

OVERVIEW

There has been concern for many years regarding the disparate treatment some racial groups are subjected to in the criminal justice system. In the United States, the ratio of Blacks and Hispanics currently incarcerated in state and federal prisons is disproportionately higher than their representation in the general population. The disparity continues after release from prison. The treatment that minorities receive in the criminal justice system is the subject of numerous studies, articles, and books. This brochure is a summary of the rights and privileges Michigan citizens lose upon conviction of a felony.

WHAT IS A FELONY?

In Michigan, a felony is a crime that is punishable by one or more years in prison, unless otherwise specifically provided in the statute defining the crime. *People v. Alford*, 104 Mich. App. 255, 304 N.W.2d 541 (1981). See also M.C.L. § 750.7.

STATE LAW

The rights felons lose are primarily governed by state law. There are also several rights lost upon conviction pursuant to federal law (i.e. the right to sit on a federal grand jury). At one time, many states had disabling laws known as civil death statutes. The typical death statute provided:

“A person sentenced to imprisonment in the state prison for life is thereafter deemed civilly dead and a sentence of imprisonment in a state prison for anytime less than for life suspends all the civil rights of the person so sentenced, and forfeits all public offices and all private trusts, authority and power during such imprisonment.”

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State & Federal

Rights & Privileges

Lost upon Conviction of a Felony

An overview of the rights & privileges citizens lose upon conviction of a felony



RIGHT	STATE LAW	FEDERAL LAW
Right To Vote	Michigan prohibits persons who have been convicted in state and federal court, from voting while incarcerated . This right is prohibited if the crime is a misdemeanor or felony. M.C.L. § 168.758b. The right to vote is automatically restored upon release.	State law determines when a person’s right to vote is abridged.
Right to Serve on a Jury	<p>A person convicted of a felony offense is barred from serving on a jury during the term of his/her sentence. M.C.L.A. § 600.1307a (1) (e).</p> <p>There is debate as to whether this right is automatically restored upon release from sentence. Michigan case law provides the right is automatically restored upon release from sentence; however, the right can be challenged for cause during jury selection pursuant to M.C.R. 2.511 (D) (2), 6.412 (D).</p>	<p>A person convicted of a felony is precluded from serving on a federal grand jury unless his/her civil rights have been restored. 28 U.S.C. § 1865 (b) (5).</p> <p>A person can seek to have their civil rights restored through a presidential pardon or “some affirmative act recognized in law.” U.S. v. Hefner, 842 F.2d 731 (4th Cir.) cert. den. 488 U.S. 868 (1988).</p>
Freedom of Information Act	Michigan’s Freedom of Information Act provides: “[a]ll persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees.” M.C.L.A. § 15.231. This right is automatically restored upon release.	5 U.S.C.A. § 552, the federal Freedom of Information Act provides denial of an inmate’s request for information where the information requested is exempt because it is covered by another withholding statute. This right is automatically restored upon release.
Firearms Privileges	<p>The right to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm is prohibited upon conviction of a felony. M.C.L. § 750.224f. This right is suspended for a minimum of three years from the date sentence is completed.</p> <p>If the underlying felony is a violent or drug offense, suspension of the right remains in place for five years from the date the sentence is completed. M.C.L. § 750.224f (1) (2).</p> <p>After completion of all terms of sentence one can attempt to get privilege restored pursuant to M.C.L. 750.224f.</p> <p>The word felony for purposes of M.C.L. 750.224f means a violation of a law of this state, or of another state, or of the United States that is punishable by imprisonment for 4 years or more, or an attempt to violate such laws. M.C.L. § 750.224f (5).</p>	<p>The Gun Control Act of 1968, as amended, 18 U.S.C. § 921, et seq. provides in part, “a person convicted in any court of a crime punishable by imprisonment for a term exceeding one year may not ship, transport, possess, or receive any firearm or ammunition.” 18 U.S.C. § 921 (a) (3).</p> <p>This prohibition is removed upon release from sentence and restoration of all of the person’s civil rights. In order to regain some of these rights, a presidential pardon or some other affirmative act is required.</p>
Right to File a Civil Rights Complaint	Michigan’s Elliott-Larsen Civil Rights Act and Person’s With Disabilities Civil Rights Act, as amended by the Public Acts of 1999, Public Acts 201 and 202, do not provide protection for persons serving a sentence of imprisonment in a state or county correctional facility. Protection under both acts is restored upon release.	Federal prisoners may bring civil suits alleging violations of constitutional and civil rights, but there are limitations placed upon them. See Prison Litigation Reform Act, 42 U.S.C. § 1997e.
Right to Employment and Licenses	<p>Upon conviction of a felony offense, persons holding office are removed and the office becomes vacant. M.C.L. § 201.3(5). If convicted of an election offense and later elected, that person is not permitted to enter the office for which elected. M.C.L. § 168.932, 168.938. A public officer convicted of accepting a bribe forever forfeits eligibility for a position of public office, public trust or appointment under the constitution and laws of this state. M.C.L. § 750.118.</p> <p>City officers convicted of a felony are immediately removed from office and are ineligible for election or appointment for a period of three years after the date of removal. Persons convicted of illegally providing a copy of a civil service examination or answers are not eligible for elective or appointive office for 20 years after the date of conviction. M.C.L. 168.327.</p> <p>Persons convicted of subversion or breach of public trust are not eligible for either house of the Legislature for 20 years from the date of conviction. Mich. Const. Art. 4, § 7.</p> <p>Persons convicted of a felony involving a motor vehicle could lose their drivers license. M.C.L. § 257.319. In order to have the license restored, the person would have to petition the circuit court for the county where they reside. Licensing guidelines for adult foster care facilities prohibit persons convicted of a felony from obtaining a license. M.C.L. § 400.713.</p> <p>There are numerous other rights and licenses lost upon conviction.</p>	<p>A person who is convicted of treason is “incapable of holding any office under the United States.” 18 U.S.C. § 2381.</p> <p>A person convicted of a felony is ineligible to enlist in any of the armed forces. 10 U.S.C. § 1504. A person receiving a military pension will have those benefits suspended 60 days after confinement with restoration upon release. 38 U.S.C. § 1505(a).</p> <p>A conviction resulting from bribing or accepting a bribe may result in disqualification from federal office. Disqualification is at the discretion of the federal court. 18 U.S.C. § 2381.</p> <p>An alien can have a visa revoked and be deported from the United States for conviction of crimes involving moral turpitude and drug offenses. 8 U.S.C. 1182(a) (2)(A), (B), (C).</p> <p>Various other licenses lost upon conviction: - custom brokers license. 19 U.S.C. § 1641 (d)(1)(B) - export license. 50 U.S.C. App. § 2410 (h)(1)</p>

*The information contained within is not an exhaustive list. Additionally, there may be caveats to the laws and statutes listed above. Further research may be needed for individual cases