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Should those jailed for minor crimes have voting rights?

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Most states, including Indiana, take away voting rights of people convicted, sentenced and jailed for felonies.

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Indiana is among only 10 states that extend that practice to misdemeanors.

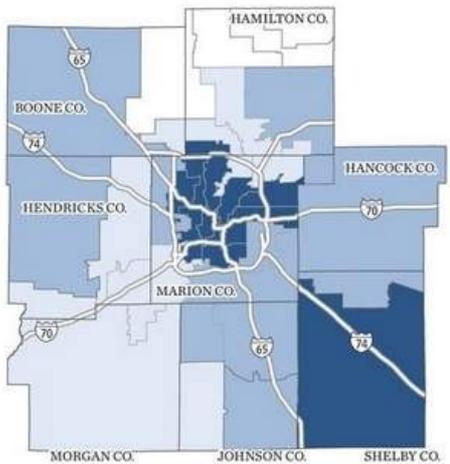
Whether that goes too far -- whether people sent to jail for such crimes as public intoxication and shoplifting should be denied the right to vote -- is a matter before the Indiana Supreme Court.

The state's high court will hear arguments today involving a suit filed last year by a Northern Indiana man whose voter registration was canceled after he was convicted and sentenced to jail for misdemeanor battery.

DISENFRANCHISED VOTERS

Below is the distribution of metro-area voters whose voting eligibility was canceled from 2006 to 2010, by Indiana House district.

10 voters or fewer 11 - 25 26 - 50 More than 50



Source: Indiana Election Division's Disenfranchised Voter Report summaries, 2006-10
The Star

The law raises many potential voter disenfranchisement issues. Among them: An Indianapolis Star analysis of voting records showed that the majority of those knocked off the voter rolls in Marion County are minorities and live in disproportionately lower-income neighborhoods.

And it has political repercussions.

The Star obtained the names and addresses of 1,113 Marion County voters who were disqualified from 2006 to 2010 because they were incarcerated after a criminal conviction. Of those, more than 92 percent lived in disproportionately Democratic precincts.

Issues such as race or political persuasion, however, are not the critical question before the court. The lawsuit centers on defining an "infamous crime," a term that dates to the state's 1816 constitution.

The constitution says people convicted of an "infamous crime" may lose the right to vote. A state law traced to the 1840s says people

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A mixed bag

States' laws on inmates' voting rights vary:

» 48 states take away voting rights of people sentenced to jail or prison after a criminal conviction. Maine and Vermont are the only two states that do not.

» **37 states**, including Indiana, allow inmates to re-register to vote after they've served their jail or prison time and, in some cases, the probation or parole time that might follow.

» **11 states** -- Alabama, Arizona, Delaware, Florida, Iowa, Kentucky, Mississippi, Nevada, Tennessee, Virginia and Wyoming -- permanently revoke the voting rights of at least some inmates.

» **10 states** -- Idaho, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, South Carolina, South Dakota and West Virginia -- take away the right to vote for people jailed for at least some types of misdemeanor convictions.

Sources: The Brennan Center for Justice at the New York University School of Law, ProCon.org

who are incarcerated after a criminal conviction lose the right to vote.

The state has interpreted the law to include anyone who does time for a misdemeanor or felony.

But according to the lawsuit, that interpretation is unconstitutional. The lawsuit contends that misdemeanors are not "infamous crimes," so only felons should lose the right to vote.

The state counters that "infamous crime" could mean any crime for which someone is incarcerated.

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Trent Deckard, co-director of Indiana's Election Division and a defendant in the lawsuit, said he hopes the state Supreme Court will "shed some light" on the law's intent.

Attorney Bill Groth, who represents the plaintiff, expects the court to reach a decision before the judges take a summer recess in late June.

A federal court sent the case to the Indiana Supreme Court earlier this year, partly because there is "no clear controlling Indiana precedent" on the issue.

When county voter registration offices are informed of someone being sentenced to jail or prison, they remove the person from voting rolls.

People can re-register to vote once they serve their time.

Erika Wood, deputy director of the Brennan Center for Justice at the New York University School of Law, said 48 of the 50 states take away voting privileges for people who are incarcerated.

Of those, Indiana is among 10 states that suspend a person's right to vote if they are jailed for misdemeanor convictions.

Hoosiers convicted of misdemeanors or even felonies -- but not sentenced to jail -- can continue voting. And people awaiting trial, even for murder, can vote because they have not yet been convicted. A few dozen Marion County inmates take advantage of that right each election, said Angie Nussmeyer, spokeswoman for the Marion County clerk's office.

The state's Election Division couldn't offer a conclusive number of voters disqualified because of the law.

One report shows that nearly 12,000 voters were disqualified statewide from October 2008 to November 2010. Another shows that nearly 6,200 were disqualified from 2006 to 2010. The Election Division wasn't able to explain the discrepancy.

The sheer number of potential voters swept up by the law is another concern, said Brenda Wright, director of the Democracy Program at Demos, a nonpartisan organization that focuses on public policy research and advocacy.

"Trying to disfranchise everyone who even gets convicted of (a misdemeanor) would really cut a broad swath through eligible voters," she said.

The state does not track the race or ethnicity of people taken off the voter rolls and could not say how many cancellations were tied to misdemeanor or felony convictions.

But The Star's analysis of the names and addresses of 1,113 Marion County voters who were disqualified from 2006 to 2010 showed that:

More than half -- 51.5 percent -- lived in predominantly black or Hispanic precincts, despite the fact that blacks and Hispanics account for less than 38 percent of the county's total population.

The median household income in the neighborhoods where the disfranchised voters lived averaged \$36,506 in 2009 -- about \$7,000 lower than the estimated countywide median of \$43,858.

And more than 92 percent lived in predominantly Democratic precincts.

That disparity has not sparked furor, perhaps because there was little awareness of the practice, much less its impact, until the lawsuit was filed.

The Indiana Republican Party declined comment because the court case is still pending, spokesman Pete Seat said.

Democratic state Chairman Dan Parker said his party believes in including as many voters as possible, but he also didn't have an opinion on the lawsuit.

In his 39 years in the legislature, state Rep. Bill Crawford, D-Indianapolis, can't remember anyone questioning the law, but he said he'd be open to hearing reasons for change.

Joseph Slash, president of the Indianapolis Urban League, said he would support changes to the law because of its impact on minority voters. But he doubts the issue is "on the radar" of most lawmakers.

"If it's not something that people have been complaining about," Slash said, "it's usually something that would be pretty hard to get changed."

Unless the Supreme Court does so.

The man who filed the suit, David Snyder, a former Roseland Town Council member, is adamant that people jailed for misdemeanors should maintain their voting rights. He was alarmed to find that his voter registration had been canceled after he served a brief jail sentence for a misdemeanor battery conviction.

"(Voting) is a duty of being a citizen in our representative republic," Snyder said. "To have that taken away, it's very harmful."

But if Snyder thinks voting is a duty, others say it is a privilege -- and one that should be stripped from those who break the law, even when their violations are minor.

Chris Spangle, executive director of the Libertarian Party of Indiana, said he thinks the law is clear: People jailed for a crime lose their right to vote.

Part of being incarcerated, Spangle said, is losing personal freedoms.

Judges, he said, shouldn't be able to change that.

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