

115TH CONGRESS
1ST SESSION

S. 1588

To secure the Federal voting rights of persons when released from
incarceration.

IN THE SENATE OF THE UNITED STATES

JULY 19, 2017

Mr. CARDIN (for himself, Mr. BLUMENTHAL, Mr. BOOKER, Mr. BROWN, Mr. CASEY, Mr. COONS, Ms. DUCKWORTH, Mr. DURBIN, Mr. FRANKEN, Ms. HARRIS, Ms. HIRONO, Mr. LEAHY, Mr. MARKEY, Mr. SANDERS, Mr. VAN HOLLEN, Ms. WARREN, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To secure the Federal voting rights of persons when 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 2017”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The right to vote is the most basic constitu-
2 tive act of citizenship. Regaining the right to vote
3 reintegrates individuals with criminal convictions
4 into free society, helping to enhance public safety.

5 (2) Article I, section 4, of the Constitution
6 grants Congress ultimate supervisory power over
7 Federal elections, an authority which has repeatedly
8 been upheld by the United States Supreme Court.

9 (3) Basic constitutional principles of fairness
10 and equal protection require an equal opportunity
11 for citizens of the United States to vote in Federal
12 elections. The right to vote may not be abridged or
13 denied by the United States or by any State on ac-
14 count of race, color, gender, or previous condition of
15 servitude. The 13th, 14th, 15th, 19th, 24th, and
16 26th Amendments to the Constitution empower Con-
17 gress to enact measures to protect the right to vote
18 in Federal elections. The 8th Amendment to the
19 Constitution provides for no excessive bail to be re-
20 quired, nor excessive fines imposed, nor cruel and
21 unusual punishments inflicted.

22 (4) There are 3 areas where discrepancies in
23 State laws regarding criminal convictions lead to un-
24 fairness in Federal elections—

1 (A) the lack of a uniform standard for vot-
2 ing in Federal elections leads to an unfair dis-
3 parity and unequal participation in Federal
4 elections based solely on where a person lives;

5 (B) laws governing the restoration of vot-
6 ing rights after a criminal conviction vary
7 throughout the country and persons in some
8 States can easily regain their voting rights
9 while in other States persons effectively lose
10 their right to vote permanently; and

11 (C) State disenfranchisement laws dis-
12 proportionately impact racial and ethnic minori-
13 ties.

14 (5) Two States do not disenfranchise individ-
15 uals with criminal convictions at all (Maine and
16 Vermont), but 48 States and the District of Colum-
17 bia have laws that deny convicted individuals the
18 right to vote while they are in prison.

19 (6) In some States disenfranchisement results
20 from varying State laws that restrict voting while in-
21 dividuals are under the supervision of the criminal
22 justice system or after they have completed a crimi-
23 nal sentence. In 34 States, convicted individuals may
24 not vote while they are on parole and 30 of those
25 States disenfranchise individuals on felony probation

1 as well. In 10 States, a conviction can result in life-
2 time disenfranchisement.

3 (7) Several States deny the right to vote to in-
4 dividuals convicted of certain misdemeanors.

5 (8) An estimated 6,100,000 citizens of the
6 United States, or about 1 in 40 adults in the United
7 States, currently cannot vote as a result of a felony
8 conviction. Of the 6,100,000 citizens barred from
9 voting, only approximately 22 percent are in prison.
10 By contrast, roughly 77 percent of the
11 disenfranchised reside in their communities while on
12 probation or parole or after having completed their
13 sentences. Approximately 3,100,000 citizens who
14 have completed their sentences remain
15 disenfranchised due to restrictive State laws. In six
16 States—Alabama, Florida, Kentucky, Mississippi,
17 Tennessee, and Virginia—more than 7 percent of
18 the total population is disenfranchised.

19 (9) In those States that disenfranchise individ-
20 uals post-sentence, the right to vote can be regained
21 in theory, but in practice this possibility is often
22 granted in a non-uniform and potentially discrimina-
23 tory manner. Disenfranchised individuals must ei-
24 ther obtain a pardon or an order from the Governor
25 or an action by the parole or pardon board, depend-

1 ing on the offense and State. Individuals convicted
2 of a Federal offense often have additional barriers to
3 regaining voting rights.

