

# Miami Herald

## Conservative think tanks oppose Florida Legislature's Amendment 4 bill

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Two conservative think tanks came out against Florida Republicans' bill curbing Amendment 4, arguing that felons should not be stopped from voting just because they can't afford to pay back court-ordered fees, fines and restitution.

In a sharply worded opinion to a federal appellate court, lawyers for the Cato Institute and R Street Institute wrote on Friday that the bill GOP lawmakers signed last year, Senate Bill 7066, "violates the bedrock guarantee of equal rights that every citizen enjoys."

And without a judge's injunction, the bill is fundamentally unfair, the groups wrote.

The opinion came from two prominent think tanks, one of which, The Cato Institute, was co-founded by businessman and Republican financier Charles Koch.

Gov. Ron DeSantis, who was against Amendment 4, last year signed Senate Bill 7066 into law, overriding criticism that the bill created a "poll tax" because it required felons to pay back all court-ordered financial obligations before being allowed to vote.

A coalition of civil rights groups quickly sued the state, arguing that requiring felons to pay before voting was unconstitutional. Some felons owe millions of dollars in restitution to victims, virtually ensuring they'll never be able to vote.

A federal judge in Tallahassee granted an injunction that the 17 felons who sued the state should be allowed to register to vote, and that Florida officials should come up with some way to allow poor felons to vote. DeSantis and Secretary of State Laurel Lee appealed the decision.

The two conservative groups, which are not parties to the lawsuit, wrote to the appellate court that they agreed with the judge's opinion about the bill.

### **FAIRNESS IS THE QUESTION**

Their argument goes to the heart of the debate over the unfairness of the nation's — and Florida's — criminal justice system.

Florida has criminalized a wide variety of actions that have nothing to do with voting, lawyers for the groups wrote.

On top of increased criminalization, Florida in the 1990s shifted the costs of the criminal justice system onto felons, charging felons a variety of court fees that often top more than \$1,000 per case. Repaying those amounts is difficult for convicted felons, who often have difficulty finding work.

“As a result, those who are asked to fund the government are those who often are least able to pay,” lawyers for the groups wrote.

The system is fundamentally unfair in another way, they wrote: It prevents felons from having a say in which activities are made felonies, which they describe as a “political decision.” Felons who can’t afford to pay back court fees and fines cannot vote for the state legislators who make the laws.

There is “no principled reason” why felons “should not have an equal say as to whether those activities should be punishable as felonies,” the groups wrote.

Oral arguments in the case are scheduled for Jan. 28 in the 11th U.S. Circuit Court of Appeals in Atlanta.

### **DEFINING ‘ALL TERMS OF SENTENCE’**

Their opinion did not address what has emerged as a fundamental flaw in Amendment 4, however: the definition of “all terms of sentence.”

The amendment restored the right to vote to nearly all felons who completed “all terms of sentence.” But the amendment did not define “all terms of sentence,” and the meaning of those four words has been hotly contested.

Before the amendment was approved by nearly two-thirds of Florida voters in 2018, the creators of the amendment said “all terms” included all financial obligations, including court fees, fines and restitution.

Republican lawmakers seized on that strict definition last year to pass Senate Bill 7066, which adopted the strict definition of “all terms of sentence.”

But as it became clear that hundreds of thousands of felons would be disenfranchised because they can’t immediately afford to pay back all their court obligations, both the creators and advocates of the historic amendment tried to define “all terms” in other ways.

They argued that “all terms” did not count when financial obligations were converted to civil liens, for example. When most felons leave prison or probation, their outstanding financial obligations are converted to civil liens, requiring them to be paid off in monthly increments.

The American Civil Liberties Union also argued before the Florida Supreme Court that those financial obligations expired whenever the felon left probation. The justices were not persuaded, and they wrote an opinion last week that “all terms” included all financial obligations.