

117TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. CARDIN (for himself, Mr. KAINE, Ms. BALDWIN, Mr. WARNER, Mr. BOOKER, Mr. LEAHY, Mr. BLUMENTHAL, Ms. WARREN, Mr. VAN HOLLEN, Mr. SANDERS, Ms. SMITH, Ms. HIRONO, Ms. KLOBUCHAR, Mr. DURBIN, Mr. WHITEHOUSE, Mr. MARKEY, Mr. COONS, Mr. CASEY, Mr. BROWN, Mr. WYDEN, Mr. MENENDEZ, Mr. MERKLEY, Ms. DUCKWORTH, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Democracy Restoration
5 Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

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

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

9 (3) Basic constitutional principles of fairness
10 and equal protection require an equal opportunity
11 for citizens of the United States to vote in Federal
12 elections. The right to vote may not be abridged or
13 denied by the United States or by any State on ac-
14 count of race, color, gender, or previous condition of
15 servitude. The 13th, 14th, 15th, 19th, 24th, and
16 26th Amendments to the Constitution empower Con-
17 gress to enact measures to protect the right to vote
18 in Federal elections. The 8th Amendment to the
19 Constitution provides for no excessive bail to be re-
20 quired, nor excessive fines imposed, nor cruel and
21 unusual punishments inflicted.

22 (4) There are 3 areas in which discrepancies in
23 State laws regarding criminal convictions lead to un-
24 fairness in Federal elections—

1 (A) the lack of a uniform standard for vot-
2 ing in Federal elections leads to an unfair dis-
3 parity and unequal participation in Federal
4 elections based solely on where a person lives;

5 (B) laws governing the restoration of vot-
6 ing rights after a criminal conviction vary
7 throughout the country and persons in some
8 States can easily regain their voting rights
9 while in other States persons effectively lose
10 their right to vote permanently; and

11 (C) State disenfranchisement laws dis-
12 proportionately impact racial and ethnic minori-
13 ties.

14 (5) State disenfranchisement laws vary widely.
15 Two States (Maine and Vermont) and the Common-
16 wealth of Puerto Rico do not disenfranchise individ-
17 uals with criminal convictions at all. In 2020, the
18 District of Columbia re-enfranchised its citizens who
19 are under the supervision of the Federal Bureau of
20 Prisons. In 30 States, individuals with convictions
21 may not vote while they are on parole and 28 of
22 those States disenfranchise individuals on felony
23 probation as well. In 11 States, a conviction can re-
24 sult in lifetime disenfranchisement.

1 (6) Several States deny the right to vote to in-
2 dividuals convicted of certain misdemeanors.

3 (7) In 2020, an estimated 5,200,000 citizens of
4 the United States, or about 1 in 44 adults in the
5 United States, could not vote as a result of a felony
6 conviction. Of the 5,200,000 citizens barred from
7 voting then, only 24 percent were in prison. By con-
8 trast, 75 percent of persons disenfranchised then re-
9 sided in their communities while on probation or pa-
10 role or after having completed their sentences. Ap-
11 proximately 2,200,000 citizens who had completed
12 their sentences were disenfranchised due to restric-
13 tive State laws. As of November 2018, the lifetime
14 ban for persons with certain felony convictions was
15 eliminated through a Florida ballot initiative. As a
16 result, as many as 1,400,000 people are now eligible
17 to have their voting rights restored. In 4 States—
18 Alabama, Florida, Mississippi, and Tennessee—more
19 than 7 percent of the total population is
20 disenfranchised.

21 (8) In those States that disenfranchise individ-
22 uals post-sentence, the right to vote can be regained
23 in theory, but in practice this possibility is often
24 granted in a non-uniform and potentially discrimina-
25 tory manner. Disenfranchised individuals sometimes

1 must either obtain a pardon or an order from the
2 Governor or an action by the parole or pardon
3 board, depending on the offense and State. Individ-
4 uals convicted of a Federal offense often have addi-
5 tional barriers to regaining voting rights.

