

## **Promoting the Hallmark of Democracy: THE RIGHT TO VOTE**

### **Support the Restoration of Voting Rights Act: HB 70**

#### **Allow Kentuckians to decide if persons who complete their sentences should have the right to vote restored automatically**

##### **What HB 70 does**

The legislation would allow Kentuckians to vote on changing Section 145 of the KY Constitution to require the automatic restoration of voting rights after a person completes their sentence. This approach avoids anyone claiming the arbitrary use of discretionary power, and instead provides certainty and predictability. It encourages participation in the community, promotes democracy, and welcomes our sons and daughters back.

##### **Many Kentuckians cannot vote**

Helping people obtain the right to vote is a significant public policy matter for KY. It is estimated that over 128,775 adults who have served their sentences have been disenfranchised in KY as a result of their conviction.

##### **Only 4 states disenfranchise all felons**

Kentucky, Florida Iowa and Virginia are the only states that disenfranchise all ex-felons.

##### **What is the current KY law?**

Section 145 of the KY Constitution states that a person convicted of a felony is not entitled to vote, but felons may have their civil rights restored through an executive pardon by the Governor. In 2001 our elected leaders made a public policy decision to increase the number of persons who had their voting rights restored. Upon recommendation of the Criminal Justice Council, the KY General Assembly passed legislation, KRS 196.045, in 2001 requiring the Department of Corrections "to implement a simplified process for the restoration of civil rights to eligible felony offenders."

Despite the law change, the number of applications and restorations remains arbitrary. In addition to the other requirements, a former Governor began requiring a written statement from the applicant, 3 character references, and

review by the prosecutor in the county of residence and the county of the offense. Though these requirements have since been rescinded the number of applications remains low.

##### **League of Women Voters of Kentucky Recommend Changing Kentucky's Constitution**

The League released the results of its study of felony disenfranchisement in October 2006.

The study found that in 2001 a statutory simplification of the restoration process increased applications for restoration and the number approved did increase, But in 2004, a declining number of people have had their voting rights restored because of additional non-statutory requirements added to the application process.

The study found that more than two-thirds (69.1%) of people ineligible to vote because of felony convictions have completed their sentences.

The League also learned that Kentucky has the highest African American disenfranchisement rate in the country with nearly one in every 4 African Americans ineligible to vote. This rate is nearly triple the national African American disenfranchisement rate.

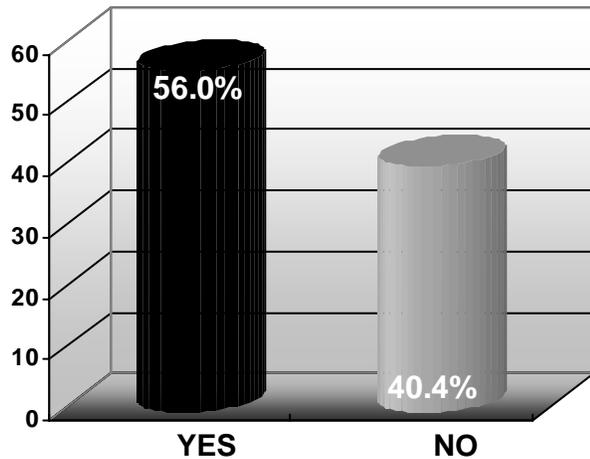
Guided by this information, the League concluded that Kentuckians should be allowed to determine if they want to change the KY Constitution to provide automatic restoration of the right to vote for those who have completed their sentence.

##### **Voting is a distinguishing mark of democracy**

The right to vote is a foundation of citizenship. We require ex-felons to pay taxes and comply with the laws enacted by their legislators when they return to their communities. The right to vote, a hallmark of our democracy, should follow.

