

APPENDIX A
FLORIDA'S SYSTEM OF DISFRANCHISEMENT
Key Constitutional and Statutory Provisions

FLORIDA CONSTITUTION

ARTICLE IV
EXECUTIVE POWERS
Section 8. Clemency.

(a) Except in cases of treason and in cases where impeachment results in conviction, the governor may, by executive order filed with the custodian of state records, suspend collection of fines and forfeitures, grant reprieves not exceeding sixty days and, with the approval of two members of the cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses.

ARTICLE VI
SUFFERAGE AND ELECTIONS
Section 4. Disqualifications.

(a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability.

FLORIDA STATUTES

Voting Rights Ban and RCR Processing:

14.28 Executive clemency.--All records developed or received by any state entity pursuant to a Board of Executive Clemency investigation shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such records may be released upon the approval of the Governor.

940.05 Restoration of civil rights.--Any person who has been convicted of a felony may be entitled to the restoration of all the rights of citizenship enjoyed by him or her prior to conviction if the person has:

- (1) Received a full pardon from the Board of Executive Clemency;
- (2) Served the maximum term of the sentence imposed upon him or her; or
- (3) Been granted his or her final release by the Parole Commission.

940.01 Clemency; suspension or remission of fines and forfeitures, reprieves, pardons, restoration of civil rights, and commutations.--

(1) Except in cases of treason and in cases when impeachment results in conviction, the Governor may, by executive order filed with the Secretary of State, suspend collection of fines and forfeitures, grant reprieves not exceeding 60 days, and, with the approval of two members of the Cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses.

(2) In cases of treason, the Governor may grant reprieves until adjournment of the regular session of the Legislature convening next after the conviction, at which session the Legislature may grant a pardon or further reprieve; otherwise the sentence shall be executed.

940.03 Application for executive clemency.--When any person intends to apply for remission of any fine or forfeiture or the commutation of any punishment, or for pardon or restoration of civil rights, he or she shall request an application form from the Parole Commission in compliance with such rules regarding application for executive clemency as are adopted by the Governor with the approval of two members of the Cabinet. Such application may require the submission of a certified copy of the applicant's indictment or information, the judgment adjudicating the applicant to be guilty, and the sentence, if sentence has been imposed, and may also require the applicant to send a copy of the application to the judge and prosecuting attorney of the court in which the applicant was convicted, notifying them of the applicant's intent to apply for executive clemency. An application for executive clemency for a person who is sentenced to death must be filed within 1 year after the date the Supreme Court issues a mandate on a direct appeal or the United States Supreme Court denies a petition for certiorari, whichever is later.

940.061 Informing persons about executive clemency and restoration of civil rights.--The Department of Corrections shall inform and educate inmates and offenders on community supervision about the restoration of civil rights and assist eligible inmates and offenders on community supervision with the completion of the application for the restoration of civil rights.

944.292 Suspension of civil rights.--

(1) Upon conviction of a felony as defined in s. 10, Art. X of the State Constitution, the civil rights of the person convicted shall be suspended in Florida until such rights are restored by a full pardon, conditional pardon, or restoration of civil rights granted pursuant to s. 8, Art. IV of the State Constitution.

(2) This section shall not be construed to deny a convicted felon access to the courts, as guaranteed by s. 21, Art. I of the State Constitution, until restoration of her or his civil rights.

944.293 Initiation of restoration of civil rights.-- With respect to those persons convicted of a felony, the following procedure shall apply: Prior to the time an offender is discharged from supervision, an authorized agent of the department shall obtain from the Governor the necessary application and other forms required for the restoration of civil rights. The authorized agent shall assist the offender in completing these forms and shall ensure that the application and all necessary material are forwarded to the Governor before the offender is discharged from supervision.

951.29 Procedure for requesting restoration of civil rights of county prisoners convicted of felonies.--

(1) With respect to a person who has been convicted of a felony and is serving a sentence in a county detention facility, the administrator of the county detention facility shall provide to the prisoner, at least 2 weeks before discharge, if possible, an application form obtained from the Parole Commission which the prisoner must complete in order to begin the process of having his or her civil rights restored.

