Who Must Pay to Regain the Vote?  
A 50-State Survey  
July 2020  

By Margaret Love and David Schlussel
The Collateral Consequences Resource Center is a non-profit organization established in 2014 to promote public engagement on the myriad issues raised by the collateral consequences of arrest or conviction—that is, the legal restrictions and social stigma that burden people with a criminal record long after their criminal case is closed. The Center takes a national perspective on this dynamic area of law, offering practice and advocacy resources, news, and commentary.

The Center’s Restoration of Rights Project collects and analyzes mechanisms for obtaining relief from collateral consequences in every state, including restoration of the right to vote. The Center issues regular reports on relevant new legislation, and recently published a national survey of state laws on loss and restoration of voting and firearms rights. A 50-state comparison chart is also available.
Introduction

This report examines the extent to which state reenfranchisement laws consider payment of legal financial obligations (LFOs), including fines, fees, and restitution, in determining whether and when to restore voting rights to people disenfranchised due to a felony conviction.

This issue has come to the fore due to high-stakes federal litigation in Florida over that state’s 2018 ballot initiative, which many expected would restore voting rights to more than a million people disenfranchised because of their criminal record, in some cases for crimes that occurred decades ago. However, the initiative has been interpreted by Florida’s legislature and supreme court to condition reenfranchisement on payment of all outstanding fines, fees, costs, and restitution, which threatens to drastically limit its anticipated reach.

After a group of voters and organizations sued, a federal judge found this “pay-to-vote” system unconstitutional. The case is currently on appeal in the U.S. Court of Appeals for the Eleventh Circuit. CCRC expects to file an amicus brief next week that will include an abbreviated version of this report. Our brief will address the claim that many states have reenfranchisement schemes like Florida’s, and that the trial court's decision would therefore cast doubt on a widespread national practice. But our research finds that very few states have laws like Florida’s that indefinitely deny reenfranchisement based on any unpaid debt related to a disqualifying conviction. In fact, only two other states, Alabama and Arkansas, share the specifics of Florida’s approach.

The issues in the Florida case and the findings of our report are detailed below.

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The federal judge in the Florida litigation held that Florida's scheme is unconstitutional under the Equal Protection Clause of the Fourteenth Amendment as applied to people who are unable to pay, a large percentage of the disenfranchised population. The judge also held that conditioning voting rights on payment of fees and costs is unconstitutional under the Twenty-Fourth Amendment's prohibition on “any poll tax or other tax.”

The court found a further Catch-22 that makes Florida's system particularly hard to justify: the State has been unable to identify, for persons otherwise qualified for reenfranchisement, the precise amount of their LFO obligation, making it literally impossible for them to satisfy the law’s requirement even if they are financially able to. The State’s witness at trial testified that after months officials had been unable to determine this information even
for the 17 named plaintiffs in the lawsuit, and estimated that it would not be able to provide this information about 85,000 pending registrations until 2026 at the earliest.

The court ordered a process to allow people to register and vote unless the state can show precisely what each person owes and make a credible assertion that they have the ability to pay the amount. However, the Eleventh Circuit stayed this order pending appeal and the Supreme Court declined to lift the stay, with three justices dissenting in a written opinion. The case is scheduled for argument before the full en banc Eleventh Circuit on August 18, ironically the day of the Florida primary.

An amicus brief filed by the State of Texas, joined by seven other states, asserts that “States across the country have similar rules [to Florida] for felon voting” and that the district court’s holding “called into question the widespread practice” of permanently disenfranchising people who are not able to “pay their debts to society.” As we will argue in our brief and show in the appended report, that is a considerable exaggeration that should not influence the Court’s decision. A decision invalidating Florida’s unusual regime would not, even if applied nationally, directly impact more than a handful of states’ reenfranchisement laws. Our brief also highlights the consistent and accelerating national legislative trend toward expanding the franchise for people with felony convictions (a topic we reviewed at length in a recent post).

The research in our report shows that in nearly half the states (20 states), LFOs have no bearing at all on reenfranchisement. In most of the others (16 states), regaining the vote is tied to completion of supervision, which may give courts and supervision officials some discretion to delay reenfranchisement temporarily if LFOs have not been paid, but not to deny it permanently. Moreover, officials in many of these “delay” states already must consider ability to pay in determining whether to extend supervision, and officials may consider it in others. In other words, these 16 states generally have a safety valve that allows people who are unable to pay to obtain relief.

