

## Amendment 4:

### Standards Governing Eligibility to Vote after a Felony Conviction

#### What laws govern eligibility for restoring voting rights?

The eligibility requirements to restore voting rights are found in the Florida Constitution and Florida Statutes. See specifically, section 4, [Article VI, Fla. Const.](#), and section [98.0751](#), Fla. Stat.

#### What standards govern eligibility to vote after a felony conviction?

- A felony conviction in Florida for murder or a sexual offense makes a person ineligible to vote in Florida unless and until the person's right to vote is [restored](#) by the [State Clemency Board](#).
- For any other felony conviction in Florida, a person is eligible to register and vote if the person has completed all terms of his or her sentence. *Completion of the sentence* means:
  - Prison or jail time;
  - Parole, probation, or other forms of supervision; and
  - Payment of the total amount of all fines, fees, costs, and restitution ordered as part of the felony sentence.

*Note: Such person may alternatively apply to have his or her right to vote [restored](#) by the [State Clemency Board](#).*

- A felony conviction in another state makes a person ineligible to vote in Florida only if the conviction would make the person ineligible to vote in the state where the person was convicted.
- An offense on which a person was not adjudicated guilty does not make a person ineligible to vote.

- A misdemeanor conviction does not make a person ineligible to vote.

**How does a person who is unsure about whether fines, fees, costs, and restitution ordered are owed determine this information?**

First, the person should look in the judgement(s) and sentence(s) to find out what amount of fines, fees, costs and/or restitution were ordered as part of the felony conviction(s). Second, if an amount was ordered, the person needs to determine how much has been paid and whether the amount paid equals or is more than the total amount ordered. The person can also contact the Clerk of Court in the county or counties of conviction to get a copy of his or her judgment(s) and sentence(s). The Clerk of Court can also help the person find out how much has been paid and whether the amount paid equals or is more than the total amount of fines, fees, costs and/or restitution ordered. The Public Defender's office or private attorney who represented the person in the felony proceeding may also be able to help with information.

If a person is still unsure about fines, fees, costs, and restitution, and the impact upon restoration of voting rights, the person can ask for an advisory opinion from the Florida Division of Elections. Please review section [106.23\(2\)](#), Florida Statutes, and Florida Administrative Code [Rule 1S-2.010](#) for how to ask for an advisory opinion and what information is required.

When issuing an advisory opinion, the Division will apply the standards in section [98.075\(5\)](#), Florida Statutes, to determine whether a felon is eligible to register or vote. Therefore, if the felon has provided the required information and if the Division finds no credible and reliable information to indicate that the felon is ineligible to vote, the Division will issue an opinion stating that the felon is eligible.

**What if a person has paid toward fines, fees, costs, and restitution an amount equal to or more than the amount ordered in the felony sentence, but still has a balance with the Clerk of Court because of interest or other charges that accrue after the sentence?**

The Department applies the "first dollar policy" to determine if the person has satisfied the fines, fees, costs and restitution part of their felony

sentence. This means that while the person may still owe the Clerk of Court or others, eligibility to restore voting rights under Amendment 4 and section [98.0751](#), Florida Statutes, will be based on whether the person has paid an amount that equals or is more than the total amount of fines, fees, costs, and restitution ordered in the felony sentence. This ensures that eligibility for restoring rights is not based upon satisfying amounts that accrue after the sentence.

***Example 1***

The Court orders a person to pay \$500 in court costs as part of a felony sentence. The Clerk later adds \$50 to set up a payment plan. The person pays \$500 in the case toward the court costs. The Clerk applies \$50 of the \$500 to the payment plan cost and as a result the Clerk's balance shows \$50 still owing towards court costs.

*Question:* Is this person determined to be eligible for purposes of registering or voting? *Answer:* Yes, because the person paid the total amount ordered in the sentencing documents.

***Example 2***

The Court orders a person to pay a \$500 fine as part of the felony sentence. Sometime later, a 30% collections surcharge of \$150 is charged because the person did not pay the fine within a certain period of time. The person then pays \$500 in the case toward the fine ordered. The Clerk or the collections agency applies \$150 of the \$500 to the surcharge. As a result, the Clerk's balance shows \$150 still owing toward the fine.

*Question:* Is this person determined to be eligible for purposes of registering or voting? *Answer:* Yes, because the person paid the total amount ordered in the sentencing documents.

[Note: These examples assume the person has no other outstanding felony convictions for which rights have not been restored.]

## **Are there any options other than to pay the fines, fees, costs, and restitution?**

A person also has the option to petition a court to terminate, upon consent of the person or entity owed, a financial obligation (i.e., fine, fee, cost, and restitution), or convert such obligation to community service. See [section 98.0751\(2\)\(a\)5.e., Fla. Stat.](#) If converted, the terms of the sentence are deemed complete when the person completes the community service. A person may wish to consult with the Public Defender's office, the State Attorney's office, or the Circuit Court in the county of conviction to find out whether any special docket or program exists that helps facilitate this option. A person may always seek such relief on their own.

## **What is the status of litigation regarding Amendment 4?**

The court case regarding Amendment 4 is ongoing. The matter is currently on appeal in the 11<sup>th</sup> Circuit Court of Appeals.

*Background: The appeal is based on a ruling in the Federal District Court for the Northern District of Florida in Jones et al. v. DeSantis et al.; Case No. 4:19cv300-RH/MJF. The Federal District Court made certain findings about a person's ability to vote notwithstanding outstanding fines and restitution if someone is unable to pay, and findings about costs and fees included in a sentence. The 11th Circuit Court of Appeals stayed application of the District Court's opinion pending appeal. This means the Federal District Court ruling does not take effect while the matter is being appealed. Plaintiffs in the case applied to the United States Supreme Court to vacate the stay (this means to allow the Federal District Court ruling to take effect during the appeal). The request was denied.*

Therefore, section 4, [Article VI, Fla. Const.](#), and section [98.0751](#), Fla. Stat., as discussed above remain the governing laws for determining eligibility for restoring rights.

Please check back for further updates.

## **Further Questions?**

You may contact the Division of Elections, Bureau of Voter Registration Services at [BVRSHelp@DOS.MyFlorida.com](mailto:BVRSHelp@DOS.MyFlorida.com) or (850) 245-6290.