



CENTER FOR FAMILY POLICY AND PRACTICE

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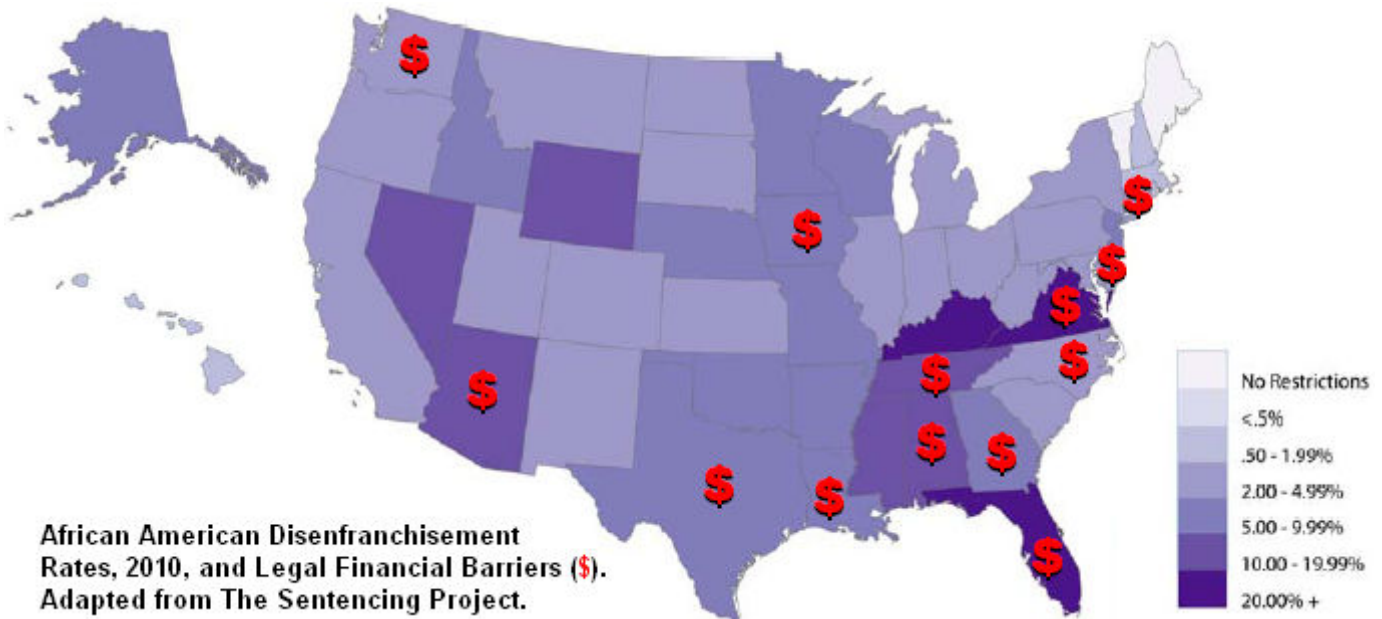
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Estimated 1.5 Million African Americans May Be Unable to Vote Due to Overlap of Felonies and Legal Financial Barriers

More than 5.85 million American citizens are prevented from voting due to felony convictions, according to new research by Christopher Uggen, Sarah Shannon, and Jeff Manza, published by The Sentencing Project. The vast majority of these people—4.38 million or 75%—are living in their communities, most having completed their sentence, and others finishing probation or parole.

African Americans are four times more likely to be barred from voting due to a felony than other people. According to *State-Level Estimates of Felon Disenfranchisement in the United States, 2010*, “1 of every 13 African Americans of voting age is disenfranchised,” compared to 1 of every 57 people who are not African American. The combined impacts of criminal justice and felony disenfranchisement policies are especially harsh for black communities in certain Southern and Western states. Between 11%-15% of black voters are disenfranchised due to a felony in Alabama, Arizona, Mississippi, and Nevada; 18%-20% in Tennessee, Virginia, and Wyoming; 22% in Kentucky; and 23.3% in Florida, about 1 of 4 black voters.

Legal financial barriers overlap with felony disenfranchisement laws, potentially preventing an estimated 1.5 million African American people from voting, according to CFFPP’s review of state policies. Such disenfranchisement policies prohibit voting until any court-imposed fines, fees, and/or restitution is paid.



African American Disenfranchisement Rates, 2010, and Legal Financial Barriers (\$). Adapted from The Sentencing Project.