(2) This section shall not apply to prisoners who are discharged from a county detention facility to the custody or control of the Department of Corrections.

Removal from Voter Rolls:

98.075 Registration records maintenance activities; ineligibility determinations.--

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(5) **FELONY CONVICTION.--**The department shall identify those registered voters who have been convicted of a felony and whose rights have not been restored by comparing information received from, but not limited to, a clerk of the circuit court, the Board of Executive Clemency, the Department of Corrections, the Department of Law Enforcement, or a United States Attorney's Office, as provided in s. 98.093. The department shall review such information and make an initial determination as to whether the information is credible and reliable. If the department determines that the information is credible and reliable, the department shall notify the supervi-

sor and provide a copy of the supporting documentation indicating the potential ineligibility of the voter to be registered. Upon receipt of the notice that the department has made a determination of initial credibility and reliability, the supervisor shall adhere to the procedures set forth in subsection (7) prior to the removal of a registered voter's name from the statewide voter registration system.

(7) PROCEDURES FOR REMOVAL.--

(a) If the supervisor receives notice or information pursuant to subsections (4)-(6), the supervisor of the county in which the voter is registered shall:

1. Notify the registered voter of his or her potential ineligibility by mail within 7 days after receipt of notice or information. The notice shall include:

a. A statement of the basis for the registered voter's potential ineligibility and a copy of any documentation upon which the potential ineligibility is based.

b. A statement that failure to respond within 30 days after receipt of the notice may result in a determination of ineligibility and in removal of the registered voter's name from the statewide voter registration system.

c. A return form that requires the registered voter to admit or deny the accuracy of the information underlying the potential ineligibility for purposes of a final determination by the supervisor.

d. A statement that, if the voter is denying the accuracy of the information underlying the potential ineligibility, the voter has a right to request a hearing for the purpose of determining eligibility.

e. An instruction to the voter that, if further assistance is needed, the voter should contact the supervisor of elections of the county in which the voter is registered.

3. If a registered voter fails to respond to a notice pursuant to subparagraph 1. or subparagraph 2., the supervisor shall make a final determination of the voter's eligibility. If the supervisor determines that the voter is ineligible, the supervisor shall remove the name of the registered voter from the statewide voter registration system. The supervisor shall notify the registered voter of the supervisor's determination and action.

4. If a registered voter responds to the notice pursuant to subparagraph 1. or subparagraph 2. and admits the accuracy of the information underlying the potential ineligibility, the supervisor shall make a final determination of ineligibility and shall remove the voter's name from the statewide voter registration system. The supervisor shall notify the registered voter of the supervisor's determination and action.

5. If a registered voter responds to the notice issued pursuant to subparagraph 1. or subparagraph 2. and denies the accuracy of the information underlying the potential ineligibility but does not request a hearing, the supervisor shall review the evidence and make a final determination of eligibility. If such registered voter requests a hearing, the supervisor shall send notice to the registered voter to attend a hearing at a time and place specified in the notice. Upon hearing all evidence presented at the hearing, the supervisor shall make a determination of eligibility. If the supervisor determines that the registered voter is ineligible, the supervisor shall remove the voter's name from the statewide voter registration system and notify the registered voter of the supervisor's determination and action.

(b) The following shall apply to this subsection:

1. All determinations of eligibility shall be based on a preponderance of the evidence.
2. All proceedings are exempt from the provisions of chapter 120.
3. Any notice shall be sent to the registered voter by certified mail, return receipt requested, or other means that provides a verification of receipt or shall be published in a newspaper of general circulation where the voter was last registered, whichever is applicable.
4. The supervisor shall remove the name of any registered voter from the statewide voter registration system only after the supervisor makes a final determination that the voter is ineligible to vote.
5. Any voter whose name has been removed from the statewide voter registration system pursuant to a determination of ineligibility may appeal that determination under the provisions of s. 98.0755.
6. Any voter whose name was removed from the statewide voter registration system on the basis of a determination of ineligibility who subsequently becomes eligible to vote must reregister in order to have his or her name restored to the statewide voter registration system.

