

Post-Conviction Actions Task Force Agenda

Tuesday, July 10, 2018; 10:30 a.m. – 3:00 p.m.
Conference Room 345 A/B
State Courts Building, 1501 W. Washington, Phoenix, AZ 85007
Established by A.O. No. 2018-52

Time	Agenda Item	Presenter
10:00 a.m.	Welcome and Introductions	<i>Jerry Landau, Chair</i>
10:15 a.m.	Report from the Juvenile Adjudication Set Aside Workgroup <i>□ ACTION ITEM/VOTING</i>	<i>Judge Kathleen Quigley, Chair</i>
11:45 a.m.	<i>Lunch break (\$5.00)</i>	
12:30 p.m.	Restoration of Civil Rights Workgroup	<i>Judge Sam Myers, Chair</i>
2:30 p.m.	Discuss A.R.S. § 13-907 and Rule 29 Set Aside	<i>Tom O’Connell, Chair</i>
2:45 p.m.	Good of the Order/Call to the public	<i>Jerry Landau</i>
3:00 p.m.	Adjournment	

Next Meeting:

Thursday, September 13, 2018
10:00 a.m. to 3:00 p.m.

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ESTABLISHMENT OF THE) Administrative Order
POST-CONVICTION ACTIONS) No. 2018 - 52
TASK FORCE AND APPOINTMENT)
OF MEMBERS)
_____)

Administrative Order No. 2017-120 was entered on November 1, 2017. The Order extended the term of the Task Force on Fair Justice for All (Task Force) through June 30, 2018 to study and make recommendations regarding court-ordered fines, penalties, fees, and pretrial release policies.

The Post-Conviction Actions Subcommittee, a subcommittee of the Fair Justice for All Task Force, continues to examine issues that may result in proposed legislation and rule changes, and anticipates proposing legislation to be considered by the Arizona Judicial Council and filing a rule petition by January 10, 2019. The Task Force would thereafter review and respond to comments during the 2019 rule cycle.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED:

1. ESTABLISHMENT: The Post-Conviction Actions Task Force is established.
2. PURPOSE: The Task Force shall review and respond to comments during the 2019 rule cycle following the completion of the Fair Justice for All Task Force on June 30, 2018. The Task Force shall further consider proposed amendments to statute and rule relating to the setting aside of criminal convictions, restoration of civil rights, and the setting aside and disposition of records of juvenile adjudications.
3. MEMBERSHIP: The individuals listed in Appendix A are appointed as members of the Task Force effective July 1, 2018 and ending June 30, 2019. The Chair may appoint additional members as necessary.
4. MEETINGS: Task Force meetings shall be scheduled at the discretion of the Chair. All meetings shall comply with the Arizona Code of Judicial Administration § 1-202: Public Meetings.

5. STAFF: The Administrative Office of the Courts shall provide staff for the Task Force and shall assist the Task Force in developing recommendations and preparing any necessary report and petitions.

Dated this 5th day of June 2018.

SCOTT BALES
Chief Justice

APPENDIX A

POST-CONVICTION ACTIONS TASK FORCE

Chair - Jerry Landau, Director of Government Affairs, AOC

Members:

Ms. Julie Ahlquist
Maricopa County Sheriff's Office

Mr. Donald Jacobson
AOC – Court Services Division

Mr. Kurt M. Altman
Right on Crime

Mr. Mikel Steinfeld
Maricopa County Public Defender's Office

Mr. Alex Benzra
Attorney

Mr. Jeremy Mussman
Maricopa County Public Defender's Office

Ms. Cathy Clarich
AOC – Court Services Division

Honorable Samuel Myers
Superior Court in Maricopa County

Ms. Colleen Clase
Arizona Voice for Crime Victims

Mr. Aaron Nash
Superior Court in Maricopa County

Ms. Kirstin Flores
Office of the Attorney General

Mr. Tom O'Connell
AOC – Adult Probation Division

Mr. Jeremy Ford
Greenlee County Attorney's Office

Honorable Antonio F. Riojas
Tucson City Court

Ms. Mirisue Galindo
Department of Public Safety

Ms. Lisa Royal
Pima County Consolidated Justice Court

Mr. Will Gaona
American Civil Liberties Union of Arizona

Mr. Leonard Ruiz
Maricopa County Attorney's Office

Mr. Ryan Glover
Glendale City Prosecutor's Office

Honorable Keith Russell
East Mesa Justice Court

Honorable John Hudson
Gilbert Municipal Court

Ms. Amber Sliwinski
Department of Public Safety

Ms. Sandra Hunter
City of Phoenix Law Department

Ms. Kathy Waters
AOC – Adult Probation Division

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 1: Judicial Branch Administration
Chapter 2: Operations
Section 1-202: Public Meetings

A. Policy. To promote openness in government by assuring that the public has an opportunity to attend the meetings of all public councils of the supreme court and the Administrative Office of the Courts (AOC) while providing flexibility to close meetings when necessary.

B. Definitions. In this section, the following definitions apply:

“Public council” means any council, commission, board or committee established by administrative order that includes any public members or members who are judges or employees of different courts or established by a statute that provides for the supreme court to appoint members and adopt rules.

“Meeting” means gathering of the majority of the members of a public council whether in person or electronically for the purpose of discussing or conducting public council business other than an adjudicatory hearing conducted by a public council.

“Legal advice” means communication to the public council by an attorney employed by or representing any Arizona court regarding facts and information that have legal ramifications, the legality of various legal options, a recommended course of action and response to any questions about the communication.

C. Procedures.

1. Meeting Notice.

a. Posting. Public council staff shall post meeting notices in the state courts building in a public area and on the Arizona Supreme Court internet site maintained by the Administrative Office of the Courts at least 48 hours prior to a meeting. Public council staff shall send additional notice of a meeting held in a county other than Maricopa to the clerk of the court of that county for posting at each location of the superior court in that county at least 48 hours in advance of the meeting. Notice of an emergency meeting shall be provided in these locations as soon as possible after the meeting location, time and agenda are established.

b. Content. A notice shall identify the public council and the date, time and location of the meeting, specifying the name of the building, street address and room number where the meeting is located. The notice shall identify a person or an office to contact to obtain a copy of the meeting agenda. The notice shall include the following statement: "Persons with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting (name of contact person) at (address, telephone, text telephone number). A person requesting an

accommodation should make the request as early as possible to allow time to arrange the accommodation. (See sample notice, Appendix 1.)

2. Meeting Agenda.

- a. Availability. The contact person for the public council identified in the meeting notice shall have the agenda available at least 48 hours prior to the meeting for distribution in response to requests from the public.
- b. Content. The meeting agenda shall state each item to be addressed. The agenda shall also state, without breaching confidentiality, the general subject of an executive session and the specific provision of this section that authorizes the executive session.
- c. Adherence. All public councils shall adhere to the published meeting agenda unless by majority vote the council determines:
 - (1) Deviation from the agenda is necessary to address a matter that the public council and staff could not have reasonably anticipated, and
 - (2) Delaying the matter until the next meeting would be detrimental to the work of the public council and the interests of the public, and
 - (3) Addressing the matter without public notice would not significantly impair public awareness of the matter.

3. Public Comment. All agendas shall include a "Call to the Public" provision prior to meeting adjournment. The chair of the public council shall announce the opportunity for public comment regardless of whether a member of the public is in attendance or has expressed any desire to comment. The chair may impose reasonable time, place and manner limitations upon meeting participants including setting time limits, banning repetition and prohibiting profanity and disruptive behavior.

4. Public Access to Meetings. The public shall be permitted to attend meetings and listen to deliberations of public councils except as provided in subsection 5 below. The chair may permit public comment, other than during the call to the public, as appropriate. Public council staff shall schedule meetings in locations reasonably accessible to the public, including persons with disabilities, in rooms large enough to accommodate anticipated public attendance.

5. Executive Sessions. Upon a call by the chair or a majority vote of the members constituting a quorum, a public council may hold an executive session but only for the purposes stated below. The chair shall announce the general subject of the executive session and the specific provision of this rule authorizing the executive session without breaching confidentiality. Attendance shall be limited to members of the public council and additional persons whose presence is reasonably necessary for the public council to perform its executive session responsibilities. An executive session may be held for any of the following purposes:

- a. Discussion or consideration of hiring, assignment, appointment, job performance, promotion, demotion, dismissal, salary, discipline, resignation, ethical misconduct or alleged criminal conduct of a public officer, appointee or employee of the Arizona judiciary;
- b. Discussion or consideration of records or matters made confidential or privileged by statute, court rule or this code;
- c. Discussion or consultation with an attorney employed by or representing any judicial entity regarding legal advice, potential litigation or pending litigation;
- d. Discussion or consultation with officers, appointees or employees of the judiciary regarding negotiations for the purchase or lease of real property or for contracting for goods or services;
- e. Discussion or consideration of court security or emergency response;
- f. Discussion or consultation regarding relations with other governmental entities; or
- g. Discussion or consultation in order to consider the position of the public council and to inform staff regarding the position of the public council regarding proposed or pending legislation.

D. Meeting Minutes.

1. Content. Public council staff shall keep meeting minutes, in writing or on tape that include:
 - a. The meeting date, time and place;
 - b. The members attending;
 - c. The matters considered;
 - d. The results of all votes taken; and
 - e. The names of all persons who address the public council.
2. Availability. The contact person identified for each public council shall make the minutes available for public inspection, as soon as practicable but no more than 20 working days after the meeting.
3. Executive sessions. Executive session minutes shall identify persons present and include any instructions given by the public council. Persons present shall keep executive session discussions and minutes confidential except from personnel of the Arizona judiciary who

require access to perform their duties and other persons authorized by law. The chair shall instruct persons who are present at an executive session regarding these confidentiality requirements.

E. Noncompliance.

1. Remedial Measures. All public council chairs and staff persons shall comply with the provisions of this policy as one of the duties of their positions. If noncompliance is discovered, the chair of the public council, chief justice or administrative director shall take reasonable measures consistent with this code to bring the public council into compliance. Such measures may include reconsideration of a matter at a subsequent meeting.
2. Validity. Failure to comply with this code in any respect shall not be a basis for invalidation of any action of a public council.

Adopted by Administrative Order 2002-22 effective March 7, 2002. Amended by Administrative Order 2007-84, effective November 21, 2007.

Section 1-202: Public Meetings

APPENDIX 1

NOTICE OF MEETING

The (name of public council) will hold a meeting on the (date) of (month) 20- .

at

(location)

The meeting will begin at (time) o'clock (am/pm)

An agenda of the items to be considered, discussed, or decided may be obtained from the Administrative Office of the Courts, Arizona Supreme Court, 1501 West Washington, Phoenix, Arizona 85007 at least 24 hours in advance of the meeting. Agendas will be available between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Persons with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting (name of contact person) at (address, phone, text telephone number). A person requesting an accommodation should make the request as early as possible to allow time to arrange the requested accommodation.

**INSTRUCTIONS FOR SEALING OF JUVENILE RECORDS, SETTING
ASIDE ADJUDICATION/RESTORATION OF RIGHT TO POSSESS A
GUN**

1. Read all materials prior to filing to determine if you meet the requirements for the request you are making.
2. Complete the affidavit and application form **legibly**.
3. Sign the application. It does **NOT** have to be notarized.
4. **You must file the original and two (2) copies** of the affidavit and application with the Clerk of the Court, (INSERT ANY SPECIFIC COUNTY INFORMATION)

The County Attorney shall be served with a copy of the application for Sealing of juvenile records and has up to 90 days within which to file an objection to the destruction of your juvenile records. **The Clerk of the Court will serve the County Attorney.**

(YOUR INDIVIDUAL COUNTY INFORMATION HERE: Example - Copies can be purchased from the Clerk of the Court for 50 cents per page.)

5. Make or purchase a copy of the affidavit and application before filling if you want one for **your** records.
6. Police Agency to be notified: Please list the law enforcement agency that referred you to juvenile court: (list agencies in your county).

**SUPERIOR COURT OF ARIZONA IN (INSERT COUNTY), JUVENILE
COURT
LEGAL REQUIREMENTS**

SEALING OF JUVENILE RECORDS

A.R.S. § 8-349 (B)

If you are 18 years old or older (19 if Juvenile Court retained jurisdiction under A.R.S. 8-202), you may apply for destruction of Juvenile Court and Arizona Department of Juvenile Corrections delinquency records *IF*

- The records concern a referral or citation that did not result in further action; **OR**
- Your case resulted in diversion, placement in a community based alternative program; **OR**
- An adjudication of delinquency as identified below.

In your affidavit and application, you must certify under oath that **ALL** of the following are true:

- You are at least 18 years of age, **OR** I am at least 19 years of age where the Juvenile Court retained jurisdiction under A.R.S. § 8-202
- A criminal charge is not pending against you in adult court
- You successfully completed diversion
- You have completed all of the condition of your juvenile-court ordered probation, or received a discharge from the Arizona Department of Juvenile Corrections pursuant to A.R.S. § 41-2820 on successful completion of your individualized treatment plan
- All restitution and monetary assessments have been paid in full. If restitution has not been paid, all of the following must be true:
 - Extenuating circumstances exist for incomplete payment; **AND**
 - Sealing the records is in the interests of justice.
- You have not been convicted of a felony offense (in an adult court) or adjudicated delinquent (in juvenile court) for an offense listed in A.R.S. 13-501 subsection A or B (see below) or Title 28 Chapter 4 (driving under the influence).

Offenses included in A.R.S. § 13-501(A)		Offenses included in A.R.S. § 13-501(B)
13-1105	First Degree Murder	<ul style="list-style-type: none"> • Any Class 1 Felony • Any Class 2 Felony
13-1104	Second Degree Murder	

13-1406	Forcible Sexual Assault	<ul style="list-style-type: none"> • A Class 3 Felony in violation of any offense in chapter 10-17, 19 or 23 of title 13. (Includes most crimes <i>except</i> theft, forgery and fraud.) • A Class 3, 4, 5, or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument • Any felony offense committed by a chronic felony offender
13-1904	Armed Robbery	
13-1204(A)(1)	Aggravated Assault: Serious Injury	
13-1204(A)(2)	Aggravated Assault: Deadly Weapon	
13-1209	Drive by Shooting	
13-1211	Discharging a firearm at a structure	
Any felony offense committed by a chronic felony offender		

SEALING OF JUVENILE RECORDS

A.R.S. §8-349 (D)

If you are 21 years of age or older but could not apply for the sealing of juvenile records under A.R.S. § 8-349(B) (above), you may apply for destruction of Juvenile Court and Arizona Department of Juvenile Corrections delinquency records as identified below.

In your affidavit and application, you must certify under oath that ***ALL*** of the following are true:

- You are at least 21 years of age.
- You have not been convicted of a felony offense in an adult court.
- A criminal charge is not pending against you in an adult court
- All restitution and monetary assessments have been paid in full. If restitution has not been paid, all of the following must be true:
 - Extenuating circumstances exist for incomplete payment; ***AND***
 - Sealing the records is in the interests of justice.
- You are not required to register as a sex offender under A.R.S. § 13-3821, ***OR***
- You were required to register as a sex offender under A.R.S. § 13-3821, but the Juvenile Court Judge relieved you of the responsibility to register under A.R.S. § 13-3826.

Offenses that require the offender to register as a sex offender under A.R.S. § 13-3821

13-1303	Unlawful imprisonment	13-3552	Commercial sexual exploitation of a minor
13-1304	Kidnapping if victim is under 18	13-3553	Sexual exploitation of a minor
13-1404	Sexual Abuse if victim is under 18	13-1402	Luring a minor for sexual exploitation
13-1405	Sexual conduct with a minor	13-1402	A second or subsequent violation of indecent exposure to a person under 15.
13-1406	Sexual assault	13-1403(B)	A second or subsequent violation of public sexual indecency to a minor under the age of fifteen years
	Sexual assault of a spouse if the offense was committed before August 12, 2005	13-1402	A third or subsequent violation of indecent exposure
13-1410	Molestation of a child	13-1403	A third or subsequent violation of public sexual indecency
13-1417	Continuous sexual abuse of a child	13-3822 or 13-3824	Failure to register as a sex offender or failure to register address.
13-3206	Taking a child for the purpose of prostitution		Unlawful age misrepresentation
13-3212(A) or (B) ¶1 or ¶2 committed before August 9, 2017	Child prostitution	13-3560	Aggravated Luring a minor for sexual exploitation
13-3212(A) or (B) ¶1 or ¶2 committed before August 9, 2017	Child sex trafficking		

SETTING ASIDE ADJUDICATIONS A.R.S. § 8-348

If you are at least 18 years of age, or are at least 19 years of age where the Juvenile Court retained jurisdiction under A.R.S. § 8-202, and you have been adjudicated delinquent or incorrigible, and have fulfilled the conditions of probation and discharge that were ordered by the juvenile court or discharged from the department of juvenile corrections pursuant to § 41-2820 on successful completion of your individual treatment plan, you may apply to set aside the adjudication.

You are **NOT** eligible to apply to set aside the adjudication if you were adjudicated delinquent for any of the following offenses:

- An offense involving the infliction of serious physical injury
- An offense involving the use or exhibition of a deadly weapon or dangerous instrument.
- An offense in violation of title 13, chapter 14 (sexual offenses)
- An offense in violation of section 28-1381 (Driving under the influence), 28-1382 (driving under the extreme influence), 28-1383 (aggravated driving under the influence): or 28-3473 (driving on a suspended license).
- A traffic violation under title 28, chapter 3 (various traffic offenses—See 8-348(D)(5)).

In the affidavit and application, you must certify under oath that **ALL** of the following are true:

- You are at least 18 years of age **OR** you are at least 19 years of age where the Juvenile Court retained jurisdiction under A.R.S. § 8-202
- The offense was not in violation of the above stated statutes
- You have not been convicted of a criminal offense in an adult court
- You do not have a criminal charge pending in an adult court
- You have completed all of the conditions of your court ordered probation or received a discharge from the Arizona Department of Juvenile Corrections upon successful completion of your individualized treatment plan
- All restitution and monetary assessments you (not what your parent/guardian) were ordered to pay, have been paid in full.

RESTORATION OF RIGHT TO POSSESS A GUN
A.R.S. § 13-912.01

You may apply for the restoration of your civil right to carry a gun or firearm as set forth below:

In the affidavit and application, you must certify under oath that *ONE* of the following is true

- If you were adjudicated delinquent for a dangerous offense under A.R.S. §13-704, a serious offense as defined in A.R.S. § 13-706, burglary in the first degree, burglary in the second degree, or arson, you must certify that you have reached age 30
 - A dangerous offense under A.R.S. § 13-704 means “an offense involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another person (see A.R.S. § 13-105(13)).
 - Serious offense under A.R.S. § 13-706 include: first degree murder, second degree murder, manslaughter, aggravated assault resulting in serious physical injury or involving the discharge, use, or threatening exhibition of a deadly weapon or dangerous instrument, sexual assault, any dangerous crime against children, arson of an occupied structure, armed robbery, burglary in the first degree, kidnapping, or sexual conduct with a minor under 15 years of age, and child prostitution

If you were adjudicated delinquent for any other felony offense with a date of offense on or after July 17, 1994, you must certify that it has been two years since you were discharged from probation after being adjudicated de

I request my juvenile records be sealed (including Arizona Department of Juvenile Corrections records) pursuant to A.R.S. § 8-349(B) and state that all of the following are true:

- I am at least 18 years of age **OR** I am at least 19 years of age where the Juvenile Court retained jurisdiction under A.R.S. § 8-202; **AND**
- I have not been convicted of a felony offense (in an adult court) or adjudicated delinquent (in juvenile court) for an offense listed in A.R.S. § 13-501 subsections A or B or Title 28 (*See* handout for description of the offenses contained in these statutes)
- A criminal charge is not pending against me in an adult court; **AND**
- I successfully completed diversion and/or my referral to juvenile court did not result in the filing of a petition or my participation in the diversion program **OR**
- I have successfully completed all of the conditions of court-ordered probation, **OR**
- I have received an absolute discharge from the Arizona Department of Juvenile corrections pursuant to A.R.S. § 41-2820 on successful completion of my individualized treatment plan; **AND**
- All restitution and monetary assessments I was ordered to pay, have been paid in full; **OR**
- If restitution has not been paid, I certify all of the following are true:
 - Extenuating circumstances exist for incomplete payment; **AND**
 - Sealing the records is in the interests of justice.