Only 3 states including Florida have laws mandating indefinite denial of the vote to any person with any unpaid LFOs from a disqualifying conviction, even if the person has completed all non-financial requirements of the sentence, and regardless of ability to pay. An additional 7 states may also indefinitely deny reenfranchisement because of LFOs, but only in certain cases.

Four states handle reenfranchisement exclusively through a discretionary exercise of constitutional clemency, which presents different issues than systematic reenfranchisement schemes.
50-State Map

LEGAL FINANCIAL OBLIGATIONS (LFOs) AS BARRIERS TO REENFRANCHISEMENT
### 50-State Table

**LEGAL FINANCIAL OBLIGATIONS (LFOs) AS BARRIERS TO REENFRANCHISEMENT**

<table>
<thead>
<tr>
<th>10 States deny reenfranchisement indefinitely due to LFOs</th>
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<tbody>
<tr>
<td>• Three states deny the vote indefinitely for any unpaid LFOs related to a disqualifying conviction: <strong>Alabama</strong>, <strong>Arkansas</strong>, and <strong>Florida</strong>.</td>
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<tr>
<td>• Five states deny the vote indefinitely for certain unpaid LFOs related to a disqualifying conviction: <strong>Arizona</strong> (restitution), <strong>Georgia</strong> (fines), <strong>Kansas</strong> (fines and certain restitution), <strong>Tennessee</strong> (restitution), and <strong>Texas</strong> (fines).</td>
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<td>• Two states deny the vote indefinitely for certain types of convictions with unpaid LFOs: <strong>Connecticut</strong> (federal and out-of-state convictions) and <strong>South Dakota</strong> (convictions after June 30, 2012).</td>
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<th>36 States &amp; D.C. do not deny reenfranchisement indefinitely due to LFOs</th>
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<tr>
<td>• 20 States and D.C. do not make reenfranchisement depend on LFOs:</td>
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<tr>
<td>o Two states and D.C. do not disenfranchise: <strong>Maine</strong>, <strong>Vermont</strong>, and <strong>District of Columbia</strong>.</td>
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<tr>
<td>o <strong>Oklahoma</strong> reenfranchises after a fixed sentence period, without modifying time based on LFOs.</td>
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<tr>
<td>• 16 states allow LFOs to delay reenfranchisement in certain circumstances, via early termination of supervision for payment, delayed discharge for failure to pay, or both: <strong>Alaska</strong>, <strong>California</strong>, <strong>Delaware</strong>, <strong>Idaho</strong>, <strong>Louisiana</strong>, <strong>Minnesota</strong>, <strong>Missouri</strong>, <strong>Nebraska</strong>, <strong>New Mexico</strong>, <strong>New York</strong>, <strong>North Carolina</strong>, <strong>South Carolina</strong>, <strong>Washington</strong>, <strong>West Virginia</strong>, <strong>Wisconsin</strong>, and <strong>Wyoming</strong>.</td>
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<th>4 States restore exclusively by a discretionary constitutional power</th>
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<td>• <strong>Iowa</strong>, <strong>Kentucky</strong>, <strong>Mississippi</strong>, and <strong>Virginia</strong>.</td>
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Legal Authorities

Prepared by Margaret Love and David Schlussel of the Collateral Consequences Resource Center. LFOs as barriers to voting necessarily relate to a disenfranchising conviction, with the single exception of Tennessee’s requirement that a person be current on child support in order to be eligible to vote. This map and chart do not capture reenfranchisement through executive clemency, except in the states that rely exclusively on these discretionary mechanisms for reenfranchisement. They also do not reflect the extent to which automatic reenfranchisement laws may exclude people with convictions for certain categories of offenses. The full set of executive clemency authorities are reviewed in depth at https://ccresourcecenter.org/restoration/.

1 **Alabama** provides a certificate of eligibility to register to vote if: “The person has paid all fines, court costs, fees, and victim restitution ordered by the sentencing court at the time of sentencing on disqualifying cases.” Ala. Code § 15-22-36.1(a)(3). “Suitability for discharge from probation supervision [only] if the probationer has satisfied all financial obligations owed to the court, including restitution.” *Id.* § 15-22-54(b).

