Designing Restoration of Rights Information

Voting rights after prison: The information barriers to voting after a felony

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Part 1 Voting rights after prison

Voting rights after prison

Registering to vote after a felony conviction is not as simple as completing a voter registration form. The right to vote varies state by state, and in many states, a criminal conviction has serious consequences for a citizen's ability to participate on Election Day.

Only Maine, Vermont and (as of July 7, 2020) Washington, D.C. never bar citizens from voting--even those who are in prison are eligible to vote. In the remaining forty-eight states, a person convicted of a felony loses the right to vote at some point during the justice process. Formerly incarcerated citizens may have their right to vote restored through one of two ways. Some states automatically restore the right to vote once all requirements are met. In others, a formerly incarcerated person must apply to have their voting rights restored.

We wanted to know how much assistance states and non-government organizations provide to help formerly incarcerated citizens understand and use their voting rights. Specifically, we wanted to know how their websites communicate to individuals that they are eligible to vote, and how they explain the rights restoration process to citizens who are not yet eligible.

To get a sense of what information is readily available, we started with Google searches that a typical person might use. Using basic, search terms with common phrases such as "I have been convicted of a felony, can I vote in California?" or "Can I vote in Illinois?" We wanted to see what information a person recently involved in the justice system might see online. We focused on four states--California, Illinois, Maine, and Mississippi--because they offered a range in:

- rights restoration policies
- geographic locations
- population demographics
- population density

In three of these states, Illinois, Maine, and Mississippi, the state published a webpage on the Secretary of State's website designed to help voters. However, these websites provided only a small amount of information for voters with criminal convictions. Worse, the information that was included on these websites was vague and confusing making them difficult to use. In some cases, the information was hard to find on the website meaning that many users could

be at risk of missing it. Without clear guidance from the state, our citizens are at risk of falling victim to misinformation, missing an opportunity to vote, or attempting to vote when they should not.

Misinformation as voter suppression?

When information for voters is missing or hard to find, it becomes an added barrier that can keep people from voting. Without clear information, many are completely unaware that they are eligible to vote, while others might fear that if they register to vote they might be committing election fraud. This was the unfortunate consequence that a Texas woman, Crystal Mason, faced after casting a provisional ballot in the 2016 general election. Mason had never been told that because she was on federal supervised release, Texas considered her ineligible to vote. On election day, she arrived at her polling place and completed a ballot like she had always done in previous elections. Mason only learned that she was not eligible to vote six months later when she was arrested. The government's failure to communicate with Mason has resulted in her receiving a five-year sentence for fraudulently voting.

Information that is not explicitly clear jeopardizes citizens' voting rights, and also their freedom, by leaving important questions unasked or unanswered. This type of misinformation runs the risk of morphing into a form suppression because a right someone does not know about, is not a right that can be used. Without explicit and clear information for our justice-involved citizens, we help to perpetuate the misinformation that has created a system of de facto disenfranchisement.

A 2018 article <u>published</u> by *Mississippi Today* highlights how foggy communication can allow misinformation and de facto disenfranchisement to thrive. In Mississippi, the state strips citizens of their right to vote if they are convicted of one of 22 felonies. According to the article, Jed Blackerby always understood that his conviction for aggravated assault barred him from voting. However, aggravated assault is not one of the crimes that bars a person from voting. Years later, after learning that he had been eligible to vote the whole time, Blackerby told *Mississippi Today* that

"No one gave any guidance....a long time ago when convicted felons, point blank, were not allowed to vote, (government officials) never made it public until afterwards that (people with) certain types of

convictions were allowed to vote. It had never been publicized."

Jed's comments encapsulate a pattern that is clear in our Google searches. Information about voting rights for previously incarcerated people is not well-publicized. Further, what is publicized by the states that we studied is often buried deep in government websites where it is difficult to find. When the information can be found, it is frequently confusing, leaving the would-be voter to guess whether or not they are eligible to register.

Information available online

To explore just how difficult, it is to learn whether someone is eligible to vote, we looked at what is easily available on the web through Google searches. General search terms can lead voters to some tools and websites that help explain rights clearly. However, there are also many websites that are highly confusing and become a barrier to understanding voting rights.

Information from advocacy organizations

To gain a broad overview, we started with general search terms. On one of the first searches we used the term, "restore my voting rights." From this search we found a tool published by the Campaign Legal Center.

