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A Deeper Dive: Additional Background for the Voting in Jails Toolkit

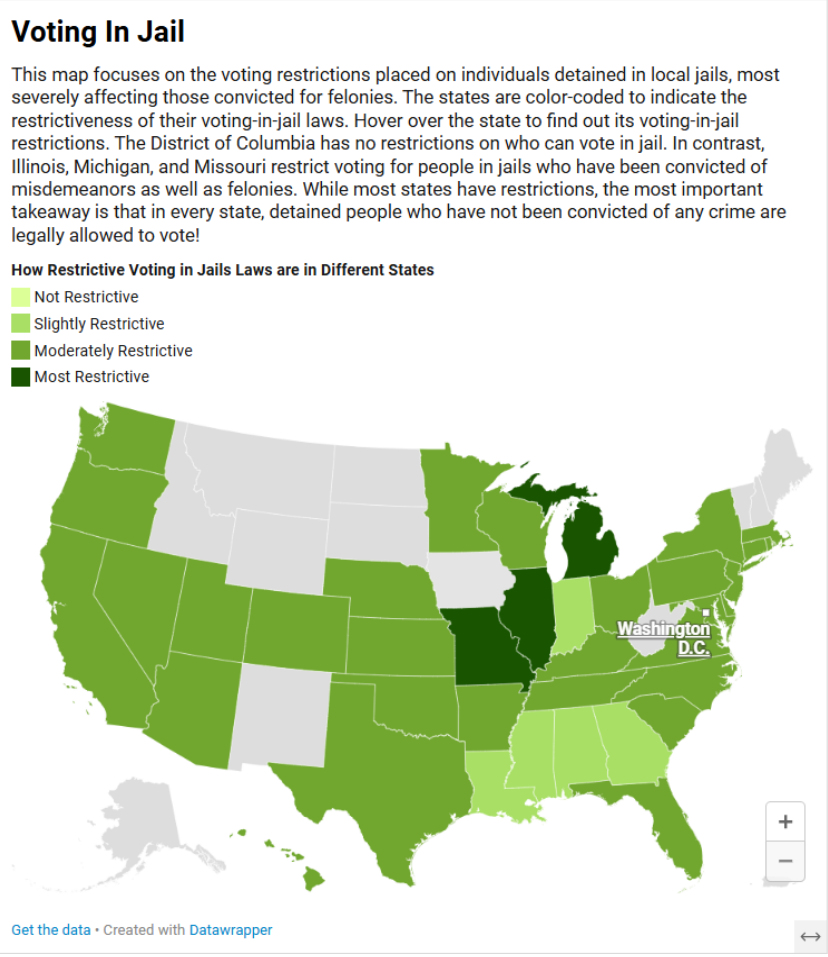
Section 1: Understanding Voting in Jails

Voting in Jails refers to efforts to ensure eligible voters incarcerated in local jails can register, obtain election information, request ballots, and cast ballots.

The Facts

Most individuals held in local jails retain the right to vote.

Many people in jail have not been convicted of a felony and are awaiting trial. These individuals are constitutionally guaranteed the right to vote.[1] Others may be serving misdemeanor sentences or are incarcerated in jurisdictions where voting rights remain intact. In these instances, eligibility varies by state.



Click link for interactive map: https://datawrapper.dwcdn.net/WHeX4/2/[2]

Key Definitions:

- Absentee voting- a method of voting where an individual votes remotely usually using a paper ballot, instead of at a polling location. While most people who vote in jails use absentee ballots, several states even have polling locations within jails.[3]
- Conviction- When an individual pleads guilty to a crime or is proven guilty of a crime after a trial. In many states, being convicted of a felony while someone is in jail bars them from being able to vote.
- Felony- a type of criminal offense where the minimum sentence of incarceration is typically greater than one year.
- Jail- a local or county facility where people are temporarily held while they await trial. Jails are also used to house individuals serving misdemeanor sentences and even shorter felony sentences, rather than sending them to state prisons. Note: Because some individuals in jail have been convicted of crimes, this is why some people in local jails are ineligible to vote.
- Misdemeanor-a type of criminal offense where the maximum sentence of incarceration is typically less than a year.
- Pretrial detention- a period of incarceration that occurs in a county jail after arrest but before sentencing. During this period, a person is presumed innocent and has not been convicted of any crime.
- Felony disenfranchisement[4]- a separate but related issue where states bar individuals with felony convictions from voting even after they are released from incarceration.

