

## ALABAMA

# Voter Right Restoration Fact Sheet

### WHO CAN LOSE THE RIGHT TO VOTE?<sup>1</sup>

- ➔ A person convicted of any of the Alabama crimes included in the somewhat technical, two page list at the end of this paper: (<https://www.sos.alabama.gov/sites/default/files/voter-pdfs/Updated%20Version%20of%20Moral%20Turpitude%20Crimes.pdf>; Ala. Code § 17-3-30.1)
  - The average citizen is unlikely to fully understand what each of these crimes are, how they would commit one of these crimes, or that they would lose the right to vote based on these crimes
  - For instance, for endangering the food and water supply, “a person [must] knowingly contaminates a public or private water well or water reservoir or any water supply of a public utility or tampers with the production of bottled or packaged water at a retail or wholesale mercantile establishment” which doesn’t indicate which type of contamination is sufficient or how an “accidental release[] from an otherwise lawful activity” isn’t covered
  - Also, the crime of possession or distribution of a hoax device represented as a destructive device or weapon to another seems like something that a young adult (e.g., in their late teens) might do as a joke without intending any harm, let alone expecting that they might lose their right to vote
- ➔ A person convicted of a federal crime or a crime in another state that is the equivalent of one of the Alabama crimes on the list at the end of this paper

### WHO DOES NOT LOSE THE RIGHT TO VOTE?

- ➔ Anyone convicted of a crime that is not on the list below, including:
  - Assault in the 3<sup>rd</sup> Degree or when a person causes serious physical injury when driving under the influence of alcohol or a controlled substance, the latter of which is one type of Assault in the 1<sup>st</sup> Degree (Ala. Code § 17-3-30.1(c)(3); 13A-6-20(a)(5))
    - Driving under the influence is likely carved out because it is more of a white collar crime than the others for 1<sup>st</sup> Degree Assault which generally require: (1) intent to cause serious physical injury to another person, (2) intent to disfigure another person seriously and permanently, (3) manifesting extreme indifference to the value of human life, or (4) assault while committing arson, burglary, escape, kidnapping, rape, robbery, sodomy, or any other felony clearly dangerous to human life . . .
    - As a result, of the forty-three categories of crimes, the only potentially white collar crimes for which a person loses the right to vote are forgery, and trademark or trade secret theft (two categories)
  - Burglary in the 3<sup>rd</sup> Degree
  - Theft of Property or of Lost Property in the 3<sup>rd</sup> or 4<sup>th</sup> Degree
  - Forgery in the 3<sup>rd</sup> or 4<sup>th</sup> Degree

### WHO CAN REGAIN THE RIGHT TO VOTE?

- ➔ A person who: (Ala. Code § 17-3-30; Ala. Const. § 177; [https://www.alabamainteractive.org/sos/voter\\_registration/voterRegistrationWelcome.action](https://www.alabamainteractive.org/sos/voter_registration/voterRegistrationWelcome.action))
  - Is a citizen of the United States;
  - Lives in Alabama;
  - Will be at least 18 years of age on or before election day;

<sup>1</sup> Contributed by Joel D. Couenhoven, an associate at [Fish & Richardson](#).

- Has not been declared mentally incompetent (“insane”) by a court; and
  - Was not convicted for treason. (Ala. Code § 17-3-31; 15-22-36.1)
- ➔ A person who either i) receives a “Certificate of Eligibility to Register to Vote” or ii) a pardon that restores their right to vote, including the requirements indicated below for the respective process
- A Certificate of Eligibility to Register to Vote is likely the easier of the two options
- ➔ If the person is seeking a “Certificate of Eligibility to Register to Vote”, they must: (Ala. Code § 17-3-31; 15-22-36.1; <https://paroles.alabama.gov/wp-content/uploads/Voting-Rights-Final-Version.pdf>)
- Have no criminal felony charges pending against them in any state or federal court
  - Have paid all fines, court costs, fees, and victim restitution ordered as part of their felony convictions that are on the list at the end of this paper
  - Have completed their sentence, including probation or parole
  - Not have been convicted for any of: impeachment, murder, rape in any degree, sodomy, sexual abuse, incest, sexual torture, enticing a child to enter a vehicle for immoral purposes, soliciting a child by computer, production of obscene matter involving a minor, production of obscene matter, parents or guardians permitting children to engage in obscene matter, possession of obscene matter, or possession with intent to distribute child pornography.
- ➔ If the person is seeking a pardon, they must: (Ala. Code § 17-3-31; 15-22-36; <https://paroles.alabama.gov/wp-content/uploads/ABPP-3-Pardon-Application-Form-Fillable-1-1.pdf>)
- Wait until at least two years after any prior pardon application was rejected (no need to wait if the person didn’t previously seek a pardon); and
  - Either:
    - If their sentence was for less than three years, wait until their sentence ends; or
    - If their sentence was for three or more years, successfully complete at least three years of parole for the felony for which the pardon is sought.

