

Felony Definitions and Felony Disenfranchisement: a North Carolina Analysis

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Table of Contents

Abstract	3
Acknowledgements	4
Introduction	5
Literature Review	5
<i>Felony Definition Variation under Federalism</i>	5
<i>Felony definition: North Carolina</i>	9
<i>Roots of Felony Disenfranchisement in North Carolina</i>	13
<i>North Carolina Felony Disenfranchisement Today</i>	16
Hypotheses and Theory	20
Research Design	21
<i>Data Collection</i>	22
<i>Data cleaning</i>	23
<i>Research Design</i>	26
Results	27
<i>Felony Definition Database Analysis</i>	27
<i>Felony Definition Reclassification Experiment: Number of People</i>	36
Discussion	39
Conclusion	42
References	44
Appendix	49

Abstract

Although civic participation is a cornerstone of democracy, the United States continues to uphold practices of felony disenfranchisement. This study examines felony definitions and minimum felony sentencing in an effort to examine what mechanisms perpetuate practices of disenfranchisement. By developing a comparative, state-level database, the research identifies national trends in how felonies are defined. The analysis reveals that North Carolina stands out for its unusually short minimum felony sentence. To investigate the implications of this short minimum sentence, this project performs a hypothetical reclassification experiment that applies the identified national sentencing trend to North Carolina's felony conviction data. The research ultimately concludes that North Carolina's minimum felony sentence amplifies racial disparities in felony sentencing and disproportionately disenfranchised Black offenders.

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Introduction

The ability for citizens to vote for government officials in a competitive election is a cornerstone of contemporary democracy. However, in the United States' 2024 presidential elections, 4 million Americans were barred from voting due to felony convictions¹. In America's system of federalism, the definition is not consistent in every state, and so the crimes included within the definition of a felony vary across states. This research investigates how North Carolina's minimum felony sentence compares to national standards, and how this definition of a felony relates to the number of individuals that are disenfranchised in the state, as well as the racial demographic that is affected. Even though approximately one in every forty adult citizens have lost their right to vote following a felony conviction, temporarily or permanently², no research is available that observes the impacts of having varying definitions of a felony within one country. More specifically, no research exists evaluating how North Carolina's definition of a felony influences disenfranchisement rates. This study intends to kickstart an investigation of the political and criminal justice implications following the use of multiple felony definitions within the United States by beginning with the evaluation of its impact on disenfranchisement rates in North Carolina.

Literature Review

Felony Definition Variation under Federalism

In the United States, the federal government organizes crimes into three distinct levels based on severity. The first tier consists of felonies, which are the most severe category of crimes. The second tier are misdemeanors, which are then less severe than felonies. Lastly, the

¹ Uggen, Christopher, et al. (2022). Locked Out 2022: Estimates of People Denied Voting Rights.

² Klumpp, T. Mialon, H. M., Williams. (2019) The voting rights of ex-felons and Election Outcomes in the United States. *International Review of Law and Economics*, Vol. 59, 40–56

third tier are labeled to be infractions, which are the least severe type of crime³. The federal government provides a specific set of sentencing guidelines for each criminal category, such guidelines provide consistency in sentencing and ensure that the crime that was committed receives the appropriate punishment. More specifically, under the federal government, the definition of a felony is any crime that warrants a minimum sentence of a year in prison⁴. Consequently, this means that the federal government considers a misdemeanor to be a crime that warrants less than one year in prison but requires a minimum of five days in prison⁵. Crimes with sentences shorter than 5 days are considered infractions⁶. In addition to more imprisonment time and greater fines to pay, as crimes increase in severity and become felony-eligible, additional consequences are imposed on felons that misdemeanor and infraction offenders do not face. For example, convicted felons are barred from voting during their incarceration time in all states but Maine, Vermont, and the District of Columbia⁷. While the consequences vary by state, felon status may prevent an individual from holding public office and serving on a trial jury⁸. For example, North Carolina prohibits offenders from participating in jury duty during incarceration and until the completion of any additional requirements⁹. On the other hand, Maine never

³ Johnson, C. A. (2023) Disenfranchisement, Voter Disqualifications, and Felony Convictions: Searching for State Law Uniformity. *Widener Commonwealth Law Review*, Vol. 2(5), 35-64

⁴ 18 U.S. Code § 3559 - Sentencing classification of offenses

⁵ 18 U.S. Code § 3559 - Sentencing classification of offenses

⁶ 18 U.S. Code § 3559 - Sentencing classification of offenses

⁷ NCSL. (2024). Felon Voting Rights. *National Congress of State Legislatures*.

⁸ Campagna, M. Foster, C. Karas, S. Stohr, M. K., Hemmes, C. (2016). Restrictions on the Citizenship Rights of Felons: Barriers to Successful Reintegration. *Journal of Law and Criminal Justice*, Vol 4(1), 22-39.

⁹ Naples-Mitchell, K., Braun, H.M. (2023). Jury Exclusion of People with Felony Convictions by State. *Harvard Kennedy School*.

restricts jury duty¹⁰. Additionally, a felony conviction affects an individual's ability to receive welfare benefits¹¹ and allow landlords to deny housing in cases where they deem offenders to be a risk to other tenants¹². South Carolina, for example, is the only state that has a full ban on SNAP and TANF benefits for felony drug convictions, and most other states provide restrictions until the completion of the sentence, including fines and parole¹³.

However, the classification of crimes is not consistent across the United States. The United States operates under a system of federalism, through which the nation's political responsibility is distributed between the federal and state governments. In this dual sovereignty system, states consent to give up some of their autonomy as governing bodies to the federal government¹⁴. In turn, states receive the national security and economic benefits that are associated with being united under a central power. Article I, Section 8 of the U.S. Constitution outlines a series of enumerated powers that are specifically reserved for the federal government¹⁵. All other powers are overseen by the state governments, as outlined in the Tenth Amendment¹⁶. This leaves tasks such as overseeing courts and justice enforcement, intra-state trade, and public safety measures up to the state government, resulting in the implementation of a variety of different policies and approaches across the United States. Although the federal

¹⁰ Naples-Mitchell, K., Braun, H.M. (2023). Jury Exclusion of People with Felony Convictions by

State. *Harvard Kennedy School*.

¹¹ Fair Housing Center. (2022). Fair Housing for People with Criminal Records. *Fair Housing Center for Rights & Research*

¹² Miller, B. L., Spillane, J. F. (2012). Civil Death: An examination of ex-felon disenfranchisement and reintegration. *Sage Journals*, Vol. 14(2), 379-382.

¹³ Sibilla, N. (2023). Many States Still Deny SNAP and TANF Benefits to People with a Drug Felony, According to a New Report. *Collateral Consequences Resource Center*.

¹⁴ Legal information Institute. (n.d.). Wex: Federalism. *Cornell Law School*.

¹⁵ U.S. Const. art. I, § 8, cl.

¹⁶ U.S. Const. Amdt. 10

government has outlined its own classification of crimes, as outlined above, it is a separate jurisdiction from the states altogether and so it is within the states' powers to develop their own classifications. As a consequence, the definitions of felonies, misdemeanors, and infractions can vary per state. States are not legally required to follow the format of crime classification outlined by the federal government. Maine, for example only refers to offenses against the law as "crimes," which are classified from Class A to Class D, where Class A reflects the most serious crimes and Class D reflects the least serious crimes^{17 18}. Additionally, New Jersey distinguishes between "crimes" and "offenses," instead of using felony and misdemeanor¹⁹.

Little research is available of the far-reaching effects that such variation in classification definitions can have, and felonies' submission to federalism is rarely questioned. Public policy is accepted to be most effective on smaller scales, which provides a strong argument for crime classification and legal documents to be developed by state and local government. The idea is that more local governments are better able to gauge public opinion and needs, and so policy passed at lower levels of government is likely to be better tailored to their target audience. Nevertheless, the variation in justice systems across the United States raises the question if it perpetuates nation-wide patterns of inequality^{20 21}.

¹⁷ Maine Const. Ch 2. Title 17-A. §32.

¹⁸ Maine Const. Ch 63. Title 17-A. §1602.

