



2021 Policy Platform

FULLY IMPLEMENT AMENDMENT 4

In 2018, FRRRC led the effort to pass Amendment 4, which ended the lifetime ban on voting for 1.4 million people in Florida with past felony convictions. In November of that year, nearly two-thirds of Florida voters approved the amendment. This initiative represented the largest expansion of voting rights in the U.S. in 50 years. Thousands of Florida's returning citizens began registering to vote beginning on Jan. 8, 2019, the first day they were eligible to register under the amendment.

Six months later, Governor Ron DeSantis signed legislation that required Floridians with felony convictions to pay all fines, fees, costs, and restitution before becoming eligible to vote. As a result, of the 1.4 million returning citizens who anticipated benefiting from Amendment 4, over half became ineligible to vote because they had fines and fees that were still due.

THE PROBLEMS

- **The vast majority of returning citizens in Florida are unable to afford these costs.** Returning citizens face obstacles to paying back the fines and fees they owe due to lower incomes before, during, and after incarceration and/or community supervision. Before conviction, people who are in prison and/or supervision are more likely to lack access to quality education and good jobs. A 2015 analysis found that incarcerated people had a median annual income of \$19,185 prior to their incarceration, 41% less than non-incarcerated people of similar ages. While incarcerated, Floridians are not paid for their labor, and thus the vast majority has no income during this time. And in the 5 years after incarceration, over 60% of returning citizens remain unemployed—actively looking for work but without a job—or underemployed. Among people who have been incarcerated at any point in their lives, even decades ago, over 27% are unemployed. Therefore, for many returning citizens, “it’s not that they’re trying to avoid paying a fine that they may have collected. It’s literally they’re unable to pay it.” Even the state recognizes this problem. Between 2014 and 2018, Florida’s Clerk of Courts association labeled an average of 83% of the costs charged by the courts per year as having “minimal collections expectations,” meaning the courts have determined that they are unlikely to ever receive payment on those debts because the people charged with them cannot afford to pay.
- **Private donations are only part of the solution to fixing this financial barrier to voting.** Hundreds of thousands of Floridians are prevented from exercising their right to vote due only to their inability to pay. That is why FRRRC established a Fines and Fees Fund in 2019. This fund clears the path for returning citizens to become eligible to vote by paying off the fines and fees they owe to the courts. As of October 2020, over 86,000 individuals from all 50 states have donated to restore voter eligibility to over 40,000 of Florida’s returning citizens. Yet there are still over 700,000 returning citizens in Florida with outstanding fines, fees, costs, and restitution. As a result, it is clear that private donations represent only part of the solution, as they alone can not be reasonably expected to remove the financial obstacle to voting that remains for hundreds of thousands of Floridians.
- **Even when returning citizens can afford to pay their fines and fees, finding out how much they owe is a challenge.** Because a returning citizen is required to pay off certain legal financial obligations before registering to vote, it is critical for them to be able to determine how much they owe. Yet Florida does not have a centralized or consistent system for tracking the amounts of fines, fees, and/or costs that have been ordered as part of felony convictions, or the amounts that returning citizens have already paid. Likewise, no state or local agency tracks restitution at all. As a result, returning citizens lack timely institutional support in determining how much they owe. Rather, they have to contact the Clerk of Court in the county or counties of conviction to figure out what they owe, and even then agencies within the state can have inaccurate information. Court records can be lost, incomplete, or contradictory, while information about payments to collection agencies are often “difficult or impossible to track down.” If a returning citizen cannot get reliable information, they can submit a written request to ask for an advisory opinion from the Florida Division of Elections—a process that can take weeks or months. For many returning citizens, this process can also be confusing and require assistance to navigate.

- **The other individualized pathways to rights restoration have hurdles to access.** If a person with a felony conviction cannot afford to pay back their fines and fees, they can apply to have their voting rights restored by the state’s Clemency Board or through the court system. Both of these processes take time and resources, undermining the purpose of Amendment 4 to automatically remove the barriers to voting for people with felony convictions. Even before the COVID-19 pandemic, the Clemency Board had a backlog of over 10,000 people seeking to have their civil rights restored. Only 26 people were granted rights restoration in all of 2019. Alternatively, returning citizens can petition a court to have their voting eligibility restored through the court system. This option includes the possibility of modifying a person’s sentence and converting any outstanding fines, fees, costs, and/or restitution to community service. While over 1,000 people in Florida had their voter eligibility restored through the courts in 2020, this modification process is primarily operating in only a few regions of the state. Likewise, in the rare cases when sentences have been modified to community service, the majority were conversions for less than \$3,000 in outstanding costs. Therefore, court petitions are not available to most returning citizens, especially those with higher outstanding fines and fees.
- **Floridians with felony convictions owe over \$1 billion in fines and fees.** Since 1996, Florida lawmakers have created over 20 new types of fines and fees for people charged with offenses. Meanwhile, the legislature has discontinued almost all exceptions to these costs for people who cannot afford them. As a result, anyone convicted of an offense can owe thousands, even millions of dollars—a sum they have to pay back before being eligible to register to vote. Fines can include \$500 for even a noncriminal violation to \$15,000 for a life felony. Some specific crimes, such as marijuana possession and trafficking, carry even higher costs up to \$200,000. These obligations are in addition to other fees, court costs, and restitution a person may have to pay. Across the state, over \$1 billion in fines, court costs, monetary penalties and fees, and service charges and costs were assessed in 2018, even after taking into account financial obligations that were satisfied through community service or time served and obligations that were reduced, suspended, or waived.
- **These problems will continue without meaningful reform.** Florida has the third largest state prison system in the country. Every year, thousands of people with felony convictions are released from prison or community supervision, many of whom have outstanding fines and fees and therefore are barred from voting. While a diverse group of individuals and organizations have worked together to free the vote in 2020, future returning citizens should not have to face financial insecurity or rely on donations from others to gain the right to vote they would otherwise have. This approach is unrealistic, unsustainable, and antidemocratic.

THE SOLUTION: AUTOMATIC RIGHTS RESTORATION THROUGH CLEMENCY REFORM

It will take years and significant reform to stop our criminal legal system’s practices of charging people fines and fees that they can never afford. In the meantime, we can take a big step toward realizing the full impact of Amendment 4 by calling on the Clemency Board to change its policies. In particular, **Florida’s clemency board should automatically restore voting rights for returning citizens who would be eligible under Amendment 4, if not for the financial obligations they cannot afford.**

TAKE ACTION

[Language on call to action (asking for Clemency Board candidates to support changing the policies of the board); information on Clemency Board candidates]

For citations and more information on ensuring access to democracy, visit the FRRC website at [URL].