2 In **Arkansas**, persons seeking reenfranchisement must show they have “paid all applicable court costs, fines, or restitution.” Ark. Const. amend. LI, § 11(d)(2)(A).

3 **Florida** restores the vote after completion of sentence, which includes “[f]ull payment of restitution ordered to a victim by the court as a part of the sentence” and “[f]ull payment of fines or fees ordered by the court as a part of the sentence or that are ordered by the court as a condition of any form of supervision.” Fla. Const. art. VI, §4; Fla. Stat. Ann. § 98.0751(2)(a)(5); *see also* § 98.0751(2)(a)(5)(c) (“fines, fees, or costs”) (emphasis added).

4 **Arizona** restores the vote automatically to a person with only one felony conviction on “final discharge” but only if “the person pays any victim restitution imposed.” Ariz. Rev. Stat. §13-907(A). Persons with a first felony offense who have not paid restitution and persons with more than one felony conviction are eligible for discretionary restoration from superior court two years after “final discharge” from probation or parole. *Id.* § 13-908(A).

Kansas provides for reenfranchisement when a person “has completed the terms of
the authorized sentence.” Kan. Stat. Ann. § 21-6613(b). A fine may be imposed as a separate
part of the sentence; payment may also be a condition of probation and parole. Id. §§ 21-6611, 21-6607(b)(11), 22-6604. Restitution may be imposed as a term of the sentence,
and/or as a condition of supervision or parole. Id. §§ 21-6607(c)(2), 22-3717(d)(1)(D)(vi),
22-6604; see State v. Alderson, 322 P.3d 364, 366 (Kan. 2014). Professor Beth Colgan
reports that the Kansas Secretary of State will not register a person who has been discharged
from supervision if they still owe LFOs. See Beth A. Colgan, Wealth-Based Penal
Disenfranchisement, 72 Vand. L. Rev. 55, 67 n.44 (2019) (citing Telephone Interview with
Jameson Beckner, Asst. Dir. of Elections, Kan. Sec’y of State (June 6, 2018)).

Tennessee restores the vote only if a person has paid “all restitution . . . ordered by
the court as part of the sentence.” In addition to restitution, Tennessee requires an applicant
for a voter registration card to: (1) have “paid all court costs assessed against the person at
the conclusion of the person’s trial, except where the court has made a finding at an
evidentiary hearing that the applicant is indigent at the time of application”; and (2) be
current on child support obligations. Tenn. Code Ann. § 40-29-202(b), (c). A divided Sixth
Circuit panel rejected equal protection, Twenty-Fourth Amendment, and other constitutional
challenges to the restitution and child support requirements. Johnson v. Bredesen, 624 F.3d
742 (6th Cir. 2010).

Texas restores the vote automatically when a person has “fully discharged the
person’s sentence, including any term of incarceration, parole, or supervision, or completed
is imposed as part of the sentence (not simply as a condition of supervision), but restitution

Connecticut disenfranchises anyone convicted of a felony and sentenced to
incarceration but has different rules for reenfranchising those convicted of Connecticut state
crimes and those “committed to confinement in a federal or other state correctional
institution.” The latter group regains the vote “upon the payment of all fines in conjunction
with the conviction and once such person has been discharged from confinement, and, if
expiration of the parole term is sufficient to reenfranchise, and there appears to be no
provision for early termination of parole based on payment of LFOs. Id. § 9-46a(b).

In South Dakota, a person convicted after July 1, 2012, who is “serving a sentence
for a felony conviction” is “removed from the voter registration records.” S.D. Codified
Laws § 12-4-18. Such persons “will be eligible to register to vote upon completion of [their]
are disenfranchised only while serving a prison term, suspended sentence, parole, or federal supervised release. See S.D. Codified Laws § 12-4-18 (2003). A parolee may earn discharge credits toward early release for compliance with conditions of parole, which may include payment of fines and restitution. Id. §§ 16-22-29, 24-15-11, 24-15A-50. According to a summary of South Dakota’s felony disenfranchisement scheme prepared by the Secretary of State, a person convicted after July 1, 2012, must complete all terms of the sentence, including payment of restitution, fines, and fees, while a person convicted prior to that time must only complete the period of incarceration, including parole. Felony Convictions, South Dakota Sec’y of State, https://sdsos.gov/elections-voting/voting/register-to-vote/felony-convictions.aspx (last visited July 25, 2020).

