

Tennessee's Voting Rights Restoration Process is Overly Complicated.

Opportunities exist to make it more efficient.

Tennessee's process for restoring voting rights after a felony conviction is challenging for those seeking restoration and overly burdensome to administrate. Fortunately, there are opportunities to clarify and streamline the process to reduce redundant steps and opportunities for error.

This policy brief highlights existing challenges with the current voting rights restoration process and makes recommendations drawing on examples from other states for Tennessee policymakers to consider that would increase efficiency and help improve outcomes for Tennesseans reintegrating into society.



POLICY RECOMMENDATIONS

1. Remove the two-step process for restoring voting rights.
2. Streamline and clarify the Certificate of Restoration of Voting Rights (COR) process.
3. Create a timeline and appeals process.
4. Remove legal financial obligations (LFOs) from the voting rights restoration process.
5. Alternatively, consider removing specific LFOs.

Tennesseans with felony convictions lose their right to vote.

Tennesseans lose their voting rights following a felony conviction (except for certain convictions received before May 18, 1981).¹ While some convictions result in permanent disenfranchisement, voting rights can be restored for most others.

Eligibility for restoration first depends on the type and time of conviction.

The outcome for all felony convictions is not the same. Some older convictions did not result in the loss of voting rights, and not all felony convictions are eligible for rights restoration.

Voting rights not lost

- Crimes not rendered "infamous" before January 15, 1973²
- Any convictions between January 15, 1973 and May 17, 1981



Voting rights permanently lost

Convictions for the following crimes:

- **As of July 1, 1986:** Voter fraud, treason, first-degree murder, and aggravated rape
- **As of July 1, 1996:** Any degree of murder or rape
- **As of July 1, 2006:** Sexual or violent sexual offenses that are felonies where the victim was a minor, or felony bribery, misconduct involving public officials and employees, or interference with government operations.³



For other felony convictions, it is possible to regain the right to vote. Tennesseans may have their conviction expunged or request to have their voting rights restored.⁴ The process for restoring voting rights is complicated and involves multiple steps.

Tennessee's voting rights restoration process has changed over the years, most recently in July 2023.

Until 2006, Tennesseans could receive a pardon or petition a court to have their full citizenship rights—the right to vote, own a gun, run for office, and serve on a jury—restored.⁵ In 2006, rather than seeking restoration of their full citizenship rights, Tennesseans got the option to have just their voting rights restored through a Certificate of Voting Rights Restoration (COR).

Tennessee's 2006 Certificate of Voting Rights Restoration (COR) process

➤ Request a COR



➤ The incarcerating, pardoning, or supervising authority issues a COR confirming that the applicant meets the requirements:

- ✓ Sentence completion (including probation or parole)
- ✓ Restitution not owed (The requirement to pay court costs unless found to be indigent was added in 2010)⁶

➤ The state coordinator of elections confirms the applicant is current on any child support obligations



➤ COR serves as proof the applicant is eligible to register to vote



Additional changes in 2023 have created a longer, more confusing, and redundant process.

In July 2023, the state coordinator of elections issued a directive adding an additional step to the restoration process. Rather than restoring voting rights *either* (1) through a pardon or having one's full citizenship rights restored through a court or (2) completing a COR, Tennesseans must now do *both*.⁷

STEP ONE

Receive a pardon



OR

Restore full citizenship rights

Tennesseans must wait five years after completing their sentence and show proof of good citizenship and a compelling reason for a pardon. Pardons are at the discretion of the Board of Probation and Parole or governor and may not be granted.

Tennesseans petition a court after the maximum sentence has expired. Similarly, this requires proof of merit for restoration, is at the discretion of a court, and may not be granted.

STEP TWO

Complete a COR



Tennesseans must complete their sentence (including probation or parole), pay any ordered restitution, and be current in child support obligations. They must also have paid court costs unless found to be indigent.

Even before the recent change, restoring voting rights was a complicated and confusing process.

The COR process was intended to help Tennesseans regain their voting rights once they were eligible, rather than requiring proof of merit—anyone who met the specified requirements would receive a COR.

In practice, however, rather than being issued a signed COR, individuals must attempt to get it filled out by the relevant state officials. The process is further complicated by **unclear guidance, difficulties for people with out-of-state convictions, and a lack of available data on legal financial obligations.**

Unclear guidance makes completing a COR challenging.

