

Post-Conviction Actions Task Force Agenda

Wednesday, October 17, 2018; 10:00 a.m. – 3:30 p.m.
 Conference Room 345 A&B
 State Courts Building, 1501 W. Washington, Phoenix, AZ 85007
[Post-Conviction Actions Task Force Home Page](#)

Time*	Agenda Items	Presenter
10:00 a.m.	Welcome and Opening Remarks Approval of Minutes from September 13, 2018 <input type="checkbox"/> Formal Action/Request	<i>Jerry Landau, Chair AOC Government Affairs Director</i>
10:15 a.m.	1. Discuss Juvenile Workgroup legislative drafts <ul style="list-style-type: none"> • ARS § 8-349 Sealing of juvenile records <ul style="list-style-type: none"> • Draft included in meeting materials <input type="checkbox"/> Formal Action/Request • ARS § 8-348 Setting aside adjudication <ul style="list-style-type: none"> • Draft included in meeting materials • Discussion on whether to repeal <input type="checkbox"/> Formal Action/Request • ARS § 8-305 Detention center; dangerous offenses • ARS § 8-341 Juvenile offenses; probation <ul style="list-style-type: none"> • (Proposals by Chief of Juvenile Probation, Maricopa County, Eric Meaux) <input type="checkbox"/> Formal Action/Request 	<i>Jerry Landau Judge Kathleen Quigley</i>
	2. Discuss Juvenile Workgroup forms and instructions <ol style="list-style-type: none"> 1. Application to Set Aside/Instructions 2. Application to Seal/Instructions 3. Application to Restore Firearm Rights/Instructions 4. Legal Requirements Instructions for all applications <input type="checkbox"/> Formal Action/Request	<i>Jerry Landau Judge Kathleen Quigley</i>

**All times are approximate and subject to change. The committee chair reserves the right to set the order of the agenda. For any item on the agenda, the committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration § 1-202. Please contact Kathy Sekardi, PCATF staff, at (602) 452-3253 or Susan Pickard, PCATF staff, at (602) 452-3252 with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Sabrina Nash at (602) 452-3849. Requests should be made as early as possible to allow time to arrange the accommodation.*

- Discuss sealing of diversion files
 - Referral to Juvenile Workgroup

*Jerry Landau
Judge Kathleen Quigley*

12:15 p.m. *Lunch break (\$5.00)*

1:00 p.m. Continue to discuss Juvenile Workgroup draft
legislation, forms, and instructions

*Jerry Landau
Judge Kathleen Quigley*

- 1:30 p.m. 3. Discuss automatic restoration of civil rights
- Restoration of Civil Rights Memo (Mussman)
 - Draft legislation - Public Defender A.R.S. §§ 13-906 to 13-910, V.6 dated 9-17-18 1:43 am
 - Draft legislation -A. R. S. §§ 13-906 to 13-910, V.4 dated 09-27-18 9:23 am
- Formal Action/Request*

*Jerry Landau
Jeremy Mussman
Judge Sam Myers*

2:45 p.m. Good of the Order/Call to the public

Jerry Landau

3:00 p.m. Adjournment

Next Meeting

November 27, 2018 10:00 a.m. to 3:00 p.m.

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Post-Conviction Actions Task Force Draft Minutes

Thursday, September 13, 2018

Established by A.O. No. 2018-52

Present: Jerry Landau, Chair; Julie Ahlquist; Kurt Altman; Alex Benezra; Cathy Clarich; Colleen Clase; Mirisue Galindo; Ryan Glover; Judge John Hudson; Jeremy Mussman; Judge Sam Myers; Aaron Nash; Tom O'Connell; Judge Antonio Riojas; Lisa Royal; Leonard Ruiz; Amber Sliwinski; Mikel Steinfeld; Kent Volkmer

Appearing Telephonically: Donald Jacobson; Judge Kathleen Quigley

Absent: Kirstin Flores; Will Gaona; Judge Margaret McCullough; Judge Keith Russell; Kathy Waters

Presenters/Guests: Anthony Coulson, Jennifer Greene, Dee Podesky; Cheryl Clark, ACLU People Power; Lynn Rencarte

Staff: Jennifer Albright; Susan Pickard

Welcome and Opening Remarks -

With a quorum present, Jerry Landau, Chair, welcomed the members. Self-introductions were made by all who were in attendance either in person or on the telephone. Then Mr. Landau laid out his goal of finalizing the statutes and forms related to the recommendations of the PCA Juvenile Adjudication Set Aside Subcommittee.

Minutes

Mr. Landau presented the minutes of the August 20, 2018, meeting of the Task Force for approval.

Discussion:

1. Anthony Coulson's name was misspelled at the beginning of his presentation.
2. Alex Benezra indicated that he left the meeting at lunch.
3. Jeremy Mussman indicated that a significant discussion related to hardships caused by A.R.S §§13-3113 and 13-1301 had been omitted. Mr. Mussman later withdrew his objection to the minutes as the discussion reoccurred later in this meeting.

The approval of the minutes was tabled until the October 17, 2018 meeting.
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Pending Rule Change Petition Re: Criminal Rule 24.3(c)(3) – Public Benefits and Victims' Rights

Because discussion was ongoing regarding the draft rule, the agenda item was tabled until the October 17, 2018, meeting.

Review Recommendations of the PCA Juvenile Adjudication Set Aside Subcommittee

The discussion of the subitems for this agenda item were taken out of the published agenda order.

A.R.S. 8-348.01 – Class 6 Undesignated Felony

The proposed draft was amended to repeal subsection (D)(3) and add a new subsection (E).

Motion: To move the proposed legislative amendments regarding class 6 undesignated felonies forward to the Arizona Judicial Council for consideration by Judge Myers. **Second:** Judge Quigley
Vote: Pass unanimously.

A.R.S. §§ 8-431, 8-341, 13-912.01, and 13-3113 – Firearms Possession

The discussion regarding the statutory amendments to do with firearms resulted in adding “an offense if committed by an adult would be” as appears in 8-431(A) to (C) and making the transmission of a copy of the application to the county attorney the responsibility of the clerk of the court.

The discussion comparing current A.R.S. §§ 13-912.01 and 13-3113 highlighted a need for standardization of the timeline.

New ideas were offered to develop the best law from prosecutor, law enforcement and court perspectives. Ultimately, the consensus was this policy issue may be best brought forward by another agency.

Motion: To table the discussion about firearm restoration timelines indefinitely by Judge Riojas.
Second. Mr. Ruiz. **Vote:** Passed unanimously.

A.R.S. § 8-348 – Setting Aside Adjudication

Judge Quigley noted that the subcommittee members discussed the possible repeal of this section but had not developed its recommendation. Members shared input on reasons in support of repeal and reasons against repeal.

There was also discussion regarding the proposed factors in subsection C. The discussion led to an action item for the PCA-Juvenile Set Aside Subcommittee.

Action Item: The PCA Juvenile Adjudication Set Aside Subcommittee was asked to develop proposed language for subsection C and identify its impact on the form, instructions, and legal requirements document.

Discuss Automatic Restoration of Civil Rights

After discussing the handouts provided, Mr. Landau presented his proposal. The members shared input regarding §§ 13-910(B) and 13-911(B) and clarification of the meaning of “civil rights” in the context of the discussion and proposals.

Mr. Mussman also presented a proposal on the topic of automatic restoration of civil rights for second or subsequent offenses. That proposal involved a significant policy change.

Bill Montgomery, Maricopa County Attorney, was present and shared his comments regarding the restoration of civil rights.

Additional discussion ensued and included comments about democratic processes, requirements that need to be met to return to full participation in a democratic society, and the disparate impact on the poor when a society requires strict compliance with monetary consequences for breaking societal rules.

The Chair asked for a straw poll. The **consensus of the members (9-8-1)** was to continue the discussion about restoration of civil rights.

Call to the Public

Mr. Landau made his first call to the public, to hear any input that may have an impact on a vote or further discussion. Dee Podesky; Cheryl Clark, ACLU People Power; and Lynn Rencarte spoke.

Discuss Automatic Restoration of Civil Rights (continued)

Having voted to proceed with automatic restoration of civil rights for first offenses during the July meeting, the **consensus of the members (8-7-1)** was to proceed with automatic restoration for second and subsequent offenses.

Review Recommendations of the PCA Juvenile Adjudication Set Aside Subcommittee (continued)

A.R.S. §8-349 – Sealing of juvenile records

Judge Quigley noted that sealing a juvenile's record allows future access of the record for job/career related background checks and continued victim restitution payments.

Comments/Concerns:

1. The removal of "successful" removes a carrot that encourages compliance.
2. "Successful" is not well defined.

Action Item: The PCA Juvenile Adjudication Set Aside Subcommittee was asked to reconsider the use of the term "successful" in § 8-349.

Good of the Order/Call to the Public

Mr. Landau discussed the agenda for the October meeting which will include:

- Discussion about
 - pending rule change petition re: Criminal Rules 24.3(c)(3)
 - diversion
 - restoration of civil rights
 - the impact of purging records on the set aside issue
- Vote finalize juvenile adjudication set aside; sealing of juvenile records, and restoration of firearm statutes, forms, and instructions.

Leonard Ruiz asked that digital versions of the documents provided by Jeremy Mussman, including the September 11 draft proposed legislation be shared with the task force.

The second call to the public was made. No comment was made.

Adjournment

The meeting adjourned at 3:06 p.m.

Next Meeting:

Thursday, October 17, 2018 - 10:00 a.m. to 3:00 p.m. - Conference Rooms 345 A&B

Juvenile court; sealing of records

1 Section 5. ~~8-349.~~ Sealing of juvenile records; electronic research
2 records

3 A. A person who has been referred to juvenile court may apply ~~for~~
4 ~~destruction of~~ TO HAVE the person's juvenile court and department
5 of juvenile corrections records SEALED IF

6 ~~B. If The records concern a referral or citation that did not~~
7 ~~result in further action or that resulted in diversion, OR~~
8 ~~placement in a community based alternative program~~

9 ~~or an~~ THE RECORDS CONCERN AN adjudication for an offense other
10 than an offense listed in section 13-501, subsection A or B, or
11 title 28, chapter 4. ~~the person shall file an application with the~~
12 ~~juvenile court and shall serve a copy of the application on the~~
13 ~~county attorney in the county in which the referral was made. The~~
14 ~~person shall certify under oath that all of the following apply:~~

15 B. THE APPLICANT SHALL STATE THAT:

16 1. The person is at least eighteen years of age.

17 2. THE PERSON IS NOT UNDER THE JURISDICTION OF THE JUVENILE COURT
18 OR THE DEPARTMENT OF JUVENILE CORRECTIONS.

19 23. The person has not been convicted of a felony offense or
20 adjudicated delinquent for an offense that would be an offense
21 listed in section 13-501, subsection A or B or title 28, chapter
22 4 AND THE PERSON IS NOT REQUIRED TO REGISTER PURSUANT TO SECTION
23 13-3821.

