

Felons and gun control essay sample

[Sociology](#), [Human Rights](#)



A felony is a conviction of a crime punishable in the United States by imprisonment of more than a year. Once you are convicted of a felony you lose certain rights, regardless of whether it's a violent crime such as, murder, or if you were convicted of a non-violent crime such as, felony possession. The loss of certain citizenship rights, due to criminal activity, goes back as far as 1100BC - through today. In the eyes of the law a felony is a felony. After a conviction of a felony your right to vote is lost as well as the right to possess a fire arm or ammunition. Some states also hold foreign felony convictions against you the same as if they were committed in the United States. The question here is why shouldn't non-violent offenders be able to vote or possess a fire arm. The other issue is how some states can hold a felony conviction from a foreign country against you when their laws are totally different than ours. All convicted felons are categorized the same regardless of the crime, which brings up some controversy among many ex-nonviolent felons who are pushing to have the laws amended.

One of the rights you lose is the right to vote. Voting is a privilege for law abiding citizens, so if you chose to break the law you also may have to give up your right to vote. Congress prohibits felons from voting as a form of punishment, and an attempt to deter people from committing crimes. Felons are also viewed as criminals who don't deserve the privilege to cast a vote. Voting in this day and age plays a fundamental role, and states should not disenfranchise a person's voting rights. One in fifty adult citizens or approximately 4.2 million citizens were ineligible to vote in 2003. This number continues to rise as more people are convicted of felonies, and sent to prison. According to the North Carolina General Assembly, a convicted

felon may have their voting rights restored after they complete their sentence, parole, or probation depending on the state and their laws.

Maine and Vermont have no restrictions on voting rights; however eight states permanently deny the right to vote to anyone who has been convicted of a felony. “ Disenfranchisement laws are applied randomly. California, for instance, denies the vote to anyone who conspires to operate a motor vehicle without a muffler. Suspending their license makes sense, but depriving them of their voting rights?” (Hull, 2003) In Florida those who owe child support forfeit their political rights, but anyone found guilty of depriving a minor of food and shelter does not. According to the Human Rights Watch and The Sentencing Project, nearly 3. 9 million people are prohibited from voting, a majority of whom are former convicts who completed their sentence. “ Disenfranchising inmates goes against the American tradition of laboring for the expansion of voting rights for all American citizens. In many states, the prohibiting of former convicts from voting has become a form of government-sanctioned discrimination against felons who have completed their restitution to society. This is especially true for African-American males who constitute a disproportionate percentage of disenfranchised former felons” (Knowles, 2000). Two million African Americans or one in twelve are ineligible to vote due to a felony conviction.

Another major problem is the number of black juvenile’s caught up in the justice system. Forty percent of them will be ineligible to vote for some or all of their lives. . This is more than one-third of the black juvenile population who may potentially be unable to voice their opinion and vote as adults.

Their vote is just as important as those who haven't been convicted of a felony. Congress and state assemblies must support legislation that reverses this unconstitutional practice. This amendment stipulates that " No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States". Arizona and Maryland permanently disenfranchise felons after the conviction of a second offense. Election laws in most states bar felons and some ex-felons from voting, and " it has been estimated that between 4. 1 and 4. 7 million Americans are currently disenfranchised due to a past or current felony conviction" (Manza, 2004). Civil rights movements across the country have encouraged many states to amend their voting right laws and expand felon voting rights. In February of 2002, the expansion of felony voting rights, and banning states from placing restrictions on ex-felons went to the U. S. Senate, but was shot down by a 63-31 vote.

Although, at the federal level ex-felons can have their rights restored, there is no policy restricting individual states from having their own disenfranchisement laws. Congress has left it up to each state to make and determine their own disenfranchisement laws. Also, the process of having their rights restored can be a lengthy and complex process which most people give up on, don't have the time, or even want to deal with the long process. Many of these ex-felons are also unaware that they can have their voting rights restored. Congress allows each state to make their own laws in regards to felony voting rights. In forty-eight states, a felony conviction and sentence to prison results in a loss of voting rights. In thirty-five of those states, felons on parole cannot vote, and thirty states prohibit felons on

probation from voting as well. Also, in ten states a conviction for a felony can result in a lifetime loss of voting rights. As a result “ more than five million Americans cannot vote due to a felony conviction, four million of whom are residing in the community, either under community supervision or have completed their sentence. In Florida alone, more than 750, 000 persons who have completed their sentences are ineligible to vote” (King, 2009).