¹⁹ NJ Rev Stat § 2C:43-6 (2024)

²⁰ Miller, L. L. (2024). The Invisible Black Victim: How American Federalism Perpetuates Racial Inequity in Criminal Justice. *Law & Society Review*, 44(3-4)

²¹ Grumbach, J. M., Michener, J. (2022). American Federalism, Political Inequality, and Democratic Erosion. *The ANNALS of the American Academy of Political and Social Science*, Vol. 699(1), 143-155

Felony definition: North Carolina

North Carolina is an example of a state that deviates from the classification definitions provided by the federal government. While under the North Carolina criminal law, the terms felony, misdemeanor, and infraction are used, the sentencing guidelines vary from the federal guidelines. All felony punishments in North Carolina are organized in a punishment grid. The grid provides structured sentencing ranges for presumptive sentences, mitigated sentences, and aggravated sentences²². Additionally, the grid shows the progression of sentence severity for repeat offenders Using the presumptive range for the highest felony class in North Carolina, the maximum sentence for a felony is life imprisonment or death. The presumptive range for the lowest felony class identifies the minimum sentence for a felony to be 4 months of community punishment^{23 24}. Note that community punishment “does not include active punishment” under the North Carolina General Statute²⁵. Examples of what may constitute as community punishment are community service, educational development, drug treatment, house arrest with an ankle monitor, and intermittent confinement²⁶. Although the minimum felony sentence for crimes committed within North Carolina is 4 months of community punishment, this minimum sentence does not extend to out-of-state repeat offenders. In fact, if an offender commits a crime in North Carolina but has a pre-existing criminal record in another state, the out-of-state crime will not be considered to be a felony in North Carolina unless the sentence consisted of at least

²² NC Courts. (2013). Felony Punishment Chart. North Carolina Courts.

²³ NC Courts. (2013). Felony Punishment Chart. North Carolina Courts.

²⁴ N.C.G.S. §15A-1340.11

²⁵ Markham, J. (2011). Community Punishment and Intermediate Punishment. *UNC School of Government*

²⁶ Spainhour, W. E., Katzenelson, S. (2014). Report on Study of Credit for Time Served Issues. *North Carolina Sentencing and Policy Advisory Commission*.

one year in prison²⁷. Thus, an in-state offender can become a repeat offender with crimes that require a sentence as short as 4 months of community punishment. However, an out-of-state offender must commit a crime that is serious enough to warrant a year in prison in order to be tried as a repeat offender in the state of North Carolina. Note the paradox that results from such inconsistent sentencing guidelines.

While federalism allows for states to develop criminal procedures on their own, a deviation from the federal standard as large as the felony definition in North Carolina is notable. To be a convicted felon by the federal government is to commit a crime that is severe enough to require a punishment of at least a year, and it can be as severe as to lead to death or life imprisonment²⁸. However, to be a felon in North Carolina is to commit a crime that is severe enough to require, for example, 4 months of probation, drug treatment, or community service²⁹. Despite these differences in levels of punishment, in both jurisdictions the title of felon condemns an offender to lose the right to vote, as well as to endure potential loss of social welfare. In sum, crimes of very different levels of severity, as assessed by punishments, nonetheless lead to the same loss of civil rights.

It is important to note that North Carolina's felony definition was not always set at a minimum of 4 months of community punishment. On July 1, 1981, North Carolina's Fair Sentencing Act (FSA) went into action, and remained in place until September 30, 1994. The FSA set the minimum sentence for a felony at 1 year³⁰. The act was intended to reduce

²⁷ N.C.G.S. §14-7.1

²⁸ 18 U.S. Code § 3559 - Sentencing classification of offenses

²⁹ NC Courts. (2013). Felony Punishment Chart. North Carolina Courts.

³⁰ Markham, J. (2014). Fair Sentencing in a Nutshell. *UNC School of Government*.

overpopulation in prisons and make sentencing more predictable³¹. Most of the classification levels within the felony class remained the same, but each class was provided with a presumptive sentence. The presumptive sentence could be changed as a result of a plea bargain, or the judge could choose to deviate from the presumptive sentence if the judge could provide a list of relevant mitigating and aggravating factors.

A 1983 study of the effects of FSA showed that 22% of cases received alternative sentences following plea bargains, and 17% of cases received alternative sentences due to the judge's noted mitigators and aggravators³². Thus, even after a single year of FSA, sentencing had become more consistent and predictable. The same study found that FSA decreased racial disparities for time served. Before the implementation of FSA, Black offenders served on average 1.04 months more than White offenders. However, following FSA, this difference virtually disappeared as the average sentence for Black offenders decreased by a month³³. A 1987 study highlights that between 1980 and 1985, North Carolina's prison population growth and per capita incarceration rates were notably smaller in comparison to the increasing national incarceration trends. During this time frame, other states experienced an increase of 52.9% in prisoners, while North Carolina's prison population only increased by 11.7%³⁴. Nevertheless, according to the North Carolina Department of Adult Correction, the FSA was insufficient in reducing overcrowding in prisons, and so the state legislature implemented community service

³¹ NC Department of Adult Correction. (n.d.). Post Release Supervision and Parole Commission: History. *North Carolina Department of Adult Correction*.

³² Clarke, S.H. (1983). North Carolina's Fair Sentencing Act – What Have the Results Been? *Popular Government*, Vol. 49(2), 11-16.

³³ Clarke, S.H. (1983). North Carolina's Fair Sentencing Act – What Have the Results Been? *Popular Government*, Vol. 49(2), 11-16.

³⁴ Reid, D. (1987). The Fair Sentencing Act: Setting the Record Straight. *NC Center for Policy Research*.

parole to lessen the population burden of prisons³⁵. Finally in 1994, the Structured Sentencing Act was implemented in North Carolina, which established a point system for habitual felony offenders and lowered the minimum felony sentence to 4 months of community punishment³⁶.

Under the North Carolina Fair Sentencing Act, the state legislature set out to implement more consistent sentencing and to reduce overpopulation by changing the minimum definition to make fewer offenders eligible for imprisonment. However, the Structured Sentencing Act lowered the minimum felony sentence to 4 months and implemented the possibility for imprisonment as early as 6 months for repeat offenders of Class I felonies³⁷. The implementation of the Structured Sentencing Act seems counterproductive following the largely positive analyses surrounding its success in slowing down the number of felons that enter North Carolina prisons. This change in definition over time highlights the autonomy of U.S. states in the development of the judicial system. However, it brings up additional questions of the merit of felony definition under federalism. North Carolina's implementation of FSA decreased racial disparities regarding time served and slowed down the growth rate of the prison population, however, North Carolina still moved away from FSA. Such a policy shift questions if North Carolina's priorities truly lie with reducing racial disparities, improving sentencing consistency, and slowing down prison population growth, or if there are additional economic incentives behind Structured Sentencing Act that are prioritized above all else.

³⁵ NC Department of Adult Correction. (n.d.). Post Release Supervision and Parole Commission: History. *North Carolina Department of Adult Correction*.

³⁶ N.C.G.S. § 15A-1340.17 (1993).

³⁷ N.C.G.S. § 15A-1340.17 (1993).

Roots of Felony Disenfranchisement in North Carolina

The first North Carolina constitution following the Revolutionary War had no mention of “disenfranchisement” or “felony³⁸.” Nevertheless, there are 80 documented cases of re-enfranchisement from 1789 to 1835, implying that there was some form of disenfranchisement. All re-enfranchisement procedures were performed by means of private legislation until the 1835 constitutional convention ruled re-enfranchisement to be an inappropriate use of private legislation³⁹. During this same time period voting was limited to free men over the age of 21 who were able to meet a set of requirements regarding property, ownership, tax, and residency⁴⁰. North Carolina law provided unclear voter eligibility limitations based on race until 1835. This still excluded slaves from voting, who made up the vast majority of North Carolina’s Black population. But in theory, free Black men were able to cast votes in North Carolina as long as they met the necessary requirements. Voter participation amongst free Black men remained low due to the violence imposed by White Democrats who opposed political involvement of Black men⁴¹. Some communities, such as New Bern in Eastern North Carolina, did document that politicians made efforts to appeal to free Black voters and “permitted” them to partake in elections from 1831-1832⁴². White Democrats in New Bern feared that permitting freed Black

³⁸ Burton, O. V. (2020) Expert Report of Orville Vernon Burton in Community Success Initiative v. Moore, No. 19-cv-15941 (N.C. Superior Court)

³⁹ Burton, O. V. (2020) Expert Report of Orville Vernon Burton in Community Success Initiative v. Moore, No. 19-cv-15941 (N.C. Superior Court)

⁴⁰ The Avalon Project. Constitution of North Carolina: December 18.1776. (n.d.).

⁴¹ Burton, O. V. (2020) Expert Report of Orville Vernon Burton in Community Success Initiative v. Moore, No. 19-cv-15941 (N.C. Superior Court)

⁴² Ford, L.K. (2009). Chapter Fourteen Ending Free Black Suffrage in North Carolina. *Deliver Us from Evil: The Slavery Question in the Old South*, 418-446.

people to participate would encourage enslaved people to take power and rise up⁴³. Similar sentiments were shared among White Democrats throughout the state of North Carolina.