Section 2: Why So Few Eligible People Vote in Jail

Misinformation

One of the largest barriers to voting in jails is misinformation. Unfortunately, many detained individuals, jail administrators, and service providers erroneously believe that people in jail cannot vote. This misunderstanding of the law causes detained individuals not to pursue voting and even creates institutional or structural barriers that limit voter access.

Structural Barriers

Because officials may mistakenly believe that detained people cannot vote, they often fail to create or maintain systems that allow them to vote. As a result, the few detained people who do attempt to vote often face the following obstacles:

- **Delayed mail-** Delayed mail, often due to jail security procedures, creates cascading harm to detained individuals because it deprives them of timely access to voter education materials, registration forms, and causes them to miss key absentee ballot deadlines.

- **Security restrictions on volunteers**- Organizations that are supporting voting in jails may find that they are not able to gain access to jails or may have restrictions on having mass gatherings within jails. This can limit their ability to provide voter education and to provide access to registration materials.
- **Lack of voting equipment**- Many states do not have polling sites with voting machines within jails. This means that those who would like to vote must use paper absentee ballots. Delayed mail may slow the receipt of these ballots and prevent them from reaching the relevant election authorities in time to be counted.
- **Absentee ballot deadlines**- In many but not all states, ballots need to be received on election day to be counted. Jail mail systems may prevent ballots from arriving in time to be counted.

Addressing Misinformation and Structural Barriers: Denver, Colorado

In 2016, the Denver elections department, Denver County sheriff's department and a local non-profit group ran a pilot program that simply informed jailed voters about their eligibility and provided them with materials they needed to vote.

Results included

- Registration increased from 10 individuals to more than 300 individuals.[5]
- Over 25% of those registered cast ballots from jail.[6]
- The program has continued to expand.
- More than 1000 people registered to vote after implementation.[7]

Lessons Learned

- Voter education was crucial to defeating misinformation
- Access to jails flattens structural barriers
- People will vote when misinformation and structural barriers are gone

Section 3: Why Voting in Jails Matters

It Strengthens Our Democracy

Voting is an important way for individuals to take direct action to change their communities. When unnecessary barriers to voting are removed and voting is encouraged, people with diverse voices will vote and will exercise the power to create collective change. On the other hand, when eligible voters in jail are prevented from voting, their home communities are deprived of their voices on important policies that impact everyone.

It Advances Racial Equity

Communities of color, and particularly the Black community, are disproportionately represented within the criminal legal system and within jail populations across the country.[8]

Overrepresentation of Black people in jails, combined with low overall jail voter turnout, likely results in the disenfranchisement of many Black voters.

Furthermore, there is data indicating that detention for misdemeanor convictions causes a drop in voter turnout in the next election cycle, particularly for Black voters.[9] Furthermore, having a loved one incarcerated may also cause a drop in voter turnout for the family.[10]

Black people have historically faced challenges to voting. These challenges have ranged from not being recognized as United States citizens, through Jim Crow-era poll taxes and literacy tests, mid-cycle gerrymandering, and certainly through mass-incarceration. Voting in jails offers a unique opportunity to re-enfranchise members of our community.

It Supports Reentry and Public Safety

Providing ballot access to jailed voters is not only a democratic imperative and good for racial equity, but it could also help with re-entry[11] and public safety. Voting centers a person within their community and makes them less likely to engage in behavior that is harmful to that community.[12] As a result, voting improves reentry outcomes after incarceration.[13] In contrast, disenfranchisement can cause an individual to become further disconnected from their community.[14]

Section 4: Spotlight on Urban League of Greater Philadelphia

The Urban League of Greater Philadelphia has run a successful Voting in Jails program as part of a larger Reentry Program, called *Out for Good*. Led by Dennis Nicholson, the Reentry program provides a holistic approach to serving people before, during, and after their release from incarceration. Nicholson credits the reentry program and the frequency with which he works in jails with creating the relationships with detained individuals that drive his Voting in Jails program. Nicholson, who was formerly incarcerated, believes that voting is “getting [his] voice back… [being] welcome[d] back to the community…voting is freedom.”

Voting is one component of a curriculum that includes anger management, civic engagement, communication, job education, and numerous other subject areas. Convincing someone to vote, when no one in their family has ever voted, and when they are in jail with a pending criminal case, can be challenging. Nicholson believes that having a *credible messenger*, or someone with a common life experience who can speak with authority on the issues the individual is facing is best. Nicholson also believes that repetition is effective. When people see him week after week in their jails, they begin to trust what he has to say when he talks to them about family life, keeping a job, or voting.