## BY WHAT PROCESS CAN A PERSON REGAIN THE RIGHT TO VOTE?

- ➔ To seek a “Certificate of Eligibility to Register to Vote”, a person must fill out the form at <https://paroles.alabama.gov/wp-content/uploads/ABPP-4-CERV-Application-Form-Fillable-1-1.pdf> (Ala. Code § 17-3-31; 15-22-36.1)
- Send the completed form to the Alabama Bureau of Pardons and Paroles at:  
100 Capitol Commerce Boulevard, Suite 310  
Montgomery, AL 36117  
Email: [pardons@paroles.alabama.gov](mailto:pardons@paroles.alabama.gov)
  - This is the easier of the two processes because the statute appears to indicate that there is no discretion involved – the returning citizen merely needs to meet the requirements to regain their right to vote
  - This process appears to take 45 days compared to around six months to one and a half years for the pardon process
  - The form includes a box for a “waiver form” that is required to seek a pardon but is not described online as required for the certificate, which might lead to confusion if it isn’t required or the applications is rejected if the form is required
    - This form authorizes a background check of the person, including a search of the person’s medical, physical, and mental health and financial or credit status, which does not appear to be required for the nature of this certificate
  - Both the Certificate and the Pardon process require:
    - A phone number, in addition to a home address, even though a returning citizen might not be able to afford a phone line
    - A list of the person’s convictions that caused them to lose the right to vote, including the conviction dates and the counties in which they were convicted even though they might not readily have this information (the latter seems less likely than the former)

- This list of the person’s convictions might require additional information, as the person with whom we spoke from the Bureau of Pardons and Paroles repeated a number of items, and named them different, which didn’t give us the best confidence that nothing else would be required.
- ➔ To seek a pardon to regain the right to vote, a person must fill out:
- The pardon form: <https://paroles.alabama.gov/wp-content/uploads/ABPP-3-Pardon-Application-Form-Fillable-1-1.pdf> (Ala. Code § 17-3-31)
  - And a waiver of liability: <https://paroles.alabama.gov/wp-content/uploads/Waiver-Release-from-Liability-Form-Fillable.pdf>
  - Send the completed forms to the Alabama Bureau of Pardons and Paroles, whose contact information is above
    - The person has the option to attend their hearing or submit a statement on their behalf, which attendance is strongly encouraged (<https://paroles.alabama.gov/about-us/faqs-pardons/>)
    - The written or oral statements can:
      - Explain of the criminal offense(s) for which the person requested a pardon and their role in those crimes
      - Explain of the person’s life and state of mind at the time of the crime versus now
      - Explain of what the person is currently doing (e.g., job, living arrangements, familial status) and why they deserve a pardon for your crime
      - Discuss any current positive influences in the person’s life
  - The Alabama Board of Pardons and Paroles has discretion to grant a pardon, so a certificate of eligibility to register to vote is more likely to be successful
    - The Board of Pardons and Paroles also has the discretion of what rights the person receives as a result of the pardon
    - For voting rights, the Board of Pardons and Paroles must specifically express, in the pardon, the restoration of the person’s right to vote
  - For 2020 pardon applicants, 66.84% of applicants were denied a pardon; 1 of the 775 applicants was granted only the right to vote and did not regain any other political or civil rights
- ➔ If the person receives either a certificate of eligibility to register to vote, or a pardon:
- They must submit a copy of the pardon or certificate document to the Board of Registrars of the county of his or her residence (Ala. Code § 17-3-31)
  - They can determine contact information for the Board of Registrars at: <https://www.sos.alabama.gov/alabama-votes/board-of-registrars-all-counties>
- ➔ After submitting the document to the Board of Registrars, the person must fill out a voter registration form either online or in a printable form (<https://www.sos.alabama.gov/alabama-votes/voter/register-to-vote>)
- Presumably the returning citizen should wait a few weeks for the Board of Registrars to receive and process the document so that the Board of Registrars knows the person is now eligible to register to vote but nothing online readily indicates whether such a waiting period is necessary
  - If a person registers before the Board of Registrars receives their documentation, the person’s registration will likely be rejected as they would appear to not be eligible to vote
    - It is a crime for a person to attempt to vote if they do not have the right to vote (Ala. Code § 17-17-36)
    - As a result, if a person tries to vote, and their rights have not been restored or the Board of Registrars does not reflect the voting right restoration, the person risks being convicted for their attempted vote
  - If the person receives assistance, there is a small field in which someone who provides assistance needs to print their name and address and sign their name
    - The form does not indicate that the person providing assistance needs to sign their name and this information was only determined by calling the Alabama Elections Division
  - To register to vote online, a person needs a valid Alabama Driver’s License or valid Alabama Non-Driver’s Identification card ([https://www.alabamainteractive.org/sos/voter\\_registration/voterRegistrationWelcome.action](https://www.alabamainteractive.org/sos/voter_registration/voterRegistrationWelcome.action))
    - The online application is at: [https://www.alabamainteractive.org/sos/voter\\_registration/instructions.action](https://www.alabamainteractive.org/sos/voter_registration/instructions.action)
  - If they don’t have either of these, the person can still regain their right to vote using a printable form
    - The printable form is at: <https://www.sos.alabama.gov/sites/default/files/voter-pdfs/nvra-2.pdf>