OR

I request my juvenile records be sealed (including Arizona Department of juvenile Corrections records) pursuant to A.R.S. § 8-349(D) and state that all of the following are true:

- I am at least 21 years of age; **AND**
- I have not been convicted of a felony offense (in adult court); **AND**
- A criminal charge is not pending against me in an adult court; **AND**
- I am not required to register pursuant to section A.R.S. § 13-3821 (see handout); **AND**
- All restitution and monetary assessments I was ordered to pay have been paid in full. **OR**
- If restitution has not been paid, I certify all of the following are true:
 - Extenuating circumstances exist for incomplete payment; **AND**
 - Sealing the records is in the interests of justice.

SETTING ASIDE ADJUDICATION, A.R.S. § 8-348 AND RESTORATION OF RIGHT TO POSSESS A GUN, A.R.S. § 13-912.01

Pursuant to A.R.S. § 8-348, I request the Court to set aside the adjudication on the petition(s) filed on _____ and that I be released from all penalties and disabilities including the right to possess a gun resulting from that/those adjudication(s), except those imposed by the Department of Transportation

pursuant to A.R.S. §§ 28-3304, 28-3306, 28-3307, or 28-3308. (Note: You must enter a specific date. Requests for the Court to set aside “ALL” adjudications will be denied.)

- I am at least 18 years of age **OR** I am at least 19 years of age where the Juvenile Court retained jurisdiction under A.R.S. § 8-202; **AND**
- The offense was not in violation of statutes identified in A.R.S. § 8-348(D) (i.e., an offense involving: the infliction of serious physical injury or use or exhibition of a deadly weapon or dangerous instrument as defined in A.R.S. § 13-105; an offense in violation of title 13, chapter 14; specific offenses under title 28 or title 28, chapter 3); **AND**
- I have not been convicted of any criminal offense in an adult court; **AND**
- I do not have a criminal charge pending in an adult court; **AND**
- I have successfully completed all of the conditions of my court-ordered probation or I have received an absolute discharge from the Arizona Department of Juvenile Corrections pursuant to A.R.S. § 41-2820 on successful completion of my individualized treatment plan; **AND**
- All restitution and monetary assessments which I was ordered to pay, have been paid in full.

I request the court restore my civil right to carry or possess a gun or firearm pursuant to A.R.S. § 13-912.01. The statement checked below is true and accurate (choose only ONE).

- I was adjudicated for a felony offense and it has been at least two years since I was discharged from probation. I have not been adjudicated delinquent for a dangerous offense under A.R.S. § 13-704, a serious offense as defined in A.R.S. § 13-706, burglary in the first degree, burglary in the second degree, or arson. A.R.S. § 13-912.01(B)

OR

- I am thirty years of age or older and was adjudicated delinquent for a dangerous offense under section A.R.S. § 13-704 or a serious offense as defined in ARS 13-706, burglary in the first degree, burglary in the second degree or arson. A.R.S. § 13-912.01(C).

REQUEST FOR HEARING

- I have extenuating circumstances that prevented full payment of restitution. I request a hearing so the court may consider the extenuating circumstances.**

I certify under the penalty of perjury that the foregoing information is true and correct to the best of my knowledge and belief.

Signature

Date

RECOMMENDATIONS OF THE JUVENILE ADJUDICATION SET ASIDE WORKGROUP

Jurisdiction Beyond 18/19 Years of Age

Create a statute or rule to give juvenile courts jurisdiction beyond 18/19 years of age to address whether undesignated felonies should be designated as misdemeanors. As the law stands, the juvenile court loses jurisdiction once the youth reaches the age of majority (and with the new law we will lose jurisdiction for some youth at age 19.)

Statutory Amendments

- 1. Eliminate A.R.S. § 13-912.01(A)** for accuracy and conformity with the law. Subsection (A) should be stricken in its entirety because according to A.R.S. §31-2101(A)(7)(b), only felony adjudications result in the loss of the right to possess a deadly weapon. As (A) reads currently, it implies misdemeanor adjudications are also included. This is likely left over from the previous law that required the loss of a right to possess a deadly weapon for *any* adjudication.
- 2. Consider Amending A.R.S. § 13-912.01 (C):** Should juveniles be able to apply for restoration of the right to possess or carry a gun at 30 years of age, or like adults, wait until ten years after the date of discharge from probation. (A.R.S. § 13-905) See chart below?

Type of prosecution	Juvenile	Adult	
		Prison	Probation
Felony	ARS 13-912.01(C): Two years from date of discharge	ARS 13-906(B): 2 years after discharge from prison	ARS 13-905: Upon completion of probation
ARS 13-704 "dangerous offense"	ARS 13-912.01(C): Age 30	ARS 13-906(C): Never	ARS 13-905(C): Never
ARS 13-706 "serious offense"	ARS 13-912.01(C): Age 30	ARS 13-906(C): 10 years after discharge from prison	ARS 13-905(C): 10 years after discharge from probation

13-912.01. Restoration of civil rights; person's adjudicated delinquent

~~A. A person who was adjudicated delinquent and whose period of probation has been completed may have the right to possess or carry a gun or firearm restored by the judge who discharges the person at the end of the person's term of probation.~~

~~B.~~ A. A person who was adjudicated delinquent and who has been discharged from probation, on proper application, may have the right to carry or possess a gun or firearm restored by the judge of the juvenile court in the county where the person was adjudicated delinquent or the judge's successors. The clerk of the superior court shall process the application on the request of the person involved or the person's attorney. The applicant shall serve a copy of the application on the county attorney.

~~C.~~ B. If the person's adjudication was for a dangerous offense under section 13-704, a serious offense as defined in section 13-706, burglary in the first degree, burglary in the second degree or arson, the person may not file for the restoration of the right to possess or carry a gun or firearm until the person attains **thirty years of age**. If the person's adjudication was for any other felony offense, the person may not file for the restoration of the right to possess or carry a gun or firearm for two years from the date of the person's discharge.

Rule Amendments

1. Amend A.C.J.A. §3-402 regarding Superior Court Records Retention and Disposition Schedule to set retention of Delinquency Records available through the juvenile court for 60 years from the date the case was filed. (*See* Cover sheet and retention schedule changes.)
2. Develop a process for presumptive record sealing for youth who qualify upon reaching the age of majority, including diversion cases. This process has more complexities and would likely require a separate group to work on this with representation from each county (judge, probation, county attorney, clerk and defense). Joe Kelroy obtained a process from California that could be considered if a workgroup is established.

Training and Tools for Juvenile Judicial Officers

1. Train juvenile court judicial officers to inform juveniles of the loss of a right to possess a deadly weapon during a plea agreement when the youth is admitting to a felony and at disposition.
2. Develop a form of notice advising of the loss of the right to possess a deadly weapon following an adjudication for a felony, similar to the Notice of First/Second Felony Adjudication. The form should include a notice to youth to advise them of what to do upon turning 18/19 re: sealing of records, set aside and restoration of rights. *See* A.R.S. §8-348 which requires the court or ADJC is required to "...inform the person of this right at the time of discharge." Makes sense that we consider doing this across the board.
3. Train juvenile court judicial officers on Arizona Department of Juvenile Corrections (ADJC) requirements for successful discharge. If a youth is committed to the ADJC close in time to his/her 18th birthday, no matter how engaged the youth may be in treatment at ADJC, he or she may not have sufficient time to achieve successful completion and discharge. This timing renders him or her inelligible to seek to have his/her juvenile records sealed, have any adjudication(s) set aside or restore the right to possess a deadly weapon.

4. Advise juvenile court judicial officers and courtroom clerks to include challengerequests@azdps.gov in the distribution list regarding reverse transfer orders.

Basis for this Request: When juveniles are arrested and referred for prosecution as an adult, they are fingerprinted. The juvenile's fingerprints are entered into the DPS "adult" database. When the youth is reverse transferred to Juvenile Court, DPS has no way of knowing and will maintain those fingerprints in the "adult" file thereby providing access during inquiries from agencies who do background checks for licenses, etc. Juvenile prints are not subject to those same inquiries and when a case is reverse transferred, the minor's prints should be removed from the DPS database. By including this email address on the distribution list for the MEO on the reverse transfer order, the prints will be removed from the adult database. If this process is not implemented, DPS will never know to remove the prints and those prints will be subject to records requests which may have an unintended negative impact on that individual later in life.

Next Steps:

The responsible individuals within the workgroup will finalize edits/recommendations from the June 18th meeting and work with Kathy to finalize any edits. The revised drafts will be sent to the workgroup via email along with the recommendations we identified for the Post Convictions Task Force. The members of the workgroup will be asked to review the newly revised drafts and the recommendations for the Post Convictions Task Force committee and provide comments. Following that, it will be determined whether we need further meetings.

1. No further changes to proposed ARS § 8-348.
2. Change proposed ARS § 8-349(J) to add language to last sentence. "...and held by the Department of Child Safety."
3. Form – "Probation Supervision History Report for Sealing Record" (Joe and Jennifer). Should we recommend this be implemented statewide?
4. Form – "Instructions for Sealing of Juvenile Records, Setting Aside Adjudication, and Restoration of Right to Possess a Gun" (Judge Quigley)
5. Form – "Application for Sealing of Juvenile Records, Setting Aside Adjudication, and Restoration of Right to Carry Gun" (Judge Quigley)

8-348. Setting aside adjudication; application; release from disabilities; exceptions

A. Except as provided in subsections C and D of this section, a person who is at least eighteen years of age, who has been adjudicated delinquent or incorrigible and who has fulfilled the conditions of probation and discharge ordered by the court or who is discharged from the department of juvenile corrections pursuant to section 41-2820 on successful completion of the individual treatment plan may apply to the juvenile court to set aside the adjudication. The court or the department of juvenile corrections shall inform the person of this right at the time the person is discharged. The person or, if authorized in writing, the person's attorney, probation officer or parole officer may apply to set aside the adjudication. A copy of the application shall be served on the prosecutor.

B. If the court grants the application, the court shall set aside the adjudication and shall order that the person be released from all penalties and disabilities resulting from the adjudication except those imposed by the department of transportation pursuant to section 28-3304, 28-3306, 28-3307 or 28-3308. Regardless of whether the court sets aside the adjudication, the adjudication may be used for any purpose as provided in section 8-207 or 13-501 and the department of transportation may use the adjudication for the purposes of enforcing the provisions of section 28-3304, 28-3306, 28-3307 or 28-3308 as if the adjudication had not been set aside.

C. A person may not apply to set aside the adjudication if the person either:

1. Has been convicted of a criminal offense.
2. Has a criminal charge pending.
3. Has not successfully completed all of the terms and conditions of probation or been discharged from the department of juvenile corrections pursuant to section 41-2820 on successful completion of the individual treatment plan.
4. Has not paid in full all restitution and monetary assessments.

5. IS CURRENTLY SUBJECT TO RETAINED JURISDICTION OF THE JUVENILE COURT UNDER SECTION 8-202.

D. This section does not apply to a person who was adjudicated delinquent for any of the following:

1. An offense involving the infliction of serious physical injury as defined in section 13-105.
2. An offense involving the use or exhibition of a deadly weapon or dangerous instrument as defined in section 13-105.
3. An offense in violation of title 13, chapter 14.
4. An offense in violation of section 28-1381, 28-1382, 28-1383 or 28-3473.
5. A civil traffic violation under title 28, chapter 3.

Juvenile Adjudication Set Aside
Proposed changes to 13-912.01
Revisions from 6-18-18 meeting

13-912.01. Restoration of civil rights; persons adjudicated delinquent

~~A. A person who was adjudicated delinquent and whose period of probation has been completed may have the right to possess or carry a gun or firearm restored by the judge who discharges the person at the end of the person's term of probation.~~

~~B.~~ A. A person who was adjudicated delinquent and who has been discharged from probation, on proper application, may have the right to carry or possess a gun or firearm restored by the judge of the juvenile court in the county where the person was adjudicated delinquent or the judge's successors. The clerk of the superior court shall process the application on the request of the person involved or the person's attorney. The applicant shall serve a copy of the application on the county attorney.

~~C.~~ B. If the person's adjudication was for a dangerous offense under section 13-704, a serious offense as defined in section 13-706, burglary in the first degree, burglary in the second degree or arson, the person may not file for the restoration of the right to possess or carry a gun or firearm until the person attains thirty years of age. If the person's adjudication was for any other felony offense, the person may not file for the restoration of the right to possess or carry a gun or firearm for two years from the date of the person's discharge.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 3: Superior Court
Chapter 4: Administration
Section 3-402: Superior Court Records Retention and Disposition Schedule

1. Effect of the proposal:

This amendment is intended to align the retention schedule for Juvenile Delinquency case records with the recommendations of the Juvenile Adjudication Set Aside Workgroup of the Post-Conviction Actions Task Force.

2. Significant new or changed provisions:

The proposal makes Juvenile Delinquency case records available at the courthouse for 60 years from the date the case was filed, rather than 25 years. Sixty years was chosen due to the possibility that the juvenile may need access to these records throughout his or her working life to qualify for, e.g., military service, certain types of employment, or professional licensure until approximately age 68.

3. Committee actions and comments:

This proposal was drafted by the Juvenile Adjudication Set Aside Workgroup of the Post-Conviction Actions Task Force that was asked to examine current rules and statutes relating to post-adjudication juvenile delinquency and recommend ways to simplify the process of applying for elimination of public access to a juvenile's delinquency case history to further the rehabilitation of juvenile delinquents.

4. Controversial issues:

None.

5. Recommendation:

Recommend approval as presented.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 3: Superior Court
Chapter 4: Administration
Section 3-402: Superior Court Records Retention and Disposition Schedule

A. through C. [no changes]

D. Retention and Disposition Schedule. The clerk of superior court or the records manager shall retain and dispose of superior court records according to the following schedule:

Record s Series #	Records Series Title	Retention Period with Court	LAPR Retention	Retention Period on Arizona Supreme Court and Local Court Public Websites	Remarks
CASE FILES HELD BY THE CLERK OF COURT					
1. through 14. [no changes]					
15.	JUVENILE DELINQUENCY CASE FILES	After satisfaction of A.R.S. § 8-349 or 25 60 years following the year the case was filed.	N/A	After satisfaction of A.R.S. § 8-349 or 25 60 years following the year the case was filed.	
16. through 18. [no changes]					

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Remarks
FINANCIAL AND MISCELLANEOUS RECORDS HELD BY THE CLERK OF COURT [no changes]				
MISCELLANEOUS RECORDS HELD BY THE CLERK OF COURT, THE COURT, OR COURT ADMINISTRATION [no changes]				
RECORDS HELD BY COURT ADMINISTRATION [no changes]				
RECORDS HELD BY THE JURY COMMISSIONER [no changes]				
RECORDS HELD BY THE COURT HUMAN RESOURCES DEPARTMENT [no changes]				
CASE FILES HELD BY PRETRIAL SERVICES [no changes]				

E. and F. [no changes]

DRAFT Forms for Sealing Records (Probation Termination Workgroup)

This packet contains two forms that were created based on the most recent proposed draft language to A.R.S. 8-349 (provided on 6/18/18 meeting):

1. Probation Supervision History Report for Sealing Record – this form is to be completed by the supervising probation officer at the end of a probation term and be maintained in the court file. There could be multiple forms if multiple probation terms exist for a juvenile. This form is to assist the Court's decision to seal or not seal a juvenile's records.
2. Order RE: Sealing Juvenile Records – this court order is to be completed at the point in which the juvenile attains 18 years of age. One order will reflect the Court's decision whether or not to seal the entire juvenile court record and/or ADJC records.

Questions:

1. Will this process be presumptive or require a person to complete an application for the Court to decide whether or not to seal the person's juvenile records?
2. What agency would be responsible for completing the criminal background check or researching if a person is pending criminal charges? This would apply if a person is not completing an application and instead it is an automatic process when the person turns 18 years of age.
3. What agency would be responsible to obtain and verify current balance amounts of financial obligations, including restitution and/or assessments, at the age a person turns 18?

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN THE COUNTY OF _____
JUVENILE COURT

PROBATION SUPERVISION HISTORY REPORT FOR SEALING RECORD

IN THE MATTER OF:

Juvenile Name

SWID/JV/File Number

Date of Birth

**Case Number (Is this necessary if the
intention is to seal entire court record?)**

Probation Start Date

Probation End Date

Conditions of Probation

1. At this time, the juvenile has been convicted of a felony offense or adjudicated delinquent for an offense that would be an offense listed in section 13-501, subsection A or B or title 28, chapter 4?

- Yes
 No

2. At this time, the juvenile does have a criminal charge pending?

- Yes
 No

3. At this time, the juvenile has completed all conditions of supervised probation court ordered on [INSERT DATE from terms & conditions]

- Yes **(separate out "Yes, with violations" and "Yes, without violations"?)**
 No

If no, explain: _____

OR At this time, the juvenile has been discharged from the department of juvenile corrections pursuant to section 41-2820 on successful completion of the individualized treatment plan?

- Yes
 No

If no, explain: _____

4. At this time, the juvenile has paid in full all court ordered restitution or has provided sufficient evidence to support a finding of extenuating circumstances?

- Yes
 No

If no, explain: _____

5. Do any of the adjudicated offense(s) include an undesignated offense for this probation term?

Yes

No

If yes, offense was ordered to be designated a misdemeanor on ___**[DATE COMPLETED]**___.

Report Completed By/Probation Officer

Date Completed

Supervisor

DRAFT

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN THE COUNTY OF _____
JUVENILE COURT**

IN THE MATTER OF

No.

D.O.B.

Order RE: Sealing Juvenile Records

Pursuant to Arizona Revised Statute § 8-349, the Court finds: **(FINDINGS TO BE LISTED OUT BY COMMITTEE)**

- IT IS ORDERED** sealing the person's juvenile court and/or department of juvenile corrections records. The clerk of the court shall seal the records and secure it from public access. Pursuant to this section:

A person whose records have been sealed under this section shall continue to owe any restitution, fines and assessments **(DISCUSS FURTHER – monetary assessments are removed from subsections B, C, D, & E)** that remain unpaid at the time the records are sealed and is subject to all ordinary remedies pursuant to sections 8-344 and 8-345 until the financial obligations are paid.

- Restitution balance \$_____.
- Fine and Assessments **(DISCUSS FURTHER – monetary assessments are removed from subsections B, C, D, & E)** balance \$_____.

A person whose records have been sealed under this section shall not be required to disclose the existence of the records or any information contained in the sealed records for any purpose.

Records sealed under this section may be obtained only by the person whose records were sealed OR the person's conservator or guardian, if the person is deceased or has been adjudicated to be incapacitated person.