Fear surrounding the potential of an uprising worsened in 1831 following the Nat Turner rebellion in Southampton County, Virginia⁴⁴. During the rebellion, Turner and his rebels killed their enslaver and the enslaver's entire family. They then proceeded to march on the town and killed 55 people⁴⁵. The Nat Turner Rebellion affirmed the fears surrounding the possibility of a revolt that already plagued the North Carolina White Democrats. Not long after the Nat Turner Rebellion, the 1835 constitutional convention passed a number of laws intended to limit the ability for enslaved people to assemble and revolt. Most notably, the 1835 NC Constitutional convention barred any African American person, or free mixed person that has African American lineage including ancestors as far back as 4 generations, from voting in North Carolina⁴⁶. Additionally, the constitutional convention banned enslaved people from owning property, participating in trade, or to develop reading and writing skill, in an effort to suppress assembly or communication between enslaved people. The 1835 North Carolina constitutional convention marks the introduction of explicit state-wide, race-based disenfranchisement⁴⁷.

Nevertheless, the disenfranchisement of all Black men previously established during the 1835 Constitutional Convention was ruled unconstitutional following the ratification of the civil

⁴³ Ford, L.K. (2009). Chapter Fourteen Ending Free Black Suffrage in North Carolina. *Deliver Us from Evil: The Slavery Question in the Old South*, 418-446.

⁴⁴ Brophy, A. L. (2013). The Nat Turner Trials. *The North Carolina Law Review*, Vol. 91(5), 1817-1880.

⁴⁵ Brophy, A. L. (2013). The Nat Turner Trials. *The North Carolina Law Review*, Vol. 91(5), 1817-1880.

⁴⁶ Burton, O. V. (2020) Expert Report of Orville Vernon Buron in Community Success Initiative v. Moore, No. 19-cv-15941 (N.C. Superior Court)

⁴⁷ Stowe, W. H. (1935). A Turning Point: General Convention of 1835. *Historical Magazine of the Protestant Episcopal Church*, Col. 4(3), 152-179.

war amendments. The First Reconstruction Act of 1867 was intended to set the guidelines under which seceded states were able to rejoin the union. Part of the Act was that each rebel state had to draft a new constitution that ratified the 13th, 14th, and 15th amendments. Moreover, secessionist states were required to outlaw the black codes were created to limit the freedom and license provided by the ratification of the civil war amendments. Black codes intended to establish cheap labor and maintained White supremacy⁴⁸. The 14th amendment extended citizenship status to all individuals born in the United States⁴⁹, and 15th amendment officially extended the right to vote to all citizens of the United States⁵⁰. In combination, this made the 1835 constitutional convention legislation on disenfranchisement unconstitutional. The newly ratified amendments resulted in immediate backlash from White Democrats and the rise of the Klu Klux Klan.

Although the 13th Amendment had been ratified, successfully banning slavery, a loophole provided that “involuntary servitude” be permitted as a form of punishment for a crime⁵¹. Additionally, in 1875, the North Carolina constitutional convention established that any eligible voter who is convicted of a felony or an infamous crime is not allowed to participate in elections. Consequently, the same constitutional convention defined felonies and infamous crimes to include vagrancy, as well as having a bad attitude⁵². Incorporating crimes as minor and as subjective as having a bad attitude lowered threshold for being disenfranchised following a criminal conviction and left room for judicial discretion. More specifically, infamous crimes

⁴⁸ (n.d.). Black Codes. Jim Crow Museum.

⁴⁹ U.S. Const. Amdt. 14

⁵⁰ U.S. Const. Amdt. 15

⁵¹ U.S. Const. Amdt. 13

⁵² Burton, O. V. (2020) Expert Report of Orville Vernon Burton in Community Success Initiative v. Moore, No. 19-cv-15941 (N.C. Superior Court)

referred to crimes that were punishable by whipping. White Democrats and Klu Klux Klan member would whip a voter-eligible Black man, although no crime was committed, and the whipping would render him disenfranchised⁵³. If Black voter-eligible men were not disenfranchised by means of a criminal conviction, then many were disincentivized by the prospect of violence. The Executive Democratic Central Committee argued the need for the legislations outlined in the 1875 constitutional convention so that disenfranchisement might result in the purification of the ballot box⁵⁴. Thus, North Carolina experienced a second wave of disenfranchisement policy change. Felony disenfranchisement no longer explicitly referred to racial motives in the legislation. However, the lasting racial resentment in North Carolina combined with the 13th amendment loophole that allows slavery in case of punishment to a crime, and outputs a system that is utilized to systematically to revoke the right to vote from Black voters.

North Carolina Felony Disenfranchisement Today

Today, the United States is the only country among its democratic peers that systematically revokes its citizens' ability to vote⁵⁵. The U.S.' democratic peers reserve felony disenfranchisement for severe cases of voter fraud or treason⁵⁶. Within the United States, only Maine, Vermont, and the District of Columbia do not disenfranchise felons at any point in the sentencing process⁵⁷. Felony disenfranchisement restoration processes in the United States are

⁵³ Burton, O. V. (2020) Expert Report of Orville Vernon Buron in Community Success Initiative v. Moore, No. 19-cv-15941 (N.C. Superior Court)

⁵⁴ Burton, O. V. (2020) Expert Report of Orville Vernon Buron in Community Success Initiative v. Moore, No. 19-cv-15941 (N.C. Superior Court)

⁵⁵ Ewald AC, Rottinghaus B (2009) *Criminal Disenfranchisement in an International Perspective*. New York: Cambridge University Press.

⁵⁶ Human Rights Watch. (2024). Out of Step: U.S. Policy on Voting Rights in Global Perspective. *Human Rights Watch*.

⁵⁷ NCSL. (2024). Felon Voting Rights. *National Congress of State Legislature*.

classified by the National Conference of State Legislature into four levels of restrictiveness. Under the NCSL classifications, level 1 is the least restrictive and level 4 is the most restrictive when attempting to restore one's right to vote. Table 1 organizes each state by NCSL level. The least restrictive level of disenfranchisement restoration is seen, as stated above, only in Vermont, Maine, and the District of Columbia. In these jurisdictions, an offender's ability to vote is not lost or restricted at any point in time preceding a felony conviction. The second level restricts voting solely during incarceration and automatically restores the ability to vote when incarceration ends. The third level restricts voting as long as the offender is on probation, parole, or has open standing fees and restitution. Once the requirements of the sentence have been completed, voting rights are automatically restored. The final and most strict felony disenfranchisement policies restrict voting until the completion of one's sentence and sometimes a post-sentencing waiting period. Additional action is then required to restore one's right to vote⁵⁸.

⁵⁸ NCSL. (2024). Felon Voting Rights. *National Congress of State Legislature*.

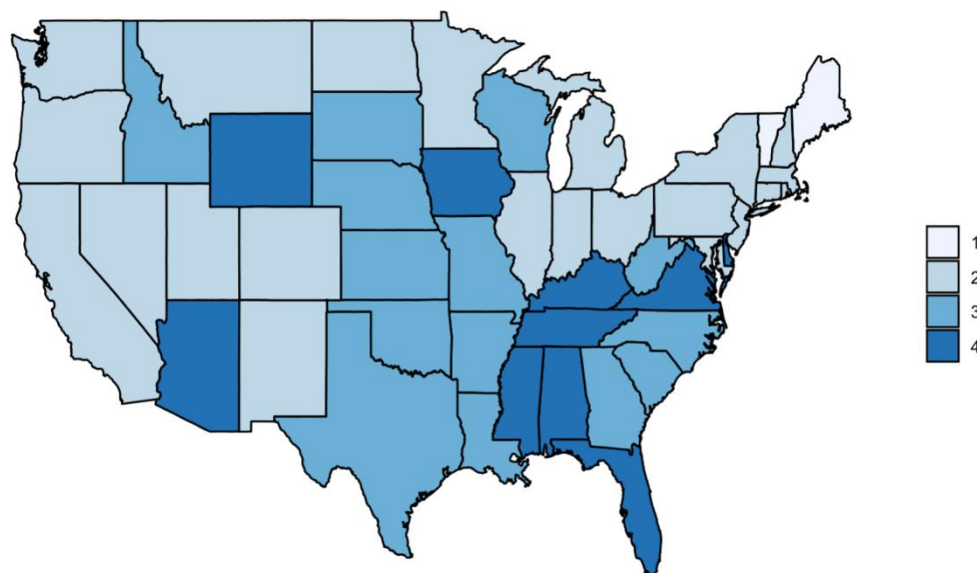
Table 1: Levels of Felony Disenfranchisement Restoration