When asked about how to convince a jail official to provide access to their jail for a Voting in Jails project, he indicated that the reentry program started outside of the jail at first, developed a track record for reducing recidivism, and earned them entry into the jails. Nicholson believes that the key is reaching jail officials that are interested in doing the right thing.

More broadly, *Out for Good*, was financed through a federal government grant and like many community programs across the country at this time, it has faced challenges with financing. The Urban League of Greater Philadelphia is looking to private organizations and local government for supplemental funding.

Endnotes

[1] *O'Brien v. Skinner*, 414 U.S. 524 (1974).
[2] Methodology: Assorted states are labeled in terms of the level of their restrictions on voting for people in jails with criminal convictions. All states allow people merely accused and not convicted of crimes to vote.

- The "Most Restrictive" states prevent people from voting who are in jail and have ANY type of conviction.
- The "Moderately Restrictive" states prevent people from voting who are in jail and are serving time for any felony conviction.
- The "Slightly Restrictive" states prevent people from voting who are in jail and serving time for select convictions.
- The "Not Restrictive" areas have no restrictions at all on people in jail voting post-conviction.

For state-by-state background research see Appendix.
[3] Naila Awan, *Jail-Based Polling Locations: A Way to Fight Voter Disenfranchisement*, Prison Pol'y Initiative (Oct. 25, 2022), https://www.prisonpolicy.org/blog/2022/10/25/jail_voting/.
[4] *Can People Convicted of a Felony Vote?*, Brennan Ctr. for Just. (Sept. 22, 2026), https://www.brennancenter.org/our-work/research-reports/can-people-convicted-felony-vote.
[5] *Colorado Inmates Get Help Exercising Their Right to Vote*, Courthouse News Serv. (Oct. 8, 2018), https://www.courthousenews.com/colorado-inmates-get-help-exercising-their-right-to-vote/.
[6] Allan Tellis, *A Push to Inform Denver Inmates of Their Voting Rights Is Changing Attitudes and Boosting Civic Engagement*, Denverite (Oct. 12, 2018), https://denverite.com/2018/10/12/a-push-to-inform-denver-inmates-of-their-voting-rights-is-changing-attitudes-and-boosting-civic-engagement/.
[7] Nicole D. Porter, *Voting in Jails*, Sent'g Project (May 7, 2020), https://www.sentencingproject.org/policy-brief/voting-in-jails/.
[8] *Racial Disparities Persist in Many U.S. Jails*, Pew Charitable Trs. (May 16, 2023), https://www.pew.org/en/research-and-analysis/issue-briefs/2023/05/racial-disparities-persist-in-many-us-jails; Vera Inst. of Just., *Incarceration Trends in Georgia* (Dec. 2019), https://vera-institute.files.svdcdn.com/production/downloads/pdfdownloads/state-incarceration-trends-georgia.pdf.
[9] Ariel R. White, *Misdemeanor Disenfranchisement? The Demobilizing Effects of Brief Jail Spells on Potential Voters*, 113 Am. Pol. Sci. Rev. 311 (2019), https://www.cambridge.org/core/journals/american-political-science-review/article/abs/misdemeanor-disenfranchisement-the-demobilizing-effects-of-brief-jail-spells-on-potential-voters/2FEDEE197EA55768312586DA2FEFB8F9.
[10] Ariel White, *Family Matters? Voting Behavior in Households with Criminal Justice Contact*, 113 Am. Pol. Sci. Rev. 607 (2019), https://doi.org/10.1017/S0003055418000862.
[11] Dana Paikowsky, *Jails as Polling Places: Living Up to the Obligation to Enfranchise the Voters We Jail*, 54 Harv. C.R.-C.L. L. Rev. 829 (2019).
[12] Research reveals that voting helps to increase public safety, reduce recidivism, and increase the chances of successful integration into communities upon release. Henal Patel, N.J. Inst. for Soc. Just., *Value to the Soul* (Oct. 2019), https://d3n8a8pro7vhmx.cloudfront.net/njisj/pages/1360/attachments/original/1570569487/Value_to_the_Soul_10-08-19_FIN_WEB.pdf
[13] Id.
[14] Guy Padraic Hamilton-Smith & Matt Vogel, *The Violence of Voicelessness: The Impact of Felony Disenfranchisement on Recidivism*, 22 Berkeley La Raza L.J. 407 (2012), https://www.researchgate.net/profile/Guy-Hamilton-Smith/publication/335401893_The_Violence_of_Voicelessness_The_Impact_of_Felony_Disenfranchisement_on_Recidivism/links/5d63f35a92851c619d77c9ab/The-Violence-of-Voicelessness-The-Impact-of-Felony-Disenfranchisement-on-Recidivism.pdf (Note, this study relates to felony disenfranchisement which often involves a longer prohibition on voting than disenfranchisement in jails).