24 34. A criminal charge is not pending.

25 45. The person has ~~successfully~~ completed ~~all of~~ the terms and
26 conditions of court ordered probation or HAS been discharged from
27 the department of juvenile corrections pursuant to section 41-2820
28 on successful completion of the individualized treatment plan.

29 56. ~~all~~ ALL VICTIM restitution HAS ~~and monetary assessments have~~
30 been paid in full, OR EXTENUATING CIRCUMSTANCES EXIST.

31 C. THE CLERK SHALL TRANSMIT A COPY OF THE APPLICATION TO THE COUNTY
32 ATTORNEY IN THE COUNTY IN WHICH THE REFERRAL WAS MADE.

33 ~~CD.~~ The juvenile court ~~may~~ SHALL order the ~~destruction of~~ records
34 TO BE SEALED under ~~subsection~~ SUBSECTIONS A AND B of this section
35 if the court finds all of the following:

36 1. The person is at least eighteen years of age.

37 2. THE PERSON IS NOT UNDER THE JURISDICTION OF THE JUVENILE COURT
38 OR THE DEPARTMENT OF JUVENILE CORRECTIONS.

39 23. The person has not been convicted of a felony offense.

1 ~~34.~~ A criminal charge is not pending.

2 ~~45.~~ The person was not adjudicated for an offense listed in section
3 13-501, subsection A or B or title 28, chapter 4 AND THE PERSON IS
4 NOT REQUIRED TO REGISTER PURSUANT TO SECTION 13-3821.

5 ~~56.~~ The person successfully completed ~~all of~~ the terms and
6 conditions of probation or was discharged from the department of
7 juvenile corrections pursuant to section 41-2820 on successful
8 completion of the individualized treatment plan.

9 ~~67.~~ All VICTIM restitution ~~and monetary assessments have~~ OWED BY
10 THE PERSON HAS BEEN PAID IN FULL, UNLESS THE COURT FINDS
11 EXTENUATING CIRCUMSTANCES EXIST.

12 ~~7. The destruction of the records is in the interests of justice.~~

13 ~~8. The destruction~~ SEALING ~~of~~ the records would further the
14 rehabilitative process of the applicant.

15 ~~9.~~ THE COURT SHALL NOT CONSIDER OUTSTANDING FINES AND FEES WHEN
16 DETERMINING WHETHER TO SEAL THE RECORDS.

17 ~~DE. If the records concern a referral that resulted in an~~
18 ~~adjudication of delinquency for an offense not subject to~~ PURSUANT
19 TO SECTION F BELOW, A PERSON WHO IS NOT ELIGIBLE TO HAVE THE
20 PERSON'S RECORDS SEALED UNDER ~~subsection~~ SUBSECTIONS A AND B of
21 this section ~~the person shall file the application with the~~
22 ~~juvenile court and shall a copy of the application on the county~~
23 ~~attorney in the county in which the referral was made. The person~~
24 ~~shall certify under oath that all of the following~~ MAY apply TO
25 HAVE THE PERSON'S JUVENILE COURT AND DEPARTMENT OF JUVENILE
26 CORRECTIONS RECORDS SEALED.

27 F. THE APPLICANT SHALL STATE THAT:

28 1. The person is at least ~~twenty-five~~ TWENTY-ONE years of age.
29 2. The person has not been convicted of a felony offense.
30 3. A criminal charge is not pending.
31 4. ~~The person has successfully completed all of the terms and~~
32 ~~conditions of court ordered probation or been discharged from the~~
33 ~~department of juvenile corrections pursuant to section 41-2820 on~~
34 ~~successful completion of the individualized treatment plan. THE~~
35 PERSON IS NOT REQUIRED TO REGISTER PURSUANT TO SECTION 13-3821.

36 5. All VICTIM restitution ~~and monetary assessments have~~ HAS been
37 paid in full OR EXTENUATING CIRCUMSTANCES EXIST.

38 G. THE PROSECUTOR MAY FILE AN OBJECTION TO THE APPLICATION.

39 ~~EH.~~ The juvenile court may order the ~~destruction of~~ records TO BE
40 SEALED under subsection ~~DE~~ of this section if ~~the county attorney~~

1 ~~does not object within ninety days after the date of the notice~~
2 ~~and~~ the court finds that all of the following apply:

- 3 1. The person is at least ~~twenty-five~~ TWENTY-ONE years of age.
- 4 2. The person has not been convicted of a felony offense.
- 5 3. A criminal charge is not pending.
- 6 4. ~~The person has successfully completed all of the terms and~~
7 ~~conditions of court ordered probation or been discharged from the~~
8 ~~department of juvenile corrections pursuant to section 41-2820 on~~
9 ~~successful completion of the individualized treatment plan.~~ THE
10 PERSON IS NOT REQUIRED TO REGISTER PURSUANT TO SECTION 13-3821.
- 11 5. All restitution ~~and monetary assessments have~~ OWED BY THE PERSON
12 HAS BEEN PAID IN FULL, UNLESS THE COURT FINDS EXTENUATING
13 CIRCUMSTANCES EXIST.
- 14 6. ~~The destruction of~~ SEALING the records ~~would be~~ IS in the
15 interests of justice.
- 16 7. ~~The destruction~~ SEALING ~~of~~ the records would further the
17 rehabilitative process of the applicant.

18 I. THE CLERK SHALL TRANSMIT A COPY OF THE APPLICATION TO THE COUNTY
19 ATTORNEY IN THE COUNTY IN WHICH THE REFERRAL WAS MADE.

20 FJ. The juvenile court and the department of juvenile corrections
21 may store any records for research purposes.

22 K. A PERSON WHOSE RECORDS HAVE BEEN SEALED SHALL CONTINUE TO OWE
23 ALL MONETARY OBLIGATIONS ORDERED BY THE COURT THAT REMAIN UNPAID
24 AT THE TIME THE RECORDS ARE SEALED AND IS SUBJECT TO ALL REMEDIES
25 PURSUANT TO SECTIONS 8-344 AND 8-345 UNTIL THE MONETARY OBLIGATIONS
26 ARE PAID.

27 L. A PERSON WHOSE RECORDS HAVE BEEN SEALED SHALL NOT BE REQUIRED
28 TO DISCLOSE THE EXISTENCE OF THE RECORDS OR ANY INFORMATION
29 CONTAINED IN THE SEALED RECORDS.

30 M. WITHIN 90 DAYS OF THE PERSON BECOMING 18 YEARS OF AGE, THE
31 JUVENILE COURT, THE CLERK OF THE COURT, AND THE JUVENILE PROBATION
32 DEPARTMENT SHALL SEAL RECORDS CONCERNING A REFERRAL OR CITATION
33 THAT DID NOT RESULT IN FURTHER ACTION OR THAT RESULTED IN A
34 SUCCESSFUL COMPLETION OF DIVERSION.

35 N. RECORDS SEALED UNDER THIS SECTION MAY BE OBTAINED ONLY BY:

- 36 1. THE PERSON WHOSE RECORDS WERE SEALED, OR
- 37 2. THE PERSON'S CONSERVATOR OR GUARDIAN, IF THE PERSON IS DECEASED
38 OR HAS BEEN ADJUDICATED TO BE AN INCAPACITATED PERSON.

39 O. WITHIN SIX MONTHS OF NOTIFICATION BY THE SUPERIOR COURT THAT A
40 PERSON'S JUVENILE RECORDS WERE SEALED, THE DEPARTMENT OF CHILD
41 SAFETY SHALL DESTROY ALL DELINQUENCY COURT, JUVENILE PROBATION,

1 AND ARIZONA DEPARTMENT OF JUVENILE CORRECTIONS RECORDS IN ITS
2 POSSESSION PRODUCED IN THE DELINQUENCY MATTER.

3 P. FOR THE PURPOSES OF THIS SECTION:

4 1. "SEALED" HAS THE SAME PURPOSE AND EFFECT AS DESTRUCTION OF
5 RECORDS. THE COURT SHALL NOT DISCLOSE THE EXISTENCE OF THE
6 SEALED RECORD OR DISCLOSE, RELEASE, OR PROVIDE ACCESS TO THE
7 RECORDS TO ANY PERSON FOR ANY REASON EXCEPT AS PROVIDED IN
8 SUBSECTION K OF THIS SECTION, IN ORDER TO PROCESS THE RECEIPT
9 AND DISTRIBUTION OF MONETARY OBLIGATIONS ORDERED BY THE COURT.

10 2. "SUCCESSFUL" MEANS, IN THE DISCRETION OF THE COURT, THE
11 PERSON SATISFIED THE CONDITIONS OF PROBATION.

12

13 10/12/18

14 11:20 am

Setting aside adjudications; requirements

1 Section 3. ~~8-348.~~ Setting aside adjudication; application; release
2 from disabilities; exceptions

3 A. Except as provided in subsections ~~C and D~~ J of this section, a
4 person who is at least eighteen years of age, **OR NINETEEN YEARS OF**
5 **AGE IF JURISDICTION IS RETAINED PURSUANT TO SECTION 8-202**, who has
6 been adjudicated delinquent or incorrigible and who has fulfilled
7 the conditions of probation and discharge ordered by the court or
8 who is discharged from the department of juvenile corrections
9 pursuant to section 41-2820 on successful completion of the
10 individual treatment plan may apply to the juvenile court to set
11 aside the adjudication. The court ~~or the department of juvenile~~
12 ~~corrections~~ shall inform the person of this right **IN WRITING** at
13 the time ~~the person is discharged~~ **OF THE DISPOSITION**.

14 B. The person or, ~~if authorized in writing~~, the person's attorney,
15 probation officer or parole officer may apply to set aside the
16 adjudication. A copy of the application shall be served on the
17 prosecutor. **THE CLERK OF THE COURT MAY NOT CHARGE A FILING FEE FOR**
18 **AN APPLICATION TO HAVE AN ADJUDICATION SET ASIDE**.