Level 1: Never disenfranchised	Level 2: Disenfranchised during incarceration: rights automatically restored	Level 3: Disenfranchised during incarceration and until completion of fees, probation, or parole: rights automatically restored.	Level 4: Disenfranchisement until completion of full sentence: action required for restoration
District of Columbia	California	Alaska	Alabama
Maine	Colorado	Arkansas	Arizona
Vermont	Connecticut	Georgia	Delaware
	Hawaii	Idaho	Florida
	Illinois	Kansas	Iowa
	Indiana	Louisiana	Kentucky
	Maryland	Missouri	Mississippi
	Massachusetts	Nebraska	Tennessee
	Michigan	North Carolina	Virginia
	Minnesota	Oklahoma	Wyoming
	Montana	South Carolina	
	Nevada	South Dakota	
	New Hampshire	Texas	
	New Jersey	West Virginia	
	New Mexico	Wisconsin	
	New York		
	North Dakota		
	Ohio		
	Oregon		
	Pennsylvania		
	Rhode Island		
	Utah		
	Washington		

Figure 1 provides a geographical overview of each U.S. state and the corresponding level of felony disenfranchisement. Note that the states that have level 3 and level 4 disenfranchisement restoration classification are congregated in the south-east and mid-west regions of the United

States around what is also known as the Black belt⁵⁹. Historically, the Black belt is known for its fertile ground that made the area a prime location for slave plantations. The populations of the states around the Black belt therefore have populations with higher proportions of Black Americans than states that do not have a history of slavery⁶⁰. A study by Campbell et al. highlights the lasting disproportionate impacts of Jim Crow legislation on Black individuals in Black Belt states. The study found that the best way to predict a state's incarceration rates is by looking at the proportion of the state's population that is Black⁶¹. In terms of felony disenfranchisement, the centralization of the more restrictive disenfranchisement states' centralization in the south-east region may disproportionately disenfranchise Black Americans.

Figure 1: Map of Disenfranchisement Class per State



⁵⁹ Gibbs, R.M. (2003). Reconsidering the Southern Black Belt. *The Review of Regional Studies*, Vol. 33(3), 254-263

⁶⁰ Webster, G., Bowman, J. (2008). Quantitatively Delineating the Black Belt Geographic Region. *Southeastern Geographer*, Vol. 48(1), 3-18.

⁶¹ Cambell, M. C. (2016). Are All Politics Local? A Case Study of Local Conditions in a Period of "Law and Order" Politics. *The ANNALS of the American Academy of Political and Social Science*, Vol. 664(1), 43-61.

Hypotheses and Theory

Using the existing literature, this study develops a framework to analyze how the minimum sentence for a felony conviction incentivizes felony disenfranchisement practices. Additionally, the study will evaluate how such practices disproportionately influence Black individuals through the over-representation of Black offenders in the criminal justice system. This study brings forward North Carolina's minimum felony sentence of four months of community punishment and critically compares it to minimum felony sentences used by other jurisdictions. The consistent use of the word "felony" in the United States criminal justice system, without utilizing the definition across jurisdictions draws into question the argument on which 4 million Americans were unable to vote in the 2024 presidential election. The comparative nature of the national felony definition analysis provides valuable context about felony definitions and felon voting rights in the American criminal justice system. In order to perform the described relationship, I hypothesize the following:

H₁: North Carolina's minimum sentence for a felony will be shorter than the minimum felony sentencing standards seen on a national scale.

H₂: North Carolina's minimum felony sentence will disproportionately convict Black offenders of felonies.

H₃: North Carolina's minimum felony sentence will disproportionately disenfranchise Black offenders

Note that an argument can be made that the state of North Carolina's minimum felony sentence does not require jail time due to economic restrictions in the state budget. This economic incentive can be present in both H₂ and H₃. However, economic incentive is not a measurable variable with the available data. Regardless of the incentive behind the short minimum felony

sentence, the expected system outcome on Black offenders evaluated by the hypotheses remains the same.

Research Design

For the purposes of conducting a quantitative analysis to evaluate the relationship between the minimum felony sentence definition and felony disenfranchisement, a new database had to be generated. No existing resource existed that united each state's felony definition in one location. Thus, the Minimum Felony Sentence Definition (MFSD) database compiles the felony definitions of 52 jurisdictions, which includes all 50 U.S. states, the federal government, and the District of Columbia (see Appendix). The database also provides information, when applicable, regarding each jurisdiction's minimum felony sentence, each jurisdiction's definition of a misdemeanor, and the maximum misdemeanor sentence. Lastly, the database includes classification information that reflects when the restoration of felony disenfranchisement following conviction. Previously, information regarding minimum felony definitions and sentencing was solely available in state constitutions, state criminal procedure documents, or legal practitioner websites. The development of a database streamlines information about felony definition and provides a basis for comparison across state level governments.

The second database that was used for this quantitative analysis includes every felony conviction in North Carolina from 1985 to 2019. The original data was collected by Forward Justice. Due to the possibility for repeat offenses, individuals could occur a multitude of times within the data. Analyzing the data before matching would have overrepresented the number of felons in North Carolina. Frank Baumgartner and Ted Enamorado matched individuals using probabilistic methods: matching first by name and address, and then by name and date of birth. Of course, it is not possible for the data to be matched perfectly due to typos in names, addresses,

or date of birth information that occurred when the data was first entered into the system. The dataset merged by Frank Baumgartner and Ted Enamorado includes 2,194,662 felony offenses and provides 125 variables, among which are the defendant's name, race, address, county, city, the offense code, a description of the charged offense, as well as the offense class. In total, the database includes 549,439 individuals.

Data Collection

In order to generate the MFSD database, the criminal procedures and constitutions of all 50 U.S. States, the District of Columbia, and the Federal Government were meticulously searched for felony definitions, felony sentences, misdemeanor definitions, and misdemeanor sentences. The District of Columbia and the Federal Government are separate jurisdictions, both of whom convict offenders of felonies, and so they are incorporated in the felony definition database. Fifty out of the 52 researched jurisdictions utilize a criminal classification system where felonies are the most severe crimes, misdemeanors are less severe than felonies, and infractions are the least severe crimes. The only jurisdictions who do not use the felony ranking system of criminal classification are Maine and New Jersey. Maine only uses the term "crime," within which crimes are ranked from Class A to Class D. New Jersey distinguishes between "offense" and "crime". Since both Maine and New Jersey do not utilize the term "felony," the minimum definition of a felony cannot be examined and both states are coded as "NA" for the felony and misdemeanor definitions and sentences in the MFSD database. Seventeen out of the 51 jurisdictions that use the felony ranking system do not explicitly specify a minimum felony sentence. When no explicit minimum sentence was outlined for a felony, the maximum sentence for a misdemeanor was noted as the minimum sentence for a felony. This method of establishing the minimum felony sentence will assume that the sentencing ranges provided are rigid, and do not experience

overlap. Overlap in severeness between a felony and misdemeanor defeats the purpose of distinction between the two terms and draws into question the validity of the additional consequences, such as felony disenfranchisement and job ineligibility, that are imposed on felons only. The database takes note of the minimum felony sentence definitions that were obtained using the maximum misdemeanor definition.

Furthermore, information about restorative processes following felony disenfranchisement policy were added to the database as defined and classified by the National Conference of State Legislatures (NCSL). The NCSL has organized each state legislature's restoration of felon voting rights based on the duration of disenfranchisement following a felony conviction, as well the method of restoration following the completion of a sentence. Using the felony disenfranchisement classification system provided by NCSL, the database allows for an analysis of the relationship between minimum felony sentence definition and felony disenfranchisement restoration.

Data cleaning

Although the felony conviction database now allows for grouping by individual, the database is presented using a by-conviction format. A total of 262,211 felonies did not have information about offense classification. Such felonies were coded as "missing" but maintained in the database. The felonies with missing classifications matched offense codes and offense descriptions that do not have an outlined felony class in the North Carolina General Statute. Such offenses call for additional judicial discretion and will receive a punishment upon further investigation. The missing felony classifications were kept in the data for analysis due to the sheer frequency of the missing felony class occurrence. Although no severity rank is associated with them, when analyzing the distribution of the number of felonies per felony class, the

missing classes provide valuable insight about the number of cases that are subject to judicial discretion in North Carolina.

Furthermore, all felonies involving offenders other than Black and White offenders were coded as “other.” This was a decision following the observation that an insufficient number of felonies were committed by races other than Black and White. Table 2 displays the re-coded race distribution that will be used for analysis in this study. The database includes a total of 2,194,662 felonies, 47.7% of these felonies committed by Black offenders and 45.9% were committed by White offenders. This leaves 6.35% felonies that were committed by other races. By re-coding the race variable to include Black, White, and other, the analysis focuses on how felony convictions and classifications impact Black and White offenders differently.