11 Me. Const. art. II § 1.
13 D.C. Code § 1-1001.02(2)(D), (7); D.C. Mun. Regs. tit. 3, § 500.2(c), 500.15. Emergency legislation effective July 22, 2020, which remains in effect for 90 days, repealed the District of Columbia’s felony disenfranchisement law. See D.C. Council Bill 23-0825 (July 22, 2020).
14 It bears noting that if someone’s parole is revoked in these states, including for failure to pay LFOs, where authorized, they would be again disenfranchised until they are released. However, revocation of parole for failure to pay LFOs generally requires a finding of willful non-payment. See Bearden v. Georgia, 461 U.S. 660 (1983).
15 Colo. Const. art. 7 § 10; Colo. Rev. Stat. § 1-2-103(4).
18 Ind. Const. art. II, § 8; Ind. Code § 3-7-13-4.
20 Mass. Const. amend. art. III.
22 Mont. Const. art. IV, § 2; Mont. Code § 46-18-801.
26 N.D. Cent. Code §§ 12.1-33-01(1), 12.1-33-03.
Ohio Const. art. 5 § 4; Ohio Rev. Code Ann. § 2961.01.


R.I. Const. art. 2, § 1.


In Oklahoma, persons “convicted of a felony” may register to vote “when they have fully served their sentence of court-mandated calendar days, including any term of incarceration, parole or supervision, or completed a period of probation ordered by any court.” 26 Okla. Stat. Ann. § 4-101; Okla. Admin. Code § 230:15-5-3 (clarifying that this means “a period of time equal to the time prescribed in the judgment and sentence”).

This delay could be brief or lengthy but may not exceed the maximum length of supervision. In theory, a person on lifetime supervision might be ineligible for a mechanism for early discharge because of unpaid LFOs, but we have not been able to identify that scenario in our research.

Alaska restores the vote upon “unconditional discharge,” meaning that a defendant is “released from all disability arising under a sentence, including probation and parole.” Alaska Stat. Ann. §§ 15.05.030(a), 12.55.185(18). Payment of fine and restitution may be made a condition of probation. Id. § 12.55.100(a). Failure to pay fine or restitution may be grounds for revocation of probation, except that “[i]n a contempt or probation revocation proceeding brought as a result of failure to pay a fine or restitution, it is an affirmative defense that the defendant was unable to pay despite having made continuing good faith efforts to pay the fine or restitution.” Id. § 12.55.051(a); see also id. § 12.55.051(c), (d). There appears to be no provision for early release from probation. Payment of restitution may be made special condition of parole supervision; failure to pay may result in revocation of parole. Id. §§ 33.16.150(b)(6); 33.16.220(a). Provision for early discharge from parole after two years does not mention compliance with conditions. Id. § 33.16.210(c)(3). According to the Alaska Division of Elections, a person may vote if they are “no longer serving a sentence and have been unconditionally discharged from supervision.” Restoration of Voting Rights, Alaska Division of Elections, http://www.elections.alaska.gov/Core/restorationofvotingrights.php (last visited June 24, 2020).

services/restitution-offender/ (last visited June 18, 2020). Nonetheless, Parole Board regulations do not list failure to pay as a reason to deny release in discharge reviews or early discharge, and a statutory discharge is available after the maximum period of parole is served. 15 CCR §§ 2535-2537.

36 **Delaware** provides for reenfranchisement upon “full discharge,” defined to mean that the defendant has served “the required sentence of imprisonment, parole, work release, early release, supervised custody, and probation and community supervision.” Del. Code Ann. tit. 15, §§ 6102, 6103(c). In 2016 the legislature deleted the phrase “and has also paid all financial obligations required by the sentence.” 2016 Del. Laws Ch. 311 (S.B. 242). Extension or revocation of supervision based purely on unpaid financial obligations would seem to go against the spirit of this legislative enactment but is not precluded by it. See Del. Code Ann. tit. 11, § 4333(d)(3); DE ADC 62 000 002, Par. 20. A fine or restitution may be imposed as a condition of probation, and probation may be extended by the judge. Del. Code tit. 11, §§ 4204, 4332(a), 4333(b), (c), (d)(3). Supervision may be terminated early for compliance with conditions. Id. § 4333(a); DE ADC 62 000 002, Par. 21.