Additionally, Tennessee stands out for being the only state that requires a person with a felony to also pay any court-ordered child support owed before being able to regain the right to vote. The following are the 13 states that restrict voting based on the payment of legal financial obligations:

- **Alabama** – Must pay all fines, court costs, fees and restitution. People convicted of murder, treason, and certain sexual crimes may not regain the right to vote.
- **Arizona** – Must pay all fines and restitution. If it is not a person’s first felony incarceration, there is also a two-year waiting period.
- **Connecticut** – Must pay all fines.
- **Delaware** – Must pay all fines, followed by a five-year waiting period. People convicted of certain violent, sexual, or public-administration crimes may not regain the right to vote.
- **Florida** – Must pay all fines, fees, and restitution. Procedures were toughened in 2011, and now include a five- to seven-year waiting period before a person may apply for executive clemency.
- **Georgia** – Cannot vote until “completion of the sentence” which may include financial penalties.
- **Iowa** – Must pay all legal financial obligations.
- **Louisiana** – Probation can be extended if criminal justice debts are not paid.
- **North Carolina** – Probation can be extended if criminal justice debts are not paid.
- **Tennessee** – Must pay all court-ordered restitution and child support. People convicted of certain violent and sexual crimes, treason and voter fraud may not regain the right to vote.
- **Texas** – Cannot vote until sentence “fully discharged,” which may include financial penalties.
- **Virginia** – Must pay all fines and restitution, then there is a two- to five-year waiting period.
- **Washington** – Must stay current on fine payments or prosecutor may revoke voting rights.

At least eight states also disenfranchise people who are in jail for misdemeanor crimes, including: Illinois, Indiana, Kentucky, Michigan, Missouri, South Carolina, and South Dakota. Additionally, two states— Iowa and West Virginia—and the District of Columbia prohibit people from voting for misdemeanors that are either more serious or related to elections and lobbying.

In stark contrast to the above policies, two states—Maine and Vermont—do not restrict the voting rights of people with criminal convictions in any way, allowing people in state prison to vote by absentee ballot. Such laws that strongly protect a person’s voting rights are typical in many other democratic countries, such as Australia, Canada, France, Japan and Germany.

Other national organizations that are fighting for the voting rights of people with criminal convictions include the American Civil Liberties Union (ACLU), the Brennan Center for Justice, the League of Women Voters, and the National Association for the Advancement of Colored People (NAACP), with recent advocacy and reform efforts in Delaware, Florida, Kentucky, Tennessee, and Virginia.

Sources:

Bannon, Alicia, Mitali Nagrecha, and Rebekah Diller, “Criminal Justice Debt: A Barrier to Reentry,” The Brennan Center for Justice, http://www.brennancenter.org/content/resource/criminal_justice_debt_a_barrier_to_reentry/
Institute for People With Criminal Records, “Felons Voting,” <http://peoplewithcriminalrecords.com/>
ProCon.org, “State Felon Voting Laws,” <http://felonvoting.procon.org/view.resource.php?resourceID=286>
The Sentencing Project, “Felony Disenfranchisement Laws in the United States,” August 2012, http://www.sentencingproject.org/doc/publications/publications/fd_bs_fdlawsinus_Sep2012.pdf

Child Support Guidance Highlights Conflict Between Social Service Needs and Due Process Rights

Policymakers face a dilemma: How to compel low-income parents to comply with programs that may increase their ability to pay child support, but without violating their constitutional rights to due process protections when they face the possibility of jail time. So-called “jobs not jail” programs, offering employment and other services as an “alternative to incarceration,” use the threat of civil contempt and jail to coerce parents who owe child support into compliance. But parents’ unaddressed needs—such as unemployment, drug abuse, lack of transportation and housing—prevent many from being able to comply with the court’s child support order, and can result in an inability to pay that should protect parents from facing a civil contempt action in the first place.

Recent publications from the federal Office of Child Support Enforcement (OCSE) highlight the conflict between policy recommendations that aim to protect parents’ due process rights while simultaneously promoting programs that threaten parents with civil contempt and jail time. An OCSE Action Transmittal, titled *Turner v. Rogers Guidance* (June 18, 2012), states that:

...programs are urged to screen cases *before* referring, initiating, or litigating any civil contempt action for non-payment of support that could lead to incarceration ... [and that] contempt action should only be initiated in these cases where there is evidence of the noncustodial parent’s *ability to comply* with the underlying child support order *and* evidence that there is *actual and present ability to pay* the purge amount ordered. [Emphasis added.]