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Appendix

State	GT Analysis re: **1. Can a person detained in jail register to vote/vote? Note: The answer will likely be yes everywhere with nuances.**	GT Analysis re: **2. What limitations, if any, are there on a detained person's ability to register to vote/vote?** **Ex: Some states may allow a person to vote while detained provided they are not convicted of any crime. Others may only prohibit individuals who are convicted of a felony. Some states may have no limitations at all.**	GT Analysis re: **3. Can you provide the relevant statutes for questions 1 and 2 for each area?**
Alabama	Not if they have been convicted of a felony involving moral turpitude. The term "moral turpitude" is not defined in GA or federal law. Alabama code includes over 50 crimes that qualify as involving moral turpitude (https://law.justia.com/codes/alabama/title-17/chapter-3/article-2/section-17-3-30-1/). Ala. Const. Art. VIII, § 177; AL Code § 17-3-30.1 Any qualified elector of the state may apply for and vote an absentee ballot, including those incarcerated in prison or jail and have not been convicted of a felony involving moral turpitude. AL Code § 17-11-3	Limitations apply only to persons convicted of a felony involving moral turpitude.	Ala. Const. Art. VIII, § 177 AL Code § 17-3-30.1 AL Code § 17-11-3
Arizona	Not if they have been convicted of treason or felony. Ariz. Const. Art. 7, § 2; Ariz. Rev. Stat. §§ 13-904, 907-908	Limitations apply only to persons convicted of treason or felony.	Ariz. Const. Art. 7, § 2 Ariz. Rev. Stat. § 13-904 Ariz. Rev. Stat. § 13-907 Ariz. Rev. Stat. § 13-908

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Arkansas	Not if they have been convicted of a felony. Ark. Const. Amend. 51, § 11(d)(2)(A-D))	Limitations apply only to persons convicted of a felony.	Ark. Const. Amend. 51, § 11(d)(2)(A-D))
California	Not if they have been convicted of a felony. Pre-registration for ages 16+ may not occur while serving a state or federal prison term for the conviction of a felony. Cal. Const. Art. II, § 2; Cal. Elec. Code §§ 2101, 2105.5, 2201, 2212	Limitations apply only to persons convicted of a felony.	Cal. Const. Art. II, § 2 Cal. Elec. Code §§ 2101, 2105.5, 2201, 2212
Colorado	Not if they have been convicted of a felony. A confined prisoner who is awaiting trial but has not been tried or who is not serving a sentence for a felony conviction shall be certified by the institutional administrator, may register to vote, and may list his or her confinement location as his or her ballot address. An individual serving a sentence of parole is eligible to register to vote and to vote in any election. Colo. Const. Art. VII, §10; Colo. Rev. Stat. § 1-2-103	Limitations apply only to persons convicted of a felony.	Colo. Const. Art. VII §10 Colo. Rev. Stat. § 1-2-103
Connecticut	Not if they have been convicted of a felony. Conn. Gen. Stat. § 9-46a	Limitations apply only to persons convicted of a felony.	Conn. Gen. Stat. § 9-46a

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Delaware	Not if they have been convicted of a felony. Del. Const. Art. V, § 2;	Limitations apply only to persons convicted of a felony.	Del. Const. Art. V, § 2;
District of Columbia and more broadly people within Federal jails across the states	Yes, even if they have been convicted of a felony.	None	D.C. Law 23-277
Florida	Not if they have been convicted of a felony. Fla. Const. Art. VI, § 4	Limitations apply only to persons convicted of a felony.	Fla. Const. Art. VI, § 4
Georgia	Not if they have been convicted of a felony involving moral turpitude. The term "moral turpitude" is not defined in GA or federal law. The concept has been shaped through case law over the years. Ga. Const. Art. II, § I, Para. III; Ga. Code Ann. § 21-2-216	Limitations apply only to persons convicted of a felony involving moral turpitude.	Ga. Const. Art. II, § I, Para. III Ga. Code Ann. § 21-2-216