IT IS FURTHER ORDERED that within 6 months of notification by this Court that a person's juvenile records are sealed, the Department of Child Safety shall destroy all delinquency court, juvenile probation, and Arizona Department of Juvenile Corrections records produced in the delinquency matter.

- IT IS ORDERED** denying sealing the juvenile court records for the following reason(s):

- Juvenile does not qualify for sealing of juvenile court records as pursuant to A.R.S. § 8-349.
- Other: _____

DATED this _____ day of _____, 20_____

Judge of the Superior Court

CC:

- Applicant/Juvenile**
- County Attorney**
- Defense Attorney**
- Juvenile Probation**
- Department of Child Safety**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

- Alfred J. McCourtney Juvenile Court – 1040 W. Avenue J., Lancaster, Ca 93634
- Children's Court - 201 Centre Plaza Dr., Monterey Park, Ca 91754
- Compton Juvenile Court - 200 W. Compton Blvd., Compton, Ca 90220
- Eastlake- 1601 Eastlake Ave., Rm. J, Los Angeles, Ca 90033
- Inglewood Juvenile Court - 110 East Regent Street, Inglewood, Ca 909301
- Long Beach Juvenile – 275 Magnolia Ave. Long Beach, Ca 90802
- Los Padrinis Juvenile – 7281 E. Quill Dr., Rm. A2, Downey, Ca 90242
- Pomona Juvenile Court – 400 Civic Center Plaza, Pomona, Ca 91766
- Sylmar Juvenile Court - 16350 Filbert Street, Sylmar, Ca 91342

NOTICE OF YOUR STATUTORY RIGHTS

**Sealing of Juvenile Records
Welfare & Institutions Code [WIC] §§389, 781**

You have the right to petition the Juvenile Court to seal your juvenile court record and records in the custody of other agencies, including law enforcement agencies and public officials, after one of the following occurs:

1. Five years or more after the jurisdiction of the Juvenile Court has been terminated.
2. Five years or more after you were cited to appear or were taken before a probation officer or any officer of a law enforcement agency where no petition was filed in the Juvenile Court.
3. At any time after you reach the age of 18.

**Sealing of Juvenile Court Records Upon Satisfactory Completion
Welfare & Institutions Code [WIC] §§782, 786**

If the court finds you have satisfactorily completed:

- (a) an informal program of supervision pursuant to Section 654.2 WIC,
 - (b) probation under Section 725 WIC, or
 - (c) a term of probation for any offense not listed in subdivision (b) of Section 707 WIC,
- the court shall order the petition dismissed and the court records sealed.

The court may include an order to seal or dismiss any prior petition(s) that has/have been filed or sustained and appear to the satisfaction of the court to meet the sealing and dismissal criteria.

**Destruction or Release of Juvenile Court Records
WIC 826**

Your Juvenile Court record will be destroyed after you reach the age of 38. You have the right to request that your juvenile court records be released to your custody in lieu of destruction. You must send a written request to the Juvenile Court giving your full name, date of birth and the juvenile court case number. Your request for release of the record must be made before you reach the age of 38 and at least five years after jurisdiction of the Juvenile Court has terminated.

Once your juvenile court record has been released to you or destroyed, if you discover that other agencies still retain records, you may petition the Juvenile Court to order the destruction of records retained by any other agency. Your petition must include the name of the agency that has the record and the type of record to be destroyed.

PLEASE NOTE: Federal government agencies **do not** recognize State Court orders to seal records. Even if sealed, information regarding your record will remain available to federal agencies, including the F.B.I. and the military services.

**Rehearing by Court of the
Findings of a Referee
WIC § 252**

At any time prior to the expiration of 10 days after service of a written copy of the order and findings of a referee, you, your parent, or guardian may apply to the Juvenile Court for a rehearing. The application may be directed to all, or any specified part of, the order or findings, and must contain a brief statement of the factual or legal reasons for requesting the rehearing.

**Right to Appeal
WIC §800
CA Rules of Court 5.590**

You have the right to appeal a judgment or an order to the Court of Appeal. You must file a written notice of appeal in the Juvenile Court within 60 days after the judgment or subsequent order was entered. The notice must identify the particular judgment or order being appealed. The notice must be signed by you or your attorney. You may file the notice of appeal on form JV-800.

CA Rules of Court 8.403

You are entitled to court-appointed counsel on appeal. After you have filed the notice of appeal, the Court of Appeal will notify you of the appointment of counsel. If you appeal and you cannot afford an attorney, you are entitled to a transcript to use on appeal. Finally, you are advised that the judgment or order being appealed is not necessarily stayed pending the appeal. It is your obligation to keep the appellate court informed of your current mailing address.

California Code, Welfare and Institutions Code - WIC § 786

- (a) If a person who has been alleged or found to be a ward of the juvenile court satisfactorily completes (1) an informal program of supervision pursuant to [Section 654.2, \(2\)](#) probation under [Section 725](#) , or (3) a term of probation for any offense, the court shall order the petition dismissed. The court shall order sealed all records pertaining to the dismissed petition in the custody of the juvenile court, and in the custody of law enforcement agencies, the probation department, or the Department of Justice. The court shall send a copy of the order to each agency and official named in the order, direct the agency or official to seal its records, and specify a date by which the sealed records shall be destroyed. Each agency and official named in the order shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and, after advising the court, shall seal the copy of the court's order that was received. The court shall also provide notice to the person and the person's counsel that it has ordered the petition dismissed and the records sealed in the case. The notice shall include an advisement of the person's right to nondisclosure of the arrest and proceedings, as specified in subdivision (b).
- (b) Upon the court's order of dismissal of the petition, the arrest and other proceedings in the case shall be deemed not to have occurred and the person who was the subject of the petition may reply accordingly to an inquiry by employers, educational institutions, or other persons or entities regarding the arrest and proceedings in the case.
- (c) (1) For purposes of this section, satisfactory completion of an informal program of supervision or another term of probation described in subdivision (a) shall be deemed to have occurred if the person has no new findings of wardship or conviction for a felony offense or a misdemeanor involving moral turpitude during the period of supervision or probation and if he or she has not failed to substantially comply with the reasonable orders of supervision or probation that are within his or her capacity to perform. The period of supervision or probation shall not be extended solely for the purpose of deferring or delaying eligibility for dismissal of the petition and sealing of the records under this section.
- (2) An unfulfilled order or condition of restitution, including a restitution fine that can be converted to a civil judgment under [Section 730.6](#) or an unpaid restitution fee shall not be deemed to constitute unsatisfactory completion of supervision or probation under this section.
- (d) A court shall not seal a record or dismiss a petition pursuant to this section if the petition was sustained based on the commission of an offense listed in [subdivision \(b\) of Section 707](#) that was committed when the individual was 14 years of age or older unless the finding on that offense was dismissed or was reduced to a lesser offense that is not listed in [subdivision \(b\) of Section 707](#) .
- (e) (1) The court may, in making its order to seal the record and dismiss the instant petition pursuant to this section, include an order to seal a record relating to, or to dismiss, any prior petition or petitions that have been filed or sustained against the individual and that appear to the satisfaction of the court to meet the sealing and dismissal criteria otherwise described in this section.
- (2) An individual who has a record that is eligible to be sealed under this section may ask the court to order the sealing of a record pertaining to the case that is in the custody of a public agency other than a law enforcement agency, the probation department, or the Department of Justice, and the court may grant the request and order that the public agency record be sealed if the court determines that sealing the additional record will promote the successful reentry and rehabilitation of the individual.

- (f) (1) A record that has been ordered sealed by the court under this section may be accessed, inspected, or utilized only under any of the following circumstances:
- (A) By the prosecuting attorney, the probation department, or the court for the limited purpose of determining whether the minor is eligible and suitable for deferred entry of judgment pursuant to [Section 790](#) or is ineligible for a program of supervision as defined in [Section 654.3](#).
 - (B) By the court for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction pursuant to [subdivision \(e\) of Section 388](#).
 - (C) If a new petition has been filed against the minor for a felony offense, by the probation department for the limited purpose of identifying the minor's previous court-ordered programs or placements, and in that event solely to determine the individual's eligibility or suitability for remedial programs or services. The information obtained pursuant to this subparagraph shall not be disseminated to other agencies or individuals, except as necessary to implement a referral to a remedial program or service, and shall not be used to support the imposition of penalties, detention, or other sanctions upon the minor.
 - (D) Upon a subsequent adjudication of a minor whose record has been sealed under this section and a finding that the minor is a person described by [Section 602](#) based on the commission of a felony offense, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of determining an appropriate juvenile court disposition. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing the record in the prior case.
 - (E) Upon the prosecuting attorney's motion, made in accordance with [Section 707](#), to initiate court proceedings to determine the minor's fitness to be dealt with under the juvenile court law, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of evaluating and determining the minor's fitness to be dealt with under the juvenile court law. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing the record in the prior case.
 - (F) By the person whose record has been sealed, upon his or her request and petition to the court to permit inspection of the records.
 - (G) By the probation department of any county to access the records for the limited purpose of meeting federal Title IV-B and Title IV-E compliance.
 - (H) The child welfare agency of a county responsible for the supervision and placement of a minor or nonminor dependent may access a record that has been ordered sealed by the court under this section for the limited purpose of determining an appropriate placement or service that has been ordered for the minor or nonminor dependent by the court. The information contained in the sealed record and accessed by the child welfare worker or agency under this subparagraph may be shared with the court but shall in all other respects remain confidential and shall not be disseminated to any other person or agency. Access to the sealed record under this subparagraph shall not be construed as a modification of the court's order dismissing the petition and sealing the record in the case.

- (2) Access to, or inspection of, a sealed record authorized by paragraph (1) shall not be deemed an unsealing of the record and shall not require notice to any other agency.
- (g) (1) This section does not prohibit a court from enforcing a civil judgment for an unfulfilled order of restitution ordered pursuant to [Section 730.6](#) . A minor is not relieved from the obligation to pay victim restitution, restitution fines, and court-ordered fines and fees because the minor's records are sealed.
- (2) A victim or a local collection program may continue to enforce victim restitution orders, restitution fines, and court-ordered fines and fees after a record is sealed. The juvenile court shall have access to records sealed pursuant to this section for the limited purpose of enforcing a civil judgment or restitution order.
- (h) This section does not prohibit the State Department of Social Services from meeting its obligations to monitor and conduct periodic evaluations of, and provide reports on, the programs carried under federal Title IV-B and Title IV-E as required by [Sections 622 , 629](#) et seq., and [671\(a\)\(7\) and \(22\) of Title 42 of the United States Code](#) , as implemented by federal regulation and state statute.
- (i) The Judicial Council shall adopt rules of court, and shall make available appropriate forms, providing for the standardized implementation of this section by the juvenile courts.

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-18-0028
RULES 26.11, 29, 30 and 41,)
RULES OF CRIMINAL PROCEDURE) **FILED 06/15/2018**
)
)
)
)
)

AMENDED ORDER

AMENDING RULES 26.11, 29, AND 41, AND ADDING RULE 30, ARIZONA RULES OF CRIMINAL PROCEDURE, ON AN EMERGENCY BASIS

David K. Byers, Administrative Director, Administrative Office of the Courts, filed a petition on May 16, 2018, proposing to amend Rules 26.11, 29 and 41 and to add Rule 30, Arizona Rules of Criminal Procedure, on an emergency basis. Upon consideration,

IT IS ORDERED that Rules 26.11, 29 and 41, Arizona Rules of Criminal Procedure, be amended on an emergency basis pursuant to Rule 28(G), Rules of the Supreme Court of Arizona, in accordance with the attachment hereto, effective **August 3, 2018**.

IT IS FURTHER ORDERED that Rule 30, Arizona Rules of Criminal Procedure, be adopted on an emergency basis pursuant to Rule 28(G), Rules of the Supreme Court of Arizona, in accordance with the attachment hereto, effective immediately.

IT IS FURTHER ORDERED that this matter shall be opened for comment, with comments due September 28, 2018, and any Reply due by

Arizona Supreme Court No. R-18-0028

Page 2 of 20

October 19, 2018, in accordance with Rule 28(G)(2), Rules of the
Supreme Court of Arizona.

DATED this 15th day of June, 2018.

/s/

Scott Bales
Chief Justice

TO:

Rule 28 Distribution List
David K Byers

Attachment to Order for No. R-18-0028

(language to be deleted is shown with ~~strike through~~, new language is underlined)

Arizona Rules of Criminal Procedure

Rule 26.11. A Court's Duty After Pronouncing Sentence

(a) Disclosures. After pronouncing judgment and sentence, the court must:

(1) inform the defendant:

(A) of the right to appeal the judgment, sentence, or both;

(B) of the right to seek post-conviction relief; ~~and~~

(C) that the failure to file a timely notice of appeal or timely notice of post-conviction relief will result in the loss of those rights; and

(D) of the right to apply to have the judgment of conviction set aside, except as provided in A.R.S. § 13-907(K).

(2) advise that:

(A) if the defendant is indigent, as defined in Rule 6.1(b), the court will appoint counsel to represent the defendant on appeal; ~~and~~

(B) if the defendant is unable to pay for certified copies of the record on appeal and a certified transcript, the county will provide them; and

(3) advise that the defendant may waive the right to appellate counsel by filing a written notice no later than 30 days after filing the notice of appeal.

(b) Written Notice. [No changes]

Rule 29. ~~Restoring Civil Rights or Vacating~~ Setting Aside a Conviction

Rule 29.1. Grounds; Notice

(a) Generally. A person who has completed probation or a sentence may ~~ask to restore civil rights, to withdraw a plea of guilty or no contest, or apply in writing to the court~~ to set aside a conviction under A.R.S. § 13-907. The ~~probation officer, or the court if there is no probation officer,~~ must provide a person with written notice of this opportunity ~~before the person's absolute discharge at the~~ time of sentencing.

(b) Sex Trafficking Victims. Under A.R.S. § 13-907.01, a sex trafficking victim may ~~request the sentencing~~ apply in writing to the court to vacate the victim's conviction under A.R.S. § 13-3214, or a city or town ordinance that has the same or substantially similar elements, if the offense was committed before July 24, 2014.

Rule 29.2. Application

(a) Contents. An application under this rule must include the applicant's name, address, date of birth, and signature, the offenses for which the applicant was convicted, the place and date of conviction, the sentence imposed, ~~a statement about the status of victim restitution payment and other court-~~ ordered monetary obligations, and the relief the applicant is requesting. The applicant must attach to the application any documents and affidavits required by law and may attach other supporting documents and affidavits.

(b) Place of Filing and Filing Fee. The applicant must file an application with the court ~~specified by law~~ that sentenced the applicant. The ~~court~~ clerk may not charge a fee for filing or docketing an application.

(c) Processing of Application. The court ~~having jurisdiction must process the application~~. It must send a copy of the application to the applicable prosecuting agency no later than 10 days after filing ~~and, if it concerns a felony conviction, to the Attorney General~~.

(d) Victim Notification. The victim has the right to be present and be heard at any proceeding in which the defendant has filed an application to have a judgment of conviction set aside. If the victim requested postconviction notice, the prosecuting agency must provide the victim with notice of the defendant's application and of the rights provided to the victim. The prosecuting agency must provide notice to the victim of the opportunity to be heard if the victim requested post-conviction notification.

Rule 29.3. Hearing Date

~~The court must set a date for hearing the application that is at least 30 days after the application is filed.~~

Rule 29.429.3. State's Response

~~At least 10 days before the hearing, No later than 60 days after the application is filed, the State and victim may file a written response stating any their reasons for opposing the application, if any. The State must send a copy of the response to the applicant's attorney or the applicant, if unrepresented. If the State does not oppose the application or does not timely respond, the court may grant the application without a hearing and may enter an order vacating the conviction.~~

Rule 29.4. Reply

The applicant may file a reply but must do so no later than 15 days after the State's response is filed.

Rule 29.5. Hearing

On either party's request or on its own motion, the court may set a hearing. The hearing must be held no later than 120 days after the application's filing unless the court finds good cause for an extension. The prosecuting agency must provide post-conviction victim notice of the hearing date and the right to be heard, if the victim requested post-conviction notification.

Rule 29.529.6. Disposition

(a) Considerations. In determining whether to grant an application, the court must consider the following factors:

- (1) the nature and circumstances of the offense the conviction is based on;
- (2) the applicant's compliance with the conditions of probation, the sentence imposed, and the Department of Corrections' rules or regulations, if applicable;
- (3) any earlier or later convictions;
- (4) the victim's input and the status of victim restitution, if any;
- (5) the time that has elapsed since the completion of the applicant's sentence;
- (6) the applicant's age at the time of conviction; and
- (7) any other factor relevant to the application.

(b) Denial. If the court denies an application, its order must state the reasons for the denial in writing and on the record.

(c) Subsequent Application. If an application is denied, the applicant may file a new application after satisfying all requirements or after resolving any other reason for denial.

(d) Order. The clerk must transmit the order to the applicant, the prosecutor, and the Department of Public Safety.

Rule 29.629.7. Special Provisions for Sex Trafficking Victims

(a) Confidentiality. [No changes]

(b) ~~The Order's Transmission~~ Order. The clerk must transmit a copy of ~~an~~ the order vacating the conviction of a sex trafficking victim to the arresting agency, the prosecuting agency, the Department of Public Safety, and the ~~victim~~ applicant.

[new] Rule 30. Restoring Civil Rights

Rule 30.1. Grounds; Notice

(a) Automatic Restoration for First Offense. A person who has not previously been convicted of any other felony must automatically be restored any civil rights that were lost or suspended by the conviction, except the right to possess or carry a gun or firearm, if the person:

(1) completes a term of probation or receives an absolute discharge from imprisonment; and

(2) pays any fine or restitution imposed.

(b) Second or Subsequent Offense. A person who has been convicted of 2 or more felonies and whose period of probation has been completed or has received an absolute discharge from imprisonment may have any civil rights that were lost or suspended by the conviction restored by the court. A person whose civil rights were lost or suspended by 2 or more felony convictions in a United States District Court may apply to the superior court in the county in which the person now resides to have the person's civil rights restored.

(c) Gun or Firearm Rights. To restore the right to possess or carry a gun or firearm the person must file an application under Rule 30.2. The following persons may not file to restore the right to possess a gun or firearm:

(1) a person convicted of a dangerous offense under A.R.S. § 13-704;

(2) a person convicted of a serious offense as defined in A.R.S. § 13-706 until 10 years from the date of discharge from probation or from the date of absolute discharge from prison; or

(3) a person convicted of any other felony offense until 2 years from the person's discharge from probation or absolute discharge from prison.

Rule 30.2. Application

(a) Contents. An application under this rule must include the applicant's name, address, date of birth, and signature, the offenses for which the applicant was convicted, the place and date of conviction, the sentence imposed, the status of victim restitution payment and other court-ordered monetary obligations, and the relief the applicant is requesting. The applicant must attach to the application any documents and affidavits required by law and may attach other supporting documents and affidavits.

(b) Place of Filing and Filing Fee. The applicant must file an application with the court that sentenced the applicant. An applicant who was convicted in a United States District Court may apply for restoration of rights in the superior court in the county where the person now resides. The clerk may not charge a fee for filing an application.

(c) Processing of Application. The court must send a copy of the application to the applicable

prosecuting agency no later than 10 days of filing.

(d) Victim Notification. The victim has the right to be present and be heard at any proceeding in which the defendant has filed an application to have civil rights restored. If the victim in a state court matter has requested post-conviction notice, the prosecuting agency must provide the victim with notice of the defendant's application and the rights provided to the victim. The prosecuting agency must provide notice to the victim of the opportunity to be heard if the victim requested post-conviction notification.

