



November 12, 2024

The Honorable Delegate Marcia S. Price
Chair, Virginia House Privileges and Elections Committee
201 North 9th St.
Richmond, VA 23219

The Honorable Kelly K. Convirs-Fowler
Vice Chair, Virginia House Privileges and Elections Committee
201 North 9th St.
Richmond, VA 23219

Dear Chair Price, Vice Chair Convirs-Fowler, and Members of the Committee:

On behalf of Fair Elections Center, an organization dedicated to removing barriers to voter registration and voting through advocacy and impact litigation, I write to urge the Virginia House of Delegates Committee on Privileges and Elections to carry over HJ 2—a constitutional amendment to ensure Virginians who are not incarcerated and not currently judicially declared incompetent have the right to vote—to the 2025 legislative session.

Under current law, Virginians with felony convictions are permanently disenfranchised unless and until their right to vote is restored by the Governor through discretionary, and often arbitrary, executive action.¹ Many of those who are currently disenfranchised by this scheme have completed their term of incarceration—a 2022 analysis from the Sentencing Project estimated that three of every four individuals disenfranchised nationwide due to a felony conviction are not currently incarcerated.² This means that Virginians who are employees, caregivers, church ministers, community leaders, and taxpayers remain stripped of their voice in shaping the laws and institutions that govern their lives as they try to reintegrate into their communities, essentially relegating them to second class citizenship even after they have served their time.

Virginia Governors affiliated with each of the major parties restored voting rights to hundreds-of-thousands of citizens,³ exemplifying a common understanding that disenfranchising a person for their entire life based solely on a past mistake is unjust and unreasonable. However, the current governor has all but ceased this practice, singlehandedly preventing thousands of Virginians who

¹ See VA. Const. art. II, § 1, VA. Const. Art. V, § 12.

² <https://www.sentencingproject.org/reports/locked-out-2022-estimates-of-people-denied-voting-rights/>

³ <https://www.npr.org/2023/04/13/1169550479/youngkin-felon-voting-rights-virginia>

have returned to their communities from regaining their right to vote. A system which gives one person the sole authority to restore voting rights to formerly incarcerated citizens is untenable. Virginians who have successfully served their time should be able to fully rejoin civic life, and people should not be permanently defined by their past mistakes.

HJ 2 would fix this deeply broken system by removing rights restoration from the sole purview and whim of the Governor, instead restoring the right to vote upon completion of an individual's term of incarceration without any additional paperwork or process once they are no longer incarcerated.

HJ 2 will benefit communities across Virginia. Studies have shown that restoring civil rights, particularly the right to vote, to those reintegrating into their communities has benefits that result in reduced recidivism and crime rates. According to the Bureau of Justice Statistics, recidivism patterns of former prisoners showed that generally 68% of released prisoners would be arrested again within three years and 79% within six years.⁴ Although many circumstances contribute to those numbers—such as economic insecurity and a lack of access to mental healthcare, among others—it has been well documented that the ability to participate in the democratic process, which allows people to express their voice in our society, ultimately reduces rates of recidivism. For example, a 2012 survey of comprehensive national re-arrest data found that, in the 15 states they examined, those who were released in states that automatically restored their right to vote were ten percentage points less likely to recidivate than those released in states that permanently disenfranchised them.⁵

Importantly, this resolution does not, like some states, condition restoration of voting rights on the payment of fines, fees, or restitution associated with a criminal conviction. By establishing a clear rule without need for determining a person's precise post-incarceration financial status, this amendment will prevent the confusion that comes with complicated, uncertain rights restoration schemes where eligible citizens do not vote because they are unsure of their eligibility status. This also ensures that Virginians who have rejoined their communities are not prevented from having a voice in those communities based solely on their wealth or inability to pay debts.

Restoring the right to vote to persons with felony convictions who are no longer incarcerated gives them a second chance at becoming invested members of their community. We therefore urge the Privileges and Elections Committee to carry over HJ 2 for consideration in the 2025 session of the House of Delegates. If you have questions or require additional information, please contact me at mkantercohen@fairelectionscenter.org.

Sincerely,
Michelle Kanter Cohen
Policy Director and Senior Counsel
Fair Elections Center
mkantercohen@fairelectionscenter.org

⁴ <https://bjs.ojp.gov/library/publications/2018-update-prisoner-recidivism-9-year-follow-period-2005-2014>

⁵ <https://lawcat.berkeley.edu/record/1125056?v=pdf>