## Kentuckians support automatic restoration of the right to vote for ex-felons (Aug-Sep 2006)

A significant majority of Kentuckians favor an amendment to the KY Constitution that automatically restores the right to vote to a convicted felon who has completed his sentence, including probation and parole. *The Summer 2006 Kentucky Survey* was conducted by the UK Survey Research Center. It surveyed 901 Kentuckians 18 years of age or older from August 14- September 6, 2006, and had a margin of error of  $\pm 3.3$  percentage points at the 95 percent confidence level.



### National recommendations favor automatic restoration

Increasingly, those who study this issue, scholars, other professionals, those who make decisions on what laws should apply, and the public conclude that felons should have their voting rights restored automatically:

- ✓ The **American Correctional Association (ACA)**, the professional body of corrections leaders who accredit penal institutions, in its 2001 Resolution, which was updated in 2004, "advocates for the restoration of voting rights upon completion of the offender's sentence, including community supervision."
- ✓ The **National Commission on Federal Election Reform**, chaired by former Presidents Ford and Carter, unanimously recommended that voting rights be automatically restored upon completion of sentence.
- ✓ The **American Bar Association** in 2003 adopted a set of standards relating to the collateral consequences of a felony conviction that oppose restricting the vote of those not in prisons.

### State trends

Since 1996, at least 16 states have enacted reforms of their disenfranchisement laws. In 2005, Nebraska changed its law to no longer permanently exclude ex-felons from voting. Iowa Governor Vilsack issued an executive order (recently overturned) automatically restoring voting rights to all ex-felons in the state. In 2006, Rhode Island voters approved a measure to restore voting rights to persons currently on probation or parole, and in 2007, Florida Governor Charlie Crist's Clemency Board adopted regulations (repealed in March 2011) that simplify the rights restoration process for most non-violent ex-felons in the state.

### Restoring the right to vote is in our self-interest

The restoration of voting rights promotes rehabilitation and reintegration into the community. It is in a community's interest to encourage participation in its activities. Voting is the fundamental expression of speech. The greater degree to which ex-felons have positive connections with the community, the more likely it is that they will engage in positive social activity. People who vote become more a part of the community and have a greater stake in their society, both of which will increase their chance to become successful in life. This is in our interest.

### Voting may contribute to less future crime

"To the extent that felons begin to vote and participate as citizens in their communities, it seems likely that many will bring their behavior into line with the expectations of the citizen role, avoiding further contact with the criminal justice system." See Christopher Uggen and Jeff Manza, in "Voting and Subsequent Crime and Arrest: Evidence from a Community Sample," *Columbia Human Rights Law Review* (2005). Uggen and Manza "find consistent differences between voters and non-voters in rates of subsequent arrest, incarceration, and self-reported criminal behavior." In the data studied, between 1997 and 2000, 16% of non-voters were arrested, compared to 5% of voters. For persons with a prior arrest, the analysis of the data indicates that 27% of non-voters were rearrested, compared to 12% of voters.

### Our state constitution needs to change

The chart below indicates how arbitrary restoration of the right to vote can be in Kentucky. Changing our constitution to restore voting rights automatically is the only way to eliminate this arbitrariness.

Using data from the Dept. of Corrections and the Office of the Secretary of State, it is clear that the current process of restoring voting rights is inadequate.

Even after 2008 when changes to the process were made that lessened the burden on the applicant, the numbers of those applying and the number whose right to vote was restored is few in relation to the nearly 130,000 who are disenfranchised.

Year	Number of Persons With Applications	Number of Persons With Civil Rights Restored	Percent Successful
	Source: Department of Corrections	Source: Secretary of State	
1999	NA	669	NA
2000	NA	572	NA
2001	NA	958	NA
2002	551 (Aug—Dec)	1278	NA
2003	1202	1193	99.2%
2004	1108	316	28.5%
2005	640	253	39.5%
2006	717	274	38.2%
2007	617	255	41.3%
2008	2468	1807	73.2%
2009	1495	1618	100.8%
2010	1457	1030	70.6%
2011	1287	1215	94.4%