Rule 30.3. State's Response

Within 60 days after the application is filed, the State and victim may file a written response stating their reasons for opposing the application, if any. The State must send a copy of the response to the applicant's attorney or the applicant, if unrepresented.

Rule 30.4. Reply

The applicant may file a reply but must do so no later than 15 days after the State's response is filed.

Rule 30.5. Hearing

On either party's request or on its own, the court may set a hearing. A hearing must be held no later than 120 days after the application's filing, unless the court finds good cause for an extension. The prosecuting agency must provide post-conviction victim notice of the hearing date and the right to be present and heard if the victim requested post-conviction notification.

Rule 30.6. Disposition

(a) Considerations. Whether to restore civil rights shall be in the discretion of the superior court judge.

(b) Additional Considerations for Applications Filed Under A.R.S. § 13-925. On the petition's filing the court must set a hearing. At the hearing, the person must present psychological or psychiatric evidence in support of the petition. The State must provide the court with the person's criminal history records, if any. The court must receive evidence on and consider the following before granting or denying a petition filed by a prohibited possessor under A.R.S. § 13-925:

(1) the circumstances that resulted in the person being a prohibited possessor as defined in A.R.S. § 13-3101(A)(7)(a), or subject to 18 U.S.C. § 922(d)(4) or (g)(4);

(2) the person's record, including the person's mental health record and criminal history record, if any;

(3) the person's reputation based on character witness statements, testimony, or other character evidence;

(4) whether the person is a danger to self or others or has persistent, acute, or grave disabilities or whether the circumstances that led to the original order, adjudication, or finding remain in effect;

(5) any change in the person's condition or circumstances that is relevant to the relief sought; and

(6) any other evidence deemed admissible by the court.

(c) Burden of Proof. The petitioner must prove by clear and convincing evidence the following:

(1) the petitioner is not likely to act in a manner that is dangerous to public safety; and

(2) granting the requested relief is not contrary to the public interest.

(d) Court Findings. At the hearing's conclusion, the court must issue findings of fact and conclusions of law.

(e) Denial. If the court denies an application, its order must state the reasons for the denial in writing, including any statutory requirements the applicant has not met.

(f) Subsequent Application. If an application is denied, the defendant may file a new application after satisfying all requirements or after resolving any other reason for denial.

(g) Order. The clerk must transmit the order to the applicant, the prosecutor, and the Department of Public Safety. If the order is a result of an application filed under A.R.S. § 13-925, a copy of the order must be provided to the Supreme Court and the Department of Public Safety. The Supreme Court and the Department of Public Safety must update, correct, modify, or remove the person's record in any database available to the national instant criminal background check system. Within 10 court days after receiving the notification from the court, the Department of Public Safety must notify the United States Attorney General that the person no longer falls within the provisions of A.R.S. § 13-3101 (A)(7)(a) or 18 U.S.C. § 922(d)(4) or (g)(4).

Form 21 Application Upon Discharge to: Restore Civil Rights. Withdraw Guilty Plea/Vacate Conviction (Set Aside), Restore Gun Rights

Abrogated. Form 21(a) is hereby renumbered as Form 21.

[new] FORM 31(a). Application to Set Aside Conviction

_____ Court _____ County, Arizona

STATE OF ARIZONA, Plaintiff -vs-	CASE NUMBER: _____
Defendant (FIRST, MI, LAST) _____	<p style="text-align: center;">APPLICATION TO SET ASIDE CONVICTION A.R.S. § 13-907 Note: Includes application to restore gun and firearm rights pursuant to A.R.S. § 13- 907(J)</p>
Date of Birth Applicant is: <input type="checkbox"/> Defendant <input type="checkbox"/> Attorney for Defendant <input type="checkbox"/> Probation Officer	

SECTION I. CONVICTION(S)

A Judgment of Guilt was entered in the _____ Court against me, the defendant, on the ____ day of _____, _____, on the conviction of:

- 1. Count I: _____
- 2. Count II: _____
- 3. Count III: _____
- 4. Count IV: _____

Additional counts continue on a separate page.

SECTION II. SENTENCE COMPLIANCE

- 1. I was sentenced to: a term of probation the Department of Corrections
- 2. I completed the conditions of **probation**. The Probation Department's order discharging me from probation is attached to this application, if available.
- 3. I have complied with all required terms of the **sentence** (*including all probation, employment, classes, community service, victim restitution or other court ordered monetary obligations, drug/alcohol testing, or other requirements.*)
- 4. I have not complied with all terms of my sentence. Explain:

- 5. I received from the Arizona Department of Corrections a Certificate of Absolute Discharge from Imprisonment AND have attached a copy of that Certificate to this application, if available.
- 6. Have you paid victim restitution in full? Yes No

If not, a set aside of judgment of conviction will be denied without a showing of extraordinary circumstances. If you believe you have extraordinary circumstances, explain below. (*Attach documentation you think is relevant for the court's consideration.*)

7. Have you paid all other court-ordered monetary obligations in this case (criminal fines and fees) in full?

Yes No

If not, please explain:

In some circumstances, you may be eligible to apply to the court to mitigate the amount owed or convert monies owed to community restitution.

SECTION III. PRIOR SET ASIDE(S)

1. Have you previously applied to set aside any conviction? Yes No

If so, what was the date of your last application? _____

2. Have you previously been granted a set aside? Yes No

3. Have you previously been denied a set aside? Yes No

SECTION IV. PENDING CASES AND ACTIVE WARRANTS

1. Are there any open criminal cases against you? Yes No

2. Do you have an active warrant? Yes No

If yes to either question above, please explain:

SECTION V. OTHER INFORMATION FOR THE COURT

1. Is there anything you would like the court to consider?

2. Attach any other information you would like the court to consider.

List attached documents:

- 3. The court may decide on this application without a hearing unless a hearing is requested by you, the prosecutor's office, or the victim. *(Check the box below if you are requesting a hearing.)*
 Hearing requested? Yes No

I understand that this application may be denied if information in this application is found to be inaccurate.

I understand that even if I am granted the right to possess a gun or firearm under Arizona law, it may not give me the right to possess a firearm under federal law.

I declare under penalty of perjury that the information provided in this application and any attachments is true and correct.

Applicant's Name Printed

Applicant's Signature

Address

AUTHORIZATION TO PROCEED ON BEHALF OF DEFENDANT

I authorize _____ Attorney, or Probation Officer to petition the

Superior Court in _____ County, to take the above-indicated action.

Date

Defendant's Signature

[new] Form 31(b) Order Regarding Application to Set Aside Conviction and Restore Gun Rights

_____ Court _____ County, Arizona

STATE OF ARIZONA, Plaintiff -vs- _____ Defendant (FIRST, MI, LAST) _____ Date of Birth	CASE NUMBER: ORDER REGARDING APPLICATION TO SET ASIDE CONVICTION AND RESTORATION OF GUN RIGHTS A.R.S. § 13-907
---	--

Based upon the information presented to the Court, **THE COURT FINDS THAT:** (only those items marked)

- The prosecutor has received a copy of the Application to Set Aside Conviction.
- The defendant **has met** all statutory requirements for the application; OR
 - The defendant **has not met** all statutory requirements for the application.
 - The defendant was convicted of a criminal offense not eligible to be set aside due to:
 - a dangerous offense.
 - an offense for which the person is required or ordered by the court to register pursuant to A.R.S. § 13-3821.
 - an offense for which there has been a finding of sexual motivation pursuant to A.R.S. § 13-118.
 - an offense in which the victim is a minor under fifteen years of age.
 - an offense in violation of section 28-3473, any local ordinance relating to stopping, standing, or operation of a vehicle, or title 28, chapter 3, except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693.

IT IS ORDERED:

- GRANTING** the application setting aside the judgment of guilt, dismissing the complaint, information, or indictment, and that the applicant be released from all penalties and disabilities resulting from the conviction **except those imposed by:**
 - a. The **Department of Transportation** pursuant to A.R.S. §§ 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312, and 28-3319.
 - b. The **Game and Fish Commission** pursuant to A.R.S. §§ 17-314 or 17-340.
- The applicant’s right to possess a gun or firearm is also **restored**.

OR

The applicant's right to possess a gun or firearm is **DENIED** due to the applicant's conviction for a serious offense as defined in section 13-706.

DENYING the application to set aside conviction for the following reasons:

The defendant **has not met** all statutory requirements for the application.

The defendant was convicted of a criminal offense **not eligible** for a conviction to be set aside.

Other reasons:

_____.

DATED this _____ day of _____, _____.

Judicial Officer

[new] Form 32(a). Application to Restore Civil Rights and Gun Rights

Court _____ County, Arizona

STATE OF ARIZONA Plaintiff - vs - _____ Defendant (FIRST, MI, LAST) _____ Date of Birth _____ Applicant is: <input type="checkbox"/> Defendant <input type="checkbox"/> Attorney for Defendant <input type="checkbox"/> Guardian	[CASE/COMPLAINT NO.] _____ APPLICATION UPON DISCHARGE TO: (check all that apply) <input type="checkbox"/> RESTORE CIVIL RIGHTS <input type="checkbox"/> RESTORE GUN RIGHTS A.R.S. §§ 13-905, 13-906, 13-908, 13-909, 13-910, 13-911, and 13-912 <input type="checkbox"/> REQUEST FOR RECONSIDERATION (for applications previously denied) <input type="checkbox"/> Civil Rights <input type="checkbox"/> Gun Rights
---	--

SECTION I. CONVICTION(S)

A Judgment of Guilt was entered against the me, the defendant, on the _____ day of _____, _____, on the conviction of:

1. Count I: _____
2. Count II: _____
3. Count III: _____
4. Count IV: _____

Additional counts continue on a separate page.

SECTION II. STATE CONVICTION (For federal convictions, see SECTION III.)

A Judgment of Guilt was entered against the me in the Superior Court of Arizona in _____ County.

1. The above stated judgment of guilt and conviction for a felony is my first felony conviction in this or any other state and this application is for restoration of right to possess or carry a gun or firearm only.

NOTE: If this is your first felony conviction in this or any other state, any civil rights lost or suspended by the conviction are automatically restored if you completed a term of probation or received an absolute discharge from imprisonment and paid any fine or restitution imposed; however, your right to possess or carry a gun or firearm requires an application under this rule. Refer to **Section VII** of this application.

2. I completed the conditions of probation. The Probation Department’s order discharging me from probation is in the court file or attached to this form.

- 3. I received from the Arizona Department of Corrections a Certificate of Absolute Discharge from Imprisonment on a date two (2) or more years before today’s date, AND have attached a copy of the Certificate to this petition.
- 4. I have complied with all required terms of probation (including all employment, classes, community restitution, victim restitution or other court ordered monetary obligations, drug/alcohol testing, or other requirements.)
- 5. I have not complied with all terms of my sentence. Explain:

SECTION III. FEDERAL CONVICTION (for state convictions, see SECTION II.)

A Judgment of Guilt was entered against the me in United States District Court for the District of _____ . On the _____ day of _____, _____:

- 1. The above stated judgment of guilt and conviction for a felony is my first felony conviction in this or any other state and this application is for restoration of right to possess or carry a gun or firearm only.

NOTE: If this is your first felony conviction in this or any other state, any civil rights lost or suspended by the conviction are automatically restored if you completed a term of probation or received an absolute discharge from imprisonment and paid any fine or restitution imposed; however, your right to possess or carry a gun or firearm requires an application under this rule. Refer to **Section VII** of this application.

- 2. I was sentenced to and successfully served a term of federal probation, received an Affidavit of Discharge from the judge who discharged me from probation, **AND** have attached a copy to this petition and have completed the conditions of probation.
- 3. I was sentenced to and successfully served a federal prison term and received from the Federal Bureau of Prisons a Certificate of Absolute Discharge, or other official documentation provided by the Bureau of Prisons that indicates successful discharge from Imprisonment on a date two (2) or more years before today’s date, **AND** I have attached a copy of the Certificate.
- 4. I have complied with all required terms of probation (including all employment, classes, community restitution, victim restitution or other court ordered monetary obligations, drug/alcohol testing, or other requirements.)
- 5. I have not complied with all terms of probation. Explain:



SECTION IV. VICTIM RESTITUTION AND COURT ORDERED MONETARY OBLIGATIONS

1. Have you paid victim restitution in full? [] Yes [] No

If no, a restoration of rights will be denied without a showing of extraordinary circumstances. If you believe you have extraordinary circumstances explain below. *(Attach documentation you think is relevant for the court's consideration.)*

2. Have you paid all other court-ordered monetary obligations in this case (criminal fines and fees) in full? [] Yes [] No

If no, please explain:

In some circumstances you may be eligible to apply to the court to mitigate the amount owed or convert monies owed to community restitution (State offenses only, not for Federal convictions).

SECTION V. PRIOR RESTORATION OF RIGHTS

1. Have you previously applied to have your rights restored? [] Yes [] No

If so, what was the date of your last application? _____

2. Have you been granted the restoration of your rights previously? [] Yes [] No

3. Have you been denied the restoration of your rights previously? [] Yes [] No

SECTION VI. PENDING CASES AND ACTIVE WARRANTS

1. Are there any open criminal cases against you? [] Yes [] No

2. Do you have an active warrant? [] Yes [] No

If yes to either question above, please explain:



SECTION VII. RESTORATION OF FIREARM RIGHTS

NOTE: Arizona Revised Statutes require: If the person was convicted of an offense which would be a dangerous offense under section 13-704, the person may not file for the restoration of the right to possess or carry a gun or firearm. If the person was convicted of an offense which would be a serious offense as defined in section 13-706, the person may not file for the restoration of the right to possess or carry a gun or firearm for **ten years** from the date of the person’s absolute discharge from imprisonment or discharge from probation. If the person was convicted of any other felony offense, the person may not file for the restoration of the right to possess or carry a gun or firearm for **two years** from the date of the person’s absolute discharge from imprisonment or discharge from probation.

1. I was convicted of a felony offense **not** listed in A.R.S. §§ 13-704 or 13-706 and it has been **two** years since absolute discharge from imprisonment or probation.
2. I was convicted of a serious offense as defined in A.R.S. § 13-706 and it has been **ten** years since absolute discharge from imprisonment or probation.
3. I was convicted of a dangerous offense as defined in A.R.S. § 13-704. (If yes, you are not eligible to file for restoration of the right to possess or carry a gun or firearm.)

If you are requesting that your civil right to possess a gun or firearm be restored, please write your reasons for the request below:

I understand that even if I am granted the right to possess a gun or firearm under Arizona law, it may not give me the right to possess a gun or firearm under federal law.

SECTION VIII. OTHER INFORMATION FOR THE COURT

Is there anything you would like the court to take into consideration?

Attached is other pertinent documentation. List attached documents:

I understand that this application may be denied if information in this application is found to be inaccurate.

Under Oath I swear or affirm, under penalty of perjury, the information provided in this application is to the best of my knowledge true and correct.

Defendant's Name Printed

Defendant's Signature

Address

OR

To the best of my knowledge, the information provided in this application is true and correct.

Attorney's Name Printed

Attorney's Signature

Attorney's Address

AUTHORIZATION TO PROCEED ON BEHALF OF DEFENDANT

I authorize my Attorney, _____ to
petition the Superior Court in _____ County, to take the above-
indicated action.

Date

Defendant's Signature

[new] Form 32(b). Order Regarding Application to Restore Civil Rights and Gun Rights

_____ Court _____ County, Arizona

STATE OF ARIZONA, Plaintiff -vs- _____ Defendant (FIRST, MI, LAST) _____ Date of Birth	CASE NUMBER: _____ ORDER REGARDING APPLICATION TO RESTORE CIVIL RIGHTS AND/OR RIGHT TO POSSESS OR OWN A GUN OR FIREARM
---	--

Based on the information presented to the Court, **THE COURT FINDS:** (only those items marked)
The prosecutor has received a copy of the Application to Restore Civil Rights and/or Right to Possess or Own A Gun or Firearm.

- The Defendant **has met** all of the statutory requirements for the application to restore civil rights and to possess or own a gun or firearm.
- The Defendant **has not met** all of the statutory requirements for the application to possess or own a gun or firearm including:
 - The Defendant was convicted of a **dangerous** offense as defined in A.R.S. § 13-704.
 - The Defendant was convicted of a **serious** offense as defined in A.R.S. § 13-706 and **less than ten years** have passed from the date of discharge from probation or prison.
 - The Defendant was convicted of any other felony offense and **less than two years** have passed from the date of discharge from probation or prison.

IT IS ORDERED:

- GRANTING the application to restore civil rights **and** right to possess or own a gun or firearm.
- GRANTING the application to restore civil rights **excluding** the right to possess or own a gun or firearm.
- GRANTING the application to restore the right to possess or own a gun or firearm.
- DENYING the application to restore civil rights and right to possess or own a gun or firearm for the following reasons:
 - The applicant **has not met** all statutory requirements for the application (as noted above):
 - Other reasons: _____.

DATED this _____ day of _____, _____.

Judicial Officer

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 83
HOUSE BILL 2312

AN ACT

AMENDING SECTION 13-907, ARIZONA REVISED STATUTES; RELATING TO SETTING
ASIDE A CONVICTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-907, Arizona Revised Statutes, is amended to
3 read:

4 13-907. Setting aside judgment of convicted person on
5 discharge; application; release from disabilities;
6 firearm possession; exceptions

7 A. Except as provided in subsection ~~F~~ K of this section, every
8 person convicted of a criminal offense, on fulfillment of the conditions
9 of probation or sentence and discharge by the court, may apply to the
10 ~~judge, justice of the peace or magistrate who pronounced sentence or~~
11 ~~imposed probation or such judge, justice of the peace or magistrate's~~
12 ~~successor in office~~ COURT to have the judgment of guilt set aside. The
13 convicted person shall be informed of this right at the time of ~~discharge~~
14 SENTENCING.

15 B. The ~~convicted~~ person or, ~~if authorized in writing,~~ the ~~convicted~~
16 person's attorney or probation officer may apply to set aside the
17 judgment. THE CLERK OF THE COURT MAY NOT CHARGE A FILING FEE FOR AN
18 APPLICATION TO HAVE A JUDGMENT OF GUILT SET ASIDE.

19 C. THE COURT SHALL CONSIDER THE FOLLOWING FACTORS WHEN DETERMINING
20 WHETHER TO SET ASIDE THE CONVICTION:

21 1. THE NATURE AND CIRCUMSTANCES OF THE OFFENSE THAT THE CONVICTION
22 IS BASED ON.

23 2. THE APPLICANT'S COMPLIANCE WITH THE CONDITIONS OF PROBATION, THE
24 SENTENCE IMPOSED AND ANY STATE DEPARTMENT OF CORRECTIONS' RULES OR
25 REGULATIONS, IF APPLICABLE.

26 3. ANY PRIOR OR SUBSEQUENT CONVICTIONS.

27 4. THE VICTIM'S INPUT AND THE STATUS OF VICTIM RESTITUTION, IF ANY.

28 5. THE LENGTH OF TIME THAT HAS ELAPSED SINCE THE COMPLETION OF THE
29 APPLICANT'S SENTENCE.

30 6. THE APPLICANT'S AGE AT TIME OF THE CONVICTION.

31 7. ANY OTHER FACTOR THAT IS RELEVANT TO THE APPLICATION.

