

INFORMATION ABOUT PETITIONING A CIRCUIT COURT FOR APPROVAL OF THE RIGHT TO REGISTER TO VOTE

COMMONWEALTH OF VIRGINIA
VA. CODE § 53.1-231.2

If you are not qualified to vote because you have been convicted of a felony, you may be eligible to petition a circuit court for approval of your right to register to vote. If you are eligible to petition a circuit court and if the court approves your petition, then the Governor of Virginia will decide whether or not to restore your right to register to vote. By itself, circuit court approval of your petition does not give you back the right to register to vote. The Governor must also approve.

A felony conviction causes a person to lose other civil rights in addition to the right to vote. Even if your petition is approved by the court and approved by the Governor, only your right to vote will be restored, not these other civil rights. To seek to have these other civil rights restored in addition to your right to vote, you must ask the Governor through the Secretary of the Commonwealth.

A. Where to petition. You may petition either the circuit court where you were convicted of the felony or the circuit court where you now reside. The clerk of the circuit court has a petition form which you may use or you may draft your own petition. You must pay all the required filing fees to the clerk of the circuit court in order to have the court consider your petition, unless the court grants you permission to proceed *in forma pauperis* (as someone who cannot afford to pay the required fees).

B. The conditions for court approval. It is your responsibility to present evidence to the court showing that you meet all the conditions to have the court approve your right to register to vote. These conditions are:

- You are eligible to petition the court because the felony you were convicted of was not one of the felonies listed below under Section E.
- At least 5 years must have passed since you completed any sentence and any modification of sentence, including probation, parole and any suspended sentence.
- You must not have had any additional criminal convictions during that period of time. Convictions for traffic infractions during that period of time are not counted against you for this petition.
- You must have demonstrated civic responsibility through community or comparable service.

C. Your responsibility to prove your case. Since you are responsible for proving to the court that you are eligible to petition for approval of your right to register to vote and that you meet all the required conditions, you will need to provide to the court, along with your petition, evidence to prove that your petition should be granted, such as evidence of your convictions and sentences and evidence demonstrating civic responsibility through community or comparable service. Attested copies of the orders of your conviction and sentencing can be obtained from the clerk of the circuit court which convicted you of the felony and sentenced you. The circuit court clerk must charge you for these copies. You may obtain a copy of your criminal history from the Virginia State Police. There is a charge for a copy of this record.

D. Court Approval. If the court approves your petition, the court will provide to you a copy of the order approving your petition. The court will also send a copy of the order to the Secretary of the

Commonwealth, who will then send it to the Governor for the decision of whether you will be permitted to register to vote.

E. Who is not eligible to petition. You are not eligible to petition a circuit court for approval of your right to register to vote if you were convicted of one of the following felonies:

1. A “violent felony” as defined in Virginia Code § 19.2-297.1 or in subsection C of § 17.1-805. The felonies included in this definition are:
 - First degree murder, second degree murder, or voluntary manslaughter (see Virginia Code §§ 18.2-30 through 18.2-33 and 18.2-35).
 - Aggravated involuntary manslaughter (see Virginia Code § 18.2-36.1(B)).
 - Any mob-related felony (see Virginia Code §§ 18.2-40, 18.2-41 and 18.2-42.1).
 - Any kidnapping or abduction felony (see Virginia Code §§ 18.2-47 through 18.2-49.1).
 - Any malicious felony assault or malicious bodily wounding (see Virginia Code §§ 18.2-51 through 18.2-56, 18.2-57 and 18.2-57.2).
 - Robbery (see Virginia Code § 18.2-58).
 - Carjacking (see Virginia Code § 18.2-58.1).
 - Felony criminal sexual assault (see Virginia Code §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1 through 18.2-67.3, 18.2-67.4:1, 18.2-67.5 and 18.2-67.5:1).
 - Carnal knowledge of a child between the age of 13 and 15 (see Virginia Code § 18.2-63).
 - A third conviction for attempted aggravated sexual battery (see Virginia Code §§ 18.2-67.5(B), -67.5:1).
 - A third conviction for sexual battery (see Virginia Code §§ 18.2-67.4, -67.5:1).
 - Burning or destroying a dwelling or an occupied structure as described in Virginia Code § 18.2-77.
 - Burning or destroying a public building when occupied as described in Virginia Code § 18.2-79.
 - Burning or destroying a structure worth \$200 or more (see Virginia Code § 18.2-80).
 - Burglary (see Virginia Code § 18.2-89).
 - Entering a dwelling house with the intention to commit murder, rape or robbery (see Virginia Code § 18.2-90).