37 **Idaho** disenfranchises only if a person received “a sentence of custody to the Idaho state board of correction,” including a suspended prison sentence, and restores the vote automatically upon “final discharge,” which is defined as “satisfactory completion of imprisonment, probation and parole as the case may be.” Idaho Code Ann. §§ 18-310(1), 18-310(2). Fines and restitution are not imposed as part of the sentence, id. §§ 19-2513, 19-2518, 19-5304(2), but may be imposed as conditions of probation and parole. Id. §§ 19-2601, 20-221. The court may extend or revoke probation based on failure to pay LFO’s, but “any extension thereof shall not exceed the maximum period for which the defendant might have been imprisoned.” Id. §§ 20-222. Supervision fees may be waived in the event a person is unable to find a job or is disabled. Idaho Code Ann. Id. § 20-225.

38 **Louisiana** restores the franchise automatically for a person who has not been incarcerated in the last five years pursuant to any “order of imprisonment” for a felony, or upon earlier completion of such an order, defined to mean a “sentence of confinement, whether or not suspended, whether or not the subject of the order has been placed on probation, with or without supervision, and whether or not the subject of the order has been paroled.” La. Const. art. I, § 10; La. Stat. Ann. §§ 18:102(A)(1), 18:2(8). Payment of restitution and supervision fees may be ordered as a condition of probation, but the defendant’s financial ability to pay must be considered. La Code Crim. Proc. Ann art. 895, 895.1, 875.1(C). Probation may not be revoked nor extended “based solely upon the defendant’s inability to pay fines, fees, or restitution to the victim.” Id. art. 894.4. Similarly,
payment of fines, costs, and supervision fees are conditions of parole and are set based on ability to pay. La. Stat. Ann. § 15:574.4.2(A)(2)(e). Payment of restitution may also be made a condition of parole, and payment of costs and fines shall be a condition; failure to pay restitution can be the basis for revocation only for willful failure; there is no similar provision governing costs and fines, which may be paid in a lump sum or on a schedule subject to ability to pay. Id. § 15:574.4.2(C)(1)(a)–(b). There is no provision for early discharge for payment of LFOs.

Minnesota restores the vote automatically upon “discharge,” which may be “by order of court following stay of sentence or stay of execution of sentence” or “upon expiration of sentence.” Minn. Stat. Ann. § 609.165, subd.1, 2. Fines and restitution may be imposed as part of the sentence, and unpaid LFOs may survive for a 10-year period after the “due date,” or until the end of probation, whichever is later. Id. §§ 609.10, 609.104, subds. 1, 2, Minnesota Judicial Branch Policy #209 (July 15, 2010). Failure to pay restitution while on a suspended sentence may lead to extension of probation for up to one year beyond the otherwise maximum term. Id. § 609.135 subd. 2(g).

Missouri disenfranchises a person “while confined under a sentence of imprisonment,” or “while on probation or parole after conviction of a felony, until finally discharged from such probation or parole.” Mo. Stat. Ann. § 115.133. Probation and parole conditions may include payment of LFOs, and the court may extend supervision, including for violation of conditions. Id. §§ 559.016, 559.021, 559.036, 559.100. Failure to pay restitution may result in an extension of probation or parole up to the “maximum term” allowed. Id. § 559.105.