32 ~~C.~~ D. If the ~~judge, justice of the peace or magistrate grants the~~
33 application IS GRANTED, the ~~judge, justice of the peace or magistrate~~
34 COURT shall set aside the judgment of guilt, dismiss the ~~accusations or~~
35 COMPLAINT, information OR INDICTMENT and order that the person be released
36 from all penalties and disabilities resulting from the conviction except
37 those imposed by:

38 1. The department of transportation pursuant to section 28-3304,
39 ~~28-3305, 28-3306, 28-3307, 28-3308, 28-3312 or 28-3319, except that the~~
40 ~~conviction may be used as a conviction if the conviction would be~~
41 ~~admissible had it not been set aside and may be pleaded and proved in any~~
42 ~~subsequent prosecution of such person by the state or any of its~~
43 ~~subdivisions for any offense or used by the department of transportation~~
44 ~~in enforcing section 28-3304, 28-3306, 28-3307, 28-3308 or 28-3319 as if~~
45 ~~the judgment of guilt had not been set aside.~~

1 2. The game and fish commission pursuant to section 17-314 or
2 17-340.

3 E. A CONVICTION THAT IS SET ASIDE MAY BE:

4 1. USED AS A CONVICTION IF THE CONVICTION WOULD BE ADMISSIBLE HAD
5 IT NOT BEEN SET ASIDE.

6 2. ALLEGED AS AN ELEMENT OF AN OFFENSE.

7 3. USED AS A PRIOR CONVICTION.

8 4. PLEADED AND PROVED IN ANY SUBSEQUENT PROSECUTION OF THE PERSON
9 BY THIS STATE OR ANY SUBDIVISION OF THIS STATE FOR ANY OFFENSE.

10 5. USED BY THE DEPARTMENT OF TRANSPORTATION IN ENFORCING SECTION
11 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312 OR 28-3319 AS IF THE
12 JUDGMENT OF GUILT HAD NOT BEEN SET ASIDE.

13 F. THE CLERK OF THE COURT MUST NOTIFY THE DEPARTMENT OF PUBLIC
14 SAFETY IF A CONVICTION IS SET ASIDE. THE DEPARTMENT OF PUBLIC SAFETY MUST
15 UPDATE THE PERSON'S CRIMINAL HISTORY WITH AN ANNOTATION THAT THE
16 CONVICTION HAS BEEN SET ASIDE BUT MAY NOT REDACT OR REMOVE ANY PART OF THE
17 PERSON'S RECORD.

18 G. THIS SECTION DOES NOT:

19 1. REQUIRE A LAW ENFORCEMENT AGENCY TO REDACT OR REMOVE A RECORD OR
20 INFORMATION FROM THE RECORD OF A PERSON WHOSE CONVICTION IS SET ASIDE.

21 2. PRECLUDE THE DEPARTMENT OF PUBLIC SAFETY OR THE BOARD OF
22 FINGERPRINTING FROM CONSIDERING A CONVICTION THAT HAS BEEN SET ASIDE WHEN
23 EVALUATING AN APPLICATION FOR A FINGERPRINT CLEARANCE CARD PURSUANT TO
24 SECTION 41-1758.03 OR 41-1758.07.

25 H. IF THE COURT DENIES AN APPLICATION TO HAVE A JUDGMENT OF GUILT
26 SET ASIDE, THE COURT SHALL STATE ITS REASONS FOR THE DENIAL IN WRITING AND
27 ON THE RECORD.

28 I. A VICTIM HAS THE RIGHT TO BE PRESENT AND BE HEARD AT ANY
29 PROCEEDING IN WHICH THE DEFENDANT HAS FILED AN APPLICATION TO HAVE A
30 JUDGMENT OF GUILT SET ASIDE PURSUANT TO THIS SECTION. IF THE VICTIM HAS
31 MADE A REQUEST FOR POSTCONVICTION NOTICE, THE ATTORNEY FOR THE STATE SHALL
32 PROVIDE THE VICTIM WITH NOTICE OF THE DEFENDANT'S APPLICATION AND OF THE
33 RIGHTS PROVIDED TO THE VICTIM IN THIS SECTION.

34 ~~D.~~ J. Notwithstanding section 13-905 or 13-906, if a ~~judgment of~~
35 ~~guilt~~ CONVICTION is set aside ~~pursuant to this section~~, the person's right
36 to possess a gun or firearm is restored. This subsection does not apply
37 to a person who was convicted of a serious offense as defined in section
38 13-706.

39 ~~E.~~ K. This section does not apply to a person who was convicted of
40 ~~a criminal offense~~ ANY OF THE FOLLOWING:

41 1. ~~involving~~ A dangerous offense.

42 2. AN OFFENSE for which the person is required or ordered by the
43 court to register pursuant to section 13-3821.

44 3. AN OFFENSE for which there has been a finding of sexual
45 motivation pursuant to section 13-118.

- 1 4. AN OFFENSE in which the victim is a minor under fifteen years of
2 age.
- 3 5. AN OFFENSE in violation of section 28-3473, any local ordinance
4 relating to stopping, standing or operation of a vehicle or title 28,
5 chapter 3, except a violation of section 28-693 or any local ordinance
6 relating to the same subject matter as section 28-693.

APPROVED BY THE GOVERNOR MARCH 27, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 27, 2018.

MEMORANDUM

TO: Jeremy Mussman
FROM: Karen Nielsen and Jeff Cappellini
RE: Automatic Restoration of Ex-Convicts Civil Rights in the United States
DATE: September 22, 2017

PRELIMINARY STATEMENT:

Ariz. Rev. Stat § 13-904–12 suspends a person’s right to vote, hold public office, and serve on a jury if that person has been convicted of a felony. These statutes—and the overall process for restoring rights—are under consideration by the Post-Conviction Actions Subcommittee. Currently, there is a proposal to simplify the restoration process for civil rights by making it automatic, rather than individual judicial or Clemency Board review.

Below are the arguments for retaining the judicial review system and arguments for automatically restoring civil rights. Following the discussion section is a comprehensive fifty state analysis examining how different jurisdictions approach the restoration of the right to vote, to hold office, and serve on a jury. Additionally, the survey looks at which states require the payment of all fees, fines, or restitution associated before civil rights restoration.

DISCUSSION:

I. Arguments for Retaining the Judicial Review System

Arguments against automatic restoration of rights are broken into three major categories: (1) those based on the violation of the social contract, (2) those based on a violation of the moral requirements of civic republicanism, and (3) a counter-argument to disproportionate negative impacts on minority communities.¹

a. Protecting the Social Contract

The argument in favor of an individualized review is based on the idea that there is an imbalance in the terms of the contract between the person convicted and the rest of society when a person is convicted of a crime.² Some argue that a convicted felon corrects the imbalance he caused by completing a sentence of incarceration and/or parole and probation. However, a study

¹ Brian Pinaire and Milton Heumann, *Barred from the Vote: Public Attitudes Toward the Disenfranchisement of Felons*, 30 *FORDHAM URBAN L.J.* 1519, 1525 (2003).

² *Id.* at 1526.

completed by the Heritage Foundation concludes that “the initial time in prison is not and has never been the only way a felon ‘pays his debt to society.’”³ By violating the social contract, the Heritage Foundation argues, a felon loses the right to vote unless he proves he earned back that privilege. They write, “[t]hose who are not willing to follow the law cannot claim a right to make the law for everyone else.”⁴ Because of this, “the restoration of voting rights should be done carefully and on a case-by-case basis once the felon can establish in fact that he has turned over a new leaf.”⁵

Additionally, other scholars note that “allowing felons to vote is simply problematic both as a legal matter and a policy matter.”⁶ Felons are less trustworthy than non-felons, and they should not be able to participate in passing laws they do not abide by themselves.⁷ This frames disenfranchisement not as an additional punishment, but rather as “a means of regulating electoral eligibility in a liberal-democratic polity.”⁸ If looked at as a regulatory policy, it makes the most sense that any restoration of rights should happen through “meaningful opportunity” to do so, rather than automatically.

b. Protecting the Moral Requirements of Civic Republicanism

The concern behind maintaining individualized judicial review for restoring civil rights is “a concern for the moral character of the political community and specifically the virtue of its members.”⁹ This argument is bolstered by the fact that not everyone in the United States may vote because “[t]his nation maintains certain minimum, objective standards of responsibility, trustworthiness, and commitment to our laws for those who are allowed to participate in the solemn enterprise of self-government.”¹⁰ Civic citizenship, which is separate from general citizenship, is framed as a “distinctive responsibility” rather than an inalienable right.¹¹ Additionally, those proposing that disenfranchisement protect the moral requirements of civic republicanism also argue that reintegration is also actually assisted through disenfranchisement.

³ Hans A. von Spakovsky and Roger Clegg, *Felon Voting and the Unconstitutional Congressional Overreach*, THE HERITAGE FOUNDATION, Feb. 11, 2015, 1 http://thf_media.s3.amazonaws.com/2015/pdf/LM145.pdf (last visited Sep. 15, 2017).

⁴ *Id.* at 7.

⁵ *Id.* at 10.

⁶ Roger Clegg, George T. Conway III, and Kenneth K. Lee, *The Case Against Felon Voting*, 2 U. ST. THOMAS J. OF LAW AND PUB. POL’Y 1, 2 (2008).

⁷ *Id.* at 2, 18.

⁸ Mary Sigler, *Defensible Disenfranchisement*, 99 IOWA L. REV. 1725, 1728 (2014).

⁹ Pinaire and Heumann, *supra* note 2 at 1526.

¹⁰ Spavkovsky and Clegg, *supra* note 4 at 7.

¹¹ Sigler, *supra* note 9 at 1735.

Specifically, by temporarily withholding the right to vote, sit on a jury, or run for public office, “the right and responsibilities of citizenship” are made important. The right to vote is made more meaningful when the formerly convicted no longer has it.¹²

c. Felon Disenfranchisement is Not Racially Motivated

While felony disenfranchisement typically falls along racially-based lines, the long history of enactment in the world and the United States, alone “refutes any suggestion that felon disenfranchisement laws are racially motivated.”¹³ Additionally, all acts currently in use across the United States were enacted or amended with a race-neutral purpose.¹⁴ Indeed, “Even before the Civil War . . . most states took away the rights of [white] voters who were convicted of crimes.”¹⁵ While felon disenfranchisement laws disproportionately impact many racial minorities, they do not violate the Voting Rights Act or any other equal protection laws “because the impact is not on ‘account of,’ ‘for the sake of,’ or ‘by the reason of race or color.’”¹⁶ Additionally, any evidence of discriminatory laws “still on the books” would lead “many well-funded civil rights advocacy organizations, as well as the U.S. Department of Justice”, to challenge them.¹⁷

II. Arguments for Automatically Restoring Civil Rights

a. Economic Advantages & Efficiency

Since 2013, almost 10,000 petitions to restore civil rights have been filed with the Superior Court of Arizona in Maricopa County alone.¹⁸ This number represents hundreds of hours of judges’ time in reviewing and approving or denying the petitions, persons assisting those convicted of felonies in completing the petitions, and numerous other costs that cannot be tracked. For instance, some of these other costs include phone calls and conversations regarding the restoration of rights by election officials and court clerks with former convicts, numerous hours spent by the public defender and other offices to help former clients restore their rights,

¹² *Id.* at 1739.

¹³ Clegg, Conway, and Lee, *supra* note 7 at 3.

¹⁴ *Id.* at 5.

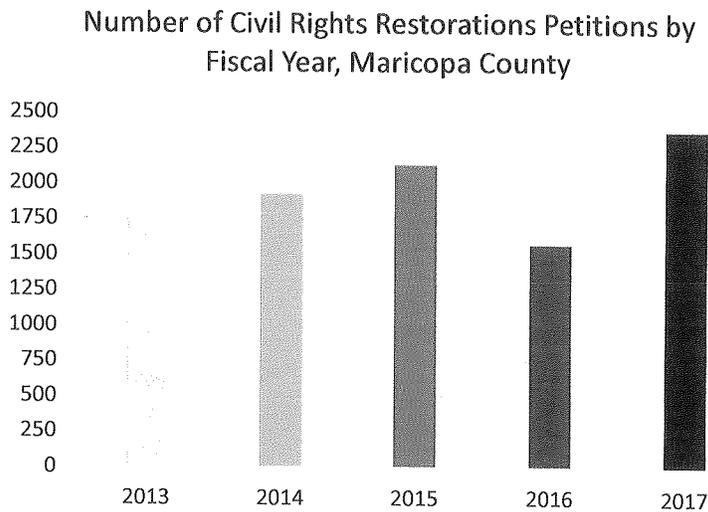
¹⁵ Spavkovsky and Clegg, *supra* note 4 at 3.

¹⁶ Clegg, Conway, and Lee, *supra* note 7 at 9-10.

¹⁷ Spavkovsky and Clegg, *supra* note 4 at 4.

¹⁸ Data compiled by Dr. Christopher G. Bleuenstein, Ph.D., Criminal Court Administrator for the Superior Court of Arizona in Maricopa County, Sep. 19, 2017.

and time and energy from a variety of nonprofits seeking to educate the wider public on the process to restore rights in Arizona.¹⁹



A study completed by the Brennan Center for Justice at New York University Law supports these assertions. Automatic voter restoration “eliminates the need to coordinate complicated data matches, administer convoluted eligibility requirements, or sort through thousands of restoration applications, saving valuable time, money, energy and resources and avoiding burdensome lawsuits.”²⁰ Additionally, the Office of the Pardon Attorney in the U.S. Department of Justice released a report referring to restoration processes as “a national crazy-quilt of disqualifications and restoration processes” that left people wondering how to administer the processes correctly and costing significant amounts of money.²¹

Not restoring civil rights automatically also burdens the economy by limiting the ability for ex-felons to receive business licenses. Arizona currently has 220 licensing boards and

¹⁹ For example: *Restoration of Civil Rights: Frequently Asked Questions*, ACLU AZ, <https://www.acluaz.org/en/restoration-of-civil-rights> (last visited Sep. 19, 2017); *Get Help to Restore Your Civil Rights*, MARICOPA COUNTY, <https://www.maricopa.gov/3851/Get-Help-to-Restore-Your-Rights> (last visited Sep. 19, 2017); *GET YOUR RIGHT TO VOTE BACK A Guide to Help Former Felons in Arizona*, ACLU, AMERICAN FRIENDS SERVICE COMMITTEE, PRIMAVERA FOUNDATION, AND MIDDLE GROUND PRISON REFORM, INC., <https://bloximages.chicago2.vip.townnews.com/tucson.com/content/tncms/assets/v3/editorial/e/45/e45556d8-4230-11e1-a638-001871e3ce6c/4f175d9b70c61.pdf.pdf> [<https://perma.cc/QUM5-NESY>] (last visited Sep. 19, 2017).

²⁰ Ericka Wood and Rachel Bloom, *De Facto Disenfranchisement*, THE BRENNAN CENTER FOR JUSTICE, 9, <https://www.brennancenter.org/sites/default/files/legacy/publications/09.08.DeFacto.Disenfranchisement.pdf> (last visited Sep. 20, 2017).

²¹ *Civil Disabilities of Convicted Felons: A State-by-State Survey*, THE U.S. DEPARTMENT OF JUSTICE, i, https://www.justice.gov/sites/default/files/pardon/pages/attachments/2015/04/24/civil_disabilities_of_convicted_felons.a_state.by_state_survey.pdf (last visited Sep. 20, 2017).

commissions.²² Many of these boards require employees within certain professions to have proper licensing prior to working in that field. This licensing requirement ranges from medicine to home inspection, to plumbing.²³ Within these fields, many also disqualify those with a conviction from working before his rights are restored.²⁴ However, Arizona law protects those with prior misdemeanor or felony convictions through A.R.S. § 13-904(E) (guaranteeing that “a person whose civil rights have been restored [shall not] be disqualified to engage in any occupation for which a license, permit, or certificate is required to be issued by this state solely because of a prior conviction for a felony or misdemeanor within or without this state.”). It is in Arizona’s best interest to have former convicts able to work and be gainfully employed, particularly in industries that require professional licensing. Not only does this help reintegration into society, it also provides a new tax payer who is contributing to the local and statewide economies.

Thus, automatic restoration of rights *saves* money by removing burdensome processes on our courts, already overworked and overloaded with too many cases. Automatic restoration of rights also *makes* money by increasing the ability for former convicts to receive good paying jobs in sectors requiring professional licensing.

b. *Eliminating Confusion among Election Officials & Improper Instructions Given to Felons*

One of the largest problems resulting from restoration procedures and policies is the lack of understanding of those policies by the very officials that are supposed to enforce them and educate the public about them. A comprehensive survey done by the ACLU and the Brennan Center interviewed Arizona elections officials to understand whether they correctly understood, were educated on, and enforced the rights restoration laws. What they found was disconcerting, considering that once a felon receives incorrect information about their ability to vote they are unlikely to question it and return to another official to ask the question again.²⁵

While Arizona imposes different restrictions on those convicted of first-time, single-count felonies and those with multiple or repeated felony convictions, “half the [election] officials interviewed were confused about the distinction in treatment of these two groups” and

²² *FAQ – Becoming a Board or Commission Member*, OFFICE OF THE GOVERNOR, <https://bc.azgovernor.gov/bc/faqs-becoming-board-or-commission-member> (last visited Sep. 20, 2017).

²³ Flynn Patrick Carey, *Extending the Home Court Advantage: A Call to Update the Arizona Civil Rights Restoration Scheme*, 48 ARIZ. L. REV. 1129, 1130 (2006).

²⁴ *Id.*

²⁵ Ericka Wood and Rachel Bloom, *De Facto Disenfranchisement*, *supra* note 21 at 1.

“over half the officials either responded incorrectly to the question of whether an individual convicted of more than one felony can ever vote again in Arizona, or did not know that individuals with two or more felony convictions could seek to have their rights restored.”²⁶ Even more troubling than these statistics was the lack of knowledge about the two-year waiting period imposed for those convicted of multiple or repeat felonies. “Only one county official knew about the waiting period. All other officials, when asked . . . responded ‘no’ or ‘I don’t know.’”²⁷

c. Logical Consistency with the Foundations of the Criminal Justice System

Automatically restoring civil rights to former convicts upon completion of incarceration and/or probation also increases logical consistency between how the criminal justice system works in practice and what it was built on in its conception.

While “civil death,” as the loss of civil rights is often called, is consistent with the very foundations of democracy and the criminal justice system, “[t]he categories of felons who los[t] their right to vote originally encompassed only those convicted of the most extreme crimes, then expanded over time. . . .”²⁸ In Arizona all individuals convicted of any felony loses the right to vote, the right to serve on a jury, and the right to run for office. These rights remain withheld from former felons until all restitution and fines are paid and prison and/or probation are successfully completed. Additionally, if it is a second or further felony, the convicted person must wait two years after payment and successful completion of their prison and/or probation term to apply for restoration. This includes those convicted of drug possession as well as those convicted of violent, but not “dangerous” felonies (individuals convicted of “dangerous” felonies must wait ten years after discharge to restore their rights).²⁹ Thus, non-automatic restoration of rights punishes those convicted of even the least extreme crimes the same as those who have been convicted of extreme crimes. This is inconsistent with the original concept of “civil death” and who it should apply to.

There is also inconsistency in non-automatic restoration of rights when looking at the retributive system of justice our criminal justice system is founded upon. As written in a law article on disenfranchisement and non-automatic restoration of rights, “If we trust offenders

²⁶ *Id.* at 4.

²⁷ *Id.* at 5.

²⁸ Martha Guarnieri, *Civil Rebirth: Making the Case for Automatic Ex-Felon Voter Restoration*, 89 TEMP. L. REV. 451, 452 (2017).