Restore Your Vote: I have a felony



Many people wonder "can.! vote with a felony conviction?" and assume the laws have restricted their rights. But that's not true! While many states have some restriction on felon voting rights, most states restore the right to vote to citizens after they complete their sentences. In fact, up to 18 million Americans with past convictions can vote RIGHT NOW — they just don't know it — because the felony disenfranchisement laws in every state can be confusing. With the help of this website, you will no longer have to wonder whether you have the right to vote and will no longer have to ask, "can! restore my right to vote?" If you are a United States citizen, you can answer the key questions below about your conviction(s) and determine if you are eligible to vote right now, or eligible to go through the process to restore your right to vote. Please know that using this website is completely anonymous. We do not capture any information about you. Utilice esta guía en español. In what state do you want to register to vote? California Have you been convicted of a felony? Yes No

Sample of the questions on the Campaign Legal Center, starting with the state where you want to vote (https://campaignlegal.org/restoreyourvote)

You can vote! That's true even if you are on probation, mandatory supervision, post-release community release, or federal supervised release.

Are you currently incarcerated for your felony conviction?

Register to vote with our friends at Vote.org.

Are you currently on state parole?

Yes No

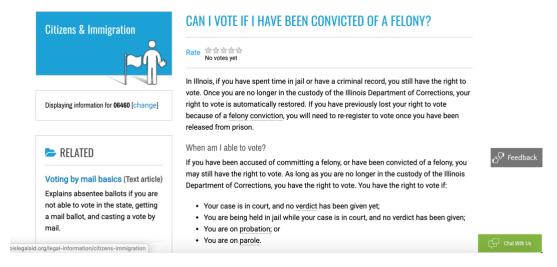
The Campaign Legal Center tool is located on a page called *Restore Your Vote*. The tool asks the user a series of short and friendly yes or no questions. The page is designed so that the next question only appears after the previous has been answered. A feature that prevents the user from becoming overwhelmed.

After completing the first four questions a call to action appears with a prompt to visit the Vote.org website to register to vote. The call to action link sends users to the Vote.org website to register to vote.

The CLC site uses the same format for all fifty states. Slightly different questions are asked for each state to ensure that the site is providing accurate information for each state. The CLC Restore Your Vote tool provides a simple answer to the question of whether someone is eligible to vote. However, one downside is that the site is only optimized for general search terms and voters who search specifically for their state might miss it.

The CLC website clearly answers both questions that we are looking for. For voters who are eligible to vote, the call to action informs them that they are eligible to register. For voters who are not currently eligible, a similar message appears telling the user at what point they will become eligible to register.

Illinois voting rights page from the Illinois Legal Aid website.



https://www.illinoislegalaid.org/legal-information/can-i-vote-if-i-have-been-convicted-felony

Under a google search for the state of Illinois, we found a second nongovernment organization called Illinois Legal Aid. Illinois Legal Aid managed a webpage called <u>Can I Vote if I Have Been Convicted of A Felony?</u> On the page, a few short paragraphs were supplied that provided information about who is eligible to vote after a felony conviction.

Like the Campaign Legal Center's tool, Illinois Legal Aid also clearly answers both questions that we focused on for this project. The second line of the page reads:

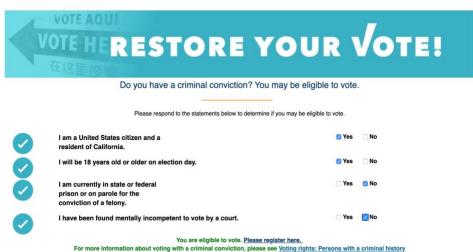
"Once you are no longer in the custody of the Illinois Department of Corrections, you have the right to vote."

While the CLC page and Illinois Legal Aid use vastly different styles of conveying information to formerly incarcerated individuals, both clearly communicate whether or not a person is eligible to vote. In addition, both pages inform those who are not eligible to vote when and how they can have their right to vote restored.

Information from government websites

Looking at state elections or Secretary of State websites, the amount and usefulness of information concerning voting rights for people with a felony conviction is highly variable. Each of the four states we studied--California, Illinois, Maine, and Mississippi--serve as examples.

California



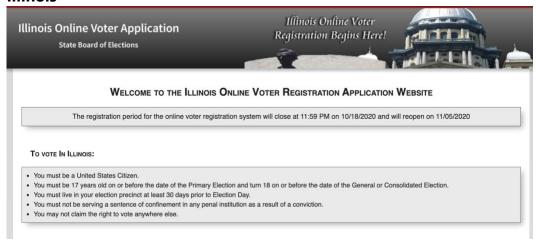
California Secretary of State web page for would-be voters with a criminal conviction https://www.sos.ca.gov/elections/restore-your-vote/

California made the process of finding voter rights information for formerly incarcerated citizens clear and simple for two reasons. First, the page was easy to find. It was the first result on google.