Nebraska provides for a person’s automatic reenfranchisement “two years after he or she has completed the sentence, including any parole term.” Neb. Rev. Stat. Ann. § 29-112. Judgments for fines and costs are not part of the sentence and are subject to revision based on inability to pay. Id. §§ 29-2407, 29-2408, 29-2208. Early termination of probation requires that a person be “current on fees owed” and has “paid all restitution, court costs, and fines in full.” Neb. Sup. Ct. R. 6-1903(A)(3). Nebraska also provides for waiver of fines and costs where a person can establish indigence. Neb. Rev. Stat § 29-2208. Regulations and rules make payment of fines and restitution a condition of parole and non-payment of fines, fees, costs, or restitution a basis for violation. 270 Neb. Admin. Code Ch. 8, § 002.02F; Neb. Bd. of Parole Rules § 2-101. Revocation of parole or probation based on failure to pay restitution is prohibited “unless noncompliance with the restitution order is attributable to an intentional refusal to obey the order or a failure to make a good faith effort to comply with the order.” Neb. Rev. Stat. § 29-2284. Revocation in such a case could result in a further delay in reenfranchisement to a maximum of five years for probationers, and for parolees to
the conclusion of the authorized prison term. *Id.* § 29-2263(1), 29-2268(3)(e). Professor Beth Colgan reports that Nebraska authorities do not disqualify a person who has been discharged from their sentence even if they still owe LFOs. See Colgan, *supra* note 6 at 67 n.45 (citing Telephone Interview with Wayne Bena, Neb. Deputy Sec’y of State for Elections) (June 7, 2018).

42 New Mexico restores the vote automatically when a person “(1) has been unconditionally discharged from a correctional facility or detention center; [or] (2) has completed all conditions of parole or supervised probation. N.M. Stat. Ann § 1-4-27.1; see also *id.* §§ 31-13-1(A) (vote restored when the person “(1) has completed the terms of a suspended or deferred sentence imposed by a court; [or] (2) was unconditionally discharged from a correctional facility under the jurisdiction of the corrections department or was conditionally discharged from a correctional facility under the jurisdiction of the corrections department and has completed all conditions of probation or parole”), 31-13-1(C) (“A person who has served the entirety of a sentence imposed for a felony conviction, including a term of probation or parole shall be issued a certificate of completion by the corrections department. . . . The certificate of completion shall state that the person’s voting rights are restored.”).

A fine is imposed as part of sentence, *id.* § 31-18-15, and it may also be a condition of supervision along with restitution, fees, and costs. *Id.* §§ 31-20-6, 13-21-10(E). Early termination of parole or probation is available upon payment of “[a]ll restitution and fines.” N.M. Corr. Depart. Policy 051500. If a defendant defaults in the payment of a fine, fees or costs, and the default is “not contumacious,” the court may “allow the defendant additional time for payment, reduce the amount of the fine or of each installment, revoke the fine or the unpaid portion in whole or in part or require the defendant to perform community service in lieu of the fine, fees or costs.” N.M. Stat. Ann. § 31-12-3(A), (D); see also *id.* § 31-20-6 (“The defendant’s payment of the supervised probation costs shall not be waived unless the court holds an evidentiary hearing and finds that the defendant is unable to pay the costs.”). Revocation for willful failure to pay LFOs could result in an extension of supervision to a maximum of five years for probationers, and for parolees to the conclusion of the authorized prison term. *Id.* §§ 31-17-1(H), 31-20-5(A). If a person is revoked from supervision (i.e. for willful failure to pay LFOs) prior to the expiration of the term, the person may receive an “unsatisfactory completion” of supervision. *State v. Lara*, 129 N.M. 391 (N.M. App. 2000). It is not clear whether in such a case the person would be deemed to have “completed all conditions” of supervision as required to regain the vote. N.M. Stat. Ann § 1-4-27.1. It is a defense to revocation based on failure to pay LFOs that the person “did not willfully” refuse to pay or “made a good faith effort” to obtain funds. *Id.* § 31-12-3(C).
New York extends the period of disenfranchisement until a person’s “maximum sentence of imprisonment has expired” or a person is “discharged from parole.” N.Y. Elec. Law § 5-106. The Board of Parole may restore the vote sooner by conditioning early termination upon payment of restitution, or through a certificate of relief from disabilities or good conduct. N.Y. Elec. Law § 259-j; N.Y. Correct. Law § 703(4). In 2018, the governor of New York issued an executive order directing that “individuals being released from incarceration onto parole supervision and individuals who are currently under parole supervision will be given consideration for a conditional pardon that will restore voting rights without undue delay.” N.Y. Exec. Order No. 181 (Apr. 18, 2018).