In other words, if a parent has unaddressed needs that prevent either their ability to comply or their ability to pay, then the child support enforcement program should not pursue civil contempt, even if this is the only legal mechanism available to coerce participation in social services. For CFFPP’s in-depth analysis, please see *OCSE Guidance on the Turner v. Rogers Decision*:

http://cffpp.org/briefs/turner_guidance.pdf

An article in OCSE’s *Child Support Report* (August 2012), illustrates how the conflict between parents’ due process rights and the court’s authority plays out in a program using civil contempt to compel parents to participate in social services. The article profiles two parents—so-called “child support offenders”—who were “ordered...to participate” in the Children First Program in Bexar County (San Antonio), Texas. According to the article, both parents “faced many obstacles”—meaning unaddressed basic needs and health issues—such as unemployment, drug abuse, serious mental illness, and a lack of housing and transportation. On its face, such evidence demonstrates that neither parent had an ability to comply with the court’s order to pay child support. Regardless of this, the court found each parent to be in contempt and sentenced them to jail, but allowed them to remain at liberty in the community as long as they participated in the Children First Program’s social services.

Applying OCSE’s guidance regarding the use of civil contempt, parents who have unaddressed basic needs and health issues that prevent either their ability to comply with or pay a child support order should not be threatened with contempt and jail time. Therefore, the challenge for policymakers is how to address the basic human needs of such parents for economic and health security—both for themselves as well as their children and families—while also respecting their constitutionally protected rights to liberty.

Fatherhood Program Survey Reveals Shift Away From Economic Security

The Center for Research on Fathers, Children and Family Well-Being has just published a survey of fatherhood programs: *Tossed on a Sea of Change: a Status Update on the Responsible Fatherhood Field*, by Serena Klempin and Ronald Mincy. The survey found that: fatherhood programs now typically focus on parenting rather than economic security; there is tension between serving low-income fathers versus middle-income fathers; and that programs are typically run by large social-service agencies but funding is highly unstable. The survey collected information from 12 experts in policy, practice, and research; 28 state-run agencies; and 100 local organizations providing fatherhood services.

The survey revealed tension between programs that address fathers' basic needs and "barriers" to economic security, versus programs focused on parenting issues and skills, the so-called "core of the fatherhood field." Only about half of the surveyed programs offered employment services or child support assistance, compared to 90% that offered parenting services. The shift away from economic security is emphasized by the fact that only 5% of the programs have a primary focus on employment and economic stability. Furthermore, although 94% of the programs serve low-income fathers, the majority, 57%, also serve middle-income fathers. It is possible that agencies providing fatherhood services are shifting toward middle-income fathers because these men have fewer basic needs and barriers to address and may also be able to pay fees for services.

The survey also found large differences between the multi-service agencies that typically offer fatherhood programs and the much smaller agencies that specialize in fatherhood. "[T]he typical agency is a large family or general human service agency with a budget over \$1 million that... has been in existence over 20 years," and about a third had received a federal fatherhood grant at some point. In contrast, agencies that primarily focus on fatherhood services typically had much smaller budgets of \$50,000 or less, were only 5 to 10 years old, and almost none had ever received a federal grant. According to the survey, "funding for fatherhood programs remains, as it has historically been, highly unstable" due to an "increasing reliance on a limited number of federal funding sources." Furthermore, "funding instability puts the field at continual risk of losing human capital, raising significant concerns about who will teach the next generation of fatherhood practitioners and leaders."

To read *Tossed on a Sea of Change*, please visit the CRFCFW website at: <http://crfcfw.columbia.edu/>

Mission Statement: The mission of the **CENTER FOR FAMILY POLICY AND PRACTICE (CFFPP)** is to strengthen society through the expansion of opportunities for low-income parents – mothers and fathers – to protect and support their children. CFFPP operates as a policy think tank to remove the unique barriers and negative public perceptions that affect low-income men of color. Through technical assistance, policy research and analysis, and public education and outreach, CFFPP works to support low-income families and develop public awareness of their needs.

Contact Us: If you would like to share comments, questions, ideas for future briefing topics, or to sign up for our email list, please contact Nino Rodriguez, Program and Policy Specialist, at nrodriguez@cffpp.org, or visit the CFFPP website at: <http://www.cffpp.org/emailupdates.php>

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