Second, the tool provided by California was almost identical to the Campaign Legal Center's *Restore Your Vote* page. Just like CLC, California answers both "Am I eligible to vote?" and "When will I become eligible to vote?" The call to action at the bottom of the page encourages those who are eligible to vote to register. Similarly, for those who are not eligible, the page explains when their status will change.

Further, for the people of California, this tool is particularly useful because it is on a state website. Having this tool available on the state website is important because it can be used to combat misinformation and reassure users that the information is accurate.

Illinois



Illinois Secretary of State website page on voter registration https://ova.elections.il.gov/

On the Illinois Secretary of State's website, the most detailed information that we could find for voters who had previously been incarcerated was provided under the online registration page along with the voter qualifications. The page did not link to any further information, so we searched the website and quickly became lost. After twenty minutes of searching, we were unable to find any further information on the state's website.

With so little information easily available on the website, many voters who have been involved in the justice system may struggle to learn about and exercise their right to vote. The bullet for voters with criminal convictions is troubling because it reads:

"You must not be serving a sentence of confinement in any penal institution as a result of a conviction"

This sentence is not written in plain language which may make it hard for many readers to decipher exactly what it means.

- There is no explicit mention to current incarceration or previous incarceration.
- It makes no distinction between felony, misdemeanor, or pretrial incarceration.

- Legal terms like "a sentence of confinement" may not be easy to understand, even for someone who is involved in the criminal justice system.
- The sentence opens with "you must not be" which could be confusing to many readers. Adjusting the sentence structure so that it reads "If you are currently incarcerated...." can help make it less confusing.

This means that many citizens involved in the justice system who are eligible to vote, can easily misunderstand or struggle to understand their voting rights. The state also fails to offer any further guidance to previously incarcerated individuals largely leaving the justice involved community to navigate the voting process with little assistance.

The Illinois page can be used to answer the question of whether or not a person is eligible to register, however, the way the information is presented can make answering this question difficult. Illinois differs from the websites discussed above in that it requires more work from the user to answer the questions. For example, CLC, California, and Illinois Legal Aid each tell the user explicitly who is eligible, who is not, and at what point a person will become eligible. The Illinois Secretary of State page only explains when a person cannot vote and requires the user to figure out the rest on their own.

Maine



Maine Secretary of State Website: [https://www.maine.gov/sos/cec/elec/voter-info/right.html

Maine does not strip any individual of their voting rights, no matter what they are convicted of. Searching the phrase, "restore my voting rights, Maine" only

generated information explaining felon disenfranchisement including information from the National Council of State Legislatures and Nonprofit Vote. We realized that since Maine never bars anyone from voting, using the term "restore my rights" was not the best option. However, this speedbump that we encountered during our research underscores an issue that many voters could be struggling with. Even with a common search term like "restore my voting rights," we were not directed to any website that had further information. Voters who are unaware that Maine does not strip citizens convicted of felonies of their voting rights could spend large amounts of time searching for information about a right they never lost. This produces an additional barrier to voting that could be impacting thousands of people who are residents of Maine.

We adjusted our search and used the term "What are my voting rights in Maine?" Still, we struggled to find clear information. We were first brought to the Secretary of State's website which was difficult to navigate. In addition to being unfriendly for the user, the page makes no explicit mention that incarcerated citizens may vote. The lack of explicit information makes it difficult to easily determine who can vote in the state, even when every adult resident of Maine is eligible to vote regardless of criminal history.

Like the Illinois Secretary of State page, the Maine website also requires the user to read between the lines. The site provides three bullets laying out who can vote in the state. None of these bullets makes any mention to people who have previously been incarcerated. Since it is not listed as a disqualifying factor, a voter can deduce that they are eligible to vote from these, but the website makes no explicit mention that anyone can vote regardless of their criminal past.



Mississippi

Mississippi's Y'all vote https://www.sos.ms.gov/vote/Pages/default.aspx

Finally, a search in Mississippi only returned a handful of local news articles. When I went to the Secretary of State's website, I was directed to the State's voter information center, a website titled, <u>Y'all vote</u>.

