

November 14, 2008

United States Commission on Civil Rights
Kentucky Advisory Committee
Southern Regional Office
61 Forsyth Street, SW, Suite 18T40
Atlanta, Georgia 30303

Re: Kentucky's Felony Disenfranchisement Law

Dear Members of the Committee:

Thank you for your invitation to submit comments to the Kentucky Advisory Committee of the U.S. Commission on Civil Rights regarding Kentucky's felony disenfranchisement policy.

I am the Interim Director of the Catholic Conference of Kentucky. The Catholic Conference of Kentucky (CCK) was created in 1984 by the Roman Catholic bishops of Kentucky. Our mission is to represent the Church and the state's four Roman Catholic dioceses in public policy matters on both the state and federal level. We seek to promote the common good for all Kentuckians, which we consider to be the total of all conditions necessary - economic, political, material, and cultural – to allow all people to realize their human dignity and reach their full human potential.

To this end, I have worked to reform Kentucky's felony disenfranchisement laws for since 2001.

Over 5.3 million American citizens are not allowed to vote because of a felony conviction. More than four million are people who are out of prison, living and working in the community; and nearly two million are people who have completed all terms of their criminal sentence yet remained disenfranchised. Felony disenfranchisement laws vary widely across the United States. Currently, twenty states restore the right to vote upon completion of sentence; five states restore the right upon discharge from parole; and 15 states restore voting rights as soon as people are released from prison.¹

Today, Kentucky and Virginia are the last two remaining states to permanently disenfranchise all persons with a felony conviction unless they have individual executive clemency. In fact, no other democratic nation in the world disenfranchises its citizens after completion of their sentence. Kentucky's felony disenfranchisement law is more punitive than 48 other states, and any other country in the world.

However, disenfranchisement laws are changing dramatically state by state, as governors, legislators and voters have taken bold steps toward restoring the right to vote. Since 1997, 19

¹ See Erika Wood, *Restoring the Right to Vote* (2008), available at <http://www.brennancenter.org/page/-/Democracy/Restoring%20the%20Right%20to%20Vote.pdf>

states have amended their felony disenfranchisement policies in order to expand voter rights.² Nine states have repealed or amended lifetime disenfranchisement laws. Notably, Governor Charlie Christ issued new clemency rules in 2007 ending Florida's policy of permanent disenfranchisement for all felony offenders. As a result of all these national reforms, approximately 760,000 American citizens have regained the right to vote in the last decade.

Kentucky has also made some progress in reforming its felony disenfranchisement law. Governor Beshear recently eliminated the previously required filing fee, personal statement and letters of reference, making the restoration process less arduous and demanding. This was an important first step. However, Kentucky's law is still more restrictive than any other state, and results in more than 186,000 persons, or nearly six percent of its population, losing the right to vote.³

Increasingly, people of faith are advocating for the restoration of voting rights. This is because leaders of religious communities recognize that restoring the right to vote comports with their tradition's central tenants of forgiveness, rehabilitation, and community involvement. The Church to which I belong teaches in its worldwide Catechism of the Catholic Church that voting is so important that citizens have an obligation to vote. Furthermore, in a pastoral letter on criminal justice issued by the United States Conference of Catholic Bishops, the Bishops called for the restoration of the right to vote to former offenders as a way of living out the Gospel as seen in parables like the Prodigal Son. We are to welcome former offenders into our communities fully, not just in some partial way. We cannot morally merely ask them to pay taxes and then not allow them to have a say in who represents them in the halls of our branches of government.

When persons are released from prison, they are expected to return to their communities, gain employment, reunite with their families, and contribute to society. Civic engagement is an important part of this process. Several researchers have argued that civic reintegration is crucial for a citizen's reentry after prison. In addition, the American Probation and Parole Association; the National Black Police Association; and the Association of Paroling Authorities International have all passed resolutions supporting the restoration of voting rights.

America is the land of opportunity and second chances. Our country is not one in which persons are continuously punished for mistakes they made in the past. People who are living and working in their communities should have a say in the way their lives are governed. Those who commit crimes must and will serve the terms of their sentence. But once the criminal justice system has determined that they have completed their sentence, they should receive the rights and responsibilities that come with reentering their communities.

Next Steps

² See Ryan S. King, *Expanding the Vote: State Felony Disenfranchisement Reform* (2008), available at http://www.sentencingproject.org/Admin%5CDocuments%5Cpublications%5Cfd_statedisenfranchisement.pdf

³ Jeff Manza and Chris Uggen, *Locked Out: Felon Disenfranchisement and American Democracy*, Tbl. A3.3 (2006).

Kentucky can change its law to restore voting rights to people living in the community. The Kentucky Constitution prohibits any person convicted of a felony from voting unless his civil rights are restored by executive pardon.⁴ The constitutional requirement of an executive pardon means that each citizen's restoration must be individually considered by the governor through a long and arduous process.⁵ Few persons successfully complete the process: of the more than 100,000 persons who completed their sentences between 2002 and 2004, only 1% had their rights restored.⁶

Because the Constitution itself requires this executive pardon for restoration, a constitutional amendment is required to eliminate the clemency application process. In order to change the Constitution, a proposed amendment must be introduced and approved by three-fifths of the members of each House of the state legislature.⁷ If approved by the legislature, the proposed amendment will be submitted to the voters of the state for their ratification in the next general election for the House of Representatives.⁸ A simple majority is required to pass the amendment.⁹ In 2006, Rhode Island voters were the first in the country to go to the polls to amend their state constitution to restore voting rights to their fellow Rhode Island citizens.

Kentucky is ready to join the rest of the nation in restoring the right to vote to people living in the community. Restoring the right to vote empowers citizens, strengthens communities, and gives people leaving prison faith in their future. Now is the time to change these laws and strengthen our democracy.

Thank for considering my comments.

Sincerely,

Rev. Patrick Delahanty
Interim Director

⁴ KY. CONST. § 145.

⁵ See KY. CONST. § 77.

⁶ League of Women Voters, *Felony Disenfranchisement in the Commonwealth of Kentucky* (2006), available at http://ccky.org/Legislation/2007%20Legislation/Right%20to%20Vote/2006%20_%20League_%20Restore%20felons...pdf

⁷ KY. CONST. § 256.

⁸ *Id.*

⁹ *Id.*