North Carolina restores the vote automatically upon “unconditional discharge” from prison, probation, or parole. N.C. Gen. Stat. Ann. §13-1. Conditions of supervision may include payment of restitution and other LFOs. Id. §§ 15A-1374, 15A-1343. Failure to pay can affect eligibility for early termination of parole as well as the length of probation, which may be extended beyond the imposed term for a maximum of three years. Id. §§ 15A-1371, 15A-1342, 15A-1344; see also Cmty. Success Initiative v. Moore, No. 19-cv-15941 (N.C. Super. Ct., filed Nov. 20, 2019) (challenging the disenfranchisement of those who have not been unconditionally discharged from supervision because of unpaid LFOs).

South Carolina restores the vote automatically upon “service of the sentence, including probation and parole time unless sooner pardoned.” S.C. Code Ann. § 7-5-120(B)(3). A schedule of payments for a fine must take account of ability to pay. Id. § 17-25-350. Payment of a fine may be a condition of probation, and failure to pay is potentially grounds for extension of the probation term to a maximum of five years. Id. §§ 24-21-430(2), 24-21-440. An order of restitution may take account of the defendant’s ability to pay. Id. § 17-25-322(B). If restitution is not paid by the conclusion of the term of the sentence, the court may hold a hearing “to require the defendant to show cause why his default should not be treated as a civil judgment and a judgment lien attached.” Id. § 17-25-323. There appears to be no provision for early termination of supervision based on payment of LFOs. A person who completes a term of probation and parole is not required to pay LFOs to regain the vote. E-mail from Pete O’Boyle, Pub. Info. Dir., S.C. Prob. and Pardon Bd., to Margaret Love (June 16, 2020, 4:31 p.m. (on file with authors).

In Washington, the vote is restored to those with federal or out-of-state convictions “as long as the person is no longer incarcerated.” Wash. Rev. Code §§ 29A.08.520(1). The vote is restored to a person with a Washington state conviction in four circumstances, including upon receipt of a “certificate of discharge” from the sentencing court. Id. § 29A.08.520(6). A certificate of discharge may be obtained on petition either upon completion of all requirements of the sentence including payment of LFOs, or five years
after release from custody and completion of all non-financial requirements of the sentence. *Id.* § 9.94A.637(2)(a). The vote is restored provisionally following completion of confinement and community custody unless the person “willfully” fails to comply with an order to pay LFOs. *Id.* § 29A.08.520(1).

47 In **West Virginia**, a person convicted of a felony is disqualified from voting “while serving his or her sentence, including any period of incarceration, probation or parole related thereto.” W. Va. Code Ann. § 3-2-2(b); see also W. Va. Const. art. IV, § 1 and W. Va. Code § 3–1–3 (“no person…who is under conviction of… felony…shall be permitted to vote while such disability continues.”); 55 W. Va. Op. Att’y Gen. 3, 1972 WL 125373 (July 11, 1972) (“once the convict is discharged, he is released and is no longer under conviction of the felony committed by him. Consequently, he should regain his rights as a citizen.”). Fines and other LFOs may be a condition of probation, but the court must conduct a hearing and determine on the record that the defendant is “able to pay without undue hardship.” *Id.* § 62-12-9(a)(5), (b)(1)–(2). Supervision fees may be a condition of parole to the extent the person is “financially able” to pay. *Id.* §§ 62-12-17(b), (c). A defendant’s ability to pay must also be considered in determining victim restitution, in making it a condition of supervision, and in deciding to revoke. *Id.* §§ 61-11A-4(a), (g). Willful failure to pay LFOs may result in revocation of probation or parole, and result in a further delay in reenfranchisement, in the case of probation to a maximum of five years. *Id.* Compliance with all conditions is a necessary precondition for early termination of probation. *Id.* § 62-12-11. Professor Beth Colgan reports that West Virginia authorities do not disqualify a person who has been discharged from their sentence, regardless of whether they may still owe LFOs. *See* Colgan, *supra* note 6 at 67 n.45 (citing e-mail from Stephen R. Connolly, Deputy Sec’y & Chief Legal Couns., W. Va. Sec’y of State (June 8, 2018)).