Table 2: Data Distribution of Felony Convictions by Race

	# Felonies	% Felonies
Black	1,046,924	47.7
White	1,008,459	45.95
Other	139,279	6.35
Total	2,194,662	100

In order to observe felony classification trends per offender, the database was grouped by person ID. The grouping reduced the number of inputs in the database from a total of 2,194,662 felonies committed in North Carolina from 1985 to 2019, to 549,439 different offenders in North Carolina during this same period. Table 3 shows the distribution of offenders per race following the grouping by person ID.

Table 3: Data Distribution of Offenders by Race

	# Offenders	% Offenders
Black	270,308	48.40
White	235,505	42.17
Other	52,671	9.43
Total	558,484	100.00

Lastly, a new column was generated that reflected the highest felony classification obtained by one individual. Since it is possible for offenders to accumulate multiple felonies within the same resolution, as well as to obtain more over time, selecting out the highest ranked classification out of each person’s offenses provides additional insight on severity. For example, someone who has committed three Class I felonies would receive a maximum classification input of “I,” since this person only committed class I felonies. However, someone who committed two Class I felonies, and one Class D felony would receive a maximum felony class of “D.” Taking note of the highest-ranking felony committed provides additional insight on how much the minimum felony definition impacts an offender. If the maximum felony rank that an individual has obtained is impacted by North Carolina’s felony definition, then all other felonies committed by this same person are also impacted. The example offender with three Class I felonies is directly affected by North Carolina’s deviation from the minimum felony definition set by the federal government. The minimum sentence of 4 months of community service convicts this example offender as a felon, but the federal standard would not have defined this same person to be a felon using a felony sentence of a minimum of one year in prison. However, the example offender with a Class D felony as their maximum felony rank maintains the felony conviction under both the North Carolina and federal standard, thus the minimum felony sentence is of little consequence to them. Analyzing the minimum felony definition this way

takes into account the ability for offenders to re-commit and accumulate multiple offenses. Additionally, the database does not provide a variable about the time someone is disenfranchised, or if an offender has had their right to vote restored after the completion of a sentence. The analysis of maximum felony rank thus allows us to compute how many individuals have been disenfranchised using the available data.

Research Design

The analysis of the relationship between minimum felony sentences and felony disenfranchisement will be executed in two prongs. The first prong will analyze minimum felony sentencing trends on a national scale, using the minimum felony sentence of each state outlined in the MFD database. The analysis will include 50 separate jurisdictions: Forty-eight U.S. states, the federal government, and the District of Columbia. Maine and New Jersey are omitted from this analysis as they do not use the term “felony” and therefore do not have a minimum felony sentence.

The second prong of analysis will consist of a simulation in which an alternative minimum felony sentence is imposed on North Carolina. The analysis will first outline the distributions of the number of felonies per class and discuss the racial makeup of the distribution. Then, the minimum felony definition outlined by the federal government will be imposed as an alternative minimum felony sentence on the number of felons. Following the application of the alternative definition, the distribution of the number of felons per class will be reevaluated in terms of total felonies per class, as well as in terms of the racial demographic impacted by the change in definition. Following the per-felony analysis, the distribution of the number of felons per class will be outlined and discussed in terms of racial makeup. As before, the minimum felony sentence used by the federal government will be imposed on the distribution as an alternative

minimum felony sentence. Following the application of the alternative definition, the distribution of number of felons per class will be reevaluated and discussed in terms of number of felons per class, race, and disenfranchisement.

Results

Felony Definition Database Analysis

Following the compilation of the primary database, an analysis of the national distribution of minimum felony sentence definitions provided a notable trend. Table 4 highlights the national overview of the minimum prison sentence for a felony for 50 states.

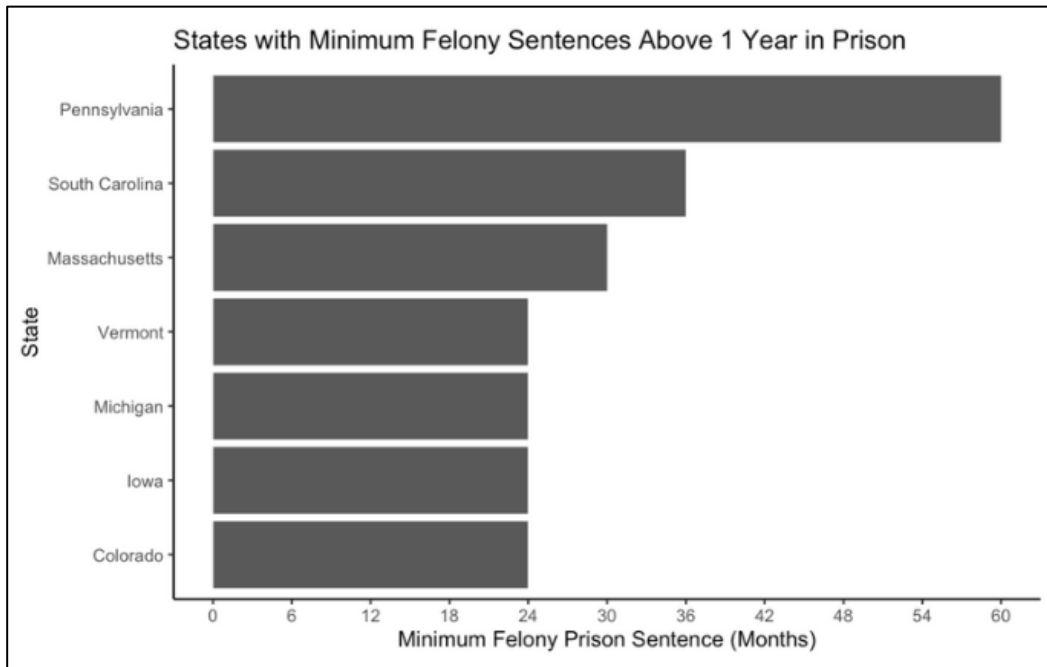
Table 4: Minimum Felony Prison Sentence per State

> 1 year:	7 states: PA, SC, MA, VT, MI, IA, CO
= 1 year:	38 states: US, AL, AK, AR, CA, CT, DE, DC, FL, GA, HI, IL, IN, KS, KY, MD, MI, MN, MS, MO, NE, NV, NH, NM, NY, ND, OH, OK, OR, RI, SD, TN, UT, VA, WA, WV, WI, WY
6 months	4 states: AZ, ID, LA, TX
0 months	1 state: NC
<i>*Table includes minimum felony prison sentences for District of Columbia and the Federal Government (US)</i>	
<i>**Maine and New Jersey do not use the term "felony" in criminal classification and so are omitted from the categories above</i>	

This distribution includes all U.S. States except for Maine and New Jersey, as well as the District of Columbia and the Federal Government. Note that Maine and New Jersey do not use the term “felony” in their classification or conviction procedures and are therefore omitted from further felony definition analysis. Out of the 50 remaining states, 38 states use a felony definition of a minimum of 1 year in prison. The Federal Government and the District of Colombia are among those states that use a 1 year in prison minimum. Moreover, 7 states have minimum felony prison sentences greater than 1 year in prison. Of these 7, Pennsylvania has the longest minimum felony

sentence definition, with a minimum prison sentence of 60 months, or 5 years, as seen in Figure 1. In context, this means that an offender is only felony eligible when they commit a crime of a level of severity that requires a punishment of 5 years.