DISENFRANCHISING CRIMES Based upon the most recent Attorney General's Opinion dated July 9, 2009, directed to The Honorable Wallace Heggie, the following comprise disenfranchising crimes: 12. Obtaining Money or Goods under False Pretenses 1. Arson 2. Armed Robbery 13. Perjury 3. Bigamy 4. Bribery 15. Receiving Stolen Property 5. Embezzlement Robbery 6. Extortion 17. Theft 7. Felony Bad Check 18. Timber Larceny 8. Felony Shoplifting 19. Unlawful Taking of Motor Vehicle 20. Statutory Rape 9. Forgery 21. Carjacking 10. Larceny 11. Murder 22. Larceny Under Lease or Rental Agreement

Mississippi Disenfranchising crimes https://www.sos.ms.gov/Elections-Voting/Documents/SummaryofAttorneyGeneralOpinionsonElectionIssues.pdf

The *Y'all vote* page was packed with almost any information that a Mississippi resident would need in order to learn about voting. However, the website lacked information regarding voting rights for previously incarcerated citizens. Under the tab titled *Disenfranchising Crimes*, I was brought to a pdf document (shown above). The document simply lists the 22 crimes that result in permanent disenfranchisement. There was no information about what disenfranchisement means, who is still eligible to vote, or how to have your rights restored. For a state that has an online voter information center, it is concerning that hardly any information is proved to the thousands of citizens who may be interested in voting after completing a sentence for a felony conviction.

Mississippi falls short of answering both questions. Like in Maine, the user is required to make determinations about their right to vote by reading between the lines. However, the information provided by the Y'all vote page is even more vague. While Maine tells the reader, who can vote and requires the voter to deduce that criminal convictions are not a prohibiting factor, Mississippi provides a list of 22 crimes that "comprise disenfranchising crimes." The State

does not tell the voter whether this list is exhaustive, or how a citizen who has been disenfranchised can have their rights restored. The only thing that the user can know for certain is that if they have been found guilty of one of the 22 crimes, they lose the right to vote for at least some point of time.

Conclusion

Overall, this study illustrates how much variance there is in the way different states publicize voter information for their citizens who have been involved in the justice system. However, the story of Jed Blackerby shows the adverse effects that we expose formerly incarcerated citizens to when we fail to provide clear and concise information. Struggling to learn about your voting rights, is not an issue that only impacts the individual. If the problem is widespread enough, its repercussions can ripple out, impacting the broader community.

Citizens who have been incarcerated and the communities which they return too are at a higher risk of being impacted by voter misinformation. As we have explored above, voters who have been incarcerated, do not always have the easiest path to registering to vote. In addition, the process of reentering the community after a period of incarceration is challenging. Many formerly incarcerated citizens struggle to get their feet on the ground and become active members of society. By encouraging our formerly incarcerated citizens to vote, we can alleviate some of the burdens that accompany reentry and help our justice-involved citizens take a meaningful stake in society. Publishing clear information that is specific to voters who have been incarcerated is about more than helping a specific set of people vote. It is about creating communities that are home to flourishing democracies.

Part 2 Voting rights after prison

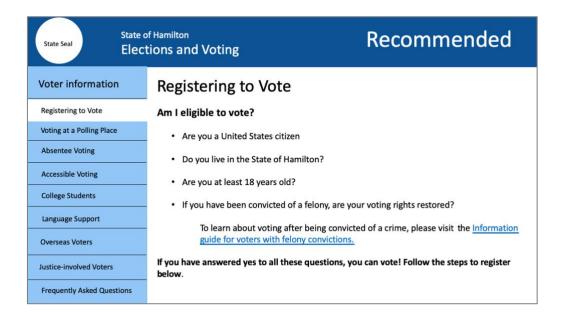
Sample pages for an elections website

The following pages cover three places on an elections website that include information about voting after a felony conviction or while involved with the justice system.

The full presentation is available in a separate file: **Explaining-voter-rights-web-samples-2020-07-19.pdf**

Voter eligibility information

Integrating restoration of rights information into the page or section with general information about voter eligibility.



To make this information useful:

- Make the information clearer by listing the voter qualifications in a question format. This also eliminates the need to have negative requirements
- Include a clear, descriptive link to a page for voters with a criminal history.
- Include a link for restoration of rights information. Putting this in the navigation menu with other special audiences will ensure that it is easy to find.

Voters in the criminal justice system details page

A separate page with room to provide complete explanations and links as needed.

