

# VOTING RIGHTS LAW

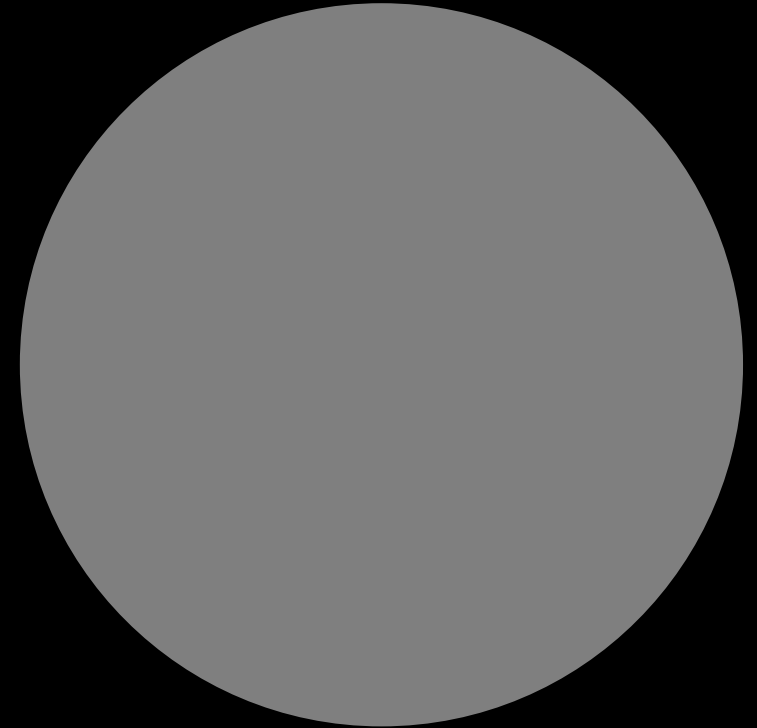
*Presented by*

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**Facilitated by: The Public Interest Law Section of  
The Florida Bar**

**Hosted by: Legal Services of North Florida, Inc.  
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PUBLIC INTEREST  
LAW  
SECTION



THE  
FLORIDA  
BAR



Legal Services  
of NORTH FLORIDA  
HOPE. JUSTICE. FOR ALL.

# OVERVIEW OF PRESENTATION

- Florida's Amendment 4 and rights restoration efforts
- Redistricting and current legal landscape
- Election administration
- Community engagement and GOTV mobilization efforts

# Florida's Amendment 4 and rights restoration efforts



A. History of felon disenfranchisement in Florida



B. Ballot initiative



C. Litigation – *Hand v. Scott*



D. 2019 Legislative session and outcome of proposed regressive legislation

## History of felon disenfranchisement in Florida

*“[W]hen the right to vote ... is denied to any of the male inhabitants ... or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.”*

U.S. Const., Amend. XIV, § 2

# History of felon disenfranchisement in Florida

*“[T]he exclusion of felons from the vote has an affirmative sanction in section 2 of the Fourteenth Amendment, a sanction which was not present in the case of the other restrictions on the franchise which were invalidated [in other cases].*

*Richardson v. Ramirez, 418 U.S. 24, 54 (1974)*

## *Hand v. Scott* litigation

Plaintiffs’ “right to free association and right to free expression were denied under a fatally flawed scheme of unfettered discretion that was contaminated by the risk of viewpoint discrimination.”

315 F.Supp.3d 1244, 1248 (N.D. 2018)

“All the appellees have offered in this case is a ‘risk’ that standardless determinations ‘could’ lead to impermissible discrimination; that is not enough to show a discriminatory purpose or effect.”

888 F.3d 1206, 1210 (11<sup>th</sup> Cir. 2018)

# Florida's Ballot Initiative Process

Secure at least 766,200, that come from at least 14 of Florida's 27 congressional districts.

Petition signatures are only valid for two years from the date they were signed.

State supreme court must review the language to make sure it is not misleading or otherwise confusing to voters.

Placement on the ballot and need 60% to pass

# Amendment 4

- (a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Except as provided in subsection (b) of this section, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation;
- (b) No person convicted of murder or a felony sexual offense shall be qualified to vote until restoration of civil rights.





# Florida's 2019 Legislative Session

## Senate Bill 7066

- requires the supervisor of elections to make a final determination of whether a person who has been convicted of a felony offense is eligible to register to vote, including if he or she has completed all the terms of his or her sentence
- requires completion of all legal financial obligations even if converted to a civil lien



# Florida's 2019 Legislative Session

House Bill 5 (SB 7096 provisions folded in)

- requires a compensated petition gatherer to register with the Secretary of State
- prohibits compensation for initiative petition gatherers or entities based on the number of petitions gathered



# Florida's 2019 Legislative Session

## **HJR 57/S 232**

**(Increasing the Numerical Threshold for  
Passage of Citizen Initiatives)**

**Died in Judiciary Committee**

Proposal to increase the threshold to  
approve constitutional amendments  
implemented through the initiative  
process from 60% to 66 & 2/3%



# Redistricting and current legal landscape

- A. Partisan gerrymandering - *Rucho v. Common Cause/Lamone v. Benisek*
  
- B. Citizenship question on U.S. census form - *Department of Commerce v. New York*



# Partisan gerrymandering

- **Gerrymandering** in the United States is the practice of setting boundaries of electoral districts to favor specific political interests within legislative bodies.
- **Partisan gerrymandering** to increase the power of a political party has been practiced since the beginning of the United States.