48 **Wisconsin** restores the vote automatically when a person “completes the term of imprisonment or probation for the crime that led to the disqualification.” Wisc. Stat. Ann. § 304.078(3). Restitution may be imposed “unless the court finds that imposing full or partial restitution will create an undue hardship on the defendant or victim.” *Id.* 973.20(1r). Payment of fine or restitution may be a condition of parole or probation, and failure to make a “good faith effort” to pay may be grounds for extending supervision for “a stated period” (not to exceed “the maximum term authorized by statute”) or conversion to civil judgment. Wis. Stat. Ann. §§ 973.05(2), (4), 973.09(2), (2m), (3), 973.20(1r). If fines, fees, or restitution are not paid by completion of the supervision period, the court may convert them to a civil judgment, assign future earning for payment, or place liens against lottery winnings. *Id.* § 973.05(4); see also Wis. Adm. Code §§ DOC 328.04(3) (community supervision requires payment of LFOs), 328.08(2) (failure to make a “good faith effort” to pay may lead to extension of supervision).
Wyoming restores the vote automatically to individuals with a single non-violent Wyoming felony conviction when the person “has completed all of his sentence, including probation or parole.” Wyo. Stat. Ann. § 7-13-105(b)(ii). All other individuals may regain rights only by pardon, or by petitioning the governor who may in his discretion restore the vote when “(i) His term of sentence expires; or (ii) He satisfactorily completes a probation period.” Id. § 7-13-105(a). A “sentence” does not include fines or restitution, which are imposed separately by court order, but payment of fines and restitution may be a condition of supervision. Id. §§ 7-9-103(d), 7-9-108(a), 7-13-201, 7-13-301, 7-13-302(b), 7-13-305(a). Restitution is mandatory “unless the court specifically finds that the defendant has no ability to pay and that no reasonable probability exists that the defendant will have an ability to pay.” Id. § 7-9-102; Nixon v. State, 4 P.3d 864, 871 (Wyo. 2000). In considering the amount of restitution a court “shall consider” the defendant’s ability to pay. Wyo. Stat. Ann. § 7-9-106(a)(iii)(G). The court “may permit” a fine to be paid in installments. Id. § 7-13-306. The parole board may impose financial conditions but must determine parolee’s ability to pay restitution and other LFOs. Id. § 7-13-421.

In Iowa, restoration of the vote is exclusively through the discretionary exercise of clemency. See Griffin v. Pate, 884 N.W.2d 182 (2016). A person may apply to the current governor for restoration of voting rights if the person has paid all court costs, restitution, and fines, or is “current on a payment plan.” See Voting Rights Restoration, Off. of the Governor of Iowa, Kim Reynolds, https://governor.iowa.gov/services/voting-rights-restoration (last visited July 20, 2020).

Kentucky provides for restoration of the vote only through the governor’s pardon power. Ky. Const. §§ 145, 150. A statute provides a “simplified process” for restoring rights through submission of cases to the governor through the Corrections Department. Ky. Rev. Stat. Ann. § 196.045. Though this process requires payment of restitution to be considered on an automatic basis, people who have not paid may still apply to avail themselves of this process, Ky. Rev. Stat. Ann. § 196.045(4), and they may also petition the governor directly for a partial pardon. See Ky. Const. §§ 145, 150. In December 2019, the governor issued an executive order automatically restoring the vote to all those with Kentucky convictions, excluding specified violent offenses, if they have completed probation and parole (“final discharge”), without requiring payment of LFOs. Ky. Exec. Order No. 2019-003 (Dec. 12, 2019). The order excludes those with pending felony charges or arrests. Id.

Mississippi has no statute authorizing restoration of voting rights and relies on the governor’s constitutional pardon power or a legislative clemency process. Miss. Const. art. 5, § 124, art. 12, § 253. There is a statutory procedure by which a defendant may request,
upon “discharge from probation” by the court, that a report be sent to the governor for consideration for discretionary restoration of citizenship rights. Miss. Code Ann. § 47-7-41.

Virginia has no statute authorizing restoration of voting rights and relies on the governor’s constitutional pardon power. Va. Const. art. V, § 12. Since 2016, the governor has restored the vote upon completion of a term of supervision without requiring payment of LFOs. See Restoration of Rights, Sec’y of the Commonwealth of Va., https://www.restore.virginia.gov/ (last visited June 23, 2020). Courts are authorized to consider petitions for restoration of voting rights where a person has completed their sentence, but their authority is limited to making recommendations to the governor. Va. Code Ann. § 53.1-231.2. Payment of fines, costs, or restitution may be conditions of probation and failure to pay may be a basis for extension of supervision. Id. § 19.2-305.