6 (9) State disenfranchisement laws dispropor-
7 tionately impact racial and ethnic minorities. In re-
8 cent years, African-Americans have been imprisoned
9 at over 5 times the rate of Whites. More than 6 per-
10 cent of the voting-age African-American population,
11 or 1,800,000 African-Americans, are disenfranchised
12 due to a felony conviction. In 9 States—Alabama
13 (16 percent), Arizona (13 percent), Florida (15 per-
14 cent), Kentucky (15 percent), Mississippi (16 per-
15 cent), South Dakota (14 percent), Tennessee (21
16 percent), Virginia (16 percent), and Wyoming (36
17 percent)—more than 1 in 8 African-Americans are
18 unable to vote because of a felony conviction, twice
19 the national average for African Americans.

20 (10) Latino citizens are also disproportionately
21 disenfranchised based upon their disproportionate
22 representation in the criminal justice system. In re-
23 cent years, Latinos have been imprisoned at 2.5
24 times the rate of Whites. More than 2 percent of the
25 voting-age Latino population, or 560,000 Latinos,

1 are disenfranchised due to a felony conviction. In 34
2 states Latinos are disenfranchised at a higher rate
3 than the general population. In 11 states 4 percent
4 or more of Latino adults are disenfranchised due to
5 a felony conviction (Alabama, 4 percent; Arizona, 7
6 percent; Arkansas, 4 percent; Idaho, 4 percent;
7 Iowa, 4 percent; Kentucky, 6 percent; Minnesota, 4
8 percent; Mississippi, 5 percent; Nebraska, 6 percent;
9 Tennessee, 11 percent, Wyoming, 4 percent), twice
10 the national average for Latinos.

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

16 (12) State disenfranchisement laws can sup-
17 press electoral participation among eligible voters by
18 discouraging voting among family and community
19 members of disenfranchised persons. Future elec-
20 toral participation by the children of disenfranchised
21 parents may be impacted as well.

22 (13) The United States is one of the only West-
23 ern democracies that permits the permanent denial
24 of voting rights for individuals with felony convic-
25 tions.

1 **SEC. 3. RIGHTS OF CITIZENS.**

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

8 **SEC. 4. ENFORCEMENT.**

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

12 (b) PRIVATE RIGHT OF ACTION.—

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

17 (2) RELIEF.—Except as provided in paragraph
18 (3), if the violation is not corrected within 90 days
19 after receipt of a notice under paragraph (1), or
20 within 20 days after receipt of the notice if the viola-
21 tion occurred within 120 days before the date of an
22 election for Federal office, the aggrieved person
23 may, in a civil action, obtain declaratory or injunc-
24 tive relief with respect to the violation.

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

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

6 **SEC. 5. NOTIFICATION OF RESTORATION OF VOTING**
7 **RIGHTS.**

8 (a) STATE NOTIFICATION.—

9 (1) NOTIFICATION.—On the date determined
10 under paragraph (2), each State shall notify in writ-
11 ing any individual who has been convicted of a
12 criminal offense under the law of that State that
13 such individual has the right to vote in an election
14 for Federal office pursuant to the Democracy Res-
15 toration Act of 2021 and may register to vote in any
16 such election and provide such individuals with any
17 materials that are necessary to register to vote in
18 any such election.

19 (2) DATE OF NOTIFICATION.—

20 (A) FELONY CONVICTION.—In the case of
21 such an individual who has been convicted of a
22 felony, the notification required under para-
23 graph (1) shall be given on the date on which
24 the individual—

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

3 (ii) is released from the custody of
4 that State (other than to the custody of
5 another State or the Federal Government
6 to serve a term of imprisonment for a fel-
7 ony conviction).

8 (B) MISDEMEANOR CONVICTION.—In the
9 case of such an individual who has been con-
10 victed of a misdemeanor, the notification re-
11 quired under paragraph (1) shall be given on
12 the date on which such individual is sentenced
13 by a State court.