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

- 21 1. **THE NATURE AND CIRCUMSTANCES OF THE OFFENSE UPON WHICH THE**
22 **ADJUDICATION IS BASED.**
- 23 2. **THE APPLICANT'S COMPLIANCE WITH THE CONDITIONS OF PROBATION OR**
24 **CONDITIONAL LIBERTY, THE SENTENCE IMPOSED AND ANY STATE DEPARTMENT**
25 **OF JUVENILE CORRECTIONS RULES OR REGULATIONS, IF APPLICABLE.**
- 26 3. **ANY PRIOR OR SUBSEQUENT ADJUDICATIONS OR CONVICTIONS.**
- 27 4. **THE VICTIM'S INPUT AND THE STATUS OF VICTIM RESTITUTION, IF**
28 **ANY.**
- 29 5. **ANY OTHER FACTOR THAT IS RELEVANT TO THE APPLICATION.**

30 ~~B D.~~ If the court grants the application, the court shall set aside
31 the adjudication, **DISMISS THE PETITION** and shall order that the
32 person be released from all penalties and disabilities resulting
33 from the adjudication except **THOSE IMPOSED BY:**

- 34 1. ~~Those imposed by~~ The department of transportation pursuant to
35 section 28-3304, 28-3306, 28-3307, ~~or~~ 28-3308 **OR 28-3319.**
- 36 2. **THE GAME AND FISH COMMISSION PURSUANT TO SECTION 17-314 OR 17-**
37 **340.**

38 ~~Regardless of whether the court sets aside the adjudication, the~~
39 ~~adjudication may be used for any purpose as provided in section 8-~~
40 ~~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.~~

E. AN ADJUDICATION THAT IS SET ASIDE MAY BE:

1. ALLEGED AS AN ELEMENT OF AN OFFENSE.

2. CONSIDERED BY THE COURT AND THE PROBATION DEPARTMENT AS PART OF A PRESENTENCE REPORT.

3. USED BY THE DEPARTMENT OF TRANSPORTATION IN ENFORCING SECTION 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, OR 28-3319 AS IF THE ADJUDICATION HAD NOT BEEN SET ASIDE.

F. THE CLERK OF THE COURT MUST NOTIFY THE DEPARTMENT OF PUBLIC SAFETY IF AN ADJUDICATION IS SET ASIDE.

G. THIS SECTION DOES NOT REQUIRE A LAW ENFORCEMENT AGENCY TO REDACT OR REMOVE A RECORD OR INFORMATION FROM THE RECORD OF A PERSON WHOSE ADJUDICATION IS SET ASIDE.

H. IF THE COURT DENIES AN APPLICATION TO HAVE AN ADJUDICATION SET ASIDE, THE COURT SHALL STATE ITS REASONS FOR THE DENIAL IN WRITING AND ON THE RECORD.

I. A VICTIM HAS THE RIGHT TO BE PRESENT AND BE HEARD AT ANY PROCEEDING IN WHICH THE JUVENILE HAS FILED AN APPLICATION TO HAVE AN ADJUDICATION SET ASIDE PURSUANT TO THIS SECTION. IF THE VICTIM HAS MADE A REQUEST FOR POST ADJUDICATION NOTICE, THE STATE SHALL PROVIDE THE VICTIM WITH NOTICE OF THE JUVENILE'S APPLICATION AND OF THE RIGHTS PROVIDED TO THE VICTIM IN THIS SECTION.

~~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~~

~~{D J. This section does not apply to a person who was adjudicated delinquent OR CONVICTED 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 A DANGEROUS OFFENSE as defined in section 13-105.~~

- 1 2. A SERIOUS OR A VIOLENT OR AGGRAVATED OFFENSE AS DEFINED IN
2 SECTION 13-706
- 3 3. An offense in ~~violation of title 13, chapter 14~~ FOR WHICH THE
4 PERSON IS REQUIRED OR ORDERED BY THE COURT TO REGISTER PURSUANT TO
5 SECTION 13-3821.
- 6 ~~4. An offense in violation of section 28-1381, 28-1382, 28-1383 or~~
7 ~~28-3473.~~
- 8 ~~5. A civil traffic violation under title 28, chapter 3.~~
- 9 4. AN OFFENSE FOR WHICH THERE HAS BEEN A FINDING OF SEXUAL
10 MOTIVATION PURSUANT TO SECTION 13-118.
- 11 5. AN OFFENSE IN VIOLATION OF SECTION 28-3473, ANY LOCAL ORDINANCE
12 RELATING TO STOPPING, STANDING OR OPERATION OF A VEHICLE OR TITLE
13 28, CHAPTER 3, EXCEPT A VIOLATION OF SECTION 28-693 OR 28-695 OR
14 ANY LOCAL ORDINANCE RELATING TO THE SAME SUBJECT MATTER AS SECTION
15 28-693 OR 28-695.}

9/9/18
1:45 PM

Detention centers; dangerous offenses

A.R.S. § 8-305. Detention center; jail; separate custody; definitions

A. The county board of supervisors or the county jail district, if authorized pursuant to title 48, chapter 25, shall maintain a detention center that is separate and apart from a jail or lockup in which adults are confined and where juveniles who are alleged to be delinquent or children who are incorrigible and within the provisions of this article shall be detained when necessary before or after a hearing or as a condition of probation. A juvenile who is charged with an offense ~~that is not a dangerous offense and~~ that is listed in § 13-501 may be detained in a juvenile detention center if the detention is ordered by the court. The board may enter agreements with public or private entities to acquire land for, build, purchase, lease-purchase, lease or expand a detention center required by this section.

B. The board of supervisors or the county jail district, if authorized pursuant to title 48, chapter 25, may provide for the detention of juveniles who are accused or convicted of a criminal offense in a jail or lockup in which adults are confined. A juvenile who is confined in a jail or lockup in which adults are confined shall be kept in a physically separate section from any adult who is charged with or convicted of a criminal offense, and no sight or sound contact between the juvenile and any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.

C. A juvenile, pending a juvenile hearing, shall not be confined with adults charged with or convicted of a crime, except that:

1. A juvenile who is accused of a criminal offense or who is alleged to be delinquent may be securely detained in such location for up to six hours until transportation to a juvenile detention center can be arranged if the juvenile is kept in a physically separate section from any adult who is charged with or convicted of a crime and no sight or sound contact between the juvenile and any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.

2. A juvenile who is transferred as provided in § 8-327 to the criminal division of the superior court may be securely detained if the juvenile is kept in a physically separate section from any adult charged with or convicted of a crime, and no sight or sound contact with any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.

3. A juvenile who is arrested for an offense listed in § 13-501 may be detained in a juvenile detention center until formally charged as an adult. After a juvenile has been formally charged as an adult the

1 juvenile may be either of the following:

2 (a) Detained in a juvenile detention center if ~~the offense is not a~~
3 ~~dangerous offense and~~ the detention is ordered by the court.

4 (b) Securely detained in an adult facility if the juvenile is detained
5 separately from any adult charged with or convicted of a crime, except
6 to the extent authorized under federal laws or regulations.

7 **D.** In determining whether to order that a juvenile who is charged with
8 an offense ~~that is not a dangerous offense and~~ that is listed in § 13-
9 501 be detained in a juvenile detention center or an adult facility
10 pursuant to subsection A or subsection C, paragraph 3, subdivision (a)
11 of this section, the court shall consider all of the following:

12 1. The best interests of both the juvenile charged as an adult and the
13 other juveniles detained in the juvenile detention center.

14 2. The severity of the charges against the juvenile charged as an adult.

15 3. The existing programs and facilities for juveniles at both the
16 juvenile detention center and the adult facility.

17 4. Any other factor relevant to the determination of where to detain
18 the juvenile.

19 **E.** A child who is alleged to be delinquent or who is alleged to be
20 incorrigible shall not be securely detained in a jail or lockup in which
21 adults charged with or convicted of a crime are detained. A child may
22 be nonsecurely detained if necessary to obtain the child's name, age,
23 residence or other identifying information for up to six hours until
24 arrangements for transportation to any shelter care facility, home or
25 other appropriate place can be made. A child who is nonsecurely detained
26 shall be detained separately from any adult charged with or convicted
27 of a crime, and no sight or sound contact with any charged or convicted
28 adult is permitted, except to the extent authorized under federal laws
29 or regulations.

30 **F.** Any detained juvenile or child who, by the juvenile's or child's
31 conduct, endangers or evidences that the juvenile or child may endanger
32 the safety of other detained children shall not be allowed to
33 intermingle with any other juvenile or child in the detention center.

34 **G.** Pursuant to § 8-322, the county board of supervisors, the county
35 jail district board of directors or the administrative office of the
36 courts on behalf of the juvenile court may enter into an agreement with
37 public or private entities to provide the detention centers required by
38 subsection A of this section.

39 **H.** For the purposes of this section:

40 ~~1. "Dangerous offense" has the same meaning prescribed in § 13-105.~~

41 ~~2.~~ "Juvenile" includes a person who is under the jurisdiction of the
42 juvenile court pursuant to § 8-202, subsection H.

1 § 8-341 Disposition and commitment; definitions

2 A. After receiving and considering the evidence on the proper disposition
3 of the case, the court may enter judgment as follows:

4 1. It may award a delinquent juvenile:

5 (a) To the care of the juvenile's parents, subject to the supervision of
6 a probation department.

7 (b) To a probation department, subject to any conditions the court may
8 impose, including a period of incarceration in a juvenile detention center
9 of not more than one year.

10 (c) To a reputable citizen of good moral character, subject to the
11 supervision of a probation department.

12 (d) To a private agency or institution, subject to the supervision of a
13 probation officer.

14 (e) To the department of juvenile corrections.

15 (f) To maternal or paternal relatives, subject to the supervision of a
16 probation department.

17 (g) To an appropriate official of a foreign country of which the juvenile
18 is a foreign national who is unaccompanied by a parent or guardian in this
19 state to remain on unsupervised probation for at least one year on the
20 condition that the juvenile cooperate with that official.

21 2. It may award an incorrigible child:

22 (a) To the care of the child's parents, subject to the supervision of a
23 probation department.

24 (b) To the protective supervision of a probation department, subject to
25 any conditions the court may impose.

26 (c) To a reputable citizen of good moral character, subject to the
27 supervision of a probation department.

28 (d) To a public or private agency, subject to the supervision of a probation
29 department.

30 (e) To maternal or paternal relatives, subject to the supervision of a
31 probation department.

32 B. If a juvenile is placed on probation pursuant to this section, the period
33 of probation may continue until the juvenile's eighteenth birthday or
34 until the juvenile's nineteenth birthday if jurisdiction is retained
35 pursuant to § 8-202, subsection H, except that the term of probation shall
36 not exceed one year if all of the following apply:

37 1. The juvenile is not charged with a subsequent offense.

38 2. The juvenile has not been found in violation of a condition of probation.

39 3. The court has not made a determination that it is in the best interests
40 of the juvenile or the public to require continued supervision. The court
41 shall state by minute entry or written order its reasons for finding that

1 continued supervision is required.

2 4. The offense for which the juvenile is placed on probation does not
3 involve a dangerous offense as defined in § 13-105.

4 5. The offense for which the juvenile is placed on probation does not
5 involve a violation of title 13, chapter 14 or 35.1.¹

6 6. Restitution ordered pursuant to § 8-344 has been made.

7 7. The juvenile's parents have not requested that the court continue the
8 juvenile's probation for more than one year.