Hamilton Voter information Guide: Voters in the Criminal Justice System Recommended			
Voter information	Can I register to vote?	You can register to vote if you have been convicted of a felony and completed your sentence. This includes completing probation and parole.	
Registering to Vote		You have not lost your rights and canto vote if you are In jail and awaiting trial	
Voting at a Polling Place		in jail for a misdemeanor.	
Absentee Voting	How do I register to vote?	If you were registered to vote before your conviction, your registration was canceled at the time of your conviction. You will need to reregister in order to vote. If you are eligible, you can	
Accessible Voting		register online.	
College Students	What address should I use when registering to vote?	If you have completed your sentence: use the address that you are currently living.	
Language Support		If you are in jail or registering from prison: use your most recent address from before your confinement.	
Overseas Voters	How will I vote?	If you are currently in jail you will vote by absentee ballot.	
Voters in the Criminal Justice		If you are not in jail or prison, you will vote at your polling place.	
System Frequently Asked Questions		 Find your polling place Learn about absentee voting Contact your county election office 	

To make this information useful:

- Use a page title that the audience can identify with
- Break up the text with questions on the left and answers on the right to make the page easier to scan.
- Include links to other relevant pages.
- Many voters may be currently serving in jails and still be eligible to vote.
 Including information about addresses prevents confusion and ensures that eligible voters can register accurately.
- Include information about absentee voting for people registering and voting from jail.

Questions and answers

Including information for voters involved with the justice system in any general Q&A page provides another entry point to detailed information.

Chata Caul	e of Hamilton ctions and Voting	Recommended
Voter Information	Frequently Asked Questions: What Do I need to know?	Voter Registration
Election Information and Statistics	▶ What are the Qualifications?	
Candidate Information	▼ Can I Register to Vote if I Have Been Convicted	d of a Felony?
Election Resources	 If you have been convicted of a felony in Hamilton or any other state, you can register to vote once you have complet terms of your sentence including probation and parole. To learn more about your voting rights, please visit the <u>inform guide for voters with felony convictions</u>. If you are unsure weather, you have completed all terms of your sentence please contact your probation officer or <u>Hamilton Department of Corrections</u>. 	
Party and Committee Information		of your sentence please contact your probation officer
College Students		
Justice involved voters	Can I Register If I don't have a fixed Address?	
Frequently Asked Questions	▶ When Can I register to vote?	
	▶ When can I change my political party?	

To make this information useful:

- If you have an FAQ page, use it to provide minimal answers and link to detailed information.
- Make your FAQ page easier to read by hiding text in sections that expand when readers click on them
- Always direct the user to where they can learn more
- Remind formerly incarcerated citizens that they can also contact the Department of Corrections or their probation officer for more information about their status.

Resources

Resources and samples of information

National Conference of State Legislatures – Felon Voting Rights https://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx

Campaign Legal Center https://campaignlegal.org/

Illinois Legal Aid Online – Can I vote if I have been convicted of a felony https://www.illinoislegalaid.org/legal-information/can-i-vote-if-i-have-been-convicted-felony

State web pages for voters with felony convictions

State	Web page
Alabama	(no dedicated page found)
Alaska	http://www.elections.alaska.gov/Core/whocanregisterandwhocanvote.php
Arizona	https://azsos.gov/elections/voting-election/register-vote-or-update-your-current-voter-information
Arkansas	(no dedicated page found)
Alabama	https://www.sos.ca.gov/elections/voting-resources/voting-california/ who-can-vote-california/voting-rights-californians/
Alaska	https://www.sos.state.co.us/pubs/elections/FAQs/VotingAndConviction.html
Arizona	https://portal.ct.gov/-/media/SOTS/ElectionServices/HAVA/HavaPDF/ TheUltimateFreedompdf.pdf
Arkansas	https://elections.delaware.gov/voter/felons.shtml
California	http://www.fdle.state.fl.us/Voter-Information/Voter-Information.aspx
Colorado	http://www.senate.ga.gov/committees/Documents/ SR153StudyCommitteeFactSheetOctober1.pdf
Connecticut	https://elections.hawaii.gov/voters/i-am-a/voters-with-a-felony-conviction/
Delaware	(no dedicated page found)
District of Columbia	(no dedicated page found)

