

## They say Question 3 restores a felon's right to vote after prison. In reality—it proposal does much more!

**What they don't tell you:** The State Assembly can restore voting rights without a Constitutional amendment. Governor can currently restore rights. The U.S. Constitution already protects qualified voters. Automatic restoration after release is a policy many states have adopted by statute.

This amendment, however, does more than restoring felon voting rights restoration— *it experiments with the Constitution by adding language that could engender constitutional challenges to election integrity measures such as: reasonable limitations on absentee ballots, voter identification requirements, election day definitions, and auditing and ballot challenge procedures.* The proposal also restores felon voting rights even if the felon has not paid restitution to the victim.

### What the text actually adds

1. **The proposal is not “the only state” with a fundamental right to vote. It is distinctive in what it combines.** Michigan already declares a “fundamental right to vote” and forbids laws that deny, abridge, or unreasonably burden it. Montana, Missouri, Idaho, and Washington say “no power” may interfere with the free exercise of suffrage, and their courts have treated that as a fundamental right. Florida restored rights after sentence without any of that language. No surveyed constitution combines all three of HJ2's pieces in one clause: an express fundamental right, a general command that the right “shall not be abridged by law” except in two named situations, and automatic restoration upon release. This invites challenges to voting integrity laws.
2. **Those two exceptions are the whole list.** The right may not be abridged by law except during felony incarceration or by a court finding that a person cannot understand the act of voting. Voter identification is not on the list. Neither is a registration deadline, a limit on absentee ballots, a rule on drop boxes, ballot collection, residency, or provisional ballots. If a future statute “abridges” the right, the amendment's own words leave the legislature two defenses, and two only.
3. **Virginia courts will likely apply their hardest test.** When a Virginia statute touches a fundamental right, it must be narrowly tailored to a compelling interest. That is strict scrutiny—stricter than the federal balancing test that now governs most election rules and that has sustained voter-ID laws. Missouri used similar “free suffrage” language to strike a photo-ID requirement. Montana used similar language to reject the federal balancing test altogether. Article II still lets the General Assembly regulate registration and absentee voting “as provided by law.” Courts will have to reconcile those grants with the new non-abridgment clause. The honest claim is not that today's election rules vanish on Election Night. It is that each of them becomes a constitutional lawsuit the current text does not authorize.
4. **Other states that only restored the vote kept the legislature in the game.** Florida's Amendment 4 restored rights. It did not declare a fundamental right and did not say the right “shall not be abridged by law except.” The legislature later added a condition; a federal appeals court let that condition stand. Michigan's constitution still tells the legislature to preserve the purity of elections. HJ2's non-abridgment clause has no such companion sentence.

### What they say — and what a statute could have said

**They say:** the present system is “inconsistent and confusing,” a “relic of Virginia's Jim Crow past.” Automatic restoration is “transparent” and “applies to everyone equally.” (Sen. Bennett-Parker.)

**If that were all, the proposed text would say:** a person convicted of a felony may not vote while incarcerated and is restored upon release., without asking the Governor. A statute could do that. So could a short amendment that stopped there.

**What they actually wrote:** every qualified person has the “fundamental right to vote,” and that right “shall not be abridged by law, except” during incarceration or incapacity. Restoration is the first half. The second half is a limit on every other election statute the General Assembly may write.

**Letting people vote after prison did not require creating constitutional challenges to rules by which Virginia protects election integrity.**



**Read Before You Vote: Don't Radicalize the Virginia Constitution. Vote No.**

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