Employment:

112.011 Felons; removal of disqualifications for employment, exceptions.--

(1)(a) Except as provided in s. 775.16, a person shall not be disqualified from employment by the state, any of its agencies or political subdivisions, or any municipality solely because of a prior conviction for a crime. However, a person may be denied employment by the state, any of its agencies or political subdivisions, or any municipality by reason of the prior conviction for a crime if the crime was a felony or first degree misdemeanor and directly related to the position of employment sought.

(b) Except as provided in s. 775.16, a person whose civil rights have been restored shall not be disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which a license, permit, or certificate is required to be issued by the state, any of its agencies or political subdivisions, or any municipality solely because of a prior conviction for a crime. However, a person whose civil rights have been restored may be denied a license, permit, or certification to pursue, practice, or engage in an occupation, trade, vocation, profession, or business by reason of the prior conviction for a crime if the crime was a felony or first degree misdemeanor and directly related to the specific occupation, trade, vocation, profession, or business for which the license, permit, or certificate is sought.

(2)(a) This section shall not be applicable to any law enforcement or correctional agency.

(b) This section shall not be applicable to the employment practices of any fire department relating to the hiring of firefighters. An applicant for employment with any fire department with a prior felony conviction shall be excluded from employment for a period of 4 years after expiration of sentence or final release by the Parole Commission unless the applicant, prior to the expiration of the 4-year period, has received a full pardon or has had his or her civil rights restored.

(c) This section shall not be applicable to the employment practices of any county or municipality relating to the hiring of personnel for positions deemed to be critical to security or public safety pursuant to ss. 125.5801 and 166.0442.

(3) Any complaint concerning the violation of this section shall be adjudicated in accordance with the procedures set forth in chapter 120 for administrative and judicial review.

APPENDIX B

SUMMARY OF 2007 CHANGES TO FLORIDA RULES OF EXECUTIVE CLEMENCY

The revised Rules of Executive Clemency adopted by the Board of Executive Clemency on April 5, 2007, created three primary levels of approval for restoration of civil rights, depending on the nature of the felony conviction.²⁰ For all three levels, to be eligible for civil rights restoration, individuals must first complete all terms of their sentences and supervision, pay court-ordered restitution (if any), and have no pending charges against them.

Under Level 1, civil rights are restored without a hearing for those individuals with past felony convictions that are considered “non-violent.” Although under the Clemency Rules, individuals need not submit RCR paperwork if their offenses fall in the Level 1 category and approval of Level 1 cases has been characterized “automatic,” state officials acknowledge that state records and systems are incomplete and imperfect, and some individuals in the

Level 1 category will get their civil rights restored only if they affirmatively initiate contact with the Office of Executive Clemency.²¹

Individuals convicted of more severe crimes, except murder and sex offenses, fall into the Level 2 RCR processing category. Those individuals convicted of murder or sex offenses, sexual predators and those not approved in Level 1 or 2, are eligible for RCR consideration under the Level 3 category. These individuals must undergo a full investigation and their case must be heard at a Clemency Board hearing. The Clemency Board meets only four times each year, and only in Tallahassee.

The complete Florida Rules of Executive Clemency can be found at <https://fpc.state.fl.us/Policies/ExecClemency/ROEC04052007.pdf>.

²⁰ In addition to the three levels of RCR approval that are based on the severity of the felony offense, individuals who remain crime and arrest free for 15 years after completion of sentence and supervision may have their civil rights restored without a hearing. Rule 10.B.

²¹ In the months after the adoption of the April 2007 Clemency Rule changes, clemency aides and Florida Department of Corrections officials readily acknowledged that the Corrections Department records that are transmitted to the Parole Commission for Level 1 processing are incomplete and, not surprisingly, the records are especially incomplete for older convictions.



The ACLU of Florida is a member of the Florida Rights Restoration Coalition.