14 (b) FEDERAL NOTIFICATION.—

15 (1) NOTIFICATION.—Any individual who has
16 been convicted of a criminal offense under Federal
17 law shall be notified in accordance with paragraph
18 (2) that such individual has the right to vote in an
19 election for Federal office pursuant to the Democ-
20 racy Restoration Act of 2021 and may register to
21 vote in any such election.

22 (2) DATE OF NOTIFICATION.—

23 (A) FELONY CONVICTION.—In the case of
24 such an individual who has been convicted of a

1 felony, the notification required under para-
2 graph (1) shall be given—

3 (i) in the case of an individual who is
4 sentenced to serve only a term of proba-
5 tion, by the Assistant Director for the Of-
6 fice of Probation and Pretrial Services of
7 the Administrative Office of the United
8 States Courts on the date on which the in-
9 dividual is sentenced; or

10 (ii) in the case of any individual com-
11 mitted to the custody of the Bureau of
12 Prisons, by the Director of the Bureau of
13 Prisons, during the period beginning on
14 the date that is 6 months before such indi-
15 vidual is released and ending on the date
16 such individual is released from the cus-
17 tody of the Bureau of Prisons.

18 (B) MISDEMEANOR CONVICTION.—In the
19 case of such an individual who has been con-
20 victed of a misdemeanor, the notification re-
21 quired under paragraph (1) shall be given on
22 the date on which such individual is sentenced
23 by a court established by an Act of Congress.

24 **SEC. 6. DEFINITIONS.**

25 For purposes of this Act:

1 (1) CORRECTIONAL INSTITUTION OR FACIL-
2 ITY.—The term “correctional institution or facility”
3 means any prison, penitentiary, jail, or other institu-
4 tion or facility for the confinement of individuals
5 convicted of criminal offenses, whether publicly or
6 privately operated, except that such term does not
7 include any residential community treatment center
8 (or similar public or private facility).

9 (2) ELECTION.—The term “election” means—

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

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

14 (C) a primary election held for the selec-
15 tion of delegates to a national nominating con-
16 vention of a political party; or

17 (D) a primary election held for the expres-
18 sion of a preference for the nomination of per-
19 sons for election to the office of President.

20 (3) FEDERAL OFFICE.—The term “Federal of-
21 fice” means the office of President or Vice President
22 of the United States, or of Senator or Representa-
23 tive in, or Delegate or Resident Commissioner to,
24 the Congress of the United States.

1 (4) PROBATION.—The term “probation” means
2 probation, imposed by a Federal, State, or local
3 court, with or without a condition on the individual
4 involved concerning—

5 (A) the individual’s freedom of movement;

6 (B) the payment of damages by the indi-
7 vidual;

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

10 (D) supervision of the individual by an of-
11 ficer of the court.

12 **SEC. 7. RELATION TO OTHER LAWS.**

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

18 (b) CERTAIN FEDERAL ACTS.—The rights and rem-
19 edies established by this Act are in addition to all other
20 rights and remedies provided by law, and neither rights
21 and remedies established by this Act shall supersede, re-
22 strict, or limit the application of the Voting Rights Act
23 of 1965 (52 U.S.C. 10301 et seq.), the National Voter
24 Registration Act (52 U.S.C. 20501), or the Help America
25 Vote Act of 2002 (52 U.S.C. 20901 et seq.).

1 **SEC. 8. FEDERAL PRISON FUNDS.**

2 No State, unit of local government, or other person
3 may receive or use, to construct or otherwise improve a
4 prison, jail, or other place of incarceration, any Federal
5 funds unless that State, unit of local government, or per-
6 son—

7 (1) is in compliance with section 3; and

8 (2) has in effect a program under which each
9 individual incarcerated in that person's jurisdiction
10 who is a citizen of the United States is notified,
11 upon release from such incarceration, of that indi-
12 vidual's rights under section 3.

13 **SEC. 9. EFFECTIVE DATE.**

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