Those states who choose not to allow felons to vote feel as though they do not have the right to vote, because they have committed felony acts. Having that many people who can't vote harms the U. S. due to the fact that they are unable to voice their opinion or input by voting. The voice of millions of Americans can't be heard due to the disenfranchisement laws, which is vital living in a country that depends on votes for elected officials. There are many supporters and non-supporters of the disenfranchisement laws, and “ since 1975 there have been 13 states that liberalized their laws, 11 states have passed further limitations on felons, and 3 states have passed both laws” (Manza, 2004). There is an on going debate among citizens and states whether or not to amend the disenfranchisement laws and allow more convicted ex-felons to use their voting rights. Some believe their voting rights should not be restored, because they are criminals, and it's a part of being a criminal. Others are fighting that their voting rights should be restored, that people make mistakes, and if they have completed their sentence then they have served their punishment. Research shows a consensus that the majority of Americans are in support of extending voting rights of convicted felons.

Another major controversy is the right for convicted felons to bear arms. According to, the Felony Firearms Act of 1965, “ It shall be unlawful for any person who has been convicted of a felony to purchase, own, possess or have in their custody, care, or control any firearm or any weapon of mass death and destruction” The Second Amendment reads, “ A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.” If the Second Amendment states we the people have the right to bear arms, and shall not be infringed upon, why is it not a violation of the Second Amendment to take away that right from convicted felons, considering they are still U. S. citizens. The Federal Firearms Statute “ prohibits the possession of a firearm by any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year. “ The federal statute establishes an exception for ex-felons who have had their civil rights restored by the sentencing jurisdiction from the otherwise broad prohibition against firearm possession, provided that the state restoration of rights does not otherwise restrict possession” (Bone, 2010).

Several circuit courts have interpreted this exception to mean that “ if state law has restored civil rights to a felon, without expressly limiting the felon’s firearms privilege, that felon is not subject to federal firearms disabilities.” Additionally, until 1961, the Federal Firearms Act was also limited in that it only prohibited ex-felons convicted of a “ crime of violence” from possessing a firearm”(Bone, 2010). The only problem here with non-violent offenders is there is a twenty year wait, and those felons must not commit another felony or misdemeanor during that twenty year wait. One of the debates here is

whether it is a fundamental or non-fundamental right to own or possess a firearm. Fundamental rights are granted through the Constitution of the United States, and are a part of our liberty and freedom. Also, The Ninth Amendment reads, “ The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. In other words the right to bear arms should not be taken away from anyone.

Opponents of gun control consider the right to bear arms in some sense a fundamental right, and having those rightstaken away is unconstitutional. Although the Fourth Amendment protects the right of the people to be secure in their persons, houses, papers, it doesn't protect against felons possessing a firearm. This is another controversial issue as to how ex-felons are supposed to protect themselves in their own home if they can't possess a firearm to do so. What many citizens don't understand is the whole idea behind the Gun Control Act is to keep firearms out of the hands of dangerous and irresponsible people, but not all felons are dangerous and irresponsible people, and shouldn't be labeled as one. As in the case of denying a driver's license to people who are legally blind, there is a strong consensus that people who have demonstrated certain kinds of irresponsible and unstable behavior should not possess a firearm. Federal gun control laws attempt to find a balance between permitting law abiding citizens to obtain firearms and preventing certain categories of irresponsible people from purchasing and possessing firearms.

“ Those that are conclusively presumed irresponsible include ex-felons, former mental patients, drug addicts, juveniles, and illegal aliens” (Jacobs,

1995). Not all ex-felons are a danger to the public, but these laws were put into place to protect the public from those who are a danger. Also, 5 out of 6 felons purchase guns from a secondary market or off the streets, and it is fairly easy for anybody, especially criminals who know other criminals to purchase a firearms. The Brady Handgun Violence Prevention Act of 1993 furthers this regulatory goal by “ prohibiting federal firearms licensees from selling handguns to persons who fall into a few categories conclusively presumed to be dangerous and/or irresponsible. These categories include ex-felons, adjudicated mental defectives, former mental patients, illegal drug users and addicts, juveniles, persons dishonorably discharged from the armed forces, persons who renounced U. S. citizenship, and illegal aliens.” (Jacobs, 1995) Brady requires that firearms dealers hold off on handgun sales for up to five business days in order for a background check to be carried out by the chief law enforcement officer in the jurisdiction where the dealer is located.