4 (10) State disenfranchisement laws dispro-
5 portionately impact racial and ethnic minorities. More
6 than 7 percent of the voting-age African-American
7 population, or 2,200,000 African-Americans, are
8 disenfranchised. Currently, 1 of every 13 African-
9 Americans are rendered unable to vote because of
10 felony disenfranchisement, which is a rate more than
11 4 times greater than non-African-Americans. 7.4
12 percent of African-Americans are disenfranchised
13 whereas only 1.8 percent of non-African-Americans
14 are. As of 2016, in 4 States—Florida (23 percent),
15 Kentucky (22 percent), Tennessee (21 percent), and
16 Virginia (20 percent)—more than 1 in 5 African-
17 Americans were unable to vote because of prior con-
18 victions.

19 (11) Latino citizens are disproportionately
20 disenfranchised based upon their disproportionate
21 representation in the criminal justice system. If cur-
22 rent incarceration trends hold, 17 percent of Latino
23 men will be incarcerated during their lifetimes, in
24 contrast to less than 6 percent of non-Latino White
25 men. When analyzing the data across 10 States,

1 Latinos generally have disproportionately higher
2 rates of disenfranchisement compared to their pres-
3 ence in the voting age population. In 6 out of 10
4 States studied in 2003, Latinos constitute more
5 than 10 percent of the total number of persons
6 disenfranchised by State felony laws. In 4 States
7 (California, 37 percent; New York, 34 percent;
8 Texas, 30 percent; and Arizona, 27 percent),
9 Latinos were disenfranchised by a rate of more than
10 25 percent.

11 (12) Disenfranchising citizens who have been
12 convicted of a criminal offense and who are living
13 and working in the community serves no compelling
14 State interest and hinders their rehabilitation and
15 reintegration into society.

16 (13) State disenfranchisement laws can sup-
17 press electoral participation among eligible voters by
18 discouraging voting among family and community
19 members of disenfranchised persons. Future elec-
20 toral participation by the children of disenfranchised
21 parents may be impacted as well.

22 (14) The United States is the only Western de-
23 mocracy that permits the permanent denial of voting
24 rights for individuals with felony convictions.

1 **SEC. 3. RIGHTS OF CITIZENS.**

2 The right of an individual who is a citizen of the
3 United States to vote in any election for Federal office
4 shall not be denied or abridged because that individual has
5 been convicted of a criminal offense unless such individual
6 is serving a felony sentence in a correctional institution
7 or facility at the time of the election.

8 **SEC. 4. ENFORCEMENT.**

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

12 (b) PRIVATE RIGHT OF ACTION.—

13 (1) IN GENERAL.—A person who is aggrieved
14 by a violation of this Act may provide written notice
15 of the violation to the chief election official of the
16 State involved.

17 (2) RELIEF.—Except as provided in paragraph
18 (3), if the violation is not corrected within 90 days
19 after receipt of a notice under paragraph (1), or
20 within 20 days after receipt of the notice if the viola-
21 tion occurred within 120 days before the date of an
22 election for Federal office, the aggrieved person
23 may, in a civil action, obtain declaratory or injunc-
24 tive relief with respect to the violation.

25 (3) EXCEPTION.—If the violation occurred
26 within 30 days before the date of an election for

1 Federal office, the aggrieved person need not provide
 2 notice to the chief election official of the State under
 3 paragraph (1) before bringing a civil action to obtain
 4 declaratory or injunctive relief with respect to the
 5 violation.

6 **SEC. 5. NOTIFICATION OF RESTORATION OF VOTING**
 7 **RIGHTS.**

8 (a) STATE NOTIFICATION.—

9 (1) NOTIFICATION.—On the date determined
 10 under paragraph (2), each State shall notify in writ-
 11 ing any individual who has been convicted of a
 12 criminal offense under the law of that State that
 13 such individual has the right to vote in an election
 14 for Federal office pursuant to the Democracy Res-
 15 toration Act of 2017 and may register to vote in any
 16 such election.

17 (2) DATE OF NOTIFICATION.—

18 (A) FELONY CONVICTION.—In the case of
 19 such an individual who has been convicted of a
 20 felony, the notification required under para-
 21 graph (1) shall be given on the date on which
 22 the individual—

23 (i) is sentenced to serve only a term
 24 of probation; or

1 (ii) is released from the custody of
2 that State (other than to the custody of
3 another State or the Federal Government
4 to serve a term of imprisonment for a fel-
5 ony conviction).

