

Restoration of Voting Rights in Tennessee after Criminal Disenfranchisement

By Vanessa Cross, J.D., LL.M.



Photo of U.S. President Johnson, Martin Luther King Jr. on the eve of signing the federal Voting Rights Act of 1965, 42 U.S.C. § 1973–1973aa-6, an act that aims to enforce the 15th Amendment to the Constitution of the United States (August 6, 1965).

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DISENFRANCHISEMENT AS A RESULT OF FELONY CONVICTION

Persons convicted of felonies by the judgment of any state or federal court is disenfranchised as a result of the conviction under Tennessee law.² Disenfranchisement is the lost of the right to vote. Those convicted of a felony may petition the circuit court for restoration when the maximum sentenced imposed for the crime expires³ or a petition for restoration of the voting right may be filed in court immediately after a pardon that restores full citizenship rights.⁴ This article will provide general information about disenfranchisement upon felony conviction in Tennessee and the procedure for having ones right to vote restored.

All felony convictions are not eligible for restoration of voting rights. Also, changes in Tennessee's restoration of voting rights law throughout the years have resulted in variations of the applicable law on felony convictions. Following is a chart of the applicable law based on the date of conviction.

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² T.C.A. § 40-29-101(a).

³ T.C.A. § 40-29-101(c).

⁴ T.C.A. § 40-29-101 (b).

| Dates conviction received: | Type of felony convictions that result in revocation of voting rights: | Offenses for which you cannot have your voting rights restored: |
|---|---|---|
| On or after July 1, 2006 | All felony convictions | Any degree of murder or rape; treason or voter fraud; any felony offense under T.C.A. Title 39, Chapter 16, Parts 1, 4, or 5; any sexual offense under T.C.A. § 40-39-202(7); and any violent sexual offense under T.C.A. § 40-39-202(25) designated as a felony where the victim was a minor at the time of the crime. |
| Between July 1, 1996 and June 30, 2006 | All felony convictions | Murder, rape, treason, voter fraud. |
| Between July 1, 1986 and June 30, 1996 | All felony convictions | First degree murder, aggravated rape, treason, voter fraud, persons who received a pardon that contains voting rights restrictions. |
| Between May 18, 1981 and June 30, 1986 | All felony convictions | All felonies are eligible for restoration of voting rights. |
| Between January 15, 1973 and May 17, 1981 | Your right to vote was NOT revoked as a result of your felony conviction | n/a |
| Before January 15, 1973 | Abusing a female child; arson and felonious burning; bigamy; bribery; counterfeiting, violating any of the laws to suppress the same; burglary; felonious breaking and entering a dwelling house; felonious breaking into a business house, outhouse other than a dwelling house; larceny; horse stealing; robbery; receiving stolen property; stealing bills of exchange or other valuable papers; forgery; destroying a will; incest; rape; sodomy; buggery; perjury; subornation of perjury. | All felonies are eligible for restoration of voting rights. |

THE PETITION FOR RESTORATION OF VOTING RIGHTS

A judicial proceeding must be instituted to have ones voting rights restored after the term of a non-excepted felony conviction has expired. The petitioner must pay the court costs for such an

application. This petition must be filed with the circuit court in either the county (1) in which the petitioner resides or 2) where the petitioner was convicted of a felony that resulted in disenfranchisement. In the proceeding, the petitioner must put on character proof that since disenfranchisement the petitioner has maintained a good moral character. The petitioner carries the burden of showing that he has maintained himself since disenfranchisement as honest, respectable, and show veracity. This is proven to the court by presenting unimpeachable witnesses at the evidentiary hearing.

The district attorney general in whose district the petitioner resides and the United States attorney general must be given notice of the hearing on a petition for restoration of voting rights twenty (20) days prior to the hearing in the circuit court. Either has standing to appear in the hearing to resist the petition where the disenfranchisement was a result of a federal court judgment. If the disenfranchisement occurred as a result of a state court judgment, the notice of hearing must be given to the district attorney generals in both the county where the petitioner resides and the county where the petitioner was convicted. Each has the discretion to oppose the petition. If the petition is denied, an immediate appeal is available to a Tennessee appellate court.

In Tennessee, there are many repercussions once convicted of a felony crime. There is the potential lost of freedom. There is the lost of the right to keep and bear arms. As explored here, there is also the lost of the right to vote, even after the expiration of the term of the felony sentence. This pamphlet provides general information regarding the law of disenfranchisement upon a felony conviction in Tennessee. It is not a substitute for legal advice, but aims to provide the citizens of Tennessee with a general insight into criminal disenfranchisement upon a felony conviction and the right to the disenfranchised to petition our courts in Tennessee to have the right restored upon expiration of the felony sentence or upon pardon and a showing to the court of a post-conviction history of good character.