²⁹ For a succinct description of “civil death” law in Arizona, see Carey, *Extending the Home Court Advantage*, 48 ARIZ. L. REV. at 1135 (2006).

enough to release them back into society, can we justify not returning them the full rights and privileges of political citizenship?”³⁰ The point of the retributive system of justice is to give the convicted the appropriate amount of punishment for his or her crime, then to return him or her to society following completion of that punishment.³¹ It betrays the retributive model of justice when punishment continues post-sentence.³² Additionally, the permanent loss of civil rights potentially does not act as a deterrent. In assuming that loss of civil rights effectively deters future criminal acts, it must be true that: (1) prospective criminals understand that vote loss is a possible consequence of criminal behavior, and (2) they care enough about losing their vote to change that behavior.”³³

Finally, the automatic restoration of rights upon completion of incarceration and/or probation, but not after the payment of fines/restitution, is most consistent with the foundations of the criminal justice system in the U.S. Specifically, nearly two centuries ago, the United States made debtors’ prisons illegal.³⁴ Since that time, the Supreme Court has made it increasingly clear that poverty should not be a barrier to accessing justice.³⁵ In addition, the Supreme Court has also made it clear that poverty should not be a barrier to a person trying to exercise his or her civil rights.³⁶ Indeed, in *Harper v. Virginia State Board of Elections*, the case abolishing the practice of poll taxes in many states across the U.S., the Court wrote, “[W]ealth or fee paying has. . . no relation to voting qualifications; the right to vote is too precious, too fundamental to be so burdened or conditioned.”³⁷

³⁰ Brian Pinaire, Milton Heumann and Laura Bilotta, *Barred from the Vote: Public Attitudes toward the Disenfranchisement of Felons*, 30 Fordham Urb. L. J. 1519, 1530 (2003).

³¹ *Retributive Justice*, Stanford Encyclopedia of Philosophy, <https://plato.stanford.edu/entries/justice-retributive/> (last visited Sep. 20, 2017).

³² Eli L. Levine, *Does the Social Contract Justify Felony Disenfranchisement?*, 1 WASH. U. JURIS. REV. 193, 224 (2009).

³³ Guarnieri, *Civil Rebirth*, 89 TEMP. L. REV. at 466 (2017).

³⁴ Christopher D. Hampson, *The New American Debtors’ Prisons*, HARVARD UNIVERSITY, f.n. 135, 20, <http://nrs.harvard.edu/urn-3:HUL.InstRepos:17840773> (last visited Sep. 20, 2017).

³⁵ *E.g. Gideon v. Wainwright*, 372 U.S. 335 (1963) (incorporating the right to counsel for defendants who cannot afford to pay for their own); *Williams v. Illinois*, 399 U.S. 235 (1970) (holding that a maximum prison sentence could not be extended because the defendant failed to pay court costs or fines); *Tate v. Short*, 401 U.S. 395 (1971) (holding that a defendant may not be jailed only because he is too poor to pay the imposed fine); *Bearden v. Georgia*, 461 U.S. 660 (1983) (holding that a local government can only incarcerate someone for not paying a fine if it can be shown, through a hearing, that person could have paid it but instead “willfully” chose not to).

³⁶ See *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966) (finding Virginia’s poll tax unconstitutional under the equal protection clause of the 14th amendment).

³⁷ 383 U.S. at 670 (1966).

Requiring former felons to pay all fines and restitution prior to getting their rights restored functions like a modern-day poll tax and disproportionately harms the poor, who may be following all other terms of their release but simply cannot afford to pay the fines owed.³⁸ In 2004, a nationwide study was done on disenfranchised voters in each state. Arizona had 176,103 disenfranchised individuals, with 44% of them having completed their terms of incarceration and/or probation, but still unable to vote.³⁹

d. Reversing Effects of Past Institutionalized Racism

Even though “civil death” laws and practices have existed since the beginnings of democracy, many of the statutes and provisions enacted in the United States resulted from an attempt to institutionalize racism within state political systems.⁴⁰ Beginning in the Deep South at constitutional conventions following the end of the Reconstruction period, it was made evident that “[t]he intent of those laws was to deprive every colored man of their right of citizenship . . . [by making] the most trivial offense a felony.”⁴¹ Additionally, “. . . both anecdotal and systematic historical evidence from the late-nineteenth and early-twentieth centuries suggest that some political actors made a conscious attempt to dilute African American voting strength through felon disenfranchisement.”⁴² A comprehensive study conducted by researchers at the University of Minnesota and NYU through a grant from the National Science Foundation studied the factors that led states to adopt or extend felon disenfranchisement laws from 1850 to 2002. Their results showed that

“States having larger proportions of nonwhites in their prison populations were more likely to pass restrictive laws, even when the effects of time, region, economic competition between whites and blacks, partisan control of government, and state incarceration rates were statistically controlled. In other words, the higher the proportion of nonwhite inmates in a given state’s population, the more likely that state was to adopt restrictive felon disenfranchisement measures.”⁴³

Arizona has a history of voter suppression, which brought it under Voting Rights Act pre-clearance coverage in 1972 after refusing to provide Spanish voting materials. Arizona was not

³⁸ Erika L. Wood and Neema Trivedi, *The Modern-Day Poll Tax: How Economic Sanctions Block Access to the Polls*, 41 J. OF POVERTY L. AND POL’Y 30 (2007).

³⁹ JEFF MANZA AND CHRISTOPHER UGGEN, *LOCKED OUT: FELON DISENFRANCHISEMENT AND AMERICAN DEMOCRACY* (London, Oxford University Press, 2006).

⁴⁰ Guarnieri, *Civil Rebirth*, 89 TEMP. L. REV. at 458 (2017).

⁴¹ PIPPA HOLLOWAY, *LIVING IN INFAMY: FELON DISENFRANCHISEMENT AND THE HISTORY OF AMERICAN CITIZENSHIP*, 36 (London, Oxford University Press 2013).

⁴² Christopher Uggen, Jeff Manza, and Angela Bahrens, *Felony Voting Rights and the Disenfranchisement of African Americans*, 5 SOULS: A CRITICAL J. BLACK POL’Y, CULTURE, & SOC’Y 48, 50 (2003).

⁴³ *Id.* at 51-2.

released from pre-clearance until the Supreme Court decision in *Shelby County v. Holder*.⁴⁴ Arizona also has a long history of discriminating against American Indians as well.⁴⁵ With a history of both intentional and unintentional institutionalized racism targeted at disenfranchising minority voters, it is unsurprising that one out of every five voting age African Americans is disenfranchised in Arizona, compared to one out of every twenty-three voting age Arizonans.⁴⁶

e. Reducing Recidivism

Recidivism statistics are often used to justify waiting periods prior to restoring a past felon's civil rights, specifically citing that "a vast majority of felons are arrested for a new crime within three years, and three-fourths are arrested for a new crime within five years."⁴⁷ However, more recent research shows that "the revocation of voting rights compounds the isolation of formerly incarcerated individuals from their communities, and civic participation has been linked with lower recidivism rates."⁴⁸ This is likely because the message that non-automatic rights restoration sends to convicted persons is that they are "beyond redemption."⁴⁹ In Justice Brennan's concurring opinion in *Trop v. Dulles*, he writes that, "[disenfranchisement] constitutes the very antithesis of rehabilitation . . . I can think of no more certain way in which to make a man in whom, perhaps, rest the seeds of serious antisocial behavior more likely to pursue further a career of unlawful activity."⁵⁰ Carl Wicklund, the former Executive Director of the American Parole and Probation Association, even noted that "withholding the fundamental right to vote does nothing to help [the re-entry process]. Keeping that barrier in place makes [parole and probation officer's] job[s] harder."⁵¹

Reducing recidivism by automatically re-enfranchising past convicts is not just anecdotal, however. Researchers have shown that prosocial behavior comes from increased civic

⁴⁴ Garrett Epps, *Arizona's Case Against the Voting Rights Act*, THE ATLANTIC, Sep. 6, 2011, <https://www.theatlantic.com/national/archive/2011/09/arizonas-case-against-the-voting-rights-act/244548/> (last visited Sep. 20, 2017).

⁴⁵ Patty Ferguson-Bohnee, *The History of Indian Voting Rights in Arizona: Overcoming Decades of Voter Suppression*, 47 ARIZ. ST. L.J. 1099 (2015).

⁴⁶ *Felony Disenfranchisement in Arizona*, ACLU, https://www.aclu.org/files/pdfs/votingrights/az_flyer.pdf (last visited Sep. 20, 2017).

⁴⁷ Guarnieri, *Civil Rebirth*, 89 TEMP. L. REV. at 469 (2017).

⁴⁸ *Policy Brief: Felony Disenfranchisement*, THE SENTENCING PROJECT, <http://www.sentencingproject.org/wp-content/uploads/2015/08/Felony-Disenfranchisement-Primer.pdf> (last visited Sep. 20, 2017).

⁴⁹ Pamela S. Karlan, *Convictions and Doubts: Retribution, Representation, and the Debate over Felon Disenfranchisement*, 56 STAN. L. REV. 1147, 1166 (2004).

⁵⁰ 356 U.S. 86, 111 (1956).

⁵¹ Carl Wicklund, *Felon Voting Right Makes Us All Safer*, LEXINGTON HERALD-LEADER, Mar. 6, 2014, <http://www.kentucky.com/opinion/op-ed/article44475018.html> (last visited Sep. 19, 2017).

participation, which includes participation in things like voting, finding stable work, volunteering in the community, and building family and social relationships.⁵² Additionally, when the Florida Parole Commission conducted an internal study of the recidivism rate of Floridians with criminal convictions they found that those who had their voting rights restored committed crime 66% less than those who remained unable to vote.⁵³ Not only is this good for the individual who used to offend, this is good for the public safety of society. Voting gives another entry point for the formerly convicted to feel connected to society, and replace overly individualistic thinking with an understanding that he or she is part of a community.

f. Popular Support for Rights Restoration

Finally, there is significant popular support for rights restoration, and no indication that the citizen base prefers for it to happen slowly or through a non-automatic process. Indeed, 81.7% feel that the right to vote should be restored to convicted felons, at least after completion of incarceration and parole/probation.⁵⁴ Significantly, this does not split much along party lines, with only 23.1% of Republicans supporting lifetime disenfranchisement, and 11.2% of Democrats supporting the same.⁵⁵ Thus, the vast majority of people want to see those formerly convicted able to vote, sit on a jury, and run for office again after completion of their sentences.

III. Most States Allow for Some Form of Automatic Restoration of Civil Rights with Restoration of Voting Rights Being the Most Common, and Most States Do Not Require the Payment Fees, Fines, and Restitution Before Restoration of Civil Rights Occurs.

Figure 1, attached below, contains the results of a fifty state survey, including the District of Columbia. The survey examines which states allow for automatic restoration, following the conviction of a felony, of the right to vote, the right to hold office, and the right to serve on a jury. Please see figure 1 for a detailed description of each jurisdiction. The results are summarized as follows:

- Vermont and Maine do not suspend any of the surveyed rights upon conviction.

⁵² Christopher Uggen and Jeff Manza, *Voting and Subsequent Crime and Arrest: Evidence from a Community Sample*, 36 COLUM. HUM. RTS. L. REV. 193, 196-7 (2004).

⁵³ *Status Update: Restoration of Civil Rights (RCR) Cases Granted, 2009 and 2010*, FLORIDA PAROLE COMMISSION, 12-13 (2011).

⁵⁴ Brian Pinaire and Milton Heumann, *Barred from the Vote*, 30 FORDHAM URBAN L.J. at 1540 (2003).

⁵⁵ *Id.*

- Seven states do not allow for any type of automatic restoration of rights.⁵⁶
- Fifteen states and the District of Columbia allow for the automatic restoration of all civil rights which are suspended.⁵⁷
- Thirteen states allow for the automatic restoration of voting rights alone.⁵⁸
- Eight states allow for the automatic restoration of the right to vote and hold office, but not the right to serve on a jury.⁵⁹
- Three States allow for the automatic restoration of the right to vote and serve on a jury, but not the right to hold office.⁶⁰
- Additionally, Arizona and Nevada allow for automatic restoration of civil rights for first-time, non-violent offenders but require a restoration process thereafter.

Another issue surveyed was whether a person must pay all fees, fines or restitution before his or her rights are restored. Below is an additional summary that details which jurisdictions require the payment of all fees, fines or restitution before civil rights are restored.

- In total, thirteen states require payment of fees, fines or restitution on some level before the restoration of some or all civil rights.⁶¹ The remaining thirty-eight states and the District of Columbia do not require the payment of fees, fines, or restitution before civil rights are restored.
- Of the seven states that do not allow for the automatic restoration of rights:
 - Alabama, Florida, and Iowa require all fees, fines, and restitution to be paid before a person is eligible for civil rights restoration.
 - In Mississippi, restoration is only available through executive clemency where the payment of fines, fees, and restitution may be considered.
- Of the fifteen states and the District of Columbia that allow for the automatic restoration of all three civil rights:

⁵⁶ Alabama, Florida, Iowa, Kentucky, Mississippi, Virginia, and Wyoming.

⁵⁷ Alaska, Colorado (right to serve on jury never lost), Connecticut, District of Columbia, Idaho, Illinois, Kansas, Massachusetts, Minnesota, Montana, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, and South Dakota.

⁵⁸ Arkansas, California, Delaware, Georgia, Michigan, Nebraska, New Jersey, New York, Oklahoma, Pennsylvania, Tennessee, Texas, and Washington.

⁵⁹ Hawaii, Louisiana, Maryland, Missouri, New Hampshire, South Carolina, Utah, and West Virginia.

⁶⁰ Indiana, New Mexico, and Wisconsin.

⁶¹ Alabama, Arkansas, Arizona, Connecticut, Florida, Iowa, Mississippi, Nevada, Ohio, Oregon, Tennessee, Utah, and Washington.

- Connecticut requires the payment of all fines in relation to the conviction be paid before automatic restoration occurs.
- Ohio requires a person who is subject to a “community control sanction,” which includes court imposed fines, to pay those fines before holding office or serving on a jury.
- Oregon requires all fines be paid but only for the restoration of the right to hold office.
- Of the thirteen states that allow only for the automatic restoration of the right to vote:
 - Arkansas requires all fees and fines be paid before automatic restoration.
 - Tennessee requires all court-ordered fines, fees, and restitution be paid, and that the person is current on all child support obligations before restoration.
 - In Washington the restoration of the right to vote is automatic but provisional upon release from the department of corrections. This provisional restoration can be revoked if the court finds that the related fees, fines and restitution are being willfully ignored.
- Of the eight states that allow for the automatic restoration of the right to vote and hold office:
 - Utah requires that all court ordered restitution and fines be paid before restoring the right to hold office but not the right to vote.
- None of the three states that allow for automatic restoration of the right to vote and serve on a jury require all fees and fines be paid before restoration.
- Both Arizona and Nevada require fees, fines and restitution be paid before rights are restored.

CONCLUSION:

In sum, there are strong arguments for both maintaining judicial review and automatic restoration of civil rights. It is logical to assume that one who breaks the law should not be able to create it, or enforce it without demonstrating rehabilitation. But is this principal strong enough to combat the practical and fast felt benefits that automatic restoration would provide? A majority of jurisdictions across the country seemingly have answered “No” to the latter question by passing laws that allow for at least one of the automatic restoration of civil rights categories. Similarly, most states do not require the payment of fees, fines, or restitution before restoration.