Figure 2: Distribution of States with a Minimum Felony Sentence that is Greater than 1 Year in Prison

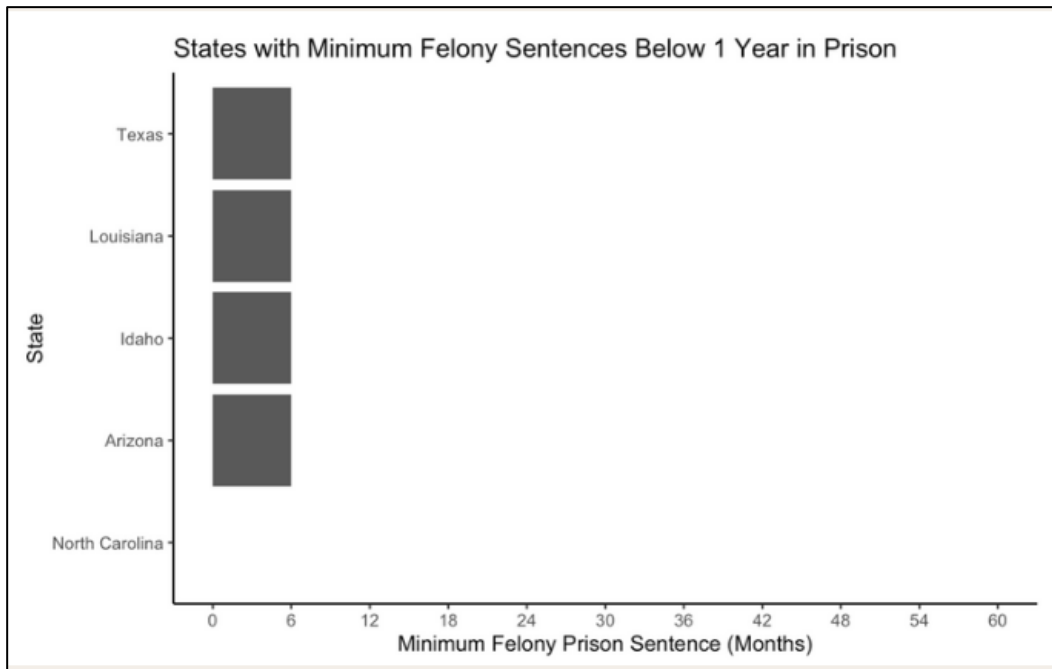


On the other hand, 5 states have shorter minimum felony prison sentences than 1 year in prison. Of these 5 states, North Carolina sees the shortest minimum felony prison sentence, as seen in Table 4. The most important result is outlined in Figure 3 and shows that North Carolina has a minimum felony prison sentence that is equal to zero months in prison. Upon further inspection, North Carolina sets its minimum felony sentence as 4 months of community punishment⁶². Community punishment is defined by the North Carolina General Statute as a

⁶² NC Courts. (2013). Felony Punishment Chart. North Carolina Courts

sentence that “does not include active punishment⁶³.” Recall that non-active punishment may include, but is not limited to, probation, intermittent containment, house arrest with an ankle monitor, community service, educational development, and drug⁶⁴. In comparison to all other analyzed states in Table 4, requiring a punishment as little as 4 months of an inactive punishment, is an uncommon method of minimum felony sentencing. The findings displayed in Table 4 support hypothesis 1 and highlight that North Carolina’s minimum felony sentence is shorter than then trends observed on a national scale.

Figure 3: States with Minimum Felony Sentences Below 1 Year in Prison



Felony Definition Reclassification Experiment Simulation: Number of Felonies

Starting with an analysis of the number of felony convictions from 1985 to 2019, interesting findings are brought to light about conviction trends in North Carolina. Figure 3

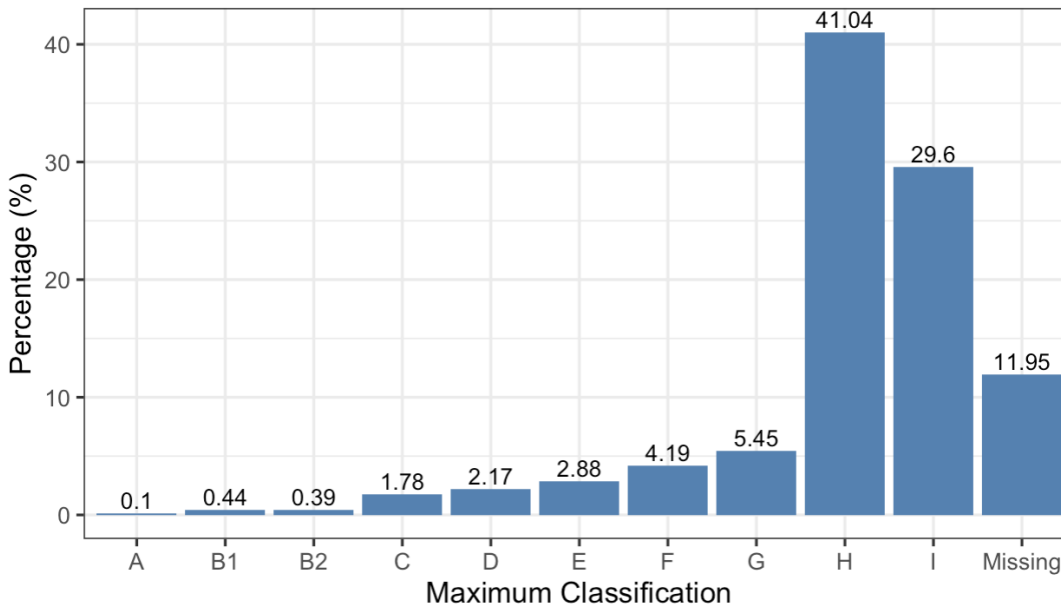
⁶³ N.C.G.S. §15A-1340.11

⁶⁴Spainhour, W. E., Katzenelson, S. (2014). Report on Study of Credit for Time Served Issues. *North Carolina Sentencing and Policy Advisory Commission*

displays the frequency distribution of felony convictions from 1985 to 2019 in percentages.

Notably, Class H and Class I felonies occur the most frequently, with Class H making up 41.04% of all felonies and Class I making up 29.6% of all felonies. Combined, class H and class I make up 70.63% of all felony convictions in the observed time frame.

Figure 4: Frequency Distribution: Number of Felonies per Class



To evaluate hypothesis 2, Table 5 displays the frequency distribution is outlined but this time in a table that also distinguishes between felony convictions based on race. In North Carolina, 22.1% of the population is Black, and 69.8% of the population is White⁶⁵. However, Black 46% of all felonies are committed by Black offenders. Table 5 finds that Black offenders consistently make up more than 22.1% of every felony class in North Carolina, highlighting the overrepresentation of Black offenders in felony sentencing even within felony classes.

Furthermore, Table 5 outlines that Black offenders make up more than 50% of offenders in class A, B2, C, D, E, and G. Such findings are consistent with the available research on incarceration

⁶⁵ Census. (2024). Resident Population Net Change. *U.S. Census Bureau*.

rates, which also highlight a trend of disproportionately high numbers of Black individuals, especially men, being incarcerated with respect to the proportion of the population they make up⁶⁶.

Table 5: Number of Convictions and Race Proportions per Class

Felony Class	% of Total Convictions	Total Convictions	% Black per Class	% White per Class	% Other per Class
A	0.10	2,304	57.34	35.16	6.77
B1	0.44	9,725	33.06	54.65	11.35
B2	0.39	8,657	57.57	33.28	8.26
C	1.78	39,135	59.45	34.43	5.15
D	2.17	47,591	70.86	22.87	5.58
E	2.88	63,181	58.85	33.21	7.11
F	4.19	91,960	31.54	60.17	7.51
G	5.45	119,540	64.96	30.62	3.97
H	41.04	900,677	47.37	47.05	4.68
I	29.60	649,681	44.07	50.15	4.61
Missing	11.95	262,211	47.13	42.93	7.37
Total	100.00	2,194,662			

Note: The above table shows the number of felonies committed from 1985 to 2019. One person may have multiple felony convictions from the same offense or from separate offenses. Thus, one person can be represented in this table more than once.

Taking a closer look at the crimes that make up 70.64% of all felony convictions in North Carolina, Table 6 lists the 10 most frequently committed H class felonies. Class H felonies make up 41.04% of all North Carolina felonies. In this list of 10 alone, 7 are offenses that one might see in a robbery. There are 211 different offense types for Class H felonies, which mostly address crimes such as larceny, breaking and entering, assault, and possession of Schedule III,

⁶⁶ Hinton, E., Cook, D. (2021). The Mass Criminalization of Black Americans: A Historic Overview. *Annual Review of Criminology*, Vol. 4, 261-286.

IV, V, or VI controlled substances⁶⁷. Zooming in on the percentage of Class H felonies that are committed by Black offenders, the pattern of disproportional representation again provides support for hypothesis 2.

Table 6: 10 Most Frequently Committed Class H Felonies

Offense Code	Description	Count	Percent Black
2212	BREAKING AND OR ENTERING (F)	221,560	41.59
2632	OBTAIN PROPERTY FALSE PRETENSE	129,598	36.84
2356	LARCENY AFTER BREAK/ENTER	96,350	38.51
2321	FELONY LARCENY	73,751	34.45
3555	PWISD COCAINE	70,911	85.26
2341	POSS STOLEN GOODS/PROP (F)	46,797	46.6
5224	POSSESSION OF FIREARM BY FELON	29,738	68.98
2718	EMBEZZLEMENT	27,587	23.59
3553	SELL OR DELIVER COCAINE	20,850	83.23
2391	LARCENY OF MOTOR VEHICLE (F)	15,004	46.56

Class I felonies make up 29.6% of all felonies committed in North Carolina. Class I felonies largely pertain to minor drug possession and administrative crimes. Table 7 lists the 10 most frequently committed Class I felonies. Like Table 6, Table 7 once again highlights how felonies committed by Black offenders make up disproportionate amounts of the Class I felonies.

