to-vote/> (describing Connecticut’s history).

¹⁷ Conn. Const. of 1818, art. VI. The phrase “or other offence for which an infamous punishment is inflicted” was interpreted by the Connecticut Supreme Court to mean any felony offense. *Borino v. Gen. Registrars of Voters of City & Town of Bridgeport*, 86 Conn. 622 (1913).

rights upon criminal conviction.¹⁸ Legislation enacted in 1949 forfeited voting rights upon conviction of “bribery, forgery, perjury, or other offence for which an infamous punishment is inflicted,” except for the crime of nonsupport, and created a commission to consider petitions for restoration of voting rights.¹⁹ In 1963, the statute was amended to disenfranchise any person convicted of a felony.²⁰ A 1975 amendment eliminated the commission that considered voting restoration petitions, and provided instead for restoration upon proof to the registrar of voters of payment of fines due and discharge from confinement, parole or probation.²¹ Legislation enacted in 2001 restored the right to vote to those on probation for felony offenses but retained the restriction on voting rights for parolees and for those incarcerated for felonies.²² In addition, as of 2001, individuals confined for their offenses in Connecticut facilities no longer need to pay fines associated with their convictions to have their voting rights restored, whereas the statute requires payment of fines for those confined in federal facilities or in the facilities of other states.

IV. DISPROPORTIONATE IMPACT OF CONNECTICUT’S FELONY DISENFRANCHISEMENT LAW

Connecticut’s current felony disenfranchisement law, like the state’s many previous restrictions on voter eligibility, has a disproportionate impact on people of color. White non-Hispanic residents in Connecticut represent approximately two-thirds of the state’s general population but only about a third of the state’s incarcerated population.²³ African Americans and Latinos make up approximately two-thirds of Connecticut’s prison population.²⁴ Despite recent reductions in our state’s incarcerated population, Connecticut continues to incarcerate at the highest rate of any New England state.²⁵ Around 13,000 people are incarcerated in the state, with approximately 3,500 on parole or special parole.²⁶ (Of those incarcerated, approximately 4,300 are serving sentences for misdemeanors or are detained pretrial and have the ability to vote via absentee ballot.)²⁷

¹⁸ Conn. Const. of 1818 amend. XLVI (“The general assembly shall by law prescribe the offenses on conviction of which the privileges of an elector shall be forfeited and the conditions on which and methods by which such rights may be forfeited.”). This language was amended in 1974 to read: “The general assembly shall by law prescribe the offenses on conviction of which the right to be an elector and the privileges of an elector shall be forfeited and the conditions on which and methods by which such rights may be restored.” Conn. Const. amend. VII.

¹⁹ Previously, petitions for restoration were considered by the General Assembly.

²⁰ Public Act 63-645.

²¹ Public Act 75-354.

²² Public Act 01-11.

²³ See U.S. Census Bureau, Quick Facts, <https://www.census.gov/quickfacts/fact/map/US/RHI825218>; Connecticut Department of Correction, Monthly Statistics (June 2017), <https://portal.ct.gov/-/media/DOC/Pdf/MonthlyStat/Stat201706pdf.pdf?la=en>. Note: more recent DOC monthly reports do not provide details on the race/ethnicity of the prison population.

²⁴ *Id.*

²⁵ See Sentencing Project, State Imprisonment Rate, <https://www.sentencingproject.org/the-facts/#map>

²⁶ See Office of Policy and Management, Monthly Indicators Report (Sept. 1, 2019), <https://portal.ct.gov/-/media/OPM/CJPPD/CjResearch/MonthlyIndicators/2019-Monthly-Indicators-Reports/MonthlyIndicatorsReport-SEPT-2019-DRAFT.pdf?la=en>

²⁷ Kelon Lyons, *Casting a Ballot from Behind Bars: No Easy Process*, CT Mirror, Oct. 3, 2019, <https://ctmirror.org/2019/10/03/casting-a-ballot-from-behind-bars-no-easy-process/>

V. BILLS CONSIDERED IN CONNECTICUT'S 2019 LEGISLATIVE SESSION

Bills were introduced in the 2019 legislative session in Connecticut that would have restored voting rights to those in prison and on parole, and eliminated the fine payment requirement for those with federal and out-of-state convictions.²⁸ H.B. 7160, which included provisions restoring parolee voting rights and eliminating the fine requirement, passed the House but died in the Senate.²⁹

²⁸ See S.B. 25 (Conn. 2019) (parolee voting rights), https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2019&bill_num=25; S.B. 53 (Conn. 2019) (prisoner voting rights), https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2019&bill_num=53; S.B. 22 (Conn. 2019) (eliminating fine requirement), https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2019&bill_num=22. A bill was also introduced relating to prison gerrymandering. See H.B. 5611, https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2019&bill_num=5611

²⁹ H.B. 7160 (Conn. 2019), https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2019&bill_num=7160; Kelon Lyons, *Political Blame-Game Ensues as Voting Access Bill Dies*, CT Mirror, June 5, 2019, <https://ctmirror.org/2019/06/05/political-blame-game-ensues-as-voter-access-bill-dies/>. H.B. 7160 also provided that those released by DOC into halfway houses would have their voting rights restored.