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

12 (b) FEDERAL NOTIFICATION.—

13 (1) NOTIFICATION.—Any individual who has
14 been convicted of a criminal offense under Federal
15 law shall be notified in accordance with paragraph
16 (2) that such individual has the right to vote in an
17 election for Federal office pursuant to the Democ-
18 racy Restoration Act of 2017 and may register to
19 vote in any such election.

20 (2) DATE OF NOTIFICATION.—

21 (A) FELONY CONVICTION.—In the case of
22 such an individual who has been convicted of a
23 felony, the notification required under para-
24 graph (1) shall be given—

1 (i) in the case of an individual who is
2 sentenced to serve only a term of proba-
3 tion, by the Assistant Director for the Of-
4 fice of Probation and Pretrial Services of
5 the Administrative Office of the United
6 States Courts on the date on which the in-
7 dividual is sentenced; or

8 (ii) in the case of any individual com-
9 mitted to the custody of the Bureau of
10 Prisons, by the Director of the Bureau of
11 Prisons, during the period beginning on
12 the date that is 6 months before such indi-
13 vidual is released and ending on the date
14 such individual is released from the cus-
15 tody of the Bureau of Prisons.

16 (B) MISDEMEANOR CONVICTION.—In the
17 case of such an individual who has been con-
18 victed of a misdemeanor, the notification re-
19 quired under paragraph (1) shall be given on
20 the date on which such individual is sentenced
21 by a court established by an Act of Congress.

22 **SEC. 6. DEFINITIONS.**

23 For purposes of this Act:

24 (1) CORRECTIONAL INSTITUTION OR FACIL-
25 ITY.—The term “correctional institution or facility”

1 means any prison, penitentiary, jail, or other institu-
2 tion or facility for the confinement of individuals
3 convicted of criminal offenses, whether publicly or
4 privately operated, except that such term does not
5 include any residential community treatment center
6 (or similar public or private facility).

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

8 (A) a general, special, primary, or runoff
9 election;

10 (B) a convention or caucus of a political
11 party held to nominate a candidate;

12 (C) a primary election held for the selec-
13 tion of delegates to a national nominating con-
14 vention of a political party; or

15 (D) a primary election held for the expres-
16 sion of a preference for the nomination of per-
17 sons for election to the office of President.

18 (3) FEDERAL OFFICE.—The term “Federal of-
19 fice” means the office of President or Vice President
20 of the United States, or of Senator or Representa-
21 tive in, or Delegate or Resident Commissioner to,
22 the Congress of the United States.

23 (4) PROBATION.—The term “probation” means
24 probation, imposed by a Federal, State, or local

1 court, with or without a condition on the individual
2 involved concerning—

3 (A) the individual's freedom of movement;

4 (B) the payment of damages by the indi-
5 vidual;

6 (C) periodic reporting by the individual to
7 an officer of the court; or

8 (D) supervision of the individual by an of-
9 ficer of the court.

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

11 (a) STATE LAWS RELATING TO VOTING RIGHTS.—

12 Nothing in this Act shall be construed to prohibit the
13 States from enacting any State law which affords the right
14 to vote in any election for Federal office on terms less
15 restrictive than those established by this Act.

16 (b) CERTAIN FEDERAL ACTS.—The rights and rem-

17 edies established by this Act are in addition to all other

18 rights and remedies provided by law, and neither rights

19 and remedies established by this Act shall supersede, re-

20 strict, or limit the application of the Voting Rights Act

21 of 1965 (52 U.S.C. 10301 et seq.) or the National Voter

22 Registration Act (52 U.S.C. 20501).

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

24 No State, unit of local government, or other person

25 may receive or use, to construct or otherwise improve a

1 prison, jail, or other place of incarceration, any Federal
2 funds unless that State, unit of local government, or per-
3 son—

4 (1) is in compliance with section 3; and

5 (2) has in effect a program under which each
6 individual incarcerated in that person's jurisdiction
7 who is a citizen of the United States is notified,
8 upon release from such incarceration, of that indi-
9 vidual's rights under section 3.

10 **SEC. 9. EFFECTIVE DATE.**

11 This Act shall apply to citizens of the United States
12 voting in any election for Federal office held after the date
13 of the enactment of this Act.

○