

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

March 26, 2020

Opinion No. 20-06

Restoration of Voting Rights for Out-of-State Felons

Question

Do individuals who are ineligible to vote in Tennessee because of out-of-state felony convictions have to satisfy all outstanding debts arising from court costs, court-ordered restitution, and child support obligations before they are eligible to apply for reinstatement of their voting rights?

Opinion

Yes. Tennessee Code Annotated § 40-29-202 requires all convicted felons, including individuals convicted in other States or in federal court, to satisfy outstanding debts arising from court costs, court-ordered restitution, and child support obligations before they are eligible to apply for the reinstatement of their voting rights.

ANALYSIS

An individual convicted of a felony is “immediately disqualified from exercising the right of suffrage” in Tennessee. Tenn. Code Ann. § 40-20-112; *see* Tenn. Att’y Gen. Op. 20-02 (Feb. 25, 2020). No person may vote in Tennessee who has been (1) convicted of a felony in Tennessee, (2) “convicted in federal court of a crime or offense which would constitute” a felony under Tennessee law, or (3) “convicted in another state of a crime or offense which would constitute” a felony under Tennessee law. Tenn. Code Ann. § 2-19-143. This felon-disenfranchisement provision applies to all individuals convicted of a crime that constitutes a felony under Tennessee law, including individuals whose convictions occur in other States or in federal court. *See id.*

Disenfranchised felons are eligible to apply for reinstatement of their voting rights in certain circumstances. *See* Tenn. Att’y Gen. Op. 20-02; Tenn. Code Ann. § 40-29-202. Section 40-29-202 governs restoration of voting rights, and the statute’s text, context, and purpose make clear that the General Assembly meant to treat all convicted felons equally and to provide a single framework governing the eligibility for re-enfranchisement of all convicted felons, regardless of the State or court in which they were convicted.

Subsection 40-29-202(a) provides that “[a] person rendered infamous and deprived of the right of suffrage by the judgement of *any state or federal court*” is eligible to apply for the restoration of voting rights only after receiving either: (1) a pardon; (2) a discharge from custody after serving the maximum sentence imposed by the court; or (3) a certificate of final discharge

from the board of parole or an equivalent federal, state, or county authority. Tenn. Code Ann. § 40-29-202(a) (emphasis added). Subsection (a) further recognizes discharge by the board of parole “or *an equivalent federal, state, or county authority*” as one means by which an individual can become eligible for re-enfranchisement. *Id.* § 40-29-202(a)(3) (emphasis added). As the italicized text makes clear, the threshold requirements of subsection (a) unmistakably apply to all convicted felons, including those convicted in other States or in federal court. The text of subsection 202(a) thus expressly governs the eligibility for re-enfranchisement of a person convicted of a felony in any State or in federal court.

Subsections 40-29-202(b) and 202(c) “impose three additional preconditions to the restoration of convicted felons’ voting rights,” each dealing with the satisfaction of financial obligations. Tenn. Att’y Gen. Op. 20-02. “[A] person” rendered ineligible to vote because of a felony conviction “shall not be eligible to apply” for re-enfranchisement unless “the person . . . has paid all restitution . . . ordered by the court as part of the sentence,” “paid all court costs assessed against the person at the conclusion of the person’s trial,” and “is current in all child support obligations.” Tenn. Code Ann. § 40-29-202(b)(1)-(2), (c).

Unlike subsection (a), subsections 202(b) and (c) do not specifically reference Tennessee courts or other state or federal courts. But, like subsection 202(a), they apply broadly to any “person.” And there is no textual basis to limit “person” as used in subsections 202(b) and (c) to mean only persons convicted of a felony in Tennessee as opposed to all persons who have been convicted of a felony. Because “person” must be given “its natural and ordinary meaning, without forced or subtle construction that would limit or extend [its] meaning, except when a contrary intention is clearly manifest,” Tenn. Att’y Gen. Op. 19-17 (Sept. 25, 2019) (quoting Tenn. Code Ann. § 1-3-105(b)), the plain text of subsections 202(b) and (c) encompasses both individuals convicted of felonies in Tennessee and individuals convicted of felonies in other state courts or in federal courts.

No contrary intention is manifest in § 40-29-202. Indeed, the statutory context makes clear that subsections 202(b) and (c)—like subsection 202(a)—apply to all convicted felons. *See Coffee Cty. Bd. of Educ. v. City of Tullahoma*, 574 S.W.3d 832, 845-46 (Tenn. 2019) (noting that judges must look at the “language of the statute,” as well as “[t]he overall statutory framework”). Subsections 202(b) and (c)—by stating that they apply “notwithstanding subsection (a)” —both reference subsection (a) directly, and subsection (a) expressly applies to “[a] person” convicted of a felony anywhere, including in other States or in federal court. Tenn. Code Ann. § 40-29-202(a). Read in context, then, subsections 202(b) and (c) clearly refer to the very same “person[s]” referred to in subsection 202(a)— i.e. all convicted felons regardless of the State or court of conviction— and merely provide additional requirements for reinstatement of voting rights. *See In re Kaliyah S.*, 455 S.W.3d 533, 552 (Tenn. 2015) (noting that statutes “that relate to the same subject matter or have a common purpose must be read *in pari materia* so as to give the intended effect to both”). That interpretation also aligns with the “object and reach of the statute . . . and the purpose sought to be accomplished in its enactment.” *Coffee Cty. Bd. of Educ.*, 574 S.W.3d at 846 (quoting *Spires v. Simpson*, 539 S.W.3d 134, 143 (Tenn. 2017)). The purposes of § 40-29-202 include “protecting the ballot box from convicted felons who continue to break the law by failing to comply with court orders, encouraging payment of child support, and requiring felons to complete their entire

sentences, including paying victim restitution,” *Johnson v. Bredesen*, 624 F.3d 742, 747 (6th Cir. 2010), and those purposes apply equally to individuals convicted in Tennessee and elsewhere.

In sum, Tennessee Code Annotated § 40-29-202 sets out the eligibility criteria for all convicted felons who seek restoration of their voting rights. All individuals who have been convicted of a crime constituting a felony under Tennessee law—no matter the location of that conviction—must meet the criteria for eligibility in subsections 202(a), (b), and (c), before they are eligible to apply for reinstatement of their voting rights. Subsections 202(b) and (c) require all convicted felons, including individuals convicted in other States or in federal court, to satisfy outstanding debts arising from court costs, court-ordered restitution, and child support obligations before they are eligible to apply for the reinstatement of their voting rights.

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