9 C. If a juvenile is adjudicated as a first time felony juvenile offender,
10 the court shall provide the following written notice to the juvenile:
11 You have been adjudicated a first time felony juvenile offender. You are
12 now on notice that if you are adjudicated of another offense that would
13 be a felony offense if committed by an adult and if you commit the other
14 offense when you are fourteen years of age or older, you ~~MAY will~~ be placed
15 on juvenile intensive probation, which may include home arrest and
16 electronic monitoring, or you may be placed on juvenile intensive
17 probation and may be incarcerated for a period of time in a juvenile
18 detention center, or you may be committed to the department of juvenile
19 corrections or you may be prosecuted as an adult. If you are convicted
20 as an adult of a felony offense and you commit any other offense, you
21 will be prosecuted as an adult.

22 D. If a juvenile is fourteen years of age or older and is adjudicated as
23 a repeat felony juvenile offender, the juvenile court ~~MAY shall~~ place the
24 juvenile on juvenile intensive probation, which may include home arrest
25 and electronic monitoring, may place the juvenile on juvenile intensive
26 probation, which may include incarceration for a period of time in a
27 juvenile detention center, or may commit the juvenile to the department
28 of juvenile corrections pursuant to subsection A, paragraph 1, subdivision
29 (e) of this section for a significant period of time.

30 E. If the juvenile is adjudicated as a repeat felony juvenile offender,
31 the court shall provide the following written notice to the juvenile:
32 You have been adjudicated a repeat felony juvenile offender. You are now
33 on notice that if you are arrested for another offense that would be a
34 felony offense if committed by an adult and if you commit the other offense
35 when you are fifteen years of age or older, you will be tried as an adult
36 in the criminal division of the superior court. If you commit the other
37 offense when you are fourteen years of age or older, you may be tried
38 as an adult in the criminal division of the superior court. If you are
39 convicted as an adult, you will be sentenced to a term of incarceration.
40 If you are convicted as an adult of a felony offense and you commit any
41 other offense, you will be prosecuted as an adult.

42 F. The failure or inability of the court to provide the notices required

1 under subsections C and E of this section does not preclude the use of
2 the prior adjudications for any purpose otherwise permitted.

3 G. Except as provided in subsection S of this section, after considering
4 the nature of the offense and the age, physical and mental condition and
5 earning capacity of the juvenile, the court shall order the juvenile to
6 pay a reasonable monetary assessment if the court determines that an
7 assessment is in aid of rehabilitation. If the director of the department
8 of juvenile corrections determines that enforcement of an order for
9 monetary assessment as a term and condition of conditional liberty is not
10 cost-effective, the director may require the youth to perform an
11 equivalent amount of community restitution in lieu of the payment ordered
12 as a condition of conditional liberty.

13 H. If a child is adjudicated incorrigible, the court may impose a monetary
14 assessment on the child of not more than one hundred fifty dollars.

15 I. A juvenile who is charged with unlawful purchase, possession or
16 consumption of spirituous liquor is subject to § 8-323. The monetary
17 assessment for a conviction of unlawful purchase, possession or
18 consumption of spirituous liquor by a juvenile shall not exceed five
19 hundred dollars. The court of competent jurisdiction may order a monetary
20 assessment or equivalent community restitution.

21 J. The court shall require the monetary assessment imposed under
22 subsection G or H of this section on a juvenile who is not committed to
23 the department of juvenile corrections to be satisfied in one or both of
24 the following forms:

25 1. Monetary reimbursement by the juvenile in a lump sum or installment
26 payments through the clerk of the superior court for appropriate
27 distribution.

28 2. A program of work, not in conflict with regular schooling, to repair
29 damage to the victim's property, to provide community restitution or to
30 provide the juvenile with a job for wages. The court order for restitution
31 or monetary assessment shall specify, according to the dispositional
32 program, the amount of reimbursement and the portion of wages of either
33 existing or provided work that is to be credited toward satisfaction of
34 the restitution or assessment, or the nature of the work to be performed
35 and the number of hours to be spent working. The number of hours to be
36 spent working shall be set by the court based on the severity of the offense
37 but shall not be less than sixteen hours.

38 K. If a juvenile is committed to the department of juvenile corrections,
39 the court shall specify the amount of the monetary assessment imposed
40 pursuant to subsection G or H of this section.

41 L. After considering the length of stay guidelines developed pursuant to
42 § 41-2816, subsection C, the court may set forth in the order of commitment

1 the minimum period during which the juvenile shall remain in secure care
2 while in the custody of the department of juvenile corrections. When the
3 court awards a juvenile to the department of juvenile corrections or an
4 institution or agency, it shall transmit with the order of commitment
5 copies of a diagnostic psychological evaluation and educational
6 assessment if one has been administered, copies of the case report, all
7 other psychological and medical reports, restitution orders, any request
8 for postadjudication notice that has been submitted by a victim and any
9 other documents or records pertaining to the case requested by the
10 department of juvenile corrections or an institution or agency. The
11 department shall not release a juvenile from secure care before the
12 juvenile completes the length of stay determined by the court in the
13 commitment order unless the county attorney in the county from which the
14 juvenile was committed requests the committing court to reduce the length
15 of stay. The department may temporarily escort the juvenile from secure
16 care pursuant to § 41-2804, may release the juvenile from secure care
17 without a further court order after the juvenile completes the length of
18 stay determined by the court or may retain the juvenile in secure care
19 for any period subsequent to the completion of the length of stay in
20 accordance with the law.

21 M. Written notice of the release of any juvenile pursuant to subsection
22 L of this section shall be made to any victim requesting notice, the
23 juvenile court that committed the juvenile and the county attorney of the
24 county from which the juvenile was committed.

25 N. Notwithstanding any law to the contrary, if a person is under the
26 supervision of the court as an adjudicated delinquent juvenile at the time
27 the person reaches eighteen years of age, treatment services may be
28 provided until the person reaches twenty-one years of age if the court,
29 the person and the state agree to the provision of the treatment and a
30 motion to transfer the person pursuant to § 8-327 has not been filed or
31 has been withdrawn. The court may terminate the provision of treatment
32 services after the person reaches eighteen years of age if the court
33 determines that any of the following applies:

- 34 1. The person is not progressing toward treatment goals.
- 35 2. The person terminates treatment.
- 36 3. The person commits a new offense after reaching eighteen years of age.
- 37 4. Continued treatment is not required or is not in the best interests
38 of the state or the person.

39 O. On the request of a victim of an act that may have involved significant
40 exposure as defined in § 13-1415 or that if committed by an adult would
41 be a sexual offense, the prosecuting attorney shall petition the
42 adjudicating court to require that the juvenile be tested for the presence

1 of the human immunodeficiency virus. If the victim is a minor the
2 prosecuting attorney shall file this petition at the request of the
3 victim's parent or guardian. If the act committed against a victim is an
4 act that if committed by an adult would be a sexual offense or the court
5 determines that sufficient evidence exists to indicate that significant
6 exposure occurred, it shall order the department of juvenile corrections
7 or the department of health services to test the juvenile pursuant to §
8 13-1415. Notwithstanding any law to the contrary, the department of
9 juvenile corrections and the department of health services shall release
10 the test results only to the victim, the delinquent juvenile, the
11 delinquent juvenile's parent or guardian and a minor victim's parent or
12 guardian and shall counsel them regarding the meaning and health
13 implications of the results.

14 P. If a juvenile has been adjudicated delinquent for an offense that if
15 committed by an adult would be an offense listed in § 41-1750, subsection
16 C, the court shall provide the department of public safety Arizona
17 automated fingerprint identification system established in § 41-2411 with
18 the juvenile's ten-print fingerprints, personal identification data and
19 other pertinent information. If a juvenile has been committed to the
20 department of juvenile corrections the department shall provide the
21 fingerprints and information required by this subsection to the Arizona
22 automated fingerprint identification system. If the juvenile's
23 fingerprints and information have been previously submitted to the Arizona
24 automated fingerprint identification system the information is not
25 required to be resubmitted.

26 Q. Access to fingerprint records submitted pursuant to subsection P of
27 this section shall be limited to the administration of criminal justice
28 as defined in § 41-1750. Dissemination of fingerprint information shall
29 be limited to the name of the juvenile, juvenile case number, date of
30 adjudication and court of adjudication.

31 R. If a juvenile is adjudicated delinquent for an offense that if committed
32 by an adult would be a misdemeanor, the court may prohibit the juvenile
33 from carrying or possessing a firearm while the juvenile is under the
34 jurisdiction of the department of juvenile corrections or the juvenile
35 court.

36 S. If a juvenile is adjudicated delinquent for a violation of § 13-1602,
37 subsection A, paragraph 5, the court shall order the juvenile to pay a
38 fine of at least three hundred dollars but not more than one thousand
39 dollars. Any restitution ordered shall be paid in accordance with § 13-809,
40 subsection A. The court may order the juvenile to perform community
41 restitution in lieu of the payment for all or part of the fine if it is
42 in the best interests of the juvenile. The amount of community restitution

1 shall be equivalent to the amount of the fine by crediting any service
2 performed at a rate of ten dollars per hour. If the juvenile is convicted
3 of a second or subsequent violation of § 13-1602, subsection A, paragraph
4 5 and is ordered to perform community restitution, the court may order
5 the parent or guardian of the juvenile to assist the juvenile in the
6 performance of the community restitution if both of the following apply:

- 7 1. The parent or guardian had knowledge that the juvenile intended to
8 engage in or was engaging in the conduct that gave rise to the violation.
- 9 2. The parent or guardian knowingly provided the juvenile with the means
10 to engage in the conduct that gave rise to the violation.

11 T. If a juvenile is adjudicated delinquent for an offense involving the
12 purchase, possession or consumption of spirituous liquor or a violation
13 of title 13, chapter 34² and is placed on juvenile probation, the court
14 may order the juvenile to submit to random drug and alcohol testing at
15 least two times per week as a condition of probation.

~~16 U. A juvenile who is adjudicated delinquent for an offense involving the
17 purchase, possession or consumption of spirituous liquor or a violation
18 of title 13, chapter 34, who is placed on juvenile probation and who is
19 found to have consumed any spirituous liquor or to have used any drug listed
20 in § 13-3401 while on probation is in violation of the juvenile's
21 probation. If a juvenile commits a third or subsequent violation of a
22 condition of probation as prescribed by this subsection, the juvenile
23 shall be brought before the juvenile court and, if the allegations are
24 proven, the court shall either revoke probation and hold a disposition
25 hearing pursuant to this section or select additional conditions of
26 probation as it deems necessary, including detention, global position
27 system monitoring, additional alcohol or drug treatment, community
28 restitution, additional drug or alcohol testing or a monetary assessment.~~

29 UV. If jurisdiction of the juvenile court is retained pursuant to § 8-202,
30 subsection H, the court shall order continued probation supervision and
31 treatment services until a child who has been adjudicated a delinquent
32 juvenile reaches nineteen years of age or until otherwise terminated by
33 the court. The court may terminate continued probation supervision or
34 treatment services before the child's nineteenth birthday if the court
35 determines that continued probation supervision or treatment is not
36 required or is not in the best interests of the juvenile or the state or
37 the juvenile commits a criminal offense after reaching eighteen years of
38 age.

