

South Carolina County Election Board Survey on Felony & Misdemeanor Disfranchisement

SOUTH CAROLINA

The ACLU conducted a survey in the summer of 2008 of county election officials in all 46 South Carolina counties. The survey was conducted to ascertain the knowledge of elections officials about registering to vote with a criminal conviction in South Carolina.

THE LAW IN SOUTH CAROLINA

In South Carolina, individuals convicted of felonies in state or federal court, or misdemeanors involving violations of election law, may not vote until full completion of sentence including incarceration, probation and parole. After completion of sentence the right to vote is automatically restored. If convicted of any other misdemeanor, an individual only loses the right to vote while incarcerated. The state allows counties to set their own regulations as to whether they will ask people to provide documentation of completion of sentence.

KEY FINDINGS

Salient statistical findings:

- On the most basic eligibility questions concerning voting by people with criminal convictions, the average error rate of officials was quite low, at around 5%. However, when asked only slightly more complicated eligibility questions - those concerning people with federal and out-of-state felony convictions, and with misdemeanor convictions, the average error rate of officials rose by nearly **ten times**, to 48%. Notably, officials in Greenville, Charleston, and Lexington counties - representing the first, second, and fifth most populous counties, respectively - were among those who incorrectly answered one or more of these questions.
- 61% of those surveyed demonstrated inadequate knowledge of disfranchisement policy concerning people convicted of misdemeanor offenses involving elections violations or misdemeanors warranting prison time.
- 43% of those surveyed failed to convey accurate or adequate information on how out-of-state felony convictions impact voting eligibility.
- 41% of those surveyed were unsure of or gave entirely incorrect information regarding the impact that federal felony convictions have on voting eligibility.

Striking anecdotal findings:

- Even where respondents answered basic eligibility questions correctly, a significant number of them had to consult colleagues or refer to state laws/statutes before doing so. Even after “checking”, however, some officials still provided incorrect information. For instance, the Greenwood County representative erroneously stated, “you can vote while

incarcerated for a misdemeanor,” and, similarly, an Anderson County official said, “misdemeanors don’t matter”, answers that are, as a matter of law, inaccurate.

- A Beaufort County official falsely stated that individuals with felony convictions are not permitted to vote again until they have been “pardoned,” misleadingly suggesting that South Carolina is a permanent disfranchisement state.
- A lack of education and training on disfranchisement policy appear to be a principal cause of most officials’ errors. When it came to the issue of voting with a federal felony conviction, a Bamberg County official felt that her two years’ experience were insufficient for her to provide the right information. Moreover, in questions concerning out-of-state offenses and documentation requirements, York and Greenwood County officials said, “I’ve never been asked that before” and “I don’t know exactly how that works...I’ve never done it”, respectively.

SURVEY RESULTS

Answers were categorized as false if it was incorrect, ambiguous or the respondent replied “I don’t know.”

- 1) Can you vote if you have been convicted of a felony in South Carolina?

Forty out of forty-six (87%) of the respondents surveyed correctly responded that individuals can vote after completion of sentence.

- 2) Can you vote while incarcerated for a felony conviction in South Carolina?

Forty-six out of forty-six (100%) of the respondents surveyed correctly responded no.

- 3) Can you vote if you are on probation for a felony conviction in South Carolina?

Forty-five out of forty-six (98%) of the respondents surveyed correctly responded no.

- 4) Can you vote if you are on parole for a felony conviction in South Carolina?

Forty-four out of forty-six (96%) of the respondents surveyed correctly responded no.

- 5) Can you vote if you have been convicted of a misdemeanor in South Carolina?

Twenty-eight out of forty-six (61%) of the respondents surveyed answered this question incorrectly. In South Carolina individuals are barred from voting while incarcerated for a misdemeanor, but most are enfranchised automatically upon release. The exception is if an individual has been convicted of a misdemeanor involving a violation of election law, in which case they are barred from voting until full completion of sentence.

6) If you are convicted of a felony in another state can you vote in South Carolina?

Twenty-six out of forty-six (57%) of the respondents surveyed correctly answered yes, after completion of sentence.

7) If you are convicted of a federal felony can you vote in South Carolina?

Twenty-seven out of forty-six (59%) of the respondents surveyed correctly answered yes, after completion of sentence.

8) How does an individual begin to vote again?

Most respondents said that the individual simply needs to reregister, bringing the “appropriate” forms from the parole/probation office. In Williamsburg County, however, once respondent said, “well if you're a convicted felon, you can't vote. I'm assuming, now I could be wrong here, but I'm assuming that means forever.”

9) Does an individual need to show any documentation to prove that sentence was completed?