**List of Alabama crimes for which a person loses the right to vote:**

Murder (Ala. Code § 13A-5-40 (A) 1-19; 13A-6-2)	Manslaughter (Ala. Code § 13A-6-3)	Assault in the 1 <sup>st</sup> or 2 <sup>nd</sup> Degree (Ala. Code § 13A-6-20 except (a) (5); 13A-6-21) (with one exception noted above)
Trafficking in cannabis, cocaine, or other illegal drugs or trafficking in amphetamine and methamphetamine (Ala. Code § 13A-12-231)	Prohibited acts in the offer, sale, or purchase of securities (Ala. Code § 8-6-17)	Burglary in the 1 <sup>st</sup> or 2 <sup>nd</sup> Degree (Ala. Code § 13A-7-5; 13A-7-6)
Theft of Property in the 1 <sup>st</sup> or 2 <sup>nd</sup> Degree (Ala. Code § 13A-8-3; 13A-8-4)	Theft of Lost Property in the 1 <sup>st</sup> or 2 <sup>nd</sup> Degree (Ala. Code § 13A-8-7; 13A-8-8)	Theft of trademarks or trade secrets (Ala. Code § 13A-8-10.4)
Robbery (Ala. Code § 13A-8-41; 13A-8-42; 13A-8-43)	Forgery in the 1 <sup>st</sup> or 2 <sup>nd</sup> Degree (Ala. Code § 13A-9-2; 13A-9-3)	Aggravated Theft by Deception (Ala. Code § 13A-8-2.1)
Endangering food and water supply (Ala. Code § 13A-10-171)	Possession, manufacture, transport, or distribution of a destructive device or bacteriological weapon, or biological weapon (Ala. Code § 13A-10-193)	Selling, furnishing, giving away, delivering, or distribution of a destructive device, a bacteriological weapon, or biological weapon to a person who is less than 21 years of age (Ala. Code § 13A-10-194)
Possession, manufacture, transport, or distribution of a detonator, explosive, poison, or hoax device (Ala. Code § 13A-10-195)	Possession or distribution of a hoax device represented as a destructive device or weapon to another (Ala. Code § 13A-10-196 (c))	Attempt or conspiracy to commit an explosives or destructive device or bacteriological or biological weapons crime (Ala. Code § 13A-10-197; 13A-10-198)
Hindrance or obstruction during detection, disarming, or destruction of a destructive device or weapon (Ala. Code § 13A-10-199)	Possession or distribution of a destructive device or weapon intended to cause injury or destruction (Ala. Code § 13A-10-200)	Kidnapping (Ala. Code § 13A-6-43; 13A-6-44)
Rape (Ala. Code § 13A-6-61; 13A-6-62)	Sexual Torture (Ala. Code § 13A-6-65.1)	Sexual Abuse (Ala. Code § 13A-6-66; 13A-6-67; 13A-6-69.1)
Bigamy (Ala. Code § 13A-13-1)	Incest (Ala. Code § 13A-13-3)	Sodomy (Ala. Code § 13A-6-63; 13A-6-64)
Dissemination, public display, possession, possession with intent to disseminate, or production of obscene matter containing visual depiction or persons under 17 years of age involved in obscene acts (Ala. Code § 13A-12-191; 13A-12-192; 13A-12-197)	Parents or guardians permitting children to engage in production of obscene matter (Ala. Code § 13A-12-196)	Distribution, possession with intent to distribute, production of obscene material, or offer or agreement to distribute or produce (Ala. Code § 13A-12-200.2)
Torture or other willful maltreatment of a child under the age of 18 (Ala. Code § 26-15-3)	Aggravated child abuse (Ala. Code § 26-15-3.1)	Enticing a child to enter a vehicle, house, etc. for immoral purposes (Ala. Code § 13A-6-69)

Facilitating solicitation of unlawful sexual conduct with a child (Ala. Code § 13A-6-121)	Electronic solicitation of a child (Ala. Code § 13A-6-122)	Facilitating the on-line solicitation of a child (Ala. Code § 13A-6-123)
Traveling to meet a child for an unlawful sex act (Ala. Code § 13A-6-124)	Facilitating the travel of a child for an unlawful sex act (Ala. Code § 13A-6-125)	Human Trafficking (Ala. Code § 13A-6-152; 13A-6-153)
Terrorism (Ala. Code § 13A-10-152)	Soliciting or providing support for an act of terrorism (Ala. Code § 13A-10-153)	Hindering prosecution of terrorism (Ala. Code § 13A-10-154)
Treason (Ala. Code § 13A-11-2)		