An agent of the pardoning, incarcerating, or supervising authority must complete the COR indicating that the applicant has completed their sentence and that no restitution or court costs are owed.

Yet in practice, because there is no clear description of the process—who is responsible for providing what information—applicants have struggled to find someone to complete the necessary fields.

Tennesseans with out-of-state convictions struggle to get officials in other states to complete the COR.

Tennesseans with convictions in other states or federal court must also submit a COR, requiring officials in other states to complete a Tennessee form. Some would-be applicants face challenges of both finding the relevant information and finding someone in another state willing to follow Tennessee's process.⁸

Lack of available data on legal financial obligations also leads to challenges completing the COR.

Some of the COR's fields may be challenging to verify. For example, an applicant may have paid the relevant court costs, but they may still have a balance owed based on other charges, e.g., interest or other fees.

Additionally, some applicants may be eligible for restoration but because some older records may no longer be available, they cannot definitively show that they no longer owe their legal financial obligations.

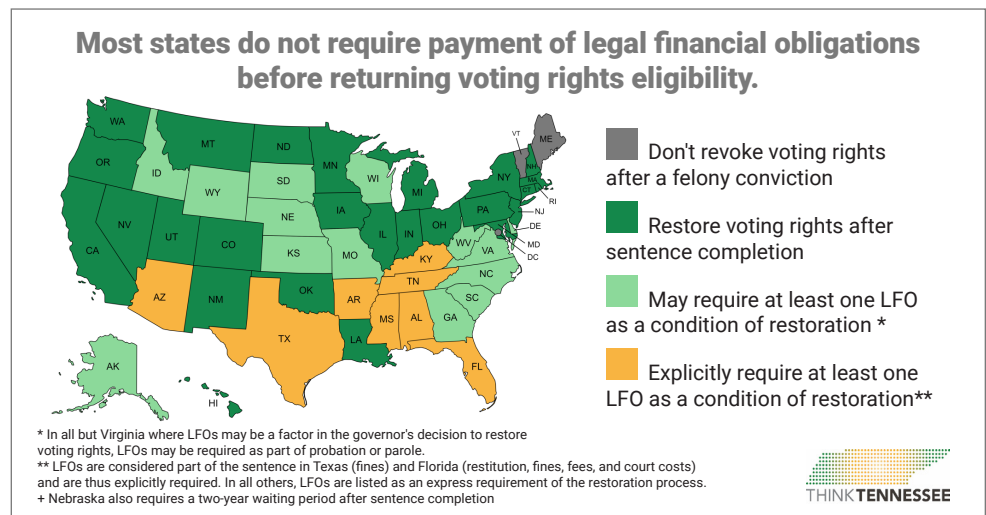
The voting rights restoration process in other states is simpler and more efficient.

Voting rights restoration processes in most other states are more streamlined.⁹ Most states restore voting rights after sentence completion without requiring payment of legal financial obligations (LFOs) to regain eligibility, and where residents must apply for restoration, the application process is more clearly defined.

Most states return voting rights eligibility upon sentence completion.

In 26 states, voters regain eligibility after being released from incarceration, probation, or parole. While LFOs may be owed, they are not due before voting rights are returned. Verifying eligibility is streamlined as officials only need to confirm sentence completion.

Only eight states, including Tennessee, expressly require payment of LFOs before restoring voting eligibility. An additional 13 may require payment of at least one LFO as a condition of probation or parole.



In recent years, more states have moved away from, or limited, LFO requirements.

In 2019, **Kentucky** eliminated requirements to pay LFOs for those convicted in the state of certain crimes, while others are still required to first pay restitution, and **Arizona** removed payment of fines, requiring only restitution.^{10,11} In 2020, **Georgia** eliminated payment of restitution and fees, though some fines may still be required.¹²

Where residents must apply for restoration, the process is more clearly defined.

Tennessee is one of only nine states that requires additional steps after sentence completion to demonstrate eligibility. The others, including Alabama and Wyoming, explain their application process more clearly.¹³

Clearly defined restoration processes in Alabama and Wyoming



Alabama

Application	Apply to the Board of Pardons and Paroles for a Certificate of Eligibility to Register to Vote (CERV). ¹⁴
Review	Officer assigned to review eligibility within 30 days of application receipt.
Determination	Applicant is issued a CERV if approved. If denied, the applicant is informed why.