The purchase and sale may only be rejected if the chief law enforcement officer notifies the dealer that the potential purchaser is not ineligible or if five business days pass without a response from the chief law enforcement officer. It is important to note that Brady’s waiting period and background check apply only to the purchase of handguns. Brady does not apply to rifles and shotguns, which it should, considering a rifle and a shotgun are both firearms. The only issue here is what type or kind of criminal background check is done, is it a thorough background check, and will the federal regulatory strategy in keeping guns out of the hands of the wrong people be successful? “ Most recently, the Supreme Court has suggested that

prohibitions against the possession of firearms by ex-felons are valid. In both *District of Columbia v. Heller* and *McDonald v. City of Chicago*, called prohibitions on the possession of firearms by felons “longstanding” and “presumptively lawful” (Bone, 2010). However, the North Carolina Supreme Court was the first court in the country to rule that possession of a firearm by an ex-felon is unconstitutional, based on the Second Amendment. The debate and controversy over whether an ex-felon should have the right to bear arms is longstanding and will probably go on for years to come.

Another controversial issue about the rights of felons is whether a conviction of a felony from another country is held against you in the U. S. “In 1825, the United States Supreme Court stated that courts of no country shall execute the penal laws of another. Today, this principle has been extended to penal judgments as well. However, while the principle seems to mean that U. S. courts shall not directly enforce foreign penal laws or judgments, U. S. courts may choose to rely on foreign penal laws or judgments where applicable” (criminalattorney. com). The felony-in-possession statute states convicted in “any court”, but does that mean other countries that have totally different laws than we do here in the U. S. It seems to be that the term “any court” is vague as to whether it refers to foreign countries or just in the U. S. One could argue that Congress didn’t consider or mention foreign convictions, and therefore should not be included, but others argue that “any court” includes foreign counties.

There needs to be a clear understanding and a better interpretation of “any court” so there is no misinterpretation of the meaning. In the case of *Small v*

U. S. The Court, however, set a very dangerous precedent when they ruled that the Gun Control Act of 1968 only applies to felony convictions in American courts, and overturned Small's conviction for unlawful possession of a gun. America has many immigrants and the numbers are continuing to rise. For those of you, who live in the south west part of the country such as, California, there are few native-born Americans left. The effect of the Small decision is to make it lawful for any immigrant who has been convicted of murder, rape, robbery, torture, or terrorism in a foreign court, able to own guns in the United States. How can this be possible when any American who commits a non-violent felony is unable to possess a gun, and also since other countries laws are different, and what might not be a felony here might be a felony in another country. The Circuit Courts of Appeals have disagreed on whether a conviction occurring in " any court" includes foreign court convictions.

" Circuits that have permitted foreign convictions to stand as predicate offenses include the Third, Fourth, and Sixth Circuits. Circuits that have reviewed the same statute and have excluded foreign convictions include the Second and Tenth Circuits." (Engel, 2006) " The Supreme Court entered into this confused fray of felon-in-possession cases to resolve the circuit split. It held, in a 5-3 decision written by Justice Breyer, that the phrase " convicted in any court" includes only domestic, and not foreign, convictions. Justice Breyer was joined by Justices Stevens, O'Connor, Souter, and Ginsburg, and were in agreement that " convicted in any court" meant only domestic cases. Justice Thomas authored the dissenting opinion, and was joined by Justices Scalia and Kennedy that foreign conviction should be held

against you, whether it was a domestic court or foreign conviction. Chief Justice Rehnquist took no part in the decision of this case.” (Engel, 2006) There is still no real clear understanding of how “ any court” should be defined. It appears that “ any” can be some courts, depending on which circuit court you appear in considering some circuits use foreign convictions against you and some don’t.

In closing, Firearm ownership and the right to bear arms for felons should be re-evaluated for those non-violent offenders who pose no threat to society with the possession of a firearm. Non-violent offenders who have completed their sentence, parole, and probation, and haven’t had another run in with the law after completion of their terms should be able to have their rights restored. The Second Amendment refers to an individual right to bear arms, but individual rights are not unlimited, just like the right to free speech is not. It’s not a moral right to own a firearm, but it is a moral right to be able to protect yourself. All felons should not be grouped together with murders, sexual assault, or other violent crimes. Millions of Americans have a felony conviction against them, but doesn’t mean they should be looked down on, or limited to the same rights as every other American. Millions of American are unable to voice their opinion due to a felony conviction, which goes against the American “ way”, and Congress should take a long look at amending these laws.

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