

113TH CONGRESS  
2D SESSION

# S. 2235

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

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IN THE SENATE OF THE UNITED STATES

APRIL 10, 2014

Mr. CARDIN (for himself, Mr. LEAHY, Mr. DURBIN, Mr. WHITEHOUSE, Mr. BOOKER, Mr. HARKIN, Mr. SANDERS, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## 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 2014”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8               (1) The right to vote is the most basic constitu-  
9       tive act of citizenship. Regaining the right to vote

1 reintegrates individuals with criminal convictions  
2 into free society, helping to enhance public safety.

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

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

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

23 (A) the lack of a uniform standard for vot-  
24 ing in Federal elections leads to an unfair dis-

1 parity and unequal participation in Federal  
2 elections based solely on where a person lives;

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

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

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

17 (6) In some States disenfranchisement results  
18 from varying State laws that restrict voting while in-  
19 dividuals are under the supervision of the criminal  
20 justice system or after they have completed a crimi-  
21 nal sentence. In 35 States, convicted individuals may  
22 not vote while they are on parole and 31 of those  
23 States disenfranchise individuals on felony probation  
24 as well. In 11 States, a conviction can result in life-  
25 time disenfranchisement.

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

3           (8) An estimated 5,850,000 citizens of the  
4           United States, or about 1 in 40 adults in the United  
5           States, currently cannot vote as a result of a felony  
6           conviction. Of the 5,850,000 citizens barred from  
7           voting, only 25 percent are in prison. By contrast,  
8           75 percent of the disenfranchised reside in their  
9           communities while on probation or parole or after  
10          having completed their sentences. Approximately  
11          2,600,000 citizens who have completed their sen-  
12          tences remain disenfranchised due to restrictive  
13          State laws. In 6 States—Alabama, Florida, Ken-  
14          tucky, Mississippi, Tennessee, and Virginia—more  
15          than 7 percent of the total population is  
16          disenfranchised.

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

1 of a Federal offense often have additional barriers to  
2 regaining voting rights.

3 (10) State disenfranchisement laws dispro-  
4 portionately impact racial and ethnic minorities. Eight  
5 percent of the African-American population, or  
6 2,000,000 African-Americans, are disenfranchised.  
7 Given current rates of incarceration, approximately  
8 1 in 3 of the next generation of African-American  
9 men will be disenfranchised at some point during  
10 their lifetime. Currently, 1 of every 13 African-  
11 Americans are rendered unable to vote because of  
12 felony disenfranchisement, which is a rate 4 times  
13 greater than non African-Americans. 7.7 percent of  
14 African-Americans are disenfranchised whereas only  
15 1.8 percent of non African-Americans are. In 3  
16 States—Florida (23 percent), Kentucky (22 per-  
17 cent), and Virginia (20 percent)—more than 1 in 5  
18 African-Americans are unable to vote because of  
19 prior convictions.

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

1 men. When analyzing the data across 10 States,  
2 Latinos generally have disproportionately higher  
3 rates of disenfranchisement compared to their pres-  
4 ence in the voting age population. In 6 out of 10  
5 States studied in 2003, Latinos constitute more  
6 than 10 percent of the total number of persons  
7 disenfranchised by State felony laws. In 4 States  
8 (California, 37 percent; New York, 34 percent;  
9 Texas, 30 percent; and Arizona, 27 percent),  
10 Latinos were disenfranchised by a rate of more than  
11 25 percent.

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

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

23 (14) The United States is the only Western de-  
24 mocracy that permits the permanent denial of voting  
25 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 2014 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 2014 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 (42 U.S.C. 1973 et seq.) or the National Voter

22 Registration Act (42 U.S.C. 1973–gg).

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 person has in effect a program under  
3 which each individual incarcerated in that person's juris-  
4 diction who is a citizen of the United States is notified,  
5 upon release from such incarceration, of that individual's  
6 rights under section 3.

7 **SEC. 9. EFFECTIVE DATE.**

8       This Act shall apply to citizens of the United States  
9 voting in any election for Federal office held after the date  
10 of the enactment of this Act.

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