39 VW. For the purposes of this section:

- 40 1. "First time felony juvenile offender" means a juvenile who is
41 adjudicated delinquent for an offense that would be a felony offense if
42 committed by an adult.

1 2. "Repeat felony juvenile offender" means a juvenile to whom both of the
2 following apply:
3 (a) Is adjudicated delinquent for an offense that would be a felony offense
4 if committed by an adult.
5 (b) Previously has been adjudicated a first time felony juvenile offender.
6 3. "Sexual offense" means oral sexual contact, sexual contact or sexual
7 intercourse as defined in § 13-1401.

10/12/18
2:35 pm

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____



SUPERIOR COURT OF ARIZONA
IN _____ COUNTY

IN THE MATTER OF:

CASE NO(S): JV: _____

(Applicant's Name)

**APPLICATION TO SET ASIDE
JUVENILE ADJUDICATION
(A.R.S. § 8-348)**

(Applicant's Date of Birth)

(USE BLUE INK: PRINT LEGIBLY)

1. APPLICANT'S PERSONAL INFORMATION

First Name

Middle Name

Last Name

Street Address (if not protected)

Mailing Address (if different)

City, State, Zip Code

City, State, Zip Code (if different)

() _____

Phone Number

E-mail Address

2. STATEMENTS TO AND REQUESTS OF THE COURT.

I apply for the relief indicated below and state the following is true: (Check all that are true.)

[] Pursuant to A.R.S. § 8-348, I request the Court to set aside the adjudication(s) on the petition(s) under this/these case number(s) _____ and that I be released from all penalties and disabilities. See note below.

Note: Be advised that a set aside will not relieve you from unpaid restitution or penalties imposed by the Department of Transportation pursuant to A.R.S. §§ 28-3304, 28-3306, 28-3307, or 28-3308.

[] I am at least **18** years of age.

[] 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).

[] I have not been convicted of any criminal offense in an adult court.

[] I do not have a criminal charge pending in an adult court.

[] I have completed the conditions of my court-ordered probation or I have received an absolute discharge from the Arizona Department of Juvenile Corrections, under A.R.S. § 41-2820(B), on successful completion of my individualized treatment plan.

[] All restitution I was ordered to pay, has been **paid in full**.

OR

[] Restitution **has not been paid in full** and the following extenuating circumstances exist: (Explain)

Date

Applicant's Signature

**APPLICATION TO SET ASIDE JUVENILE ADJUDICATION
INSTRUCTIONS: HOW TO COMPLETE THE APPLICATION FORM**

In **BLUE INK**, please complete the form following the instructions below.

You may obtain information such as your case number from the Clerk of the Superior Court in the county in which you were adjudicated.

Heading: At the top of the form, please fill in your name; street address (if address is not protected), city, state, zip code and telephone number.

Fill in your first and last name on the line above "Applicant."

Fill in your date of birth on the line above "Applicant's Date of Birth."

Fill in your case number(s) on the line after "JV."

Item 1: APPLICANT'S PERSONAL INFORMATION.

Fill in all requested information, except your address if it is protected.

Fill in the name of the law enforcement agency that referred you to the Juvenile Court.

Item 2: STATEMENTS TO AND REQUESTS OF THE COURT.

Fill in the date the Petition was filed. You must enter a specific date. Requests for the court to set aside "ALL" adjudications will be denied.

Check all boxes that are **true**.

Date and sign the form.

PROCEDURES

1. Read all materials prior to filing to determine if you meet the requirements for the request you are making.
2. Complete the Application form **legibly** using **BLUE** ink.
3. Sign the Application. It does **NOT** have to be notarized.
4. **You must file the original and two (2) copies** of the Application with the Clerk of the Court.
The Clerk of the Court will transmit a copy of the Application to the prosecutor. The prosecutor has up to 90 days within which to file a response to the Application regarding your juvenile records.
5. The Clerk of the Court will return one copy of the Application for **your records**.

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____



SUPERIOR COURT OF ARIZONA
IN _____ COUNTY

IN THE MATTER OF:

CASE NO(S): JV: _____

(Applicant's Name)

**APPLICATION TO SEAL JUVENILE
RECORDS (A.R.S. § 8-349)**

(Applicant's Date of Birth)

(USE BLUE INK: PRINT LEGIBLY)

1. APPLICANT'S PERSONAL INFORMATION

First Name Middle Name Last Name

Street Address (if not protected) Mailing Address (if different)

City, State, Zip Code City, State, Zip Code (if different)

() _____
Phone Number E-mail Address

2. STATEMENTS TO AND REQUESTS OF THE COURT:

I apply for the relief indicated below and state that the following is true: (as marked)

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

 I am at least **18** years of age and not under the jurisdiction of the Juvenile Court or the Arizona Department of Juvenile Corrections

 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.

 I am not required to register pursuant to A.R.S. § 13-3821. (*See* handout)

 I have completed **probation or court ordered consequences**.

OR

 I have received an **absolute discharge**, under A.R.S. § 41-2820(B), from the Arizona Department of Juvenile Corrections.

 All restitution I was ordered to pay has been **paid in full**.

OR

 Restitution **has not been paid in full**, and the following extenuating circumstances exist: (Explain)

OR

B. I request my juvenile records be sealed (including Arizona Department of Juvenile Corrections records) pursuant to **A.R.S. § 8-349(D)**. (Check all that are true.)

 I am at least **21** years of age.

 I have not been convicted of a felony offense (in adult court).

 A criminal charge is not pending against me in an adult court.

Case Number(s): _____

I am not required to register pursuant to A.R.S. § 13-3821. (*See* handout.)

All restitution I was ordered to pay has been **paid in full**.

OR

Restitution **has not been paid in full**, and the following extenuating circumstances exist: (Explain)

Date

Applicant's Signature

**APPLICATION TO SEAL JUVENILE RECORDS
INSTRUCTIONS: HOW TO COMPLETE THE APPLICATION FORM**

In **BLUE INK**, please complete the form following the instructions below.

You may obtain information such as your case number from the Clerk of the Superior Court in the county in which you were adjudicated.

Heading: At the top of the form, please fill in your name; street address (if address is not protected), city, state, zip code; and telephone number.

Fill in your first and last name on the line above “Applicant.”

Fill in your date of birth on the line above “Applicant’s Date of Birth.”

Fill in your case number(s) on the line after “JV.”

Item 1: **APPLICANT’S PERSONAL INFORMATION.** Fill in all requested information, except your address if it is protected.

Item 2: **STATEMENTS TO AND REQUEST OF THE COURT.**

Item 2A: Complete this section if you are at least **18** and no longer under the jurisdiction of Juvenile Court (not on probation or under community supervision of Arizona Department of Juvenile Corrections).

Check all boxes that are **true**.

Item 2B: Complete this section if you are at least **21**.

Check all boxes that are **true**.

Date and sign the form.

PROCEDURES

1. Read all materials prior to filing to determine if you meet the requirements for the request you are making.
2. Complete the Application form **legibly** using **BLUE** ink.
3. Sign the Application. It does **NOT** have to be notarized.
4. **You must file the original and two (2) copies** of the Application with the Clerk of the Court.

The Clerk of the Court will transmit a copy of the Application to the county attorney. The county attorney has up to 90 days within which to file a response to the Application regarding your juvenile records.

5. The Clerk of the Court will return one copy of the Application for **your records**.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA
IN _____ COUNTY

IN THE MATTER OF:

CASE NO: JV(s): _____

(Applicant's Name)

APPLICATION TO RESTORE RIGHT TO POSSESS A FIREARM
(A.R.S. § 8-431; § ~~13-912.01~~)
(note: remove 13-912.01 if repealed and replaced with 8-431 as recommend)

(Applicant's Date of Birth)

(USE BLUE INK: PRINT LEGIBLY)

1. APPLICANT'S PERSONAL INFORMATION.

_____ First Name	_____ Middle Name	_____ Last Name
_____ Street Address (if not protected)	_____ Mailing Address (if different)	
_____ City, State, Zip Code	_____ City, State, Zip Code (if different)	
() _____ Phone Number	_____ E-mail Address	

2. STATEMENTS TO AND REQUESTS OF THE COURT.

I apply for the relief indicated below and state that the following is true: (as marked)

I request the court restore my civil right to possess a firearm pursuant to A.R.S. § 13-912.01 (*note: replace with 8-431 if 13-912.01 is repealed*). 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~~ (*note: this is covered in "serious offense", suggest removing once statutory changes are finalized*), burglary in the second degree, or arson. A.R.S. § 13-912.01(B).

OR

I 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 second degree or arson. A.R.S. § 13-912.01(C) AND it has been at least **ten years** since I was discharged from probation or the Arizona Department of Juvenile Corrections.

I understand that:

1. Even if I am granted the right to possess a gun or firearm under Arizona law by the juvenile court, it may not give me the right to possess a firearm under **federal law**.
2. **Even if I am granted the right to possess a gun or firearm as a result of this application, it may not give me the right to possess a gun or firearm if I have a felony adjudication in another Arizona County and my right to possess a firearm has not been restored.**

Date

Applicant's Signature

**APPLICATION TO RESTORE RIGHT TO POSSESS A FIREARM
INSTRUCTIONS: HOW TO COMPLETE THE APPLICATION FORM**

In **BLUE INK**, please complete the form following the instructions below.

You may obtain information such as your case number from the Clerk of the Superior Court in the county in which you were adjudicated.

Heading: At the top of the form, please fill in your name; street address (if address is not protected), city, state, zip code, and telephone number.

Fill in your first and last name on the line above “Applicant.”

Fill in your date of birth on the line above “Applicant’s Date of Birth.”

Fill in your case number(s) on the line after “JV.”

Item 1: **APPLICANT’S PERSONAL INFORMATION.** Fill in all requested information, except your address if it is protected.

Item 2: **STATEMENTS TO AND REQUESTS OF THE COURT.** Check the box that applies to the charge for which you were adjudicated.

Date and sign the form.

PROCEDURES

1. Read all materials prior to filing to determine if you meet the requirements for the request you are making.
2. Complete the Application form **legibly** using **BLUE** ink.
3. Sign the Application. It does **NOT** have to be notarized.
4. **You must file the original and two (2) copies** of the Application with the Clerk of the Court.

The Clerk of the Court will transmit a copy of the Application to the prosecutor. The prosecutor has up to 90 days within which to file a response to the Application regarding your juvenile records.