Wyoming

Application	Apply to the restoration of rights coordinator in the Wyoming Department of Corrections (WDOC) for a Certificate Indicating Restoration of Rights. ¹⁵
Review	Restoration coordinator reviews eligibility within 90 days of application receipt.
Determination	Applicant is issued a certificate if approved. If denied, the applicant is informed why.

Tennessee's voting rights restoration process can be clarified and streamlined to increase efficiency and maintain integrity.



1

Remove the two-step process for restoring voting rights.

Tennessee is the only state to require demonstrating eligibility multiple times by receiving both a **pardon or court order** and a **certificate of restoration**.

➤ All other states either restore voting rights after sentence completion or require demonstrating eligibility *either* through a pardon *or* through a certificate.¹⁶

A June 2023 Tennessee Supreme Court ruling highlighted that the multiple state laws related to restoring voting rights lack cross-references and fail to show how each is meant to work together.¹⁷

Lawmakers should address these issues by considering amendments that keep Tennessee in line with other states and maintain the status quo of multiple paths to restoration—pardon, full citizenship rights, or COR.



2

Streamline and clarify the COR process.

The complicated COR process can be streamlined and simplified with clarifications and additions.

➤ **Assign an agency, like the Tennessee Department of Corrections (TDOC), the responsibility of issuing a COR to applicants.** As in Alabama and Wyoming, a TDOC agent could be responsible for reviewing COR requests and either issuing a completed COR or a reason why a COR was denied.

➤ **Create an application process to request a COR.** As in Alabama, an application to request a COR from the appropriate state agency, *i.e.*, TDOC, makes clear that the agency provides the certificate—and the information—to the applicant.¹⁸

➤ **Allow one COR per person rather than per conviction.** Rather than require individuals—or agencies—to repeat steps, allowing one COR to represent a person's entire eligibility reduces redundancies.

➤ **Define what court costs impact voting eligibility.** To help prevent CORs being incorrectly denied for remaining account balances, clearly define which court costs must be paid before regaining voting eligibility. For example, the amount imposed at conviction but not interest or fees associated with collection or other accumulated costs.

➤ **Establish a statewide, unified system for tracking LFOs.** A unified system would allow Tennesseans in every county the same access to necessary records and allow them to demonstrate they do not owe required financial obligations.



3

Create a timeline and appeals process.

Adding a timeline, providing a reason for denial, and an opportunity for appeal increases accountability in the process.

➤ **Timeline:** Requiring a determination—approved or denied—be made within a given timeline, (*i.e.*, 30 days like in Alabama), helps to prevent eligible voters from missing an opportunity to register and participate in an election.

➤ **Appeals Process:** Providing a written reason if a COR request is denied and allowing applicants to appeal decisions, as in Wyoming, would help ensure that decisions have been made accurately.¹⁹



4

Remove LFOs from the voting rights restoration process.

Regaining voting rights has been shown to reduce recidivism rates, meaning more Tennesseans would be able to reenter their communities, work, and earn money to pay off their debts.²⁰

➤ In removing LFOs from the eligibility process, Tennesseans would still be required to pay the debts owed. Eligibility for voting rights restoration would simply be based on serving one's time rather than financial ability.

Requiring LFOs is complicated by challenges confirming some of the necessary information, particularly for those with out-of-state convictions. An applicant may meet requirements but because records may be unavailable or signatures from officials in other states hard to secure, be unable to show it.



5

Alternatively, consider removing specific LFOs.

Tennessee lawmakers can consider alternative LFO policies from other states, including limiting them to specific obligations.

➤ **Reduce the number of LFOs required.** In some states, LFOs are limited to specific requirements, easing the financial and administrative burden. For example, Texas restores voting eligibility after sentence completion and requires only fines to first be paid.²¹

➤ **Remove the requirement to be current in child support obligations.** Only Tennessee includes child support obligations in voting rights restoration eligibility. Unlike other LFOs, child support is not associated with the felony conviction resulting in the loss of voting rights. Removing this requirement—while not erasing the debt—would bring Tennessee in line with all other states.

An improved voting rights restoration process—clarified and streamlined to reduce redundancies and opportunities for error—will strengthen the integrity of the process, ensuring that those who are eligible are able to join our state's voter rolls and that those who are not are left off. These improvements will also benefit Tennesseans who are working to reenter and reengage in civic life, strengthening and enriching communities across our state.

