

112TH CONGRESS  
1ST SESSION

# S. 2017

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

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IN THE SENATE OF THE UNITED STATES

DECEMBER 16, 2011

Mr. CARDIN (for himself, Mr. DURBIN, and Mr. WHITEHOUSE) 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 2011”.

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 14th, 15th, 19th, 24th, and 26th  
14 Amendments to the Constitution empower Congress  
15 to enact measures to protect the right to vote in  
16 Federal elections.

17 (4) There are 3 areas where discrepancies in  
18 State laws regarding criminal convictions lead to un-  
19 fairness in Federal elections—

20 (A) the lack of a uniform standard for vot-  
21 ing in Federal elections leads to an unfair dis-  
22 parity and unequal participation in Federal  
23 elections based solely on where a person lives;

24 (B) laws governing the restoration of vot-  
25 ing rights after a criminal conviction vary

1 throughout the country and persons in some  
2 States can easily regain their voting rights  
3 while in other States persons effectively lose  
4 their right to vote permanently; and

5 (C) State disenfranchisement laws dis-  
6 proportionately impact racial and ethnic minori-  
7 ties.

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

13 (6) In some States disenfranchisement results  
14 from varying State laws that restrict voting while in-  
15 dividuals are under the supervision of the criminal  
16 justice system or after they have completed a crimi-  
17 nal sentence. In 35 States, convicted individuals may  
18 not vote while they are on parole and 30 of those  
19 States disenfranchise individuals on felony probation  
20 as well. In 10 States, a conviction can result in life-  
21 time disenfranchisement.

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

24 (8) An estimated 5,300,000 citizens of the  
25 United States, or about 1 in 41 adults in the United

1 States, currently cannot vote as a result of a felony  
2 conviction. Nearly 4,000,000 (74 percent) of the  
3 5,300,000 disqualified voters are not in prison, but  
4 are on probation or parole, or have completed their  
5 sentence. Approximately 40 percent of those individ-  
6 uals who are disenfranchised have completed their  
7 entire sentence, including probation and parole.

8 (9) In those States that disenfranchise individ-  
9 uals post-sentence, the right to vote can be regained  
10 in theory, but in practice this possibility is often  
11 granted in a non-uniform and potentially discrimina-  
12 tory manner. Disenfranchised individuals must ei-  
13 ther obtain a pardon or an order from the Governor  
14 or an action by the parole or pardon board, depend-  
15 ing on the offense and State. Individuals convicted  
16 of a Federal offense often have additional barriers to  
17 regaining voting rights.

18 (10) State disenfranchisement laws dispropor-  
19 tionately impact racial and ethnic minorities. Eight  
20 percent of the African American population, or  
21 2,000,000 African Americans, are disenfranchised.  
22 Given current rates of incarceration, approximately  
23 1 in 3 of the next generation of African American  
24 men will be disenfranchised at some point during  
25 their lifetime. Latino citizens are also disproportion-

1 ately disenfranchised based upon their disproportional  
2 tionate representation in the criminal justice system.

3 (11) Disenfranchising citizens who have been  
4 convicted of a criminal offense and who are living  
5 and working in the community serves no compelling  
6 State interest and hinders their rehabilitation and  
7 reintegration into society.

8 (12) State disenfranchisement laws can suppress  
9 electoral participation among eligible voters by  
10 discouraging voting among family and community  
11 members of disenfranchised persons. Future electoral  
12 participation by the children of disenfranchised  
13 parents may be impacted as well.

14 (13) The United States is the only Western democracy  
15 that permits the permanent denial of voting  
16 rights for individuals with felony convictions.

17 **SEC. 3. RIGHTS OF CITIZENS.**

18 The right of an individual who is a citizen of the  
19 United States to vote in any election for Federal office  
20 shall not be denied or abridged because that individual has  
21 been convicted of a criminal offense unless such individual  
22 is serving a felony sentence in a correctional institution  
23 or facility at the time of the election.

1 **SEC. 4. ENFORCEMENT.**

2 (a) ATTORNEY GENERAL.—The Attorney General  
3 may, in a civil action, obtain such declaratory or injunctive  
4 relief as is necessary to remedy a violation of this Act.

5 (b) PRIVATE RIGHT OF ACTION.—

6 (1) IN GENERAL.—A person who is aggrieved  
7 by a violation of this Act may provide written notice  
8 of the violation to the chief election official of the  
9 State involved.

10 (2) RELIEF.—Except as provided in paragraph  
11 (3), if the violation is not corrected within 90 days  
12 after receipt of a notice under paragraph (1), or  
13 within 20 days after receipt of the notice if the viola-  
14 tion occurred within 120 days before the date of an  
15 election for Federal office, the aggrieved person  
16 may, in a civil action, obtain declaratory or injunc-  
17 tive relief with respect to the violation.

18 (3) EXCEPTION.—If the violation occurred  
19 within 30 days before the date of an election for  
20 Federal office, the aggrieved person need not provide  
21 notice to the chief election official of the State under  
22 paragraph (1) before bringing a civil action to obtain  
23 declaratory or injunctive relief with respect to the  
24 violation.