- Entering a dwelling house with the intention to commit a felony (see Virginia Code § 18.2-91).
- Breaking and entering a dwelling house with the intention to commit a misdemeanor (see Virginia Code § 18.2-92).
- Entering a bank armed with the intention to commit larceny (see Virginia Code § 18.2-93).
- Felonious personal trespass by a computer (see Virginia Code § 18.2-152.7).
- Obstructing or injuring a canal, railroad or power line, when such offense is a class 4 felony (see Virginia Code § 18.2-153).
- Shooting at or throwing missiles at a train, car or vessel, when such offense is a class 4 felony (see Virginia Code § 18.2-154).
- Injuring a signal used by a railroad, when such offense is a class 4 felony (see Virginia Code § 18.2-155).
- Damage or trespass to public services or utilities, when such offense is a felony (see Virginia Code § 18.2-162).
- Discharging firearms or missiles within or at a building or dwelling house (see Virginia Code § 18.2-279).
- Willfully discharging firearms in public places (see Virginia Code § 18.2-280).
- Setting a spring gun or other deadly weapon (see Virginia Code § 18.2-281).
- Pointing, holding or brandishing a firearm when on school property (see Virginia Code § 18.2-282(A)).
- Shooting at vehicles so as to endanger persons (see Virginia Code § 18.2-286.1).
- Use of a machine gun for a crime of violence (see Virginia Code § 18.2-289).
- Use of a machine gun for an aggressive purpose (see Virginia Code § 18.2-290).
- Possession or use of a “sawed-off” shotgun or rifle during the commission of a crime of violence (see Virginia Code § 18.2-300(A)).
- Possession of a firearm on school property (see Virginia Code § 18.2-308.1(B)).
- Possession of a firearm by a convicted felon (see Virginia Code § 18.2-308.2).

- Sale of a firearm to a person prohibited from possessing it (see Virginia Code § 18.2-308.2:1).
- Purchasing a firearm with the intent of selling it to a person forbidden to possess a firearm (see Virginia Code § 18.2-308.2:2(M)).
- Soliciting, assisting or employing a person to purchase a firearm by a person forbidden to possess a firearm (see Virginia Code § 18.2-308.2:2(N)).
- Use or attempted use of restricted ammunition in the commission or attempted commission of a crime (see Virginia Code § 18.2-308.3).
- Illegal use of a noxious or nauseating gas (see Virginia Code § 18.2-312).
- Taking or detaining a person for illegal prostitution against their will or consenting to the taking of one's child or ward for prostitution (see Virginia Code §§ 18.2-355(2), 355(3)).
- Detaining a male or female in a bawdy place against his or her will (see Virginia Code § 18.2-358).
- Crimes against nature involving an immediate family member (see Virginia Code § 18.2-361(B)).
- Adultery or fornication with certain family members (see Virginia Code § 18.2-366(B)).
- Placing or leaving one's wife for prostitution. (see Virginia Code § 18.2-368).
- Abuse or neglect of an incapacitated adult, when such offense is a felony (see Virginia Code § 18.2-369).
- Taking indecent liberties with children (see Virginia Code § 18.2-370).
- Taking indecent liberties with children under one's custody or supervision (see Virginia Code § 18.2-370.1).
- Abuse or neglect of children by a parent or guardian, causing serious injury (see Virginia Code § 18.2-371.1).
- Production, publication, sale or possession with intent to distribute of child pornography (see Virginia Code § 18.2-374.1).
- A second or subsequent conviction for possession of child pornography (see Virginia Code § 18.2-374.1:1(D)).
- Use of electronic means to facilitate the possession of child pornography (see Virginia Code § 18.2-374.3).

- A second or subsequent conviction for employing or permitting a minor to assist with certain sex crimes (see Virginia Code §§ 18.2-379, -381).
 - Participating in a riot, when such offense is a felony (see Virginia Code § 18.2-405).
 - Unlawful assembly, when such offense is a felony (see Virginia Code § 18.2-406).
 - Solicitation or incitement of a riot (see Virginia Code § 18.2-408).
 - Certain offenses committed during a state of riot or insurrection (see Virginia Code § 18.2-413).
 - Injury to property or persons by persons unlawfully or riotously assembled (see Virginia Code § 18.2-414).
 - Unlawful paramilitary activity (see Virginia Code § 18.2-433.2).
 - Felony obstruction of justice (see Virginia Code § 18.2-460(C)).
 - Delivery of drugs, firearms or explosives to prisoners (see Virginia Code § 18.2-474.1).
 - Escape from jail (see Virginia Code § 18.2-477).
 - Felony escape from a juvenile facility (see Virginia Code § 18.2-477.1).
 - Escape from jail or custody (see Virginia Code §§ 18.2-478, -479 and 480).
 - Conspiring to incite one race to insurrection against another race (see Virginia Code § 18.2-485).
 - Certain felonies by prisoners (see Virginia Code § 53.1-203).
 - Conspiracy to commit a “violent felony.”
 - Being a principal in the second degree or an accessory before the fact to a “violent felony.”
2. Manufacturing, selling, giving or distributing a controlled substance or imitation controlled substance (see Virginia Code § 18.2-248).
 3. Possessing a controlled substance or imitation controlled substance with the intent to manufacture, sell, give or distribute that substance (see Virginia Code § 18.2-248).
 4. Transporting into Virginia one ounce or more of cocaine in any form, any other Schedule I or II controlled substance, or 5 pounds or more of marijuana with the intent to sell or distribute that substance (see Virginia Code § 18.2-248.01).

5. Selling, giving or distributing more than one-half ounce of marijuana (see Virginia Code § 18.2-248.1).
6. Giving, distributing or possessing marijuana for an inmate as a favor (see Virginia Code § 18.2-248.1).
7. Possessing more than one-half ounce of marijuana with the intent to sell, give or distribute the marijuana (see Virginia Code § 18.2-248.1).
8. Manufacturing marijuana or possessing marijuana with the intent to manufacture it for use by another person (see Virginia Code § 18.2-248.1).
9. Distributing to someone who was under eighteen, and three years younger than you, Schedule I, II, III, or IV controlled substances, an imitation controlled substance, or marijuana (see Virginia Code § 18.2-255).
10. Causing someone who was under eighteen to assist in the distribution of Schedule I, II, III, or IV controlled substances, an imitation controlled substance, or marijuana (see Virginia Code § 18.2-255).
11. Manufacturing, selling or distributing any controlled substance, imitation controlled substance or marijuana while on or near the type of property described in Virginia Code § 18.2-255.2, for example a school, a community center, a public library or a state hospital.
12. Possessing with the intent to manufacture, sell or distribute any controlled substance, imitation controlled substance or marijuana while on or near the type of property described in Virginia Code § 18.2-255.2, for example a school, a community center, a public library or a state hospital.
13. Maintaining a fortified drug house (see Virginia Code § 18.2-258.02).
14. Making a false statement or entry on an election report required by Title 24.2 of the Code of Virginia (see Virginia Code § 24.2-1016).

If your felony conviction was for one of the crimes listed above, you are not eligible to petition the court for approval of your right to register to vote and the court cannot approve your petition.