References

1. Tennesseans convicted of certain felonies before January 15, 1973 that were not rendered infamous and between January 15, 1973 and May 17, 1981 never lost their voting rights.
2. Tennessee Secretary of State. Restoration of Voting Rights. Conviction Prior to January 15, 1973. See <https://sos.tn.gov/elections/guides/restoration-of-voting-rights#:~:text=You%20may%20regain%20your%20eligibility,full%20rights%20of%20citizenship%20restored.>
3. TN Code Annotated § 40-29-204
4. Qualifying convictions are eligible to be expunged five or 10 years after sentence completion and other requirements are met. TN Code Annotated § 40-32-101(g)(2).
5. There may be additional steps to take to have gun rights restored following certain convictions.
6. Some individuals may be ordered to pay restitution (payment for damage or loss of property) to victims and/or fines associated with their convictions.
7. Goins, Mark. (July 21, 2023). Memorandum: Restoration of Voting Rights. See <https://www.democracydocket.com/wp-content/uploads/2023/07/20230721-memo-restoration-of-voting-rights.pdf>.
8. Lewis, Nicole. (September 19, 2019). Tennessee's Voter Restoration Gauntlet. The Marshall Project. See <https://www.themarshallproject.org/2019/09/19/tennessee-s-voter-restoration-gauntlet>.
9. Maine, Vermont, and Washington, D.C. do not revoke voting rights after a felony conviction.
10. Voting rights were restored to all offenders convicted of crimes under Kentucky state law who have satisfied the terms of their probation, parole, or service of sentence, exclusive of restitution, fines, and any other court-ordered monetary conditions. Exclusions include persons convicted of treason, bribery, and some violent crimes. See https://governor.ky.gov/attachments/20191212_Executive-Order_2019-003.pdf.
11. Arizona State Legislature. (April 30, 2019). HB 2080. See <https://legiscan.com/AZ/text/HB2080/2019>
12. Georgia's Secretary of State updated its guidance on LFOs in 2020, clarifying that only some fines may be required. See <https://securemyabsenteeballot.sos.ga.gov/s/voter-registration>.
13. Not all Wyoming residents must apply for restoration. Those discharged from their sentence for first-time non-violent felonies on or after January 1, 2010, automatically receive the certificate restoring voting rights from WDOC without having to apply. See <https://corrections.wyo.gov/restoration-of-rights>.
14. Alabama's Certificate of Eligibility to Register to Vote ("CERV") Application. See <https://paroles.alabama.gov/wp-content/uploads/ABPP-4-CERV-Application-Form-Fillable-1-1.pdf>.
15. Wyoming's Application for the Issuance of a Certificate Indicating the Restoration of Rights. See https://drive.google.com/file/d/1E3BVLWxUVwknbgT0pxC40ACYDk_FQJUi/view.
16. Virginia restores voting rights exclusively through pardons, and Mississippi restores rights through a pardon or through legislation (for each individual) passed by two-thirds of its state legislature. All other states that do not automatically restore voting rights allow either a pardon or a certificate to demonstrate eligibility.
17. Falls v. Goins, No. M2020-01510-SC-R11-CV (Tenn. 2023). See <https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/FALLS-Majority%20Opinion-Filed.pdf>
18. AL Code § 15-22-36.1. Also, See <https://paroles.alabama.gov/wp-content/uploads/ABPP-4-CERV-Application-Form-Fillable-1-1.pdf>.
19. Wyoming residents may appeal a denial within 30 days if they believe it has been made incorrectly. See <https://docs.google.com/document/d/1MYpouDYDCAQ2TZfO1B7buMvEhQz3oEH9/edit#heading=h.gjdgxs>.
20. Budd, Kristen M. and Niki Monazzam. (April 25, 2023). Increasing Public Safety by Restoring Voting Rights. The Sentencing Project. See <https://www.sentencingproject.org/press-releases/new-report-restoring-voting-rights-for-people-with-felony-convictions-can-improve-public-safety/>.
21. In Texas, persons with a felony conviction are automatically eligible to register to vote after full discharge of the sentence, which includes "incarceration, parole, or supervision, or completed a period of probation ordered by any court." Under case law, fines are considered a part of the sentence, but restitution and court costs are not. Burg v. State, 592 S.W.3d 444, 451 (Tex. Crim. App. 2020).

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