Figure 1

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Alabama</p> <p>(NO automatic restoration of rights.)</p>	<p>“No person convicted of a felony involving moral turpitude . . . shall be qualified to vote until restoration of civil and political rights or removal of disability.” ALA. CONST. Art. VIII, § 177(b).</p> <p>Automatic restoration is not available and a person must petition the board of Pardons and Paroles for a Certificate of Eligibility to Register to Vote. All fees and fines must be paid in order to be eligible. ALA. CODE § 15-22-36.1(a), (a)(3).</p>	<p>A person who has committed an offense punishable by imprisonment in a state or federal penitentiary is ineligible to run for office. ALA. CODE § 36-2-1(a)(3).</p>	<p>A person cannot serve on a jury if they have been convicted of a crime of moral turpitude. ALA. CODE § 12-16-60(a)(4).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Alaska</p> <p>(ALLOWS for the automatic restoration of civil rights.)</p>	<p>The right to vote is lost upon conviction of a felony, but automatically restored upon unconditional discharge. ALASKA STAT. § 15.05.030(a).</p> <p>An unconditional discharge is when the “defendant is released from all disability arising under a sentence including probation and parole.” ALASKA STAT. § 12.55.185(18).</p>	<p>A person who has had his or her right to vote restored will also have the right to hold public office restored. ALASKA STAT. §§ 15.25.030(10); 39.05.100.</p>	<p>The right to serve as a juror is lost upon the conviction of a felony but is automatically restored upon unconditional discharge. ALASKA STAT. § 09.20.020(2).</p> <p>An unconditional discharge is when the “defendant is released from all disability arising under a sentence including probation and parole.” ALASKA STAT. § 12.55.185(18).</p>
<p>Arkansas</p> <p>(ALLOWS for the automatic restoration of voting rights. NO automatic restoration of the right to hold office or serve on a jury.)</p>	<p>A person’s right to vote is automatically restored upon providing the county clerk with proof he or she has satisfied all terms of imprisonment including the payment of all fees and fines, and the successful completion of parole or probation. ARK. CONST. amend. LI, § 11(d).</p>	<p>The Arkansas Constitution prohibits any person convicted of an infamous crime from holding any office in the state. ARK. CONST. art. V, § 9(a).</p> <p>An infamous crime includes any felony offense. ARK. CONST. art. V, § 9(b).</p> <p>Expungement restores an individual’s ability to hold office. <i>Haile v. Johnston</i>, 482 S.W.3d 323, 326 (Ark. 2016).</p>	<p>In Arkansas a person who has been convicted of a felony and has not been pardoned is disqualified to act as a juror. ARK. CODE § 16-31-102(a)(4).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Arizona</p> <p>(ALLOWS for automatic restoration of civil rights for first time offenders. NO automatic restoration for repeat offenders.)</p>	<p>A person who is convicted of a felony loses his or her right to vote. ARIZ. CONST. art. VII, § 2(C); ARIZ. REV. STAT. § 13-904(A)(1).</p> <p>Any person who is a first time felony offender automatically receives restoration of civil rights upon discharge from imprisonment or completion of probation, and pays any fine or restitution. ARIZ. REV. STAT. § 13-912.</p> <p>Repeat offenders must apply for a set aside that, if granted, restores civil rights. ARIZ. REV. STAT. § 13-907(C).</p>	<p>A person who is convicted of a felony loses his or her right to hold office. ARIZ. REV. STAT. § 13-904(A)(2).</p> <p>Any person who is a first time felony offender automatically receives restoration of civil rights upon discharge from imprisonment or completion of probation, and pays any fine or restitution. ARIZ. REV. STAT. § 13-912.</p> <p>Repeat offenders must apply for a set aside that, if granted, restores civil rights. ARIZ. REV. STAT. § 13-907(C).</p>	<p>A person who is convicted of a felony loses his or her right to serve on a jury. ARIZ. REV. STAT. § 13-904(A)(3).</p> <p>Any person who is a first time felony offender automatically receives restoration of civil rights upon discharge from imprisonment or completion of probation, and pays any fine or restitution. ARIZ. REV. STAT. § 13-912.</p> <p>Repeat offenders must apply for a set aside that, if granted, restores civil rights. ARIZ. REV. STAT. § 13-907(C).</p>
<p>California</p> <p>(ALLOWS for automatic restoration of voting rights. NO automatic restoration of right to hold office or serve on a jury.)</p>	<p>A person is disqualified from voting while imprisoned or on parole as a result of a felony conviction. CAL. CONST. art. II, § 4.</p> <p>Upon completion of the sentence or parole the ex-felon's voting rights are automatically restored. <i>Flood v. Riggs</i>, 145 Cal. Rptr. 573, 583 (Cal. Ct. App. 1978).</p>	<p>A person convicted of a felony may not hold office. CAL. CONST. art. VII, § 8.</p>	<p>Persons convicted of a felony may not serve on a jury. CAL. CIV. PROC. CODE § 203.</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Colorado</p> <p>(ALLOWS for automatic restoration of the right to vote and the right to hold office. In Colorado a person does not lose the right to sit on a jury upon felony conviction.)</p>	<p>A person loses his or her right to vote while imprisoned, but after serving a full term of imprisonment the right is automatically restored. COLO. CONST. art. VII, § 10.</p>	<p>While imprisoned a person cannot hold office, however the right is automatically restored upon the completion of the sentence or parole. COLO. REV. STAT. § 18-1.3-401(3).</p> <p>Certain felonies result in permanent disqualification for holding office including: embezzlement of public money, bribery, perjury, solicitation of a bribe, or subornation of perjury. COLO. CONST. art. XII, § 4.</p>	<p>The 1989 repeal and reenactment of the Colorado Uniform Jury Selection and Service Act repealed a section that caused a convicted felon to be disqualified from sitting on a jury. <i>People v. Ellis</i>, 148 P.3d 205, 209 (Colo. App. 2006).</p>
<p>Connecticut</p> <p>(ALLOWS for the automatic restoration of the right to vote and the right to hold office. The right to serve on a jury is automatically restored after seven years.)</p>	<p>A person loses the right to vote upon conviction of a felony. CONN. GEN. STAT. § 9-46.</p> <p>Upon the payment of all fines in relation with the conviction and once the person has been discharged from confinement or parole, his or her right to vote is automatically restored. CONN. GEN. STAT. § 9-46a.</p>	<p>Once a person's right to vote is restored, his or her right to hold office is also automatically restored. CONN. GEN. STAT. § 9-46a(b).</p>	<p>The right to serve on a jury is lost upon conviction of a felony and automatically restored after seven years (unless the person is still imprisoned). CONN. GEN. STAT. § 51-217(a)(2).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Delaware</p> <p>(ALLOWS for automatic restoration of the right to vote after completion of sentence and application to Department of Elections. NO automatic restoration of the right to run for office or the right to serve on a jury.)</p>	<p>No person convicted of a crime deemed a felony is entitled to vote. DEL CONST. art. 5, §2; DEL. CODE tit. 15, § 1701.</p> <p>Any person who is disqualified as a voter because of a conviction of, a crime deemed by law, a felony shall have such disqualification removed upon being pardoned, or after the expiration of the sentence, whichever occurs first. DEL. CONST. art. 5, § 2.</p> <p>A person must still apply to the county office of the Department of Elections to restore his or her voting eligibility, but if his or her sentence has been completed eligibility is automatic. DEL. CODE tit. 15, § 6103.</p>	<p>No person convicted of “embezzlement of the public money, bribery, perjury or other infamous crime, shall be eligible to a seat in either House of the General Assembly, or capable of holding any office of trust, honor or profit under this State.” DEL, CONST. art. 2, § 21.</p> <p>A totality of the circumstances in each case must be examined before a determination may be made that a specific felony is infamous. <i>Wier v. Peterson</i>, 369 A.2d 1076, 1079 (Del. 1976).</p>	<p>Convicted felony offenders may not serve on juries, unless the person’s civil rights have been restored. DEL. CODE tit. 10, § 4509(b)(6).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>District of Columbia</p> <p>(ALLOWS for automatic restoration of the right to vote and hold office when released from confinement, and the right to serve on a jury one year after release.)</p>	<p>A person is a qualified voter (elector) even with a felony conviction unless he or she is actually incarcerated. D.C. MUN. REGS. tit. 3, § 500.2(c).</p>	<p>The right to hold office is restored upon release from incarceration (when the person becomes a qualified elector). D.C. CODE § 1-204.02.</p>	<p>The potential to qualify as a juror begins one year after the completion of the term of incarceration. D.C. CODE § 11-1906(b)(2)(B).</p>
<p>Florida</p> <p>(NO automatic restoration of civil rights.)</p>	<p>Upon conviction of a felony all civil rights are suspended until pardon or restoration of civil rights pursuant to FLA. CONST. art. IV, § 8; FLA. STAT. § 944.292.</p> <p>Civil rights may be restored through executive clemency, which can be granted by the governor after a recommendation by the clemency board. To be eligible all fees, fines and restitution must be paid. https://www.fcor.state.fl.us/docs/clemency/clemency_rules.pdf.</p>	<p>Upon conviction of a felony all civil rights are suspended until pardon or restoration of civil rights pursuant to FLA. CONST. art. IV, § 8; FLA. STAT. § 944.292.</p>	<p>Upon conviction of a felony all civil rights are suspended until pardon or restoration of civil rights pursuant to FLA. CONST. art. IV, § 8; FLA. STAT. § 944.292.</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Georgia</p> <p>(ALLOWS for the automatic restoration of voting rights. NO automatic restoration of right to hold office or serve on a jury.)</p>	<p>The right to vote is automatically restored upon the completion of the sentence. GA. CONST. art. II, § 1, ¶ III; <i>See also Holton v. Hollingsworth</i>, 514 S.E.2d 6, 8 (Ga. 1999) (holding convicted felon did not have to “reregister” once he completed his sentence).</p>	<p>A person who has been convicted of a felony involving moral turpitude cannot hold office unless ten years have passed since completion of his or her sentence, and that persons civil rights have been restored. GA. CONST. art. II, § 2, ¶ III.</p>	<p>The right to sit on a jury is regained by pardon or restoration of civil rights. Ga. Op. Att’y Gen. 69 (1983).</p>
<p>Hawaii</p> <p>(ALLOWS for the automatic restoration of the right to vote and the right to hold office. NO automatic restoration of right to serve on jury.)</p>	<p>A person’s right to vote and to run for office is automatically restored upon a final discharge from his or her sentence. HAW. REV. STAT. § 831-2(a)(1), (2).</p>	<p>A person’s right to vote and to run for office is automatically restored upon a final discharge from his or her sentence. HAW. REV. STAT. § 831-2(a)(1), (2).</p>	<p>A person who has been convicted of a felony is disqualified from serving on a jury unless he or she has been pardoned. HAW. REV. STAT. § 612-4.</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Idaho</p> <p>(ALLOWS for automatic restoration of civil rights.)</p>	<p>A “sentence of custody to the Idaho state board of correction” following a felony conviction “suspends all the civil rights of the person so sentenced, including the right to refuse treatment authorized by the sentencing court, and forfeits all public offices and all private trusts, authority or power during such imprisonment.” IDAHO CODE § 18-310(1).</p> <p>Civil rights are restored upon final discharge of sentence. IDAHO CODE § 18-310(2).</p>	<p>See Right to Vote.</p>	<p>See Right to Vote.</p>
<p>Illinois</p> <p>(ALLOWS for automatic restoration of civil rights.)</p>	<p>A person convicted of a felony, or otherwise under sentenced to a correctional institution or jail, shall lose the right to vote, which shall be restored not later than upon completion of his or her sentence. ILL. CONST. art. III, § 2.</p>	<p>In Illinois a person can hold an office created by the state constitution upon completion of his or her sentence. 730 ILL. COMP. STAT. 5/5-5-5.</p>	<p>The State of Illinois does not exclude convicted felons from jury service. 705 ILL. COMP. STAT. 305/2.</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Indiana</p> <p>(ALLOWS for the automatic restoration of the right to vote and the right to serve on a jury. NO automatic restoration of right to hold office.)</p>	<p>A person is disenfranchised during the period of imprisonment, but the right to vote is automatically reinstated upon release or when the person is otherwise not subject to lawful detention. IND. CODE § 3-7-13-4.</p>	<p>A person is disqualified from holding office upon the conviction of a felony offense. IND. CODE § 3-8-1-5.</p> <p>The right to hold office can only be restored by expungement or pardon. IND. CODE § 35-38-9-10(c).</p>	<p>The right to serve on a jury is tied to the right to vote. Once the right to vote is restored, the right to serve on a jury is automatically restored. IND. CODE § 33-28-5-18.</p>
<p>Iowa</p> <p>(NO automatic restoration of civil rights.)</p>	<p>Any person convicted of an infamous crime loses the right to vote and hold office. IOWA CONST. art. II, § 5.</p> <p>A crime is infamous if it is a felony. <i>Griffin v. Pate</i>, 884 N.W.2d 182, 205 (Iowa 2016).</p> <p>In order to restore ones civil rights a person must apply to either the Board of Parole or to the governor. IOWA CODE § 914.2.</p> <p>The payment of fees, fines, and restitution is a prerequisite to restoration by the Board of Parole or the Governor. Iowa Exec. Order No. 70 (Jan. 14, 2011), available at publications.iowa.gov/10194/1/BranstadEO70.pdf.</p>	<p>See Right to Vote.</p>	<p>The State of Iowa does not disqualify persons convicted of felonies from jury service. IOWA CODE § 607A.4.</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Kansas (ALLOWS for automatic restoration of civil rights.)</p>	<p>A person who is convicted of a felony temporarily loses the right to vote, hold office, and serve on a jury. KAN. STAT. § 21-6613(a).</p> <p>Upon completion of the individual's sentence these rights are automatically restored. KAN. STAT. § 21-6613(b).</p>	<p>See Right to Vote.</p>	<p>See Right to Vote.</p>
<p>Kentucky (NO automatic restoration of rights.)</p>	<p>A person convicted of a felony loses his or her right to vote, which can only be restored by executive pardon. KY. CONST. § 145(1).</p> <p>Rights can be restored through expungement, and the payment of fees, fines and restitution is not a prerequisite. KY. REV. STAT. § 431.073.</p>	<p>A person convicted of a felony loses his or her right to hold office, which can only be restored by executive pardon. KY. CONST. § 150.</p>	<p>A person who has been convicted of a felony and has not been pardoned or received a restoration of civil rights is disqualified from jury service. KY. REV. STAT. § 29A.080(2)(e).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Louisiana (ALLOWS for the automatic restoration of the right to vote. Those with felony convictions can hold office. NO automatic restoration of right to serve on a jury.)</p>	<p>A person is disqualified from voting while under imprisonment for a felony conviction. The right is automatically restored upon release from imprisonment. LA. CONST. art. I, § 10(A).</p> <p>This has been interpreted to extend to persons on parole, and those who are designated probationers with suspension of a sentence in lieu of successful completion. <i>Rosamond v. Alexander</i>, 846 So. 2d 829, 831 (La. Ct. App. 2003).</p>	<p>A person with a felony conviction can currently hold office in Louisiana. In 2016, the Louisiana Supreme Court struck down the constitutional provision disqualifying those from holding office. <i>Shepherd v. Schedler</i>, 209 So. 3d 752, 766 (La. 2016).</p>	<p>A person with a felony conviction cannot serve on a jury unless he or she has been pardoned by the governor. LA. CODE CRIM. PROC. art. 401(A)(5).</p>
<p>Maine (Civil rights not lost upon conviction.)</p>	<p>A person who is convicted of a felony does not lose the right to vote. ME. CONST. art. II, § 1.</p>	<p>A person who is convicted of a felony does not automatically lose the right to hold office. A sentencing court can impose this sanction on a convicted felon at sentencing. ME. REV STAT. tit. 17-A, 1152(4).</p>	<p>A person does not lose the right to serve on a jury upon felony conviction. ME. REV. STAT. tit. 14, § 1211.</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Maryland</p> <p>(ALLOWS for automatic restoration of right to vote and right to hold office. NO restoration of right to serve on jury.)</p>	<p>A person who is currently serving a sentence on a felony conviction is disqualified from voting but the right is restored upon completion of sentence. MD. CODE, ELEC. LAW § 3-102(b)(1).</p>	<p>Once a person's voting rights have been restored he or she automatically eligible to hold office. MD. CONST. art. I, § 12.</p>	<p>A person is disqualified from serving on a jury if he or she has been convicted of a felony, and the right can only be restored upon pardon. MD. CODE, CTS. & JUD. PROC. § 8-103(b)(4), (c).</p>
<p>Massachusetts</p> <p>(ALLOWS for automatic restoration of right to vote and right to run for office. Right to serve on jury restored automatically after seven years.)</p>	<p>A person currently "incarcerated in a correctional facility due to a felony conviction" is not permitted to vote. MASS. CONST. Amend. art. III; MASS. GEN. LAWS ch. 51, § 1.</p>	<p>Conviction does not affect the right to run for and hold future public office. <i>See</i> MASS. CONST. Pt. 1, Art. IX; MASS. GEN. LAWS ch. 279, § 30.</p>	<p>A person is disqualified from jury service if convicted of a felony within the past seven years or is in the custody of a correctional institution. MASS. GEN. LAWS ch. 234A, § 4(7).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Michigan</p> <p>(ALLOWS for automatic restoration of rights.)</p>	<p>A person convicted or sentenced for a crime cannot vote “while confined.” MICH. COMP. LAWS § 168.758b.</p> <p>“The legislature may by law exclude persons from voting because of mental incompetence or <i>commitment</i> to a jail or penal institution.” MICH. CONST. art. 2, § 2 (emphasis added).</p>	<p>Persons convicted of a felony involving the breach of public trust in connection with his or service in a public office is disqualified from holding public office for 20 years. MICH CONST. art. 4, § 7; Op.Atty.Gen.1978, No. 5295, p. 415.</p> <p>Any public officer convicted of accepting a public bribe is permanently disqualified from holding office. MICH. COMP. LAWS § 750.118.</p>	<p>A person who has been convicted of a felony is disqualified from serving on a jury unless the conviction is pardoned or expunged. MICH. COMP. LAWS § 600.1307a(1)(e).</p>
<p>Minnesota</p> <p>(ALLOWS for automatic restoration of rights.)</p>	<p>“When a person has been deprived of civil rights by reason of conviction of a crime and is thereafter discharged, such discharge shall restore the person to all civil rights and to full citizenship, with full right to vote and hold office, the same as if such conviction had not taken place, and the order of discharge shall so provide.” MINN. STAT. Ann. § 609.165</p>	<p>Right to run for office is automatically restored upon completion of sentence. MINN. STAT. Ann. § 609.165.</p> <p>A person convicted of bribery is forever disqualified from holding public office. MINN. STAT. Ann. § 609.42</p>	<p>Right to serve on a jury is automatically restored upon completion of sentence. MINN. STAT. Ann. § 609.165</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Mississippi</p> <p>(NO automatic restoration of rights.)</p>	<p>No loss of voting rights unless convicted of “murder, rape, bribery, theft, arson, obtaining money or goods under false pretense, perjury, forgery, embezzlement or bigamy.” MISS. CONST. art. 12, § 241.</p> <p>Right to vote may be restored by two-thirds vote of the legislature, MISS. CONST. art. 12, § 253, or by pardon, MISS. CONST. art. 5, § 124.</p> <p>The restoration is a discretionary process where all facts related to the crime are considered. MISS. CONST. art. 5, § 124. It is not clear whether fines, fees and restitution must be paid.</p>	<p>“A person convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement, or bigamy, shall not . . . be appointed to hold or perform the duties of any office of profit, trust, or honor, unless after full pardon for the same.” MISS. CODE. ANN. § 99-19-35.</p>	<p>Conviction of an “infamous crime” will disqualify an individual from serving on a jury. MISS. CODE ANN. § 13-5-1.</p> <p>An “infamous crime” is any offense punished by death or confinement in a penitentiary. MISS. CODE ANN. § 1-3-19.</p>
<p>Missouri</p> <p>(ALLOWS for automatic restoration of right to vote and right to run for office. NO automatic restoration of right to serve on a jury.)</p>	<p>Person is not entitled to vote while confined under a sentence of imprisonment or until discharged from probation or parole. Right is automatically restored unless crime is connected with the right of suffrage. MO. REV. STAT. § 115.133(2).</p>	<p>Right to hold future office is automatically restored upon completion of sentence or period of probation. MO. REV. STAT. § 561.021(2).</p>	<p>A person convicted of a felony is disqualified from serving as a juror, unless such person has been restored to his civil rights by governor pardon. MO. REV. STAT. § 494.425(4).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Montana</p> <p>(ALLOWS for automatic restoration of voting rights upon release, and automatic restoration of right to hold office and right to serve on jury upon completion of state supervision.)</p>	<p>A person is qualified to vote unless he or she is currently serving a sentence for a felony in a penal institution. MONT. CONST. art. IV, § 2; MONT. CODE ANN. § 46-18-801(2).</p>	<p>Right to run for office is automatically restored upon discharge from state supervision. MONT. CONST. art. IV, § 4; MONT. CODE ANN. § 46-18-801(2).</p>	<p>A person is not competent to act as a juror if they have been convicted of any felony. MONT. CODE ANN. § 3-15-303(2). This right is presumably regained upon release from state supervision. MONT. CONST. art. II, § 28; MONT. CODE ANN. § 46-18-801(2).</p>
<p>Nebraska</p> <p>(ALLOWS for automatic restoration of voting rights two years after completion of sentence. NO automatic restoration of right to run for office or serve on a jury.)</p>	<p>The right to vote is automatically restored two years after completion of the sentence including any parole term. NEB. REV. STAT. § 29-112.</p>	<p>Restoration of right to run for office is done though an application to and hearing by the Board of Pardons. NEB. REV. STAT. § 83-1,118(5).</p>	<p>Restoration of right to serve on a jury is done though an application to and hearing by the Board of Pardons. NEB. REV. STAT. § 83-1,118(5).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Nevada</p> <p>(ALLOWS for automatic restoration of rights for first time non-serious/violent offenders. NO automatic restoration of rights for serious or violent offenses, or reoffenders.)</p>	<p>The right to vote is automatically restored for first offenders convicted of all but the most serious/violent offenses upon completion of his or her sentence, NEV. STAT. § 213.157(1)(a)(1), honorable discharge from parole, <i>Id.</i> at 213.155(1)(a)(1), or honorable discharge from probation, <i>Id.</i> at 176A.850(3)(b)(1).</p> <p>A person convicted of certain serious or violent crimes, or who has more than one felony conviction, may seek restoration of voting rights in the court in which they were convicted, or from the Board of Pardons Commissioners. NEV. STAT. §§§§ 213.090(2), 213.155(2–5), 213.157(2–5), 176A.850(4–8).</p> <p>*Nevada enacted a new law in 2017 that will change restoration of civil rights. The new statute will go into effect in 2019. Sentence and Punishment— Discharge—Voters and Voting, 2017 NEV. LAWS Ch. 362 (A.B. 181) (to be codified at Nev. Stat. §§§ 176A.850, 213.155, 213.157).</p>	<p>The right to hold office is automatically restored for first offenders convicted of all but the most serious/violent offenses <i>Four years after</i> completion of his or her sentence, NEV. STAT. § 213.157(1)(b), honorable discharge from parole, <i>Id.</i> at 213.155(1)(b), or honorable discharge from probation, <i>Id.</i> at 176A.850(3)(c).</p> <p>A person convicted of certain serious or violent crimes, or who has more than one felony conviction, may seek restoration of right to run for office NEV. STAT. §§§§ 213.090(2), 213.155(2–5), 213.157(2–5), 176A.850(4–8).</p>	<p>The right to serve on a jury is automatically restored for first offenders convicted of all but the most serious/violent offenses <i>six years after</i> completion of his or her sentence, NEV. STAT. § 213.157(1)(c), honorable discharge from parole, <i>Id.</i> at 213.155(1)(c), or honorable discharge from probation, <i>Id.</i> at 176A.850(3)(d).</p> <p>A person convicted of certain serious or violent crimes, or who have more than one felony conviction, may seek restoration of right to serve on a jury in the court in which they were convicted, or from the Board of Pardons Commissioners. NEV. STAT. §§§§ 213.090(2), 213.155(2–5), 213.157(2–5), 176A.850(4–8).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>New Hampshire</p> <p>(ALLOWS for automatic restoration of right to vote and right to run for office. NO automatic restoration of right to serve on jury.)</p>	<p>Right to vote is restored upon final discharge from sentence. N.H. REV. STAT. § 607-A:2(I).</p> <p>A person convicted of a crime does not “sustain loss of civil rights,” including the “right to vote.” N.H. REV. STAT. § 607-A:3.</p>	<p>Right to run for office is restored upon final discharge from sentence. N.H. REV. STAT. § 607-A:2(I).</p> <p>A person convicted of a crime does not “sustain loss of civil rights,” including the right to “hold public office.” N.H. REV. STAT. § 607-A:3.</p>	<p>A person convicted of a felony cannot serve as a juror unless the conviction has been annulled. N.H. REV. STAT. § 500-A:7-a.</p> <p>Petition for annulment of criminal records can be submitted upon completion of all terms and conditions of sentence. N.H. REV. STAT. § 651:5(III).</p>
<p>New Jersey</p> <p>(ALLOWS for the automatic restoration of the right to vote. NO automatic restoration of the right to hold office or to serve as a juror.)</p>	<p>A person loses the right to vote while serving a sentence, on parole, or on probation for any indictable offense which, is automatically restored after the expiration of the sentence. N.J. STAT. ANN. § 19:4-1(8).</p> <p>If the criminal offense consisted of a violation of the state election laws, the right to vote can only be restored through pardon. N.J. STAT. ANN. § 19:4-1(6), (7); N.J. STAT. ANN. § 2A:167-5.</p>	<p>“Any person who has been convicted of a crime and by reason thereof has been deprived [civil rights]. . . may make application for the restoration of the right . . . which application the governor may grant by order signed by him.” N.J. STAT. ANN. § 2A:167-5.</p>	<p>Right to serve as a juror is restored by governor through a grant of restoration of rights. N.J. STAT. ANN. § 2A:167-5.</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>New Mexico</p> <p>(ALLOWS for automatic restoration of right to vote and right to serve on a jury. NO automatic restoration of right to run for office.)</p>	<p>Upon completion of sentence, including a term of probation or parole, the Department of Corrections issues a certificate of completion and informs the individual that he or she is entitled to vote. N.H. REV. STAT. ANN. § 31-13-1(C).</p>	<p>“A person who has been convicted of a felony shall not be permitted to hold an office of public trust . . . unless the person has presented the governor with a certificate verifying the completion of the sentence and was granted a pardon or a certificate by the governor restoring the person's full rights of citizenship.” N.M. STAT. ANN. § 31-13-1(E).</p>	<p>“A person who was convicted of a felony and who meets all other requirements for eligibility may be summoned for jury service if the person has successfully completed all conditions of the sentence imposed for the felony, including conditions for probation or parole.” N.M. STAT. ANN. § 38-5-1(B).</p>
<p>New York</p> <p>(ALLOWS for automatic restoration of voting rights. NO automatic restoration of right to run for office or serve on a jury.)</p>	<p>Right to vote is automatically restored when the person is pardoned, the maximum sentence of imprisonment has expired, or he or she is discharged from parole. However, the governor may attach a sentencing condition that requires person to request restoration of voting right separately. N.Y. ELEC. LAW § 5-106(2).</p>	<p>A person’s right to run for office depends on the office he is running for and the type of conviction. <i>See</i> N.Y. Op. Att’y Gen. 1136, No. 83-60 (1983).</p> <p>The right to run for office may be restored by governor’s pardon, a Certificate of Relief from Disabilities, or a Certificate of Good Conduct. N.Y. CORRECT. LAW §§ 701, 703-a.</p>	<p>The right to serve on a jury may be restored by governor’s pardon, a Certificate of Relief from Disabilities, or a Certificate of Good Conduct. N.Y. CORRECT. LAW §§ 701, 703-a; N.Y. Op. Atty. Gen. 38, No. 91-F10 (1991).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>North Carolina</p> <p>(ALLOWS for automatic restoration of rights.)</p>	<p>Right to vote is automatically restored when unconditional discharge of an inmate, probationer, or parolee. N.C. GEN. STAT. § 13-1.</p> <p>Court or agency with jurisdiction will issue a certificate of offender's unconditional discharge and restoration of rights. N.C. GEN. STAT. § 13-2.</p>	<p>Right to hold future office is automatically restored when unconditional discharge of an inmate, probationer, or parolee. N.C. GEN. STAT. § 13-1.</p>	<p>Right to serve on a jury is automatically restored when unconditional discharge of an inmate, probationer, or parolee. N.C. GEN. STAT. § 13-1.</p>
<p>North Dakota</p> <p>(ALLOWS for automatic restoration of rights.)</p>	<p>Right to vote is not lost except during the term of any actual incarceration. N.D. CENT. CODE § 12.1-33-03(1).</p>	<p>Right to hold future office is not lost except during the term of any actual incarceration. N.D. CENT. CODE § 12.1-33-03(1).</p>	<p>Right to serve on a jury is only lost during the period of imprisonment in a penitentiary. N.D. CENT. CODE § 27-09.1-08(2)(e).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Ohio</p> <p>(ALLOWS for automatic restoration of rights.)</p>	<p>A convicted person's right to vote is restored during the period of parole, post-release control, and upon final discharge. OHIO REV. CODE § 2961.01(A)(2).</p>	<p>A person's right to run for office is restored by being granted final release from parole, by completing the period of community control or upon completion of the prison term for a person not placed on post-release control. OHIO REV. CODE § 2967.16(C).</p> <p>A person sentenced to a "community control sanction" regains the right to hold office and sit on a jury upon completion of the sanction, which includes court imposed fines. OHIO REV. CODE §§ 2961.01(2); 2967.16(C)(1)(c); 2929.01(E).</p>	<p>A person's right to serve on a jury is restored upon a "final release" from parole or post-release control or upon completion of the prison sentence if the person is not placed on post-release control. OHIO REV. CODE § 2967.16(C).</p> <p>A person sentenced to a "community control sanction" regains the right to hold office and sit on a jury upon completion of the sanction, which includes court imposed fines. OHIO REV. CODE §§ 2961.01(2); 2967.16(C)(1)(c); 2929.01(E).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Oklahoma (ALLOWS for automatic restoration of voting rights upon completion of sentence. NO automatic restoration for the right to hold office or serve on a jury.)</p>	<p>Persons convicted of a felony may not register to vote for the period of their judgment and sentence. A person may register to vote after completion of a court-imposed sentence. OKLA. STAT. ANN. tit. 26, § 4-101(1).</p>	<p>Felony offenders and persons convicted of a misdemeanor involving embezzlement are disqualified from office for fifteen years after completion of sentence or until pardoned. OKLA. STAT. ANN. tit. 26 § 5-105a(A), (B).</p> <p>A person convicted of a felony is permanently disqualified from election to the state legislature. OKLA. CONST. art. V, § 18.</p>	<p>Persons who have been convicted of any felony or who have served a term of imprisonment in any penitentiary for the commission of a felony may not sit on a jury unless they have been fully restored to his or her civil rights by pardon. OKLA. STAT. ANN. tit. 38 § 28(C)(5).</p>
<p>Oregon (ALLOWS for the automatic restoration of civil rights.)</p>	<p>Persons convicted of a felony and sentenced to a term of incarceration have voting rights restored upon release from incarceration or when the defendant's conviction is set aside. OR. REV. STAT. § 137.281(1).</p>	<p>Eligibility for legislative office is lost upon conviction until the sentence is completed, including any period of probation, post-prison supervision, and payment of fines. OR. CONST. art. IV, § 8(4).</p>	<p>Persons convicted of a felony and sentenced to a term of incarceration have the right to serve on a jury restored upon release from incarceration or when the conviction is set aside. OR. REV. STAT. § 137.281(1).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Pennsylvania</p> <p>(ALLOWS for the automatic restoration of voting rights upon release. NO automatic restoration for the right to hold office or serve on a jury.)</p>	<p>The right to vote is restored automatically upon release from prison. <i>United States v. Essig</i>, 10 F.3d 968 (3d Cir. 1993).</p> <p>The disability has been interpreted to apply only to persons convicted of a felony. Pa. Op. Att’y Gen. No. 47 (Sept. 11, 1974).</p>	<p>Persons convicted of embezzlement of public moneys, bribery, perjury or any felony under Pennsylvania state law may not be elected to the General Assembly or hold any “office of trust or profit” in the state, unless pardoned. PA. CONST. art. II, § 7.</p>	<p>A person convicted of a crime punishable by imprisonment for more than one year, and actually sentenced to more than six months’ imprisonment, is ineligible to serve as a juror unless pardoned. 42 PA. CONS. STAT. § 4502(a)(3).</p>
<p>Rhode Island</p> <p>(ALLOWS for automatic restoration civil rights.)</p>	<p>Upon discharge from a correctional facility, for a felony conviction, a person’s right to vote is restored. R.I. CONST. art. II, § 1.</p>	<p>A person is disqualified from public office if convicted of a felony, or a misdemeanor resulting in a jail sentence of six months or more, either suspended or to be served. R.I. CONST. art. III, § 2.</p> <p>The right is automatically restored three years after completion of sentence or earlier by pardon. <i>See</i> R.I. CONST. art. IX, § 13; R.I. GEN. LAWS § 13-10-1.</p>	<p>A person convicted of a felony may serve on a jury upon completion of sentence. R.I. GEN. LAWS § 9-9-1.1(c).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>South Carolina</p> <p>(ALLOWS for automatic restoration of the right to vote and the right to hold office. NO automatic restoration of the right to serve on a jury.)</p>	<p>Right to vote restored automatically upon completion of sentence, including parole and probation. S.C. CODE ANN. § 7-5-120(B)(3).</p>	<p>The right to hold office is contingent on being a qualified voter. S.C. CONST. art. XVII, § 1.</p> <p>Right to hold public office is automatically restored upon completion of sentence, including parole and probation. S.C. CODE ANN. § 7-5-120(B)(3).</p> <p>The right to hold office after embezzlement of public funds is restored by a two-thirds vote of the Generally Assembly upon payment in full of principal and interest of the sum embezzled. S.C. CODE ANN. § 16-13-210 (C).</p>	<p>The right to serve on jury is restored only by pardon from the Probation, Parole, and Pardon Board. S.C. CODE ANN. §§ 14-7-810(1), 24-21-920.</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
South Dakota (ALLOWS for automatic restoration of civil rights.)	The right to vote is restored upon issuance of a discharge certificate by the Secretary of Corrections, which is issued when the entire prison sentence is completed, including any period of parole. S.D. CODIFIED LAWS §§ 24-5-2, 24-15A-7.	The right to run for office is restored upon issuance of a discharge certificate by the Secretary of Corrections which is issued when the entire prison sentence is completed, including any period of parole. S.D. CODIFIED LAWS §§ 24-5-2, 24-15A-7.	The right to serve on a jury is restored upon issuance of a discharge certificate by the Secretary of Corrections which is issued when the entire prison sentence is completed, including any period of parole. S.D. CODIFIED LAWS §§ 24-5-2, 24-15A-7.

