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116TH CONGRESS
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H. R. 196

To secure the Federal voting rights of persons when released from incarceration.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. NADLER (for himself, Ms. JACKSON LEE, Mr. COHEN, Mr. JOHNSON of Georgia, Mr. RASKIN, Mr. CICILLINE, Ms. NORTON, Ms. LOFGREN, Ms. JAYAPAL, Mr. LEWIS, Ms. JUDY CHU of California, Mr. ESPAILLAT, Ms. LEE of California, Mr. DEFAZIO, Mr. RUSH, Ms. WILSON of Florida, Ms. KAPTUR, Ms. SCHAKOWSKY, Mr. TED LIEU of California, Mrs. WATSON COLEMAN, Mr. MCEACHIN, Mr. CUMMINGS, Mr. BLUMENAUER, Ms. MOORE, Mr. PASCRELL, Mrs. CAROLYN B. MALONEY of New York, Ms. SEWELL of Alabama, Mr. QUIGLEY, Mr. TAKANO, Ms. WASSERMAN SCHULTZ, Ms. CLARKE of New York, Mr. YARMUTH, Mr. DANNY K. DAVIS of Illinois, and Mr. RICHMOND) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To secure the Federal voting rights of persons when released from incarceration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Democracy Restoration Act of 2019''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The right to vote is the most basic constitutive act of citizenship. Regaining the right to vote reintegrates individuals with criminal convictions into free society, helping to enhance public safety.

(2) Article I, section 4, of the Constitution grants Congress ultimate supervisory power over Federal elections, an authority which has repeatedly been upheld by the United States Supreme Court.

(3) Basic constitutional principles of fairness and equal protection require an equal opportunity for citizens of the United States to vote in Federal elections. The right to vote may not be abridged or denied by the United States or by any State on account of race, color, gender, or previous condition of servitude. The 13th, 14th, 15th, 19th, 24th, and 26th Amendments to the Constitution empower Congress to enact measures to protect the right to vote in Federal elections. The 8th Amendment to the Constitution provides for no excessive bail to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(4) There are 3 areas in which discrepancies in State laws regarding criminal convictions lead to unfairness in Federal elections—

(A) the lack of a uniform standard for voting in Federal elections leads to an unfair disparity and unequal participation in Federal elections based solely on where a person lives;

(B) laws governing the restoration of voting rights after a criminal conviction vary throughout the country and persons in some States can easily regain their voting rights while in other States persons effectively lose their right to vote permanently; and

(C) State disenfranchisement laws disproportionately impact racial and ethnic minorities.

(5) Two States do not disenfranchise individuals with criminal convictions at all (Maine and Vermont), but 48 States and the District of Columbia have laws that deny convicted individuals the right to vote while they are in prison.

(6) In some States disenfranchisement results from varying State laws that restrict voting while individuals are under the supervision of the criminal justice system or after they have completed a criminal sentence. In 33 States, convicted individuals may not vote while they are on parole and 29 of those States disenfranchise individuals on felony probation

as well. In 11 States, a conviction can result in lifetime disenfranchisement.

(7) Several States deny the right to vote to individuals convicted of certain misdemeanors.

(8) An estimated 6,100,000 citizens of the United States, or about 1 in 40 adults in the United States, currently cannot vote as a result of a felony conviction. Of the 6,100,000 citizens barred from voting, only 23 percent are in prison. By contrast, 77 percent of the disenfranchised reside in their communities while on probation or parole or after having completed their sentences. Approximately 3,100,000 citizens who have completed their sentences remain disenfranchised due to restrictive State laws. In at least 6 States—Alabama, Florida, Kentucky, Mississippi, Tennessee, and Virginia—more than 7 percent of the total population is disenfranchised.

(9) In those States that disenfranchise individuals post-sentence, the right to vote can be regained in theory, but in practice this possibility is often granted in a non-uniform and potentially discriminatory manner. Disenfranchised individuals must either obtain a pardon or an order from the Governor or an action by the parole or pardon board, depend-

ing on the offense and State. Individuals convicted of a Federal offense often have additional barriers to regaining voting rights.

(10) State disenfranchisement laws disproportionately impact racial and ethnic minorities. More than 7 percent of the African-American population, or 2,200,000 African-Americans, are disenfranchised. Currently, 1 of every 13 African-Americans are rendered unable to vote because of felony disenfranchisement, which is a rate more than 4 times greater than non African-Americans. Over 7 percent of African-American adults are disenfranchised whereas only 1.8 percent of non African-Americans are. In 4 States (Kentucky, 26 percent; Virginia, 22 percent; Florida, 21 percent; and Tennessee, 21 percent), more than 1 in 5 African-Americans are unable to vote because of prior convictions.

(11) Latino citizens are disproportionately disenfranchised based upon their disproportionate representation in the criminal justice system. If current incarceration trends hold, 17 percent of Latino men will be incarcerated during their lifetimes, in contrast to less than 6 percent of non-Latino White men. When analyzing the data across 10 States,

Latinos generally have disproportionately higher rates of disenfranchisement compared to their presence in the voting age population. In 6 out of 10 States studied in 2003, Latinos constitute more than 10 percent of the total number of persons disenfranchised by State felony laws. In 4 States (California, 37 percent; New York, 34 percent; Texas, 30 percent; and Arizona, 27 percent), Latinos were disenfranchised by a rate of more than 25 percent.

(12) Disenfranchising citizens who have been convicted of a criminal offense and who are living and working in the community serves no compelling State interest and hinders their rehabilitation and reintegration into society.