State	Web page
Florida	(no dedicated page found)
Georgia	https://www.in.gov/sos/elections/files/2012_Voters_Bill_of_Rights.pdf
Hawaii	https://sos.iowa.gov/elections/voterinformation/restorerights.html
Idaho	https://sos.ks.gov/Pubs/Elections/Guides/English/ Voting-and-Felony-Convictions-Guide.pdf
Illinois	https://civilrightsrestoration.ky.gov/Pages/home.aspx
Indiana	(no dedicated page found)
lowa	https://www.maine.gov/sos/cec/elec/voter-info/resident.html
Kansas	https://elections.maryland.gov/voter_registration/restoration.html
Kentucky	(no dedicated page found)
Louisiana	https://www.michigan.gov/sos/ 0,4670,7-127-5647_12539_29836-202492,00.html
Maine	https://www.sos.state.mn.us/elections-voting/register-to-vote/ i-have-a-criminal-record/
Maryland	https://www.sos.ms.gov/Elections-Voting/Documents/ SummaryofAttorneyGeneralOpinionsonElectionIssues.pdf
Massachusetts	(no dedicated page found)
Michigan	(no dedicated page found)
Minnesota	https://sos.nebraska.gov/elections/felon-voting-rights
Mississippi	https://www.nvsos.gov/sos/elections/voters/restoration-of-voting-rights-in-nevada
Missouri	(no dedicated page found)
Montana	https://www.state.nj.us/corrections/pdf/OTS/FRARA/VoterRegistration/ 6-7-10-Ex-Offender%20Voter%20Restore%20Handbook.pdf
Nebraska	https://portal.sos.state.nm.us/OVR/WebPages/Eligibility.aspx
Nevada	https://ag.ny.gov/civil-rights/voting-rights
New Hampshire	https://www.ncsbe.gov/Portals/0/Documents/ VotingRightsGuide_CriminalJusticeSystem.pdf
New Jersey	(no dedicated page found)
New Mexico	https://www.sos.state.oh.us/elections/voters/ voter-eligibility-residency-reqs/#qualifications

State	Web page
New York	(no dedicated page found)
North Carolina	https://sos.oregon.gov/voting-elections/Documents/Voter-Status-FAQ.pdf
North Dakota	https://www.votespa.com/Register-to-Vote/Pages/ Convicted-Felon,-Misdemeanant-or-Pretrial-Detainee.aspx
Ohio	https://elections.ri.gov/faq/
Oklahoma	https://www.scvotes.gov/south-carolina-voter-registration-information
Oregon	https://sdsos.gov/elections-voting/voting/register-to-vote/ felony-convictions.aspx
Pennsylvania	https://sos.tn.gov/products/elections/restoration-voting-rights
Rhode Island	https://www.sos.state.tx.us/elections/laws/effects.shtml
South Carolina	(no dedicated page found)
South Dakota	https://sos.vermont.gov/elections/voters/voter-faqs/ voter-registration-faqs/#q27
Tennessee	https://www.restore.virginia.gov/
Texas	https://www.sos.wa.gov/elections/voters/felons-and-voting-rights.aspx
Utah	https://sos.wv.gov/FormSearch/Elections/Voter/Felon%20Voting%20Rights.pdf
Vermont	https://elections.wi.gov/sites/default/files/publication/ 154/voting_guide_for_ex_felons_incarcerated_voters_pd_24428.pdf
Virginia	http://corrections.wyo.gov/home/restoration-of-voting-rights
Washington	https://dcboe.org/index.aspx#
West Virginia	(no dedicated page found)
Wisconsin	http://www.elections.alaska.gov/Core/whocanregisterandwhocanvote.php
Wyoming	https://azsos.gov/elections/voting-election/ register-vote-or-update-your-current-voter-information

About Mark D'Ostilio

Through his background studying criminology and history, Mark has developed a passion for understanding inequalities in America. Granted the Nevins Fellowship through the McCourtney Institute for Democracy, Mark put his passion to use at the Center for Civic Design.

Mark's work focused on voting rights for citizens who have been incarcerated. His project studies how advocacy organizations and state governments publish information about voting rights and how they can better meet the needs of citizens who have been incarcerated

About Center for Civic Design

We believe that democracy is a design problem.

Across all of our projects, our research suggests that the voter journey—all of the information, decisions, interactions that get a voter from an intention to vote to actually casting a ballot—is a story of seemingly small barriers that can add up to a vote not cast.

We bring civic design skills in research, usability, design, accessibility, and plain language to improve the voting experience, make elections easier to administer, and encourage participation in elections. Through our work, we have helped hundreds of election officials build their skills and capacity, and touched millions of voters in small but important ways.

Web: https://civicdesign.org/

Twitter: @civicdesign