

# Voting Rights in Oregon for Person Convicted of a Felony - Frequently Asked Questions

This information does not apply to persons convicted of misdemeanors, only to persons convicted of felonies.

The question is: **Is a person who has been convicted of a felony eligible to vote?**

The general rule is persons convicted of a felony, whether the defendant serves their term of incarceration in a state correctional facility or in a county jail, cannot vote while they are serving their term of incarceration for the felony. Once released from incarceration they must re-register to vote in order to restore their voting rights. All others in the criminal justice system may vote (such as pre-trial detainees, persons serving misdemeanor sentences in county jails, persons on parole or probation).

**Can a person convicted of a felony vote under each of these specific circumstances?**

1. I have been convicted, but have not yet been sentenced.
  - a. **YES**, this person can vote until they are sentenced.
  - b. 137.281(1): In any felony case, when the defendant is sentenced to a term of incarceration, the defendant is deprived of all rights...
2. I'm serving my sentence for a felony conviction in the county jail, not in prison.
  - a. **NO**, this person cannot vote
  - b. 137.281 (2) states that subsection (1) applies to any term of incarceration...it does not specify the type of facility the person convicted of a felony must be incarcerated in to lose their voting rights.
  - c. 423.475 & 423.478 address persons convicted of a felony being held in county facilities if their term of incarceration is 12 months or less.
3. I've been released from incarceration, but I am on parole.
  - a. **YES**, voting rights were restored when a person convicted of a felony is released from incarceration. However, the person does need to re-register to be eligible to vote.
4. I've been released from incarceration but I am required to wear an ankle bracelet.

- a. **YES**, the person is no longer incarcerated and therefore is on post-prison supervision.
- 5. I am incarcerated for a felony in another state (not Oregon). Can I vote in Oregon elections?
  - a. **NO**, this person cannot vote
  - b. 137.281(2) states that subsection (1) applies to any term of incarceration...it does not specify where the person convicted of a felony must be incarcerated in order to lose their voting rights.
- 6. I have been convicted of a felony and am on a work release program – out on weekdays and incarcerated on weekends.
  - a. **NO**
- 7. I am no longer in prison, but I am required to reside in a half way house.
  - a. **NO**
- 8. Definition of incarceration...to put in prison. Imprisonment; confinement; custody; captivity; internment.

**Comment:** the Oregon Constitution removes voting rights “unless otherwise provided by law”. ORS 137.275 is the “otherwise provided by law” and 137.281 provides the specifics such as not being deprived of voting rights until sentenced.

137.281(1) States privileges are **not revoked** until the person is **sentenced** to a term of incarceration. Since this section doesn’t indicate a specific location of incarceration, it is assumed incarceration means in a county jail or in a state or federal prison. (2) States that subsection (1) refers to **ANY** term of incarceration. (3) Makes it clear that voting rights is one of the rights that **may** be deprived...although (1) makes it **mandatory** that their rights are deprived until release from incarceration or the conviction is set aside. (4) States that if the court orders a temporary stay of execution of sentence, in other words postpones incarceration temporarily, their rights are still deprived pursuant to (1). (5) Specifies that rights are deprived even if the person convicted of a felony is incarcerated in federal prison. (6) Gives the county clerk the right to **cancel** the person convicted of a felony’s registration. (7) States the rights are restored automatically upon release from incarceration. (7) references ORS 10.030 which, though speaking to jury service, it also states that if the person convicted of a felony is on parole and is subsequently imprisoned for a parole violation, the person convicted of a felony will once again be deprived of voting rights.