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Tennessee</p> <p>(ALLOWS for the automatic restoration of voting rights in most cases. NO automatic restoration of right to hold office or serve on a jury.)</p>	<p>All but a few categories of serious felony offenders convicted after 1981 are eligible to have their right to vote restored upon expiration of sentence, and may register upon obtaining a certificate of restoration from prison authorities or from the Board of Probation and Parole. TENN. CODE. ANN. §§ 40-29-202(a), 203(a).</p> <p>All court-ordered fines, fees, and restitution must be paid, TENN. CODE. ANN. § 40-29-202(b), and a convicted person must also be current in child support obligations. TENN. CODE. ANN. § 40-29-202(c).</p> <p>Persons convicted of murder, rape, treason, or voter fraud are permanently ineligible to vote (unless pardoned). TENN. CODE. ANN. § 40-29-204.</p>	<p>Persons convicted of a felony are disqualified from office unless and until their rights have been restored by a court. TENN. CODE ANN. § 40-20-114</p>	<p>Persons convicted of a felony or any other “infamous offense” are disqualified from jury service unless and until their rights have been restored by a court. TENN. CODE ANN. § 22-1-102.</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Texas</p> <p>(ALLOWS for automatic restoration of voting rights. NO automatic restoration of right to hold office or serve on a jury.)</p>	<p>The right to vote is automatically restored upon completion of sentence. TEX. ELEC. CODE § 11.002.</p>	<p>Right to hold public office is restored only through a pardon, or gubernatorial restoration of rights for federal and foreign first offenders. TEX. CODE CRIM. PROC. art. 48.05(a).</p>	<p>Right to serve on a jury is restored only through a pardon, or gubernatorial restoration of rights for federal and foreign first offenders. TEX. CODE CRIM. PROC. art. 48.05(a).</p>
<p>Utah</p> <p>(ALLOWS for automatic restoration of voting rights upon release. Semi-automatic restoration of right to hold office. NO automatic restoration of the right to serve on a jury.)</p>	<p>The right to vote is restored automatically upon (1) a sentence to probation by the sentencing court; or (2) upon successful completion of a term of incarceration. UTAH CODE ANN. §§ 20A-2-101.3(2); 20A-2-101.5(2)(a), (c).</p>	<p>The right to hold elected office is restored when all of the felons felony convictions have been expunged OR ten years have passed since the date of the felon's most recent felony conviction, the felon has paid all court-ordered restitution and fines, and the felon has completed probation, been granted parole, or has successfully completed the term of incarceration associated with the felony for each felony conviction that has not been expunged. UTAH CODE ANN. § 20A-2-101.5</p>	<p>Persons convicted of a felony are ineligible to serve on a jury unless and until the conviction is expunged. UTAH CODE ANN. § 78B-1-105(2).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
Vermont (Civil rights are not lost as a result of conviction.)	Voting rights are not lost as a result of a conviction and prisoners are permitted to vote by absentee ballot. VT. STAT. ANN. tit. 28, § 807.	Right to hold office is not lost as a result of conviction.	Right to serve on a grand or petit jury is restored only if a pardon is issued. VT. STAT. ANN. tit. 12, § 64.
Virginia (NO automatic restoration of rights.)	Right to vote is restored only by action of the governor under his pardon power, through restoration of rights or pardon. VA. CONST. art. V, § 12. The restoration of the right to vote does not require that all fees, fines, or restitution be paid. VA. CODE § 53.1-231.2.	Right to hold office is contingent on the right to vote. VA. CONST. art. II, § 5.	The right to serve on a jury is restored only by action of the governor under his pardon power, through restoration of rights or pardon. VA. CONST. art. V, § 12.

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Washington</p> <p>(ALLOWS for the automatic restoration of voting rights that can be revoked upon willful non-payment of financial obligations tied to the conviction. NO automatic restoration of the right hold office or serve on a jury.)</p>	<p>The right to vote is provisionally restored when a person is no longer under the authority of the department of corrections. WASH. REV. CODE § 94A.637(1).</p> <p>The provisional restoration can be revoked if the sentencing court determines that a person has willfully failed to comply with the terms of his or her order to pay legal financial obligations. WASH. REV. CODE § 94A.637(2).</p> <p>The right to vote can be permanently restored by a certificate of discharge issued by the sentencing court, a court order restoring the right, a final order issued by the indeterminate sentence review board, a certificate of restoration issued by the governor. WASH. REV. CODE § 94A.637(6).</p>	<p>Persons who are not “electors” (<i>i.e.</i>, eligible to vote, <i>see State ex rel. Hubbard v. Lindsay</i>, 52 Wash. 2d 397, 403, 329 P.2d 47 (Wash. 1958)) are not “competent to qualify for or hold any elective public office within the state of Washington, or any county, district, precinct, school district, municipal corporation or other district or political subdivision.” WASH. REV. CODE § 42.04.020.</p>	<p>A certificate of discharge restores the right to serve on a jury. <i>See</i> WASH. REV. CODE § 9.94A.637(5).</p> <p>Alternatively, offenders may seek restoration of these rights from the State Clemency and Pardons Board. WASH. REV. CODE § 9.94A.885(2)</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>West Virginia</p> <p>(ALLOWS for automatic restoration of the right to vote and right to hold office. NO automatic restoration of the right to serve on a jury.)</p>	<p>The rights to vote is restored automatically upon completion of sentence, including parole (unless for bribery of a state officer). <i>See Osborne v. Kanawha County Court</i>, 68 W. Va. 189, 69 S.E. 470 (W. Va. 1910); <i>see also</i> W. Va. Op. Att’y Gen. 3, No. 55 (1972); W. Va Op. Att’y Gen. 182, No. 51 (1965).</p>	<p>The right to hold office is restored automatically upon completion of sentence, including parole (unless for bribery of a state officer). <i>See Osborne v. Kanawha County Court</i>, 68 W. Va. 189, 69 S.E. 470 (W. Va. 1910); <i>see also</i> W. Va. Op. Att’y Gen. 3, no. 55 (1972); W. Va. Op. Att’y Gen. 182, No. 51 (1965).</p> <p>Persons convicted of a state felony are permanently barred from serving in the legislature. <i>See</i> W. VA. CONST. art. VI, § 14.</p>	<p>The right to sit on a jury is not restored automatically upon completion of sentence. The felon must be issued a certificate of discharge to have this right restored. <i>See U.S. v. Morrell</i>, 61 F.3d 279 (4th Cir. 1995).</p>
<p>Wisconsin</p> <p>(ALLOWS for automatic restoration of voting rights and the right to serve on a jury. NO automatic restoration of right to hold office.)</p>	<p>Voting rights are restored automatically upon completion of sentence, including probation. WIS. STAT. § 304.078(3).</p>	<p>The right to run for office is restored only by a pardon. WIS. CONST. art. XIII, § 3.</p>	<p>The right to serve on a jury is restored upon restoration of the right to vote (automatically upon completion of sentence). WIS. STAT. § 756.01(1).</p>

<u>State</u>	<u>Right to Vote</u>	<u>Right to Hold Office</u>	<u>Right to Serve on a Jury</u>
<p>Wyoming (NO automatic restoration of rights)</p>	<p>A person convicted of a felony forfeits the right to vote, to serve on a jury, and to hold public office. WYO. STAT. ANN. §§ 6-10-106(a).</p> <p>Effective January 1, 2016, the Department Corrections shall issue a certificate of restoration of voting rights to first-time non-violent felony offenders whose sentence was completed after that date. Non-violent first offenders whose sentence was completed prior to January 1, 2016, and those with out-of-state and federal convictions, must apply for restoration of rights. WYO. STAT. ANN. § 7-13-105(b).</p> <p>Payment of fees, fines, and restitution is not required for restoration of civil rights. WYO. STAT. ANN. §7-13-105.</p>	<p>See Right to Vote.</p>	<p>See Right to Vote.</p>