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Hawaii	Not if they have been convicted of a felony. Haw. Const. Art. II, § 2; Haw. Rev. Code §§ 11-23, 831-2	Limitations apply only to persons convicted of a felony.	Haw. Const. Art. II, § 2 Haw. Rev. Code §§ 11-23, 831-2
Illinois	No. A person sentenced to imprisonment shall lose his right to vote until released from imprisonment. 730 Ill. Comp. Stat. §§ 5/5-5-5 A person convicted of a felony, or otherwise under sentence in a correctional institution or jail, shall lose the right to vote, which right shall be restored not later than upon completion of his sentence. Ill. Const. Art. III, § 2	Limitations apply to those who are under sentence in a correctional institution or jail (not just those convicted of a felony).	Ill. Const. Art. III, § 2 730 Ill. Comp. Stat. §§ 5/5-5-5

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Indiana	Not if they have been convicted of an infamous crime. Ind. Const. Art. 2, § 8 The IN Supreme Court defined "infamous crime" in 2011, stating "We hold that an infamous crime is one involving an affront to democratic governance or the public administration of justice such that there is a reasonable probability that a person convicted of such a crime poses a threat to the integrity of elections...An infamous crime may include some felonies and some misdemeanors, but crimes marked by gross moral turpitude alone are not sufficient to render a crime infamous for purposes of The Infamous Crimes Clause (of the Constitution)." Snyder v. King, 941 N.E.2d 1043 (Ind. 2011).	Limitations apply only to those convicted of an infamous crime.	Ind. Const. Art. 2, § 8 Snyder v. King, 941 N.E.2d 1043 (Ind. 2011).
Kansas	Not if they have been convicted of a felony. Kan. Const. Art. 5, § 2; Kan. Stat. Ann. § 21-6613	Limitations apply only to persons convicted of a felony.	Kan. Const. Art. 5, § 2 Kan. Stat. Ann. § 21-6613

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Kentucky	Not if they have been convicted of a felony. Ky. Const. § 145; Ky. Rev. Stat. §§ 116.025	Limitations apply only to persons convicted of a felony.	Ky. Const. § 145; Ky. Rev. Stat. §§ 116.025
Louisiana	Not if the person is "under an order of imprisonment for conviction of a felony." La. Const. Art. I, §10 Except that "a person who is under an order of imprisonment for conviction of a felony and who has not been incarcerated pursuant to the order within the last five years shall not be ineligible to register or vote based on the order." La. Rev. Stat. Ann. § 18:102	Limitations apply only to persons convicted	La. Const. Art. I, §10; La. Rev. Stat. Ann. §18:102
Maryland	Not if the person "has been convicted of a felony and is currently serving a court-ordered sentence of imprisonment for the conviction." Md. Elec. Law Code § 3-102	Limitations apply only to persons convicted	Md. Elec. Law Code § 3-102
Massachusetts	Not if the person is "incarcerated in a correctional facility due to a felony conviction." Mass. Gen. Laws ch. 51, § 1	Limitations apply only to persons convicted	Mass. Gen. Laws ch. 51, § 1

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Michigan	Not if the person "has been legally convicted and sentenced for a crime for which the penalty imposed is confinement in jail or prison." Mich. Comp. Laws § 168.758b	Limitations apply only to persons convicted	Mich. Comp. Laws § 168.758b
Minnesota	Not if the person has been "convicted of treason or any felony whose civil rights have not been restored." Minn. Stat. § 201.014	Limitations apply only to persons convicted	Minn. Const. Art. VII, §1; Minn. Stat. § 201.014
Mississippi	Not if the person has been "convicted of murder, rape, bribery, theft, arson, obtaining money or goods under false pretense, perjury, forgery, embezzlement or bigamy." Miss. Const. Art. 12, §§ 241 However, rights can be restored. Miss. Code Ann. § 47-7-41	Limitations apply only to persons convicted	Miss. Const. Art. 12, §§ 241; Miss. Code Ann. § 47-7-41
Missouri	Not if the person is convicted of any offense and "confined under a sentence of imprisonment."	Limitations apply only to persons convicted	Mo. Const. Art. VIII, § 2; Mo. Rev. Stat. §§115.133, 561.026

