

## LOSING THE RIGHT TO VOTE

A person loses the right to vote in any election in Alabama when he or she is:

- **Convicted**
- of a **Felony**
- involving **“Moral Turpitude.”**<sup>1</sup>

A person is **convicted** of a crime or crimes when he or she pleads guilty, pleads “nolo contendere,” or is found guilty after a trial in any court.

A crime is a **felony** if it can be punished by a sentence of more than one year in prison. It does not matter whether a person convicted of a felony actually serves more than one year or goes to prison at all. The crime is a felony if a court *may* impose a prison sentence longer than one year, whether or not this sentence is in fact imposed or served.<sup>2</sup>

A felony involves **“moral turpitude”** when a court views the crime as a sign of dishonesty or bad character. There is no complete list of which crimes involve moral turpitude and which do not. As they decide cases, the courts may identify new crimes that fit the definition or fall outside it. The legislature may also define crimes as involving moral turpitude or not.

The Alabama Attorney General has, however, made lists of those crimes that have already been defined one way or the other.<sup>3</sup> These lists appear in the following panels.

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<sup>1</sup> Ala. Const. art. VIII, § 177.

<sup>2</sup> Ala. Code 1975 § 13A-1-2(8).

<sup>3</sup> Ala. Op. Atty. Gen. No. 2005-092.

## THESE CRIMES INVOLVE “MORAL TURPITUDE”

People lose their right to register and vote when they have been convicted of crimes involving moral turpitude, assuming the crime is in a degree that makes it a felony, including:

- Any felony that has **fraud** as an element,
- **Income tax evasion**,
- **Forgery**,
- **Treason\*\***,
- **Impeachment\*\***,
- **Murder\***,
- **Manslaughter**,
- **Aggravated Assault**,
- **Rape in any degree\***,
- **Sexual torture\***,
- **Sexual abuse in any degree\***,
- **Incest\***,
- **Enticing a child to enter a vehicle for immoral purposes\***,
- **Soliciting a child by computer\***,
- **Sodomy in any degree\***,
- **Bigamy**,
- **Production of obscene matter\***,
- **Possession with intent to distribute child pornography\***,
- **Possession of obscene matter\***,
- **Parents or guardians permitting children to engage in obscene matter\***,
- **Burglary**,
- **Robbery**,
- **Theft**,
- **Transporting stolen vehicles across state lines**,
- **Unauthorized sale of a controlled substance**,
- **Sale of marijuana**,
- **Possession of marijuana for resale**.

People convicted of the crimes marked by one asterisk (\*) cannot apply for a Certificate of Eligibility to Register to Vote (see Restoring the Right to Vote, over), but a pardon may restore their civil rights, including the right to vote. People convicted of the crimes marked by two asterisks (\*\*\*) cannot have their rights restored at all.<sup>4</sup>

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<sup>4</sup> Ala. Code 1975 §§ 15-22-36, 15-22-36.1.

## THESE CRIMES DO NOT INVOLVE “MORAL TURPITUDE”

People remain eligible to register and vote when they have been convicted of felonies that do not involve “moral turpitude,”<sup>5</sup> including:

- **Assault**,
- **Permitting or facilitating a prisoner’s escape**,
- **Doing business without a license**,
- **Violation of the liquor laws**,
- **Possession of marijuana**,
- **Driving under the influence**.

## MISDEMEANORS

People can also register and vote when they have been convicted of **misdemeanors**.<sup>6</sup> A misdemeanor is a crime that may be punished by imprisonment of one year or less. Again, it does not matter whether a person is actually sentenced to or serves time in jail. If a court *may* imprison a person for a year or less, the crime is a misdemeanor.<sup>7</sup>

## NOTICE

When a board of registrars rejects a person’s voter registration form, it must notify the person within 10 days and explain the rejection.<sup>8</sup> The person has a right to appeal.<sup>9</sup>

A board of registrars must notify a person by certified mail before removing his or her name from the list of registered voters because of a felony conviction involving moral turpitude. No person may be removed from the voter list while an appeal from a conviction is pending. A person has a right to object to the removal of his or her name and to appeal the board’s decision.<sup>10</sup> But the person is disqualified from voting upon conviction whether or not he receives the required notice.<sup>11</sup>

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<sup>5</sup> Ala. Code 1975 § 17-3-9.

<sup>6</sup> *Id.*

<sup>7</sup> Ala. Code 1975 § 13A-1-2(9).

<sup>8</sup> Ala. Code 1975 § 17-4-123.

<sup>9</sup> Ala. Code 1975 § 17-4-124.

<sup>10</sup> Ala. Code 1975 § 17-4-132.

<sup>11</sup> *Williams v. Lide*, 628 So. 2d 531, 533-34 (Ala. 1993).

## RESTORING THE RIGHT TO VOTE

A person who has been convicted of a felony involving moral turpitude may be able to apply to the **Board of Pardons and Paroles** for a **Certificate of Eligibility to Register to Vote**.<sup>12</sup>

A person may apply if he or she:

- has no felony charges pending in any federal or state court,
- has paid all fines, court costs, fees, and victim restitution ordered by the sentencing court,
- has not been convicted of any felony marked with one or two asterisks (\* or \*\*) on the inside page, and
- has been pardoned, or
- has been released upon completion of sentence or upon successful completion of probation or parole.

The law requires the Board of Pardons and Paroles to grant a Certificate to everyone who applies and meets these conditions.

The Board investigates all applications. In general, the Board has up to 50 days from the date of the application to make a decision, though in some cases a delay is allowed. If the Board grants the application, it must send a Certificate of Eligibility to Register to Vote to the applicant. If the Board denies the application, it must notify the applicant and explain the denial. A person may reapply once the conditions above are met.

If a person receives a Certificate, he or she must still register in order to vote. Before being allowed to register, a person must give the board of registrars a copy of the Certificate or a copy of a pardon document that states that his or her civil rights are restored.<sup>13</sup>

For assistance in applying for a Certificate or registering to vote, contact the Alabama Alliance to Restore the Vote (contact information on back).

## CONTACT INFORMATION

### Office of the Secretary of State

P.O. Box 5616  
Montgomery, AL 36103-5616  
334-242-7205  
[www.sos.state.al.us](http://www.sos.state.al.us)

### Alabama Board of Pardons and Paroles

P.O. Box 302405  
Montgomery, AL 36130-2405  
[questions4pardonsandparoles@alabpp.gov](mailto:questions4pardonsandparoles@alabpp.gov)

### Alabama Alliance to Restore the Vote

P.O. Box 230177  
Montgomery, AL 36123  
toll-free: 1-866-922-VOTE (8683)  
[nalyje1211@yahoo.com](mailto:nalyje1211@yahoo.com)

### Brennan Center for Justice at NYU School of Law and

### Right to Vote Campaign

161 Avenue of the Americas, 12<sup>th</sup> Floor  
New York, NY 10013  
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[www.brennancenter.org](http://www.brennancenter.org)  
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# The Voting Rights of People with Criminal Convictions in Alabama

Office of the Secretary of  
State of Alabama

Alabama Alliance to Restore the  
Vote

and

Brennan Center for Justice  
at NYU School of Law

on behalf of

Right to Vote Campaign

August 2005

<sup>12</sup> Ala. Code 1975 § 15-22-36.1.

<sup>13</sup> Ala. Code 1975 § 17-3-10.

