

## *The Virginia NEWS LETTER*

# *A Second Chance To Vote In Virginia*

By Sandra W. Brandt

A man I will call Joe Smith had a friend and on one fateful evening he and his friend went out for an evening of fun. The fun ended with Joe becoming an accessory to a crime that cost him his job, plus a 20-year sentence with three years in prison, nine years suspended time and eight years on parole.

Joe Smith lost a lot during that process.

But most importantly Joe lost his right to vote and participate in the process of selecting those individuals who represent you as president, senator, congressperson, state delegate and state senator—as well as all local elected officials.

In addition, he lost the right to vote on changes in the Virginia Constitution.

In short, he lost his voice and input on electing the representatives who represent him in his district.

In Virginia there are over 300,000

people, like Joe Smith, who are eligible to have their voting rights restored. For that reason, State Sen. Yvonne Miller from Norfolk has submitted a number of bills concerning the restoration of voting rights for people with felonies.

Individuals who have committed both violent and non-violent offenses have to wait seven years prior to filling out the paperwork to have their rights restored. In the process, they have to meet the following criteria: served all their time charged; paid all their fines, including court costs, restitution to victims and others; finished all their probation or parole requirements, plus their time for suspended sentences and have waited seven years.

During that time, if they committed another offense, they started the process all over again.



*Sandra W. Brandt*



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## *Governor Warner makes a change*

Some of this process changed in 2002. Prior to 2002, individuals—whether violent or non-violent offenders—filled out paperwork to be processed after a seven-year wait. Gov. Mark R. Warner made the change to separate violent offenders from non-violent offenders as well as changing the waiting period for both offenses, which was reduced to three years for the non-violent offenders and five years for the violent offenders.

### **Major Changes in 2002**

There are three major processes that individuals can go through in order to get their voting rights back.

If you are a non-violent offender, you have two options: a short application to the governor, or a petition to the court.

Under the short application to the governor, you (1) must have been free of any subsequent convictions, excluding drunk-driving convictions, whether felony or misdemeanor; (2) must be free from any drunk-driving convictions for at least five years, and (3) the offense must have been non-violent, which includes drug possession, and have paid all court costs, fines, and restitution.

The only difference in the petition to the court is that it must have been five years since the completion of the felony sentence, including suspended sentences, probation and parole as well as having no other subsequent criminal convictions for felony or misdemeanor offenses, excluding traffic violations, in the last five years. Finally, the person must have demonstrated civic responsibility through community or comparable service.

For the person who has committed violent offenses, the process is longer and most of what has been stated above applies. Instead of three years without an offense under the long application, you must wait five years since the completion of your felony, including suspended sentences and probation and parole. One must pay all court costs, fines, and restitution and have no new offenses in the last five years. Each

time there is a new felony offense under the process, the original process begins over again.

No matter what process an individual chooses, the governor still has the discretion to reject an application.

Prior to the changes in 2002, there were countless stories in Virginia about women and men who had applied to get their voting rights back only to find that they had not met the seven-year criteria as well as other criteria to get their rights back. So they waited to process their applications to finally get them approved.

### **The Governor Has Key Role**

In the last three years, Governor Warner processed several thousand applications and had as of late August given voting rights back to over 2,642 individuals, the largest number of approved applications by any governor in the history of Virginia. (The governor has denied 175 applications.)

There are others working hard to assist people in Virginia to get their application in the pipeline prior to Governor Warner leaving office.

The Advancement Project, a policy and legal action organization in Washington, D.C. that creates strategies for achieving universal opportunity and a racially just democracy, has three areas of focus:

- Opportunity to learn by removing barriers and promoting real educational opportunities for students;
- power and democracy for supporting community organizing that increases civic participation;
- urban peace for supporting community based campaigns to secure fair and effective police policies and practices.

The Advancement Project is working with four agencies across Virginia to provide

hands-on instruction and assistance in finding individuals who want their voting rights back.

Those agencies are STEP-UP (Skill Training Employment Placement Upward Progress), Incorporated in Norfolk; Total Action Against Poverty in Roanoke; the Richmond Community Action Program (R-CAP) in Richmond, and Virginia Citizens United for Rehabilitation of Errants, in Northern Virginia.

These agencies will host workshops or do individual training for people who want to process their applications. Billboards, along with an aggressive radio campaign, will seek out individuals statewide. Also, local groups will work with beauty and barber shops, recreation centers, colleges and other locations to place brochures and flyers to get the word out. In addition, a toll free number has been set up to answer questions as well as direct calls to the various agencies. The number is 800-388-6744.

In the next few months the Restorative Voting Rights Project will be working to process as many applications as possible to submit to the Secretary of the Commonwealth prior to the departure of Governor Warner. The project will have to rely on its partners to reach out and find these individuals. The agencies will work with the clerks of circuit court in various cities to see that the information needed to show payment of fines, restitution or court costs, along with completion of time served, has been received. In addition, the partners will make sure that the person has processed his or her application on the appropriate form and will assist with the review of the application to make sure that there is not a delay in processing or a return of the application.

The process for approval can take up to two months for the short application form and four months for the long application. The governor of Virginia has the sole discretion to restore civil rights. There is no process for appealing this decision.

Only complete and accurate applications will be considered, and incorrect and misleading information may result in the denial of the application. A person who has been denied may not reapply for two years.

The civil rights restored through this process includes the rights to register to vote, hold public office, serve on a jury and serve as a notary public. The restoration of civil rights does not restore the right to possess a firearm. It does not expunge a criminal conviction.

This is not a pardon. A person who has been convicted of a felony must first have his or her rights restored in order to be considered for a pardon.

Recently someone asked me why I was working on a project to assist ex-felons with their voting rights. My answer to that question was a short one: It is because I believe that everyone deserves a second chance.

Some individuals committed crimes when they were young and have never had the opportunity to vote. Others have had the right and lost it and now realize how important it is to be part of the process to elect the people who represent us and to vote on the issues that make a difference. This is their chance. Voting in this country is a privilege that many have taken for granted while others cherish. Losing your vote is a reminder to many how much they appreciate the right.

Restoring civil rights goes beyond just voting. It's about restoring self-respect and dignity. It's about choices and issues that will effect you the rest of your life.

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