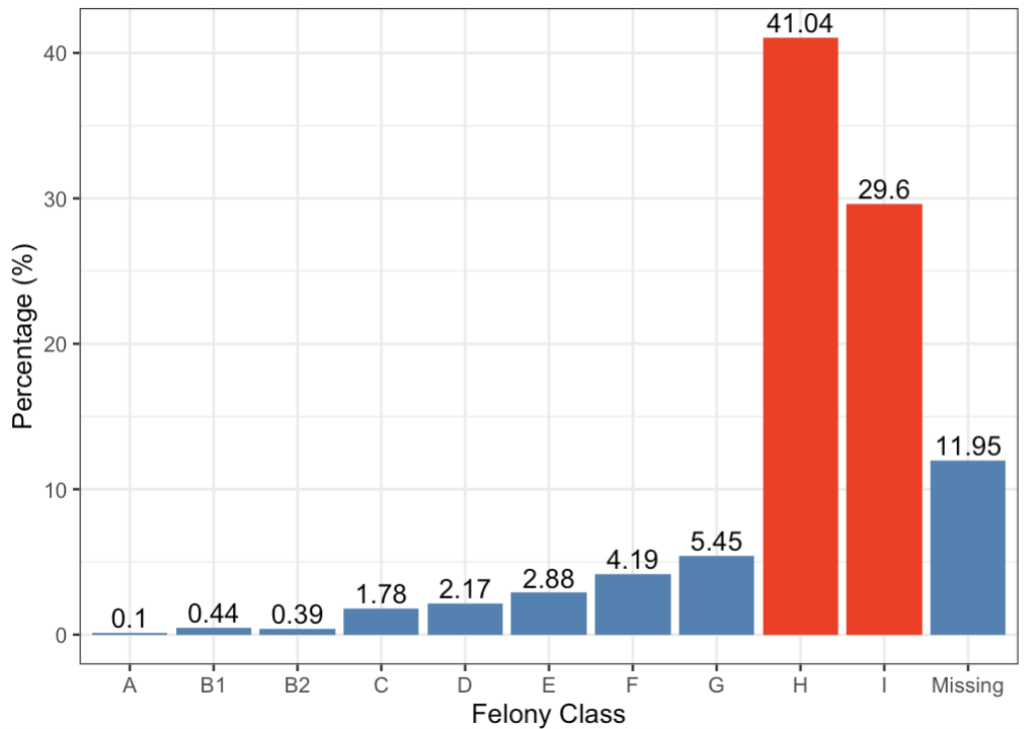
⁶⁷ North Carolina Courts. (2017). Classification of a Sample of Offenses. *North Carolina Sentencing and Policy Advisory Commission*.

Table 7: 10 Most Frequently Committed Class I Felonies

Offense Code	Description	Count	Percent Black
2520	FORGERY OF INSTRUMENT	98,554	36.90
2216	BREAK OR ENTER A MOTOR VEHICLE	94,624	38.92
2524	UTTERING FORGED INSTRUMENT	89,531	38.53
3560	FELONY POSSESSION OF COCAINE	81,503	73.56
9968	MAINTN VEH/DWELL/PLACE CS (F)	37,076	52.87
3544	PWISD MARIJUANA	36,516	59.89
3523	FELONY POSSESSION SCH II CS	21,962	54.13
2658	OBTAIN CS BY FRAUD/FORGERY (F)	14,361	9.09
2612	FINANCIAL CARD THEFT	13,745	44.73
3549	FELONY POSSESSION MARIJUANA	12,352	44.60

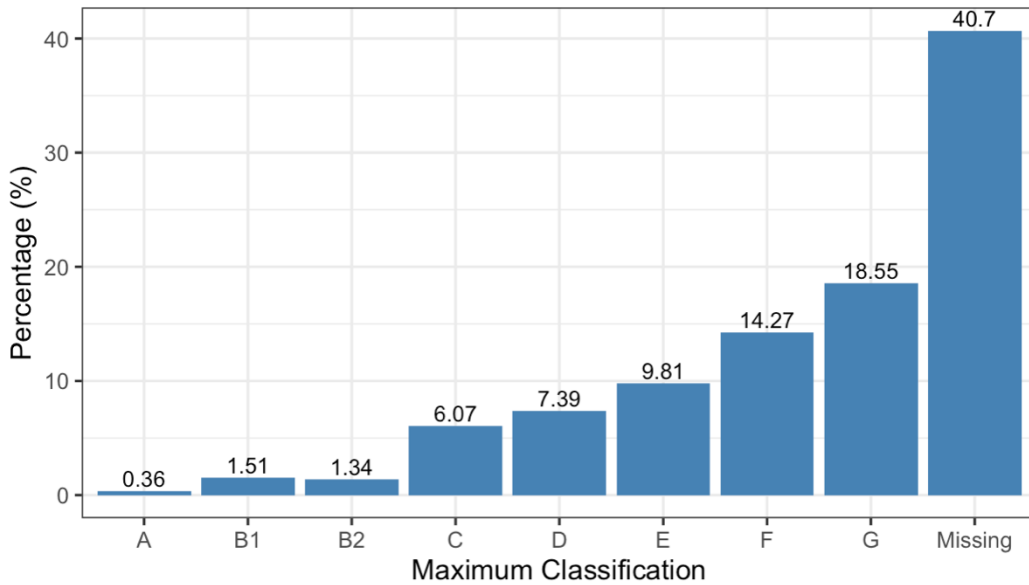
Now, Figure 5 displays the number of felonies once more, but it imagines what the distribution of felonies would look like in a hypothetical where North Carolina’s minimum felony sentence is set at one year in prison.

Figure 5: Reclassification Experiment: Classes Removed under Alternative Felony Definition



In this hypothetical, Class H and Class I felonies would be excluded from the definition of a felony and redefined to be misdemeanors as the presumptive sentence provided by the North Carolina sentencing grid outline sentences that are shorter than one year in prison for first time offenders⁶⁸. Class G’s presumptive ranges from 10 to 13 months of intermittent or active punishment and so it is partially below one year in prison⁶⁹. However, Class G will not be removed as part of the experiment as the presumptive range is not entirely below one year in prison. The analysis of the reclassification experiment will thus provide a slight underestimate of its true impact, as some Class G felons with sentences below a year in prison are not included in the analysis. The use of an alternative minimum felony sentence therefore eliminates 1,550,358 felony convictions, or 70.63% of North Carolina felonies. Additionally, 46% of the felonies that would be redefined as misdemeanors were committed by Black offenders. Figure 6 then displays the remaining felony classes under the alternative felony minimum sentence hypothetical.

Figure 6: Felony Classification Distribution: Simulation Definition



⁶⁸ NC Courts. (2013). Felony Punishment Chart. North Carolina Courts.

⁶⁹ NC Courts. (2013). Felony Punishment Chart. North Carolina Courts.

At first glance, the most frequently occurring group is for the felonies that remain are the felonies that are missing a classification. A missing classification provides leniency with regard to sentencing. North Carolina's system of classification provides minimum and maximum sentences for each class, and so a missing class leaves sentencing up to judicial discretion, making it more susceptible to human error and bias. Table 8 selects the 10 most frequently occurring offenses with missing classes as they are presented in the North Carolina Judicial Branch Offense Codes and Classes data⁷⁰. As missing classes do not provide a clear definition of sentencing, and vary greatly in severity, they are maintained as a category in the felony definition simulation instead of being redefined to be misdemeanors. Additionally, the missing class felony make up 11.95% of all North Carolina felonies are missing a classification, and so excluding the missing classes from the felony frequency distribution all together would exclude a notable amount of felony convictions from analysis. North Carolina uses 166 different offense codes with missing classes in final felony convictions. 37 out of the 166 offense descriptions include the phrase "free text," providing additional pathways for judicial discretion.

⁷⁰ NC Courts. (2018). Offense Codes and Classes. *North Carolina Judicial Branch*.

Table 8: 10 Most Frequently Convicted Offenses without Classification

Code	Frequency	Offense	Class
3599	50,099	DANGEROUS DRUGS - FREE TEXT	??
2320	31,378	FEL LARCENY - >\$400	NA
9999	20,559	OTHER - FREE TEXT	??
9922	20,526	HABITUAL FELON	??
2635	11,564	IDENTITY THEFT	??
3530	10,777	TRAFFICKING IN COCAINE	??
2699	9,054	FRAUD - FREE TEXT	??
5032	8,034	FELONY PROBATION VIOLATION	NA
2399	6,829	LARCENY - FREE TEXT	??
3435	4,872	SELL/DELIVER COCAINE	??