5. The Clerk of the Court will return one copy of the Application for **your records**.

IMPORTANT ADVISEMENT — **You should understand that:**

1. Even if you are granted the right to possess a gun or firearm under Arizona law by the juvenile court, it may not give you the right to possess a firearm under **federal law**.
2. **Even if you are granted the right to possess a gun or firearm as a result of this application, it may not give you the right to possess a gun or firearm if you have a felony adjudication in another Arizona County and your right to possess a firearm has not been restored.**

SEALING OF JUVENILE RECORDS, SETTING ASIDE ADJUDICATION, AND RESTORATION OF RIGHT TO POSSESS A FIREARM

LEGAL REQUIREMENTS FOR SEALING OF JUVENILE RECORDS A.R.S. § 8-349 (B)

If you are AT LEAST **18** years old, and no longer under the jurisdiction of juvenile court or the Arizona Department of Juvenile Corrections you may apply to have Juvenile Court and Arizona Department of Juvenile Corrections delinquency records sealed **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**
- You were adjudicated delinquent for an offense other than those identified below.

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

- You are at least 18 years of age, and not under the jurisdiction of Juvenile Court. A.R.S. § 8-202.
- A criminal charge is not pending against you in adult court.
- You have not been convicted of a criminal offense in adult court.
- You have completed the conditions of your juvenile court-ordered probation or received an absolute discharge, under A.R.S. § 41-2820(B), from the Arizona Department of Juvenile Corrections.
- All victim restitution has been paid in full. If victim restitution has not been paid, all of the following must be true:
 - Special circumstances exist for incomplete payment; **AND**
 - You have **not** been 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. • A Class 3 Felony in violation of any offense in Chapters 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.
13-1104 Second Degree Murder.	
13-1406 Forcible Sexual Assault.	
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.	

LEGAL REQUIREMENTS FOR 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 to have Juvenile Court and Arizona Department of Juvenile Corrections delinquency records sealed.

In your 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 victim restitution has been paid in full. If victim restitution has not been paid, all of the following must be true:
 - Special circumstances exist for incomplete payment; **AND**
- 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.

LEGAL REQUIREMENTS FOR SETTING ASIDE ADJUDICATIONS
A.R.S. § 8-348

If you are at least **18** years of age, and no longer under the jurisdiction of Juvenile Court or the Arizona Department of Juvenile Corrections, have been adjudicated delinquent or incorrigible, and have fulfilled the conditions of probation or received an absolute discharge, under A.R.S. § 41-2820(B), from the Arizona Department of Juvenile Corrections, 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 A.R.S § 28-1381 (driving under the influence), A.R.S § 28-1382 (driving under the extreme influence), A.R.S § 28-1383 (aggravated driving under the influence); or A.R.S § 28-3473 (driving on a suspended license).
- A traffic violation under Title 28, Chapter 3 (various traffic offenses—See A.R.S. § 8-348(D)(5)).

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

- You are at least 18 years of age and no longer under the jurisdiction of Juvenile Court or the Arizona Department of Juvenile Corrections
- 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 the conditions of your court-ordered probation or received an absolute discharge, under A.R.S. § 41-2820(B), from the Arizona Department of Juvenile Corrections.
- All victim restitution you (not your parent/guardian) were ordered to pay, has been paid in full or special circumstances exist for incomplete payment.

**LEGAL REQUIREMENTS FOR RESTORATION OF RIGHT TO POSSESS A GUN OR FIREARM
A.R.S. § 8-431**

You may apply for the restoration of your civil right to carry or possess a gun or firearm as set forth below. In the 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^[PS1], burglary in the second degree, or arson, you must certify that it has been **ten years** since you were terminated from probation or discharged, under A.R.S. § 41-2820(B), from the Arizona Department of Juvenile Corrections.
 - 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 includes: 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, you must certify that it has been **two years** since you were terminated from probation or discharged, under A.R.S. § 41-2820(B), from the Arizona Department of Juvenile Corrections.

IMPORTANT ADVISEMENT — You should understand that:

1. Even if you are granted the right to possess a gun or firearm under Arizona law by the juvenile court, it may not give you the right to possess a firearm under federal law.
2. Even if you are granted the right to possess a gun or firearm as a result of this application, it may not give you the right to possess a gun or firearm if you have a felony adjudication in another Arizona County and your right to possess a firearm has not been restored.

1 Section 1. Renumbering:

2 A.R.S. Section 13-904 is renumbered Section 13-906

3 A.R.S. Section 13-905 is renumbered Section 13-909

4 A.R.S. Section 13-906 is renumbered Section 13-910

5 A.R.S. Section 13-907 is renumbered Section 13-904

6 A.R.S. Section 13-907.01 is renumbered Section 13-905

7 A.R.S. Section 13-912 is renumbered Section 13-908

8 A.R.S. Section 13-912.01 is renumbered Section 8-431

9 Section 2. Repeal

10 A.R.S. Section 13-908, 13-909, 13-910 and 13-911 are repealed

11 Section 3. A.R.S. §13-904 as renumbered is amended to read:

12 13-906. Suspension of civil rights and occupational disabilities

13 A. A conviction for a felony suspends the following civil rights
14 of the person sentenced:

15 1. The right to vote.

16 2. The right to hold public office of trust or profit.

17 3. The right to serve as a juror.

18 4. During any period of imprisonment any other civil rights the
19 suspension of which is reasonably necessary for the security of
20 the institution in which the person sentenced is confined or for
21 the reasonable protection of the public.

22 5. The right to possess ~~a gun or~~ firearm.

23 B. Persons sentenced to imprisonment shall not thereby be rendered
24 incompetent as witnesses upon the trial of a criminal action or
25 proceeding, or incapable of making and acknowledging a sale or
26 conveyance of property.

27 C. A person sentenced to imprisonment is under the protection of
28 the law, and any injury to his person, not authorized by law, is
29 punishable in the same manner as if such person was not convicted
30 and sentenced.

31 D. The conviction of a person for any offense shall not work
32 forfeiture of any property, except if a forfeiture is expressly
33 imposed by law. All forfeitures to the state, unless expressly
34 imposed by law, are abolished.

35 E. A person shall not be disqualified from employment by this state
36 or any of its agencies or political subdivisions, nor shall a
37 person whose civil rights have been restored be disqualified to
38 engage in any occupation for which a license, permit or certificate
39 is required to be issued by this state solely because of a prior
40 conviction for a felony or misdemeanor within or without this
41 state. A person may be denied employment by this state or any of
42 its agencies or political subdivisions or a person who has had his
43 civil rights restored may be denied a license, permit or
44 certificate to engage in an occupation by reason of the prior
45 conviction of a felony or misdemeanor if the offense has a

1 reasonable relationship to the functions of the employment or
2 occupation for which the license, permit or certificate is sought.
3 F. Subsection E of this section is not applicable to any law
4 enforcement agency.

5 G. Any complaints concerning a violation of subsection E of this
6 section shall be adjudicated in accordance with the procedures set
7 forth in title 41, chapter 6 and title 12, chapter 7, article 6.

8 H. A person who is adjudicated delinquent under section 8-341 for
9 a felony does not have the right to carry or possess a gun or
10 firearm.

11 Section 4. Title 13, Chapter 9 is amended by adding section 13-
12 907

13 13-907. Restoration of civil rights; application; firearm
14 possession; exceptions

15 A. EXCEPT AS PROVIDED IN THIS CHAPTER, EVERY PERSON CONVICTED OF
16 A FELONY OFFENSE, ON FULFILLMENT OF THE CONDITIONS OF PROBATION OR
17 SENTENCE OF IMPRISONMENT AND DISCHARGE BY THE COURT, MAY APPLY TO
18 THE SUPERIOR COURT TO HAVE THE PERSON'S CIVIL RIGHTS RESTORED. THE
19 CONVICTED PERSON SHALL BE INFORMED OF THIS RIGHT AT THE TIME
20 OF SENTENCING.

21 B. THE PERSON OR THE PERSON'S ATTORNEY OR PROBATION OFFICER MAY
22 APPLY TO RESTORE THE PERSON'S CIVIL RIGHTS. THE CLERK OF THE COURT
23 MAY NOT CHARGE A FILING FEE FOR AN APPLICATION TO HAVE CIVIL RIGHTS
24 RESTORED. THE SUPERIOR COURT SHALL FORWARD A COPY OF THE
25 APPLICATION TO THE COUNTY ATTORNEY.

26 C. IF THE APPLICATION IS GRANTED, THE COURT SHALL RESTORE THE
27 PERSON'S CIVIL RIGHTS EXCEPT AS OTHERWISE PROVIDED FOR IN THIS
28 CHAPTER.

29 D. THE CLERK OF THE COURT MUST NOTIFY THE DEPARTMENT OF PUBLIC
30 SAFETY IF A PERSON'S CIVIL RIGHTS ARE RESTORED. THE DEPARTMENT OF
31 PUBLIC SAFETY MUST UPDATE THE PERSON'S CRIMINAL HISTORY WITH AN
32 ANNOTATION THAT THE PERSON'S CIVIL RIGHTS HAVE BEEN RESTORED AND
33 ANY EXCEPTIONS ORDERED, BUT MAY NOT REDACT OR REMOVE ANY PART OF
34 THE PERSON'S RECORD.

35 E. THIS SECTION DOES NOT:

36 1. REQUIRE A LAW ENFORCEMENT AGENCY TO REDACT OR REMOVE A RECORD
37 OR INFORMATION FROM THE RECORD OF A PERSON WHOSE CIVIL RIGHTS ARE
38 RESTORED.

39 2. PRECLUDE THE DEPARTMENT OF PUBLIC SAFETY OR THE BOARD OF
40 FINGERPRINTING FROM CONSIDERING A CONVICTION OF A PERSON WHOSE
41 CIVIL RIGHTS HAVE BEEN RESTORED WHEN EVALUATING AN APPLICATION FOR

1 A FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 41-1758.03 OR 41-
2 1758.07.

3 F. IF THE COURT DENIES AN APPLICATION TO HAVE A PERSON'S CIVIL
4 RIGHTS RESTORED, THE COURT SHALL STATE ITS REASONS FOR THE DENIAL
5 IN WRITING AND ON THE RECORD.

6 G. IF RESTORATION OF CIVIL RIGHTS IS DISCRETIONARY WITH THE COURT,
7 A VICTIM HAS THE RIGHT TO BE PRESENT AND BE HEARD AT ANY PROCEEDING
8 IN WHICH THE DEFENDANT HAS FILED AN APPLICATION TO HAVE CIVIL
9 RIGHTS RESTORED. IF THE VICTIM HAS MADE A REQUEST FOR
10 POSTCONVICTION NOTICE, THE ATTORNEY FOR THE STATE SHALL PROVIDE
11 THE VICTIM WITH NOTICE OF THE DEFENDANT'S APPLICATION AND OF THE
12 RIGHTS PROVIDED TO THE VICTIM IN THIS SECTION.