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Nebraska	Not if the person "has been convicted of a felony under the laws of this state or any other state . . . until the sentence is completed, including any parole term." Neb. Rev. Stat. §32-313	Limitations apply only to persons convicted	Neb. Const. Art. VI, § 2; Neb. Rev. Stat. §§ 29-112, 29-2264, 32-313
Nevada	"[N]o person who has been or may be convicted of treason or felony in any state or territory of the United States, unless restored to civil rights . . . shall be entitled to the privilege of an elector." Nev. Const. Art. 2, § 1	Appears that detainee cannot register to vote/vote because statute states that a person who "may" be convicted is entitled to be an elector	Nev. Const. Art. 2, § 1; Nev. Rev. Stat. §§ 176A.850
New Jersey	Not if the person has been convicted of a felony and is confined	Limitations apply only to persons convicted	N.J. Const. Art. II, Sec. I, Para. 7; N.J. Rev. Stat. § 19:4-1
New York	Not if the person has been convicted of a felony and is confined	Limitations apply only to persons convicted	N.Y. Const. Art. II, § 3; N.Y. Elec. Law § 5-106
North Carolina	Not if the person has been convicted of a felony, unless rights restored	Limitations apply only to persons convicted	N.C. Const. Art. VI, § 2; N.C. Gen. Stat. §§ 13-1, 163-55
Ohio	Not if the person has pled guilty to a felony or has been convicted of a felony, unless the plea, verdict, or finding is reversed or annulled	Limitations apply only to persons convicted or pleading guilty	Ohio Const. Art. V, § 4; Ohio Rev. Code § 2961.01 https://codes.ohio.gov/ohio-revised-code/section-2961.01

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Oklahoma	Not if the person has been convicted of a felony, but convicted felon's right to vote can be restored if person 1) fully served sentence or had sentence discharged; 2) received a commutation that reduced the sentence of any active felony conviction to time served pursuant to federal or state law and have no other outstanding sentence under any other felony conviction; 3) received a commutation for a crime that has been reclassified from a felony to a misdemeanor and has no remaining time to serve; or 4) has been granted a pardon pursuant to federal or state law and has no other outstanding sentence under any other felony conviction	Limitations apply only to persons convicted	Okla. Stat. tit. 26, § 4-101 https://law.justia.com/codes/oklahoma/title-26/section-26-4-101/
Oregon	Not if the person has been convicted of a felony, unless discharged or conviction is set aside	Limitations apply only to persons convicted	Or. Const. Art. II, § 3; Or. Rev. Stat. §§ 137.275, 137.281
Pennsylvania	Not if the person has been convicted of a felony and remains incarcerated	Limitations only applied to persons convicted of and imprisoned for a felony	25 Pa. Cons. Stat. § 1302

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Rhode Island	Not if the person has been convicted of a felony and remains incarcerated	Limitations only applied to persons convicted of and imprisoned for a felony	R.I. Gen. Laws § 17-9.2-3
South Carolina	Not if convicted of a crime	Limitations apply to individuals imprisoned following a criminal conviction, or those serving a felony sentence or time for an election-related crime (until completion of sentence, including probation/parole unless pardoned). Pretrial detainees and those convicted of a misdemeanor may register and vote.	S.C. Code Ann. § 7-5-120
Tennessee	Not if they are currently servicing a felony sentence or are convicted for an "infamous crime"	Those convicted of felonies who are not pardoned or explicitly restored to the full rights of citizenship by the President or federal law are unable to vote. This also applies to individuals convicted of crimes in another state if such offense would be deemed an "infamous crime" in Tennessee.	Tenn. Const. art. I, § 5, Tenn. Code Ann. § 2-19-143, Tenn. Code Ann. § 40-29-202

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Texas	Not if currently serving a sentence for a felony conviction	Limitations do not apply once the sentence has been served, only applies during a felony sentence.	Tex. Elec. Code § 11.002
Utah	Not if currently serving a sentence for a felony conviction	Limitations do not apply once the sentence has been served, only applies during a felony sentence.	Utah Code § 20A-2-101, Utah Code § 20A-2-101.5
Virginia	Not if currently serving a sentence for a felony conviction without restored voting rights	Limitations do not apply once the sentence has been served and rights have been restored by a court.	Va. Code § 53.1-231.2
Washington	Not if currently serving a sentence of total confinement for a felony conviction	Limitations do not apply once the person is no longer serving a sentence of total confinement.	RCW 29A.08.520
Wisconsin	Not if currently incarcerated for a felony conviction	Not if the person has been convicted of a felony and voting rights have not been restored through pardon or statutory restoration.	Wis. Stat. § 304.078(3), Wis. Stat. § 6.03