North Carolina felonies are largely confined in the Class H and Class I felonies. 46% of these Class H and Class I felonies are committed by Black offenders, which is a stark overrepresentation from the 22.1% of the North Carolina population that is Black.

Felony Definition Reclassification Experiment: Number of People

Examining the distribution of the number of people that have been convicted of a felony under North Carolina’s current felony definition mirrors similar trends as seen in the by-felony analysis. Evaluating the data from a per person standpoint decreases the dataset as offenders can accumulate multiple offenses. Thus, following per person grouping, the data has shrunk down from 2,194,662 felonies to 558,484 people. The high frequency of Class H and Class I felonies observed in Figure 2 continue to be seen in Figure 7. Felons with Class H or Class I felonies make up 48.98% of the total number of felons in North Carolina. However, the number of offenders with felonies that are missing classification information is even greater. As previously discussed, this introduces more opportunities for judicial discretion and possible bias. Combined, the number of felons have committed class with Class H felonies, I, or are missing a felony classification, make up 74.49% of felons in North Carolina.

Figure 7: Frequency Distribution: Number of Offenders per Class

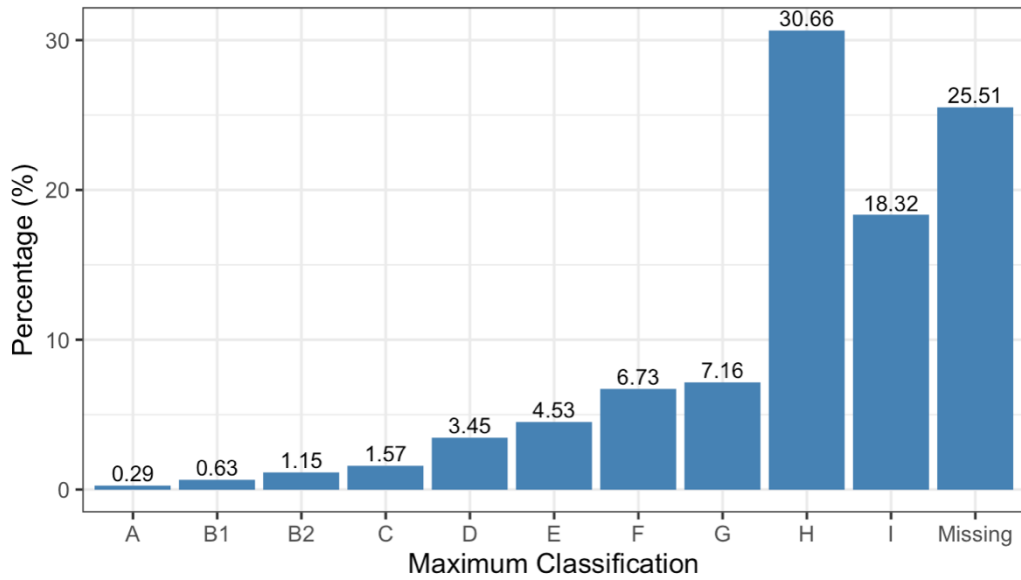


Table 9 shows, once, again that Black offenders make up more than 22.1% of felons in every felony conviction class. Note that Black offenders make up more than 50% of class A, B2, C, D, E, and G. This same list also experienced percentages of Black offenders that were greater than 50% in the per-felony analysis. In contrast, proportions of White felons are consistently below 69.8% in every class. Thus, Black offenders are systematically overrepresented, while White offenders are systematically underrepresented compared to their respective shared in the state population.

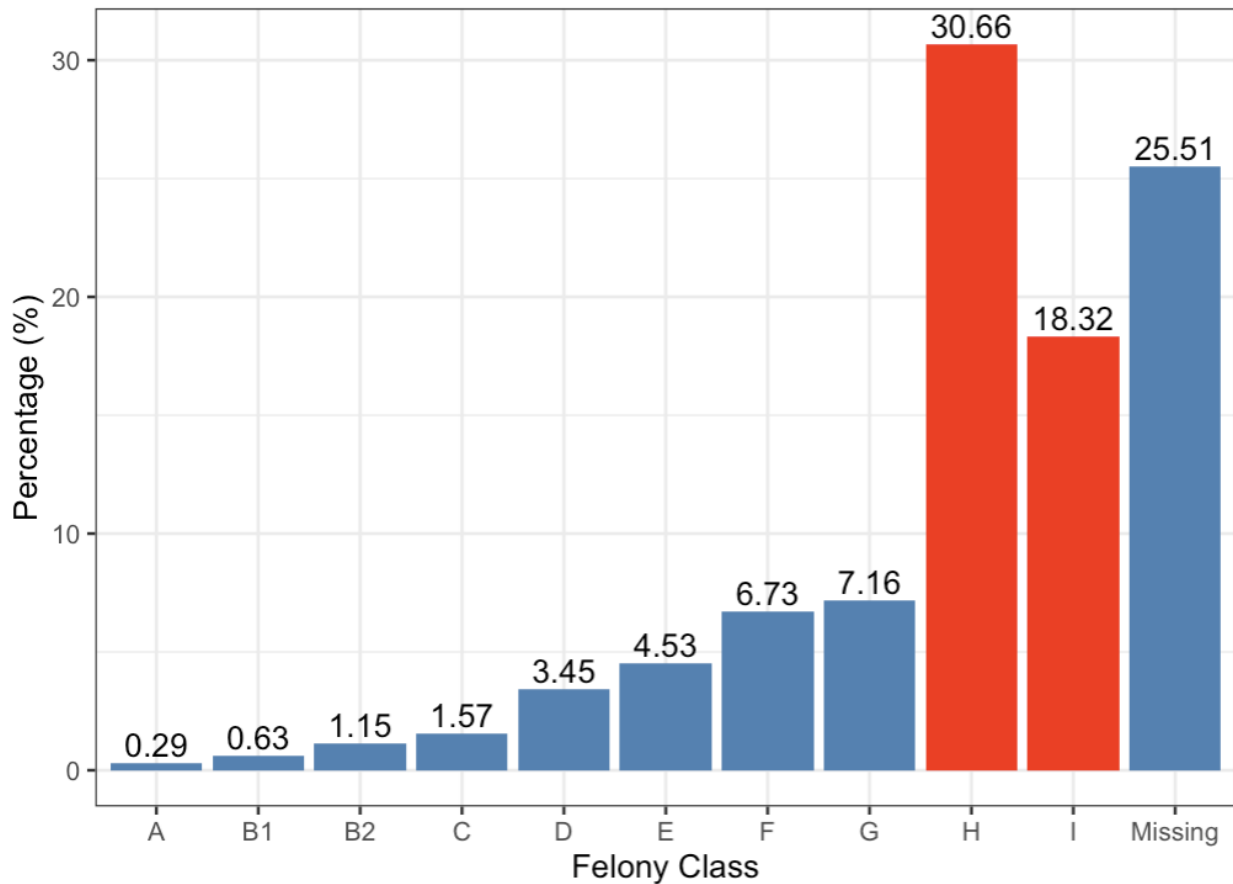
Table 9: Race Distribution of Convicted Offenders per Class

Max Class	Total # Offenders	% Class Black	% Class White	% Class Other
A	1,595	57.37	35.49	7.15
B1	3,543	37.43	50.83	11.74
B2	6,441	58.11	32.23	9.66
C	8,753	52.01	37.07	10.92
D	19,250	65.17	26.62	8.21
E	25,285	58.18	32.22	9.61
F	37,589	32.71	56.6	10.69
G	39,976	64.43	29.92	5.65
H	171,258	46.76	44.64	8.6
I	102,333	44.29	45.5	10.22
Missing	142,461	48.48	40.93	10.59
Total	558,484			

Note: the number of responses in this distribution are lower than portrayed in the by-felony distributions. One felon is able to obtain multiple felonies of varying classes.

Figure 8 outlines the same hypothetical as discussed previously, only this time it is performed using the per person approach. The hypothetical requires felons to have a sentence of 1 year in prison or higher to qualify for felon status. Any sentences below 1 year in prison are redefined as misdemeanors. Once again, the Class H class and Class I class felons are eliminated from felon status because the sentences are below the 1 year in prison definition. The elimination of H and I felonies eliminates 273,591 offenders, or 49% of convicted felons between 1985 and 2019 from their felony conviction, bumping them down to misdemeanor charges.

