



December 13, 2018

The Honorable Ken Detzner  
Secretary of State  
State of Florida  
R.A. Gray Building  
500 South Bronough Street  
Tallahassee, Florida 32399

**Re: Implementation of Amendment 4, the Voting Restoration Amendment**

Dear Secretary Detzner:

On November 6, 2018, Florida voters approved Amendment 4, the Voting Restoration Amendment with a vote of 64.55 % in support, reflecting the clear will of the people of Florida that those individuals with felony convictions who have paid their debt to society have their eligibility to vote restored to them. We write to request that you take immediate administrative action to coordinate with relevant state and local agencies as required by Chapter 98 Florida Statutes and to provide guidance to relevant state and local agencies on the proper administration of voting registration for this newly enfranchised population of Florida's citizens as soon as possible. To that end, we would like to take this opportunity to share our analysis and views on various provisions of the Amendment and corresponding issues.

***Amendment 4 is Self-Executing***

Amendment 4 is self-executing in that the mandatory provisions of the amendment are effective on the implementation date (Jan. 8, 2019). This is the very position that the State of Florida has

acknowledged in its own legal filings in the *Hand v. Scott* case. The Amendment alters Florida Constitution Article VI, Section 4. Disqualifications, to state as follows:

(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. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.

(b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights. [...].

That language is specific and unambiguous. As the Florida Supreme Court stated in its unanimous opinion approving the amendment for placement on the ballot, “Read together, the title and summary would reasonably lead voters to understand that the chief purpose of the amendment is to ***automatically restore voting rights to felony offenders***, except those convicted of murder or felony sexual offenses, upon completion of all terms of their sentence. (emphasis added.) *Advisory Opinion to the Attorney General Re: Voting Restoration Amendment*, 215 So. 2d 1202,1208 (Fla. 2017).

Since these mandatory provisions will now be in the Florida constitution, the Legislature does not need to pass implementing legislation in order for the amendment to go into effect. That said, the Legislature should exercise its normal and proper oversight function of relevant state agencies to ensure that they implement the amendment in accordance with the will of Florida’s voters and without delay.

The burden is on the state, not the individual, to establish whether a voter is ineligible utilizing current administrative practices, databases and resources as defined in Chapter 98 and other relevant provisions of the Florida Statutes.

The plain language of the Amendment makes clear that it restores the voting rights of Floridians with felony convictions after they complete “all terms of their sentence including parole or probation.” The Amendment does not apply to those who have completed a sentence for murder or a felony sex offense. Individuals in those categories can only have their right to vote restored by the Governor and the Board of Executive Clemency.

Pursuant to Article XI, Section 5 (3), the Amendment goes into effect on January 8, 2019. Thus, starting January 8<sup>th</sup>, any individual with a felony conviction who has completed all the terms of

their sentence should register to vote by completing a voter registration form.

### ***Completion of all terms of Sentence***

The phrase “completion of all terms of sentence” includes any period of incarceration, probation, parole and financial obligations imposed as part of an individual’s sentence. These financial obligations may include restitution and fines, imposed as part of a sentence or a condition of probation under existing Florida statute. Fees not specifically identified as part of a sentence or a condition of probation are therefore not necessary for ‘completion of sentence’ and thus, do not need to be paid before an individual may register. We urge the Department to take this view in reviewing the eligibility of individuals registered to vote as outlined in Chapter 98, Florida Statutes.

### ***Existing Voter Registration Forms are Sufficient***

We assert that the uniform stateside voter registration application is sufficient to immediately register individuals impacted by the Amendment’s provisions. Question #2 of that form asks individuals to “*affirm that I am not a convicted felon, or if I am, my right to vote has been restored.*” The responsibility of the citizen is to honestly affirm that, by completing the terms of their sentence, their voting rights have been restored. Individuals may also register via the Florida Online Voter Registration System at <https://registertovoteflorida.gov/>.

### ***Process to Confirm Eligibility is Already in Place***

The existing provisions of Chapter 98 of the Florida Statutes provide the Department with sufficient authority to coordinate across state and local agency databases to identify impacted individuals, to promptly and efficiently register to vote those individuals who wish to do so, and to confirm their eligibility in the same way the Department confirms the eligibility of all other Florida residents when they complete a voter registration application.

We understand that the current registration process includes the following steps:

- An individual returns a completed voter registration form to the Supervisor of Elections;
- The Supervisor transmits an electronic copy of the application to the Department of State Division of Elections;
- The individual who completed the form is at that time considered registered and will receive a voter ID card in the mail;
- The Department of State then has the duty to review the voter’s registration to determine if there is credible information that the voter is ineligible;

This is the very same process that should be used to register those impacted by Amendment 4.

In closing, we appreciate the difficult task you face in administering elections in Florida. We hope that the discussion above will help you ensure that Amendment 4 is implemented in a timely and smooth fashion, without delay or undue burden on individual eligible voters. Florida's citizens spoke clearly on election day and we look forward to working with you to ensure their will is carried out.

Thank you for your attention to this important matter.

Sincerely,

Desmond Meade,  
Executive Director, Florida Rights  
Restoration Coalition

Melba Pearson,  
Interim Executive Director  
ACLU of Florida

Patricia Brigham,  
President  
League of Women Voters of Florida

Kira Romero-Craft,  
Managing Attorney  
LatinoJustice PRLDEF

cc: Maria Matthews, Director, Division of Elections  
Florida State Association of Supervisor of Elections