# Partisan gerrymandering

*Rucho v. Common Cause/Lamone v. Benisek*

Issues presented:

- whether plaintiffs have standing to press their partisan gerrymandering claims
- whether plaintiffs' partisan gerrymandering claims are justiciable
- whether North Carolina's 2016 congressional map is, in fact, an unconstitutional partisan gerrymander



# Partisan gerrymandering

## *Department of Commerce v. New York*

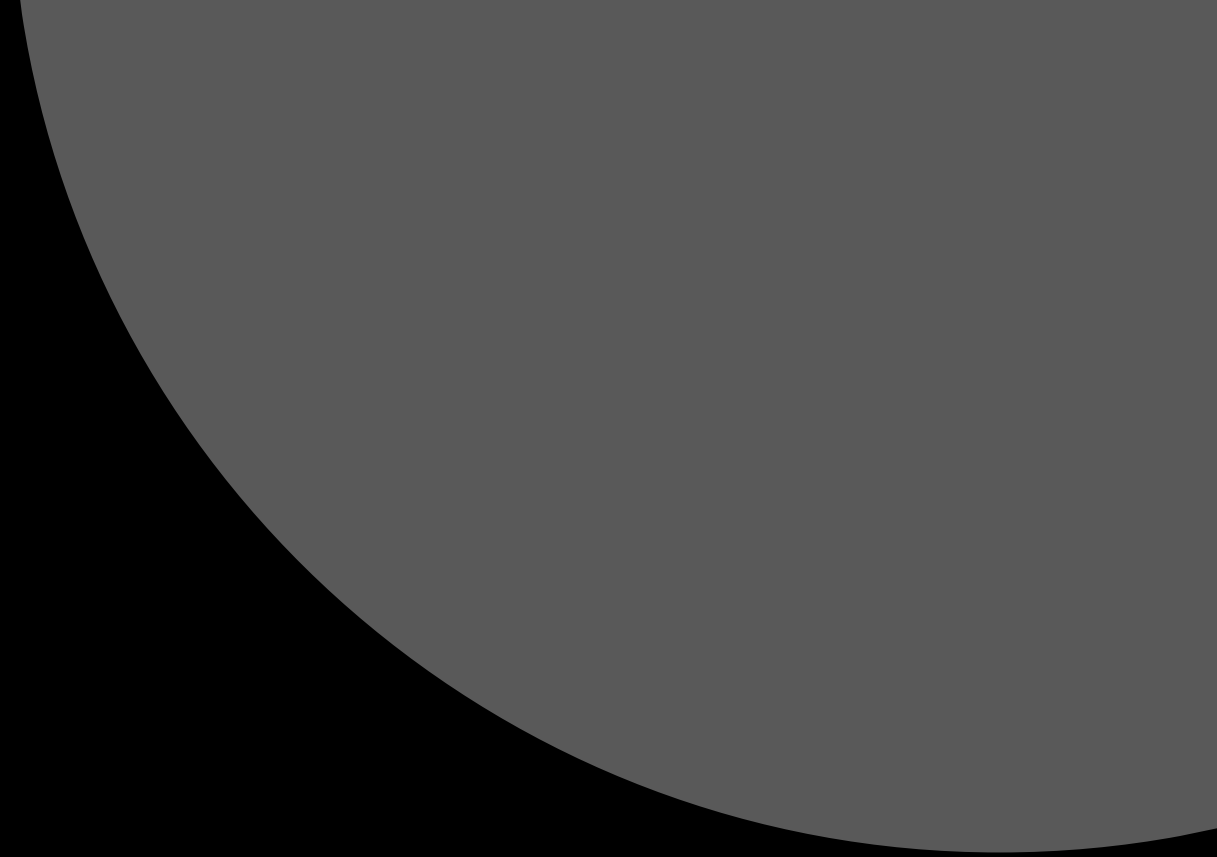
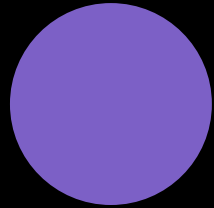
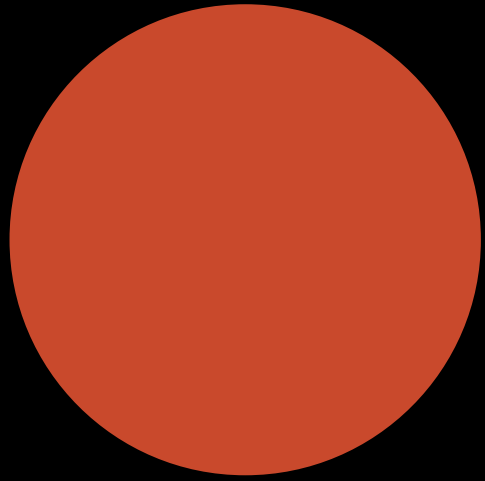
### Issues presented:

- whether the district court erred in enjoining the Department of Commerce from reinstating a question about citizenship to the 2020 decennial census on the ground that the secretary's decision violated the Administrative Procedure Act, 5 U.S.C. 701 et seq.
- whether, in an action seeking to set aside agency action under the APA, a district court may order discovery outside the administrative record to probe the mental processes of the agency decisionmaker -- including by compelling the testimony of high-ranking executive branch officials -- without a strong showing that the decisionmaker disbelieved the objective reasons in the administrative record, irreversibly prejudged the issue, or acted on a legally forbidden basis
- whether the secretary's decision to add a citizenship question to the decennial census violated the enumeration clause of the U.S. Constitution.

# Election administration

- Voter registration
- Voter purges
- Vote-by-mail ballots
- Provisional ballots





Community engagement and  
GOTV mobilization efforts





# Community engagement and GOTV mobilization efforts

## Traditional models

- Canvassing
- TV ads
- Community events



# Community engagement and GOTV mobilization efforts

## GOTV models for 2020

- Increased used of social media
- Targeting of younger demographic
- Online voter registration
- Same-day voter registration



Conclusion: 2020 and beyond