1 **SEC. 5. NOTIFICATION OF RESTORATION OF VOTING**  
2 **RIGHTS.**

3 (a) STATE NOTIFICATION.—

4 (1) NOTIFICATION.—On the date determined  
5 under paragraph (2), each State shall notify in writ-  
6 ing any individual who has been convicted of a  
7 criminal offense under the law of that State that  
8 such individual has the right to vote in an election  
9 for Federal office pursuant to the Democracy Res-  
10 toration Act of 2011 and may register to vote in any  
11 such election.

12 (2) DATE OF NOTIFICATION.—

13 (A) FELONY CONVICTION.—In the case of  
14 such an individual who has been convicted of a  
15 felony, the notification required under para-  
16 graph (1) shall be given on the date on which  
17 the individual—

18 (i) is sentenced to serve only a term  
19 of probation; or

20 (ii) is released from the custody of  
21 that State (other than to the custody of  
22 another State or the Federal Government  
23 to serve a term of imprisonment for a fel-  
24 ony conviction).

25 (B) MISDEMEANOR CONVICTION.—In the  
26 case of such an individual who has been con-

1           victed of a misdemeanor, the notification re-  
2           quired under paragraph (1) shall be given on  
3           the date on which such individual is sentenced  
4           by a State court.

5           (b) FEDERAL NOTIFICATION.—

6           (1) NOTIFICATION.—On the date determined  
7           under paragraph (2), the Director of the Bureau of  
8           Prisons shall notify in writing any individual who  
9           has been convicted of a criminal offense under Fed-  
10          eral law that such individual has the right to vote  
11          in an election for Federal office pursuant to the De-  
12          mocracy Restoration Act of 2011 and may register  
13          to vote in any such election.

14          (2) DATE OF NOTIFICATION.—

15          (A) FELONY CONVICTION.—In the case of  
16          such an individual who has been convicted of a  
17          felony, the notification required under para-  
18          graph (1) shall be given on the date on which  
19          the individual—

20                  (i) is sentenced to serve only a term  
21                  of probation by a court established by an  
22                  Act of Congress; or

23                  (ii) is released from the custody of the  
24                  Bureau of Prisons (other than to the cus-



1                   tody of a State to serve a term of impris-  
2                   onment for a felony conviction).

3                   (B) MISDEMEANOR CONVICTION.—In the  
4                   case of such an individual who has been con-  
5                   victed of a misdemeanor, the notification re-  
6                   quired under paragraph (1) shall be given on  
7                   the date on which such individual is sentenced  
8                   by a State court.

9 **SEC. 6. DEFINITIONS.**

10                  For purposes of this Act:

11                   (1) CORRECTIONAL INSTITUTION OR FACIL-  
12                   ITY.—The term “correctional institution or facility”  
13                   means any prison, penitentiary, jail, or other institu-  
14                   tion or facility for the confinement of individuals  
15                   convicted of criminal offenses, whether publicly or  
16                   privately operated, except that such term does not  
17                   include any residential community treatment center  
18                   (or similar public or private facility).

19                   (2) ELECTION.—The term “election” means—

20                               (A) a general, special, primary, or runoff  
21                               election;

22                               (B) a convention or caucus of a political  
23                               party held to nominate a candidate;

1 (C) a primary election held for the selec-  
 2 tion of delegates to a national nominating con-  
 3 vention of a political party; or

4 (D) a primary election held for the expres-  
 5 sion of a preference for the nomination of per-  
 6 sons for election to the office of President.

7 (3) FEDERAL OFFICE.—The term “Federal of-  
 8 fice” means the office of President or Vice President  
 9 of the United States, or of Senator or Representa-  
 10 tive in, or Delegate or Resident Commissioner to,  
 11 the Congress of the United States.

12 (4) PROBATION.—The term “probation” means  
 13 probation, imposed by a Federal, State, or local  
 14 court, with or without a condition on the individual  
 15 involved concerning—

16 (A) the individual’s freedom of movement;

17 (B) the payment of damages by the indi-  
 18 vidual;

19 (C) periodic reporting by the individual to  
 20 an officer of the court; or

21 (D) supervision of the individual by an of-  
 22 ficer of the court.

23 **SEC. 7. RELATION TO OTHER LAWS.**

24 (a) STATE LAWS RELATING TO VOTING RIGHTS.—

25 Nothing in this Act shall be construed to prohibit the

1 States from enacting any State law which affords the right  
2 to vote in any election for Federal office on terms less  
3 restrictive than those established by this Act.

4 (b) CERTAIN FEDERAL ACTS.—The rights and rem-  
5 edies established by this Act are in addition to all other  
6 rights and remedies provided by law, and neither rights  
7 and remedies established by this Act shall supersede, re-  
8 strict, or limit the application of the Voting Rights Act  
9 of 1965 (42 U.S.C. 1973 et seq.) or the National Voter  
10 Registration Act (42 U.S.C. 1973–gg).

11 **SEC. 8. FEDERAL PRISON FUNDS.**

12 No State, unit of local government, or other person  
13 may receive or use, to construct or otherwise improve a  
14 prison, jail, or other place of incarceration, any Federal  
15 grant amounts unless that person has in effect a program  
16 under which each individual incarcerated in that person's  
17 jurisdiction who is a citizen of the United States is noti-  
18 fied, upon release from such incarceration, of that individ-  
19 ual's rights under section 3.

20 **SEC. 9. EFFECTIVE DATE.**

21 This Act shall apply to citizens of the United States  
22 voting in any election for Federal office held after the date  
23 of the enactment of this Act.

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