The state allows counties to set their own policy regarding documentation. **Thirty-nine out of forty-six (85%) county representatives said individuals must present a letter from the parole/probation office**, while few had no “special procedure” or said that verbal confirmation from the oath was sufficient.

10) Anything else required to regain voting rights?

All respondents said “no.”

11) Does your office notify individuals when they have **lost** their right to vote?

While not mandated by statute, an overwhelming majority of respondents said that the state notifies people when they have lost the right to vote.

12) Does your office notify individuals when they have **regained** the right to vote?

This is not mandated by statute and an overwhelming majority responded “no.”

RECOMMENDATIONS

Based on these results, we recommend that South Carolina implement the following recommendations:

1) **Automatically restore voting rights upon completion of incarceration.** A streamlined restoration process would ease much of the confusion exhibited by South Carolina county clerks. As it stands, clerks are both disfranchising eligible voters and telling individuals who are

ineligible that they can register to vote. Automatic restoration of voting rights upon release from incarceration would eliminate this confusion. If an individual is able to register in person, that person is out of prison and thus eligible to vote. Requiring the presentation of documents to prove completion of sentence is also thus unnecessary.

2) Annually train relevant state and county elections officials on the voting rights of individuals with criminal convictions. The Secretary of State should mandate annual trainings of these officials on the voting rights of individuals with criminal convictions. It is evident that county clerks are confused as to what the law is in South Carolina and are dispensing misleading and false information, disfranchising eligible voters or causing ineligible voters to mistakenly register. This is especially true as to the treatment of people with misdemeanor convictions and individuals with out-of-state and federal convictions. An annual training would help to clarify the law and help to ensure that the correct information is being disseminated.

3) Provide notice to all eligible individuals of both the revocation and restoration of voting rights. Currently, many counties notify individuals of the loss of their right to vote following conviction for crime, but they do not notify them when they are again eligible to vote. A streamlined, statewide notification system that would allow for both these types of notice would ensure that information is delivered in a timely and accurate manner to individuals and ease confusion regarding eligibility.

4) The Department of Corrections and the Department of Probation, Parole and Pardon Services should act as a voter registration agency. This would serve to facilitate the voter registration of individuals upon their release from incarceration (for those with misdemeanor convictions) or completion of sentence (for individuals with felony convictions). Barring the full elimination of a paperwork requirement, this would also greatly facilitate registrants' access to the documents required for voter registration.

Appendix A: County Data

| County | Responded incorrectly to eligibility of individuals with SC felony convictions | Responded incorrectly to eligibility of individuals with misdemeanor convictions | Responded incorrectly to eligibility of individuals with federal felony convictions | Responded incorrectly to eligibility of individuals with out-of-state felony convictions | Is documentation required by your county? |
|--------------|--------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|-------------------------------------------|
| Abbeville | | X | | | YES |
| Aiken | | | | | NO |
| Allendale | | | | | YES |
| Anderson | | X | | | YES |
| Bamberg | | X | X | X | YES |
| Barnwell | | X | X | X | YES |
| Beaufort | | | | | YES |
| Berkeley | | X | | | YES |
| Calhoun | | | | | NO |
| Charleston | | X | X | X | YES |
| Cherokee | | X | X | X | NO |
| Chester | X | X | X | X | YES |
| Chesterfield | | X | X | X | YES |
| Clarendon | | X | | | YES |
| Colleton | | | | | YES |
| Darlington | | X | | | YES |
| Dillon | | | | | YES |
| Dorchester | X | X | X | X | NA |
| Edgefield | | X | X | X | YES |
| Fairfield | | X | X | X | YES |
| Florence | | | | | YES |
| Georgetown | | | X | X | YES |
| Greenville | | X | | | YES |
| Greenwood | | X | | | DON'T KNOW |
| Hampton | | X | | | YES |
| Horry | | | | | YES |
| Jasper | X | | | | YES |
| Kershaw | | X | | | NO |
| Lancaster | | X | | | YES |
| Laurens | | | | | YES |
| Lee | | X | | | NO |
| Lexington | X | | X | X | YES |
| Marion | | | X | X | YES |
| Marlboro | | X | X | X | YES |
| McCormick | | | X | X | NO |
| Newberry | | X | X | X | YES |
| Oconee | X | X | X | X | YES |
| Orangeburg | | X | | | YES |
| Pickens | | | | | YES |
| Richland | | | | | YES |
| Saluda | | X | X | X | YES |
| Spartanburg | | | | | YES |
| Sumter | | | | | YES |
| Union | | X | | X | YES |
| Williamsburg | X | X | X | X | YES |
| York | | X | X | X | NO |

TOTAL

6

28

19

20

38 YES