13 H. IF THE PERSON WAS CONVICTED OF A DANGEROUS OFFENSE UNDER SECTION
14 13-704 OR AN OFFENSE THAT WOULD BE A DANGEROUS OFFENSE UNDER
15 SECTION 13-704 IF COMMITTED IN THIS STATE THE PERSON MAY NOT FILE
16 FOR THE RESTORATION OF THE RIGHT TO POSSESS OR CARRY A FIREARM. IF
17 THE PERSON WAS CONVICTED OF A SERIOUS OFFENSE OR A VIOLENT OR
18 AGGRAVATED OFFENSE AS DEFINED IN SECTION 13-706 OR AN OFFENSE THAT
19 WOULD BE A SERIOUS OFFENSE OR A VIOLENT OR AGGRAVATED AS DEFINED
20 IN SECTION 13-706 IF COMMITTED IN THIS STATE THE PERSON MAY NOT
21 FILE FOR THE RESTORATION OF THE RIGHT TO POSSESS OR CARRY A FIREARM
22 FOR TEN YEARS FROM THE DATE OF HIS DISCHARGE FROM PROBATION. IF
23 THE PERSON WAS CONVICTED OF ANY OTHER FELONY OFFENSE, THE PERSON
24 MAY NOT FILE FOR THE RESTORATION OF THE RIGHT TO POSSESS OR CARRY
25 A FIREARM FOR TWO YEARS FROM THE DATE OF THE PERSON'S DISCHARGE
26 FROM PROBATION.

27 I. FOR THE PURPOSES OF THIS SECTION, "FINAL DISCHARGE" MEANS
28 COMPLETION OF PROBATION OR RECEIPT OF A CERTIFICATE OF ABSOLUTE
29 DISCHARGE FROM THE ARIZONA DEPARTMENT OF CORRECTIONS OR THE UNITED
30 STATES BUREAU OF PRISONS.

31 Section 5. A.R.S. section 13-908 as renumbered and is amended as
32 follows

33 13-908. Automatic Restoration of civil rights; exception

34 A. Any person who has not previously been convicted of ~~any other~~
35 A felony OFFENSE AND A PERSON WHO HAS ONLY BEEN CONVICTED OF A
36 FELONY OFFENSE THAT RESULTED IN BEING SENTENCED PURSUANT TO SECTION
37 13-901.01 shall UPON APPLICATION FILED PURSUANT TO SECTION 13-907
38 automatically be restored any civil rights that were lost or
39 suspended ~~by~~ AS A RESULT OF the conviction if the person ~~both~~:
40 ~~1-~~ completes a term of probation or receives an absolute discharge
41 from imprisonment.

1 ~~2. Pays any fine or restitution imposed.~~

2 B. This section does not apply to a person's right to possess
3 ~~weapons~~ **A FIREARM** as defined in section 13-3101 unless the person
4 applies to a court pursuant to section ~~13-905 or 13-906~~ **13-907**.

5 Section 6. A.R.S. section 13-909 as renumbered is amended to
6 read

7 **13-909. Restoration of civil rights; second or subsequent**
8 **conviction; persons completing probation**

9 A. A person who has been convicted **IN SUPERIOR COURT** of ~~two or~~
10 ~~more felonies~~ **AN OFFENSE NOT LISTED IN SECTION 13-908**, and whose
11 period of probation has been completed may **AT THE DISCRETION OF**
12 **THE COURT** have any civil rights which were lost or suspended by
13 the felony conviction restored by the ~~judge who discharges him~~
14 **COURT** at the end of the term of probation.

15 ~~B. On proper application, A person who has been discharged from~~
16 ~~probation either before or after adoption of this chapter may have~~
17 ~~any civil rights which were lost or suspended by the felony~~
18 ~~conviction restored by the superior court judge by whom the person~~
19 ~~was sentenced or the judge's successors in office from IN the~~
20 ~~county in which the person was originally convicted. The clerk of~~
21 ~~the superior court shall have the responsibility for processing~~
22 ~~the application on request of the person involved or the person's~~
23 ~~attorney. The superior court shall serve a copy of the application~~
24 ~~on the county attorney.~~

25 **B. A PERSON WHO HAS BEEN CONVICTED IN THE UNITED STATES DISTRICT**
26 **COURT OF AN OFFENSE NOT LISTED IN SECTION 13-908, AND WHOSE PERIOD**
27 **OF PROBATION HAS BEEN COMPLETED MAY AT THE DISCRETION OF THE**
28 **SUPERIOR COURT IN THE COUNTY IN WHICH THE PERSON RESIDES COURT**
29 **HAVE ANY CIVIL RIGHTS THAT WERE LOST OR SUSPENDED BY THE FELONY**
30 **CONVICTION RESTORED.**

31 ~~C. If the person was convicted of a dangerous offense under section~~
32 ~~13-704 the person may not file for the restoration of the right to~~
33 ~~possess or carry a gun or firearm. If the person was convicted of~~
34 ~~a serious offense as defined in section 13-706 the person may not~~
35 ~~file for the restoration of the right to possess or carry a gun or~~
36 ~~firearm for ten years from the date of his discharge from~~
37 ~~probation. If the person was convicted of any other felony offense,~~
38 ~~the person may not file for the restoration of the right to possess~~
39 ~~or carry a gun or firearm for two years from the date of the~~
40 ~~person's discharge from probation.~~

41 Section 7. A.R.S. 13-910 as renumbered is amended as follows:

1 13-910. Applications by persons discharged from prison

2 A. ~~On proper application,~~ A person who has been convicted of ~~two~~
3 ~~or more felonies~~ A FELONY OFFENSE NOT LISTED IN SECTION 13-908 and
4 who has received an absolute discharge from imprisonment may have
5 any civil rights which were lost or suspended ~~by his~~ AS A RESULT
6 OF THE conviction restored by the superior court ~~judge by whom the~~
7 ~~person was sentenced or the judge's successors in office~~ from IN
8 the county in which the person was originally sentenced. THE PERSON
9 SHALL FILE WITH THE APPLICATION A CERTIFICATE OF ABSOLUTE DISCHARGE
10 FROM THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS.

11 ~~B. A person who is subject to subsection A of this section may~~
12 ~~file, no sooner than two years from the date of his absolute~~
13 ~~discharge, an application for restoration of civil rights that~~
14 ~~shall be accompanied by a certificate of absolute discharge from~~
15 ~~the director of the state department of corrections. The clerk of~~
16 ~~the superior court that sentenced the applicant shall have the~~
17 ~~responsibility for processing applications for restoration of~~
18 ~~civil rights upon request of the person involved, the person's~~
19 ~~attorney or a representative of the state department of~~
20 ~~corrections. The superior court shall serve a copy of the~~
21 ~~application on the county attorney.~~

22 B. A PERSON WHO HAS BEEN CONVICTED IN THE UNITED STATES DISTRICT
23 COURT OF AN OFFENSE NOT LISTED IN SECTION 13-908 AND WHO HAS
24 RECEIVED AN ABSOLUTE DISCHARGE FROM IMPRISONMENT IN A FEDERAL
25 PRISON MAY AT THE DISCRETION OF THE SUPERIOR COURT IN THE COUNTY
26 IN WHICH THE PERSON RESIDES COURT HAVE ANY CIVIL RIGHTS THAT WERE
27 LOST OR SUSPENDED BY THE FELONY CONVICTION RESTORED. THE PERSON
28 SHALL FILE WITH THE APPLICATION A CERTIFICATE OF ABSOLUTE DISCHARGE
29 FROM THE DIRECTOR OF THE FEDERAL BUREAU OF PRISONS, UNLESS IT IS
30 SHOWN TO BE IMPOSSIBLE TO OBTAIN SUCH CERTIFICATE

31 ~~C. If the person was convicted of a dangerous offense under section~~
32 ~~13-704, the person may not file for the restoration of the right~~
33 ~~to possess or carry a gun or firearm. If the person was convicted~~
34 ~~of a serious offense, the person may not file for the restoration~~
35 ~~of the right to possess or carry a gun or firearm for ten years~~
36 ~~from the date of his absolute discharge from imprisonment. If the~~
37 ~~person was convicted of any other felony offense, the person may~~
38 ~~not file for the restoration of the right to possess or carry a~~
39 ~~gun or firearm for two years from the date of the person's absolute~~
40 ~~discharge from imprisonment.~~

9/27/18
6:23 am

Restoration of civil rights; eligibility

1 Section 1. Renumbering:

2 A.R.S. Section 13-904 is renumbered Section 13-906

3 A.R.S. Section 13-905 is renumbered Section 13-907

4 A.R.S. Section 13-906 is renumbered Section 13-908

5 A.R.S. Section 13-907 is renumbered Section 13-904

6 A.R.S. Section 13-907.01 is renumbered Section 13-905

7 A.R.S. Section 13-908 is renumbered Section 13-910

8 A.R.S. Section 13-912.01 is renumbered Section 8-348.01

9 Section 2. Repeal

10 A.R.S. Section 13-910, 13-911, and 13-912 are repealed

11 Section 3. A.R.S. Section 13-904 is amended to read:

12 13-906. Suspension of civil rights and occupational disabilities

13 A. A conviction for a felony suspends the following civil rights
14 of the person sentenced:

15 1. The right to vote.

16 2. The right to hold public office of trust or profit.

17 3. The right to serve as a juror.

18 4. During any period of imprisonment any other civil rights the
19 suspension of which is reasonably necessary for the security of
20 the institution in which the person sentenced is confined or for
21 the reasonable protection of the public.

22 5. The right to possess a ~~gun or~~ firearm.

23 B. UPON FINAL DISCHARGE, A PERSON CONVICTED OF ANY FELONY SHALL
24 AUTOMATICALLY BE RESTORED THE RIGHT TO VOTE, THE RIGHT TO HOLD
25 PUBLIC OFFICE OF TRUST OR PROFIT, AND THE RIGHT TO SERVE AS A
26 JUROR, EXCEPT THAT THE RIGHT TO POSSESS A FIREARM SHALL NOT BE
27 RESTORED UNLESS ORDERED BY THE COURT UNDER §§ 13-907, 13-908, OR
28 13-910. AS USED IN THIS SUBSECTION, "FINAL DISCHARGE" MEANS
29 COMPLETION OF PROBATION OR RECEIPT OF A CERTIFICATE OF ABSOLUTE
30 DISCHARGE FROM THE ARIZONA DEPARTMENT OF CORRECTIONS.

31 C. THIS SECTION DOES NOT:

32 1. REQUIRE A LAW ENFORCEMENT AGENCY TO REDACT OR REMOVE A RECORD
33 OR INFORMATION FROM THE RECORD OF A PERSON WHOSE CIVIL RIGHTS ARE
34 RESTORED.

35 2. PRECLUDE THE DEPARTMENT OF PUBLIC SAFETY OR THE BOARD OF
36 FINGERPRINTING FROM CONSIDERING A CONVICTION OF A PERSON WHOSE
37 CIVIL RIGHTS HAVE BEEN RESTORED WHEN EVALUATING AN APPLICATION FOR
38 A FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 41-1758.03 OR 41-
39 1758.07.

1 B D. Persons sentenced to imprisonment shall not thereby be
2 rendered incompetent as witnesses upon the trial of a criminal
3 action or proceeding, or incapable of making and acknowledging a
4 sale or conveyance of property.

5 C-E. A person sentenced to imprisonment is under the protection of
6 the law, and any injury to his person, not authorized by law, is
7 punishable in the same manner as if such person was not convicted
8 and sentenced.

9 D F. The conviction of a person for any offense shall not work
10 forfeiture of any property, except if a forfeiture is expressly
11 imposed by law. All forfeitures to the state, unless expressly
12 imposed by law, are abolished.

13 E G. A person shall not be disqualified from employment by this
14 state or any of its agencies or political subdivisions, nor shall
15 a person whose civil rights have been restored be disqualified to
16 engage in any occupation for which a license, permit or certificate
17 is required to be issued by this state solely because of a prior
18 conviction for a felony or misdemeanor within or without this
19 state. A person may be denied employment by this state or any of
20 its agencies or political subdivisions or a person who has had his
21 civil rights restored may be denied a license, permit or
22 certificate to engage in an occupation by reason of the prior
23 conviction of a felony or misdemeanor if the offense has a
24 reasonable relationship to the functions of the employment or
25 occupation for which the license, permit or certificate is sought.

26 F H. Subsection E of this section is not applicable to any law
27 enforcement agency.

28 G I. Any complaints concerning a violation of subsection E of this
29 section shall be adjudicated in accordance with the procedures set
30 forth in title 41, chapter 61 and title 12, chapter 7, article 6.

31 H J. A person who is adjudicated delinquent under § 8-341 for a
32 felony does not have the right to carry or possess a gun or firearm.
33 Section 4. A.R.S. Section 13-907 is amended to read:

34 13-907. Restoration of right to possess a firearm; persons
35 completing probation

36 ~~A. A person who has been convicted of two or more felonies and~~
37 ~~whose period of probation has been completed may have any civil~~
38 ~~rights which were lost or suspended by the felony conviction~~
39 ~~restored by the judge who discharges him at the end of the term of~~
40 ~~probation.~~

1 A. On proper application, a person who has been discharged from
2 probation either before or after adoption of this chapter may have
3 ~~any civil rights~~ THE RIGHT TO POSSESS A FIREARM which were WAS
4 lost or suspended by THE PERSON'S the felony conviction restored
5 by the superior court ~~judge by whom the person was sentenced or~~
6 ~~the judge's successors in office from~~ IN the county in which the
7 person was originally convicted. The clerk of the superior court
8 shall have the responsibility for processing the application on
9 request of the person involved or the person's attorney. The
10 superior court shall serve a copy of the application on the county
11 attorney.

12 B. A PERSON WHO HAS BEEN CONVICTED OF A FELONY IN THE UNITED STATES
13 DISTRICT COURT AND WHOSE PERIOD OF PROBATION HAS BEEN COMPLETED
14 MAY APPLY TO HAVE THE RIGHT TO POSSESS A FIREARM UNDER ARIZONA LAW
15 WHICH WAS LOST OR SUSPENDED BY A FELONY CONVICTION IN A UNITED
16 STATES DISTRICT COURT RESTORED BY THE SUPERIOR COURT IN THE COUNTY
17 IN WHICH THE PERSON RESIDES.

18 ~~B~~ C. If the person was convicted of a dangerous offense under §
19 13-704 OR AN OFFENSE THAT WOULD BE A DANGEROUS OFFENSE UNDER
20 SECTION 13-704 IF COMMITTED IN THIS STATE, the person may not file
21 for the restoration of the right to possess or carry a ~~gun or~~
22 firearm. If the person was convicted of a serious offense OR A
23 VIOLENT OR AGGRAVATED OFFENSE as defined in section 13-706 OR AN
24 OFFENSE THAT WOULD BE A SERIOUS OFFENSE OR A VIOLENT OR AGGRAVATED
25 OFFENSE AS DEFINED IN SECTION 13-706 IF COMMITTED IN THIS STATE
26 the person may not file for the restoration of the right to possess
27 or carry a ~~gun or~~ firearm for ten years from the date of his
28 discharge from probation. If the person was convicted of any other
29 felony offense, the person may not file for the restoration of the
30 right to possess or carry a ~~gun or~~ firearm for two years from the
31 date of the person's discharge from probation.

32 Section 5. A.R.S. Section 13-906 is amended to read:

33 13-908. Restoration of right to possess a firearm; persons
34 discharged from prison

35 ~~A. On proper application, a person who has been convicted of two~~
36 ~~or more felonies and who has received an absolute discharge from~~
37 ~~imprisonment may have any civil rights which were lost or suspended~~
38 ~~by his conviction restored by the superior court judge by whom the~~
39 ~~person was sentenced or the judge's successors in office from the~~
40 ~~county in which the person was originally sentenced.~~

1 B A. ON PROPER APPLICATION, A PERSON WHO HAS BEEN CONVICTED OF A
2 FELONY AND WHO HAS A RECEIVED AN ABSOLUTE DISCHARGE FROM
3 IMPRISONMENT MAY HAVE THE RIGHT TO POSSESS A FIREARM RESTORED. A
4 ~~person who is subject to subsection A of this section~~ THE PERSON
5 may file, no sooner than two years from the date of his absolute
6 discharge, an application for restoration of ~~civil rights~~ THE RIGHT
7 TO POSSESS A FIREARM that shall be accompanied by a certificate of
8 absolute discharge from the director of the state department of
9 corrections. The clerk of the superior court that sentenced the
10 applicant shall have the responsibility for processing
11 applications for restoration of ~~civil rights~~ THE RIGHT TO POSSESS
12 A FIREARM upon request of the person involved, the person's
13 attorney or a representative of the state department of
14 corrections. The superior court shall serve a copy of the
15 application on the county attorney.

16 B. A PERSON WHO HAS RECEIVED AN ABSOLUTE DISCHARGE FROM
17 IMPRISONMENT IN A FEDERAL PRISON MAY HAVE THE RIGHT TO POSSESS A
18 FIREARM UNDER ARIZONA LAW WHICH WAS LOST OR SUSPENDED AS A RESULT
19 OF THE FELONY CONVICTION RESTORED BY THE SUPERIOR COURT IN THE
20 COUNTY IN WHICH THE PERSON NOW RESIDES. THE PERSON SHALL FILE WITH
21 THE APPLICATION A CERTIFICATE OF ABSOLUTE DISCHARGE FROM THE
22 DIRECTOR OF THE FEDERAL BUREAU OF PRISONS.

23 C. If the person was convicted of a dangerous offense under section
24 13-704, OR AN OFFENSE THAT WOULD BE A DANGEROUS OFFENSE UNDER
25 SECTION 13-706 IF COMMITTED IN THIS STATE, the person may not file
26 for the restoration of the right to possess or carry a gun or
27 firearm. If the person was convicted of a serious offense OR A
28 VIOLENT OR AGGRAVATED OFFENSE as defined in section 13-706 OR AN
29 OFFENSE THAT WOULD BE A SERIOUS OFFENSE OR A VIOLENT OR AGGRAVATED
30 AS DEFINED IN SECTION 13-706 IF COMMITTED IN THIS STATE, the person
31 may not file for the restoration of the right to possess or carry
32 a gun or firearm for ten years from the date of his absolute
33 discharge from imprisonment. If the person was convicted of any
34 other felony offense, the person may not file for the restoration
35 of the right to possess or carry a gun or firearm for two years
36 from the date of the person's absolute discharge from imprisonment.
37 Section 6. A.R.S. Section 13-909 is added to read:

38 13-909. NOTICE REGARDING THE RESTORATION OF THE RIGHT TO POSSESS
39 A FIREARM
40 THE CLERK OF THE COURT MUST NOTIFY THE DEPARTMENT OF PUBLIC SAFETY
41 IF A PERSON'S RIGHT TO POSSESS A FIREARM IS RESTORED. THE

1 DEPARTMENT OF PUBLIC SAFETY MUST UPDATE THE PERSON'S CRIMINAL
2 HISTORY WITH AN ANNOTATION THAT THE PERSON'S RIGHT TO POSSESS A
3 FIREARM HAS BEEN RESTORED AND ANY EXCEPTIONS ORDERED, BUT MAY NOT
4 REDACT OR REMOVE ANY PART OF THE PERSON'S RECORD.

5 Section 7. A.R.S. Section 13-908 is amended to read.

6 13-910. Restoration of the right to possess a firearm in the
7 discretion of the superior court judge

8 ~~Except as provided in § 13-912, the~~ THE restoration of ~~civil~~
9 ~~rights and the dismissal of the accusation or information under~~
10 ~~the provisions of this chapter~~ THE RIGHT TO POSSESS A FIREARM shall
11 be in the discretion of the superior court ~~judge by whom the person~~
12 ~~was sentenced or his successor in office.~~

9/17/2018

1:43 pm

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.

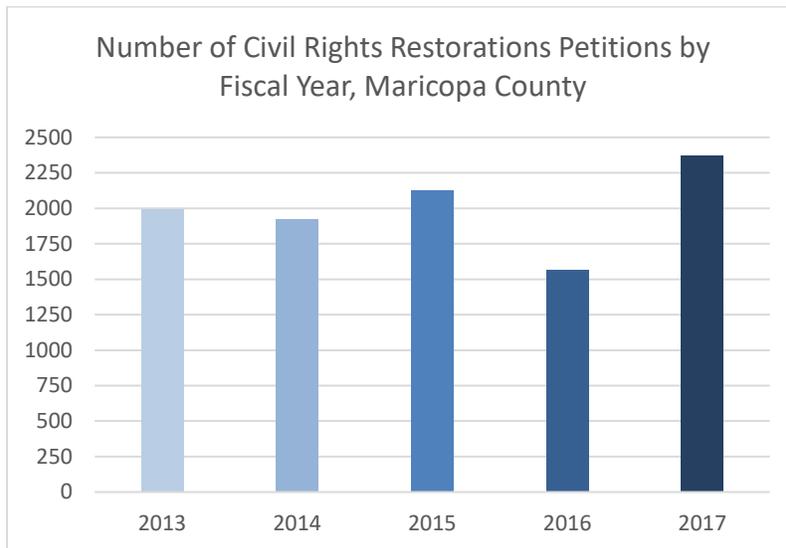
¹⁵ Spavkovsky and Clegg, *supra* note 4 at 3.

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 Bahrans, *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 (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 (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 indicatable 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>
<p>South Dakota (ALLOWS for automatic restoration of civil rights.)</p>	<p>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.</p>	<p>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.</p>	<p>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.</p>

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

<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</p> <p>(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>