

Restoration of Voting Rights – Commonly Asked Questions and Their Answers

Q1. Does the county election commission keep the original certificate of restoration or must the original be sent to the State?

A: Per state law, the county keeps the original certificate of restoration. Until the applicant files an original certificate of restoration with the county election commission, the Administrator does not send anything to the state.

EXCEPTION – If the applicant has had his or her voting rights restored in Tennessee and has been registered to vote in another county in Tennessee, then the new county may accept a certified copy of the original certificate of restoration and/or a certified copy of the coordinator's letter, which the State had sent to the previous county to verify the person's restoration of voting rights.

Q2. Does the county election commission keep the "original" certified copy of the court order that restores the applicant's citizenship rights?

A: Yes, per state law, the county keeps the "original" certified copy of the court order. [Realize, the court keeps the originals of its orders, but will release certified copies of them. An "original" certified copy of a court order will either have an embossed (raised) seal of the clerk of court or a stamp with an original initial from the clerk of court.]

NOTE - Until the applicant files either an original certificate of restoration or an "original" certified copy of the court order with the county election commission, the Administrator does not send any of the restoration documents to the state.

Q3. Must the certificate of restoration form be completed in FULL?

A: Yes, if it's not, do not send it to the state. An incomplete form must be returned to the applicant for the appropriate agent to complete it. Sending an incomplete certificate of restoration to the State does not further the restoration process.

Q4. What happens if the person insists that the appropriate agents refuse to complete the restoration form?

A: If the applicant insists that, for whatever reason, the appropriate agents will not complete the certificate of restoration form, the applicant should be advised to seek a court order.

NOTE – Typically, this occurs with individuals who insist that they do not have any court ordered restitution or that they have paid the required restitution in full, but cannot get a probation officer or court clerk to sign off on the form. Regardless of whether we empathize with their situation, the Coordinator of Elections cannot waive the requirements. Thus, either the form must be filled out completely or a judicial order must be obtained.

Q5. For convictions after May 18, 1981, does the applicant have to use the certificate of restoration?

A: To register to vote, the county election commission must have on file **either** 1) an original certificate of restoration, completed in full, or 2) an “original” certified copy of the court order. A court order will always work to restore a person’s voting rights and citizenship rights. However, at a minimum, the certificate of restoration must be used.

Q6. For convictions before May 18, 1981, does the applicant have to use the certificate of restoration?

A: Remember that between January 15, 1973 and May 17, 1981, persons convicted of a felony did not lose their voting rights. The statutory amendments of 2006 did not change this fact. Consequently, individuals convicted during this period do not have to file anything **to register to vote**. However, to qualify to seek a public office, these same individuals must obtain a court order restoring their citizenship rights. The certificate of restoration is not sufficient.

Furthermore, for persons found infamous in a judgment of conviction for abuse of a female child; arson and felonious burning; bigamy; bribery; burglary; felonious breaking and entering a dwelling house; felonious breaking into a business house, outhouse other than a dwelling house;

larceny; horse stealing; robbery; receiving stolen property; stealing bills of exchange or other valuable papers; destroying a will; incest; rape; sodomy; buggery; or perjury; subornation of perjury **before January 1973**, the statutory amendments of 2006 did not change their restoration process. Consequently, the only way that they can get their voting rights restored is through a **court order**.

Q7. Can the State of Tennessee accept a certificate of restoration that has been completed by agents from another state?

A: Yes, if the applicant was convicted in another state, then the restoration of voting rights accomplished in that state can be used to satisfy the requirements in Tennessee. This can be done in one of the following two (2) ways.

1 - The applicant who can produce a document proving that he or she has had his or her voting rights restored in another state must file a certified copy of such instrument that restored his or her voting rights in the other state **and** file an original document completed by an agent of the other state verifying that restitution was not ordered or, if restitution was ordered, the document must verify that the person has paid all restitution.

2 – The applicant who cannot produce a document proving that he or she has had his or her voting rights restored in another state must then have agents of that state complete the Tennessee certificate of restoration. The applicant must file the original certificate of restoration with the election commission office. The form must be completed in full by the appropriate agent of the other state.

Q8. Can the State of Tennessee accept a court order from another state?

A: Yes, state law says a person can get a court order in the county in which the person was convicted or the county in which they currently reside.

Q9. Who can complete the certificate of restoration form?

A: The certificate of restoration can be completed by 1) the pardoning authority, 2) a probation or parole officer (either state or federal –

whichever applies), 3) the circuit or criminal court clerk, 4) an agent of the clerk of court, or 5) an agent or officer of the supervising or incarcerating authority, who has knowledge of the applicant's records.

Basically, the certificate of restoration can be completed by any agent or officer of the supervising or incarcerating authority, including a court, who has knowledge of the applicant's records.

Q10. What if the certificate of restoration has been completed by the individual, or the individual's private attorney?

A: The certificate of restoration must be rejected, and therefore, the application for registration must be rejected until the proper authority completes the form.

Q11. If the applicant has had his/her voting rights restored in one county in TN and moves to another county in TN, does the applicant have to get his or her voting rights restored again in the new county?

A: No, once the person has gotten his or her voting rights restored in TN, the person will not have to get the voting rights restored again. See the response to Q1.

NOTE - This is true as long as the person has not been convicted of another felony since the date of the restoration.

Q12. When can a person get his or her voting rights restored?

A: Generally, four things must occur before a person convicted of a felony may have his or her voting rights restored: 1) the person must no longer be under the authority of the correctional authority or court, 2) if as part of the sentence, the court ordered the payment of any restitution, such restitution must be paid in full, 3) if as part of the sentence, the court ordered the payment of any court costs, such court costs must be paid in full or court has made a finding at an evidentiary hearing that the above individual is indigent at the time of application and 4) if the court has ordered the person to pay child support, then the person must be current on all child support obligations.

Typically, the person is not under the authority of the correctional authority or court when 1) the person receives a pardon which does not contain any

special conditions regarding voting rights, 2) the maximum sentence imposed for the crime has either expired or been served by the individual, or 3) the person has been granted final release from incarceration or supervision by the Board of Probation and Parole, the Department of Correction, or county correction authorities.

Furthermore, if the court has not ordered a person to pay restitution or court costs, then appropriate agent must certify such.

Q13. When a person has had a felony conviction expunged, how does the person get his or her voting rights restored?

A: When a court expunges a felony conviction, the court removes the criminal penalty that deprived the person of his or her right to vote. Consequently, the person should mark no to the felony question.

Q14. What is the difference between “citizenship rights” and “voting rights”?

A: Typically, citizenship rights include the right to vote, the rights to seek and hold public office, and the right to serve on a jury. The restoration of “voting rights” only permits a person to register to vote and vote. In order to seek public office, the person must have their citizenship rights restored through a court order.

Q15. Can a person with a felony conviction who attempts to register to vote at least thirty (30) days before the election, but who does not complete the process for getting his or her voting rights restored by the registration deadline, still register to vote in time for that upcoming election?

A: No, because the application will be rejected and the applicant will not have meet the registration requirement by the registration deadline.