(13) State disenfranchisement laws can suppress electoral participation among eligible voters by discouraging voting among family and community members of disenfranchised persons. Future electoral participation by the children of disenfranchised parents may be impacted as well.

(14) The United States is the only Western democracy that permits the permanent denial of voting rights for individuals with felony convictions.

SEC. 3. RIGHTS OF CITIZENS.

The right of an individual who is a citizen of the United States to vote in any election for Federal office shall not be denied or abridged because that individual has been convicted of a criminal offense unless such individual is serving a felony sentence in a correctional institution or facility at the time of the election.

SEC. 4. ENFORCEMENT.

(a) ATTORNEY GENERAL.—The Attorney General may, in a civil action, obtain such declaratory or injunctive relief as is necessary to remedy a violation of this Act.

(b) PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—A person who is aggrieved by a violation of this Act may provide written notice of the violation to the chief election official of the State involved.

(2) RELIEF.—Except as provided in paragraph (3), if the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may, in a civil action, obtain declaratory or injunctive relief with respect to the violation.

(3) EXCEPTION.—If the violation occurred within 30 days before the date of an election for

Federal office, the aggrieved person need not provide notice to the chief election official of the State under paragraph (1) before bringing a civil action to obtain declaratory or injunctive relief with respect to the violation.

SEC. 5. NOTIFICATION OF RESTORATION OF VOTING RIGHTS.

(a) STATE NOTIFICATION.—

(1) NOTIFICATION.—On the date determined under paragraph (2), each State shall notify in writing any individual who has been convicted of a criminal offense under the law of that State that such individual has the right to vote in an election for Federal office pursuant to the Democracy Restoration Act of 2019 and may register to vote in any such election.

(2) DATE OF NOTIFICATION.—

(A) FELONY CONVICTION.—In the case of such an individual who has been convicted of a felony, the notification required under paragraph (1) shall be given on the date on which the individual—

(i) is sentenced to serve only a term of probation; or

(ii) is released from the custody of that State (other than to the custody of another State or the Federal Government to serve a term of imprisonment for a felony conviction).

(B) MISDEMEANOR CONVICTION.—In the case of such an individual who has been convicted of a misdemeanor, the notification required under paragraph (1) shall be given on the date on which such individual is sentenced by a State court.

(b) FEDERAL NOTIFICATION.—

(1) NOTIFICATION.—Any individual who has been convicted of a criminal offense under Federal law shall be notified in accordance with paragraph (2) that such individual has the right to vote in an election for Federal office pursuant to the Democracy Restoration Act of 2019 and may register to vote in any such election.

(2) DATE OF NOTIFICATION.—

(A) FELONY CONVICTION.—In the case of such an individual who has been convicted of a felony, the notification required under paragraph (1) shall be given—

(i) in the case of an individual who is sentenced to serve only a term of probation, by the Assistant Director for the Office of Probation and Pretrial Services of the Administrative Office of the United States Courts on the date on which the individual is sentenced; or

(ii) in the case of any individual committed to the custody of the Bureau of Prisons, by the Director of the Bureau of Prisons, during the period beginning on the date that is 6 months before such individual is released and ending on the date such individual is released from the custody of the Bureau of Prisons.

(B) MISDEMEANOR CONVICTION.—In the case of such an individual who has been convicted of a misdemeanor, the notification required under paragraph (1) shall be given on the date on which such individual is sentenced by a court established by an Act of Congress.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) CORRECTIONAL INSTITUTION OR FACILITY.—The term ''correctional institution or facility''

means any prison, penitentiary, jail, or other institution or facility for the confinement of individuals convicted of criminal offenses, whether publicly or privately operated, except that such term does not include any residential community treatment center (or similar public or private facility).

(2) ELECTION.—The term ''election'' means—

(A) a general, special, primary, or runoff election;

(B) a convention or caucus of a political party held to nominate a candidate;

(C) a primary election held for the selection of delegates to a national nominating convention of a political party; or

(D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President.

(3) FEDERAL OFFICE.—The term ''Federal office'' means the office of President or Vice President of the United States, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(4) PROBATION.—The term ''probation'' means probation, imposed by a Federal, State, or local

court, with or without a condition on the individual involved concerning—

(A) the individual's freedom of movement;

(B) the payment of damages by the individual;

(C) periodic reporting by the individual to an officer of the court; or

(D) supervision of the individual by an officer of the court.

SEC. 7. RELATION TO OTHER LAWS.

(a) STATE LAWS RELATING TO VOTING RIGHTS.—Nothing in this Act be construed to prohibit the States from enacting any State law which affords the right to vote in any election for Federal office on terms less restrictive than those established by this Act.

(b) CERTAIN FEDERAL ACTS.—The rights and remedies established by this Act are in addition to all other rights and remedies provided by law, and neither rights and remedies established by this Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (52 U.S.C. 10301 et seq.) or the National Voter Registration Act of 1993 (52 U.S.C. 20501 et seq.).

SEC. 8. FEDERAL PRISON FUNDS.

No State, unit of local government, or other person may receive or use, to construct or otherwise improve a

prison, jail, or other place of incarceration, any Federal funds unless that person has in effect a program under which each individual incarcerated in that person's jurisdiction who is a citizen of the United States is notified, upon release from such incarceration, of that individual's rights under section 3.

SEC. 9. EFFECTIVE DATE.

This Act shall apply to citizens of the United States voting in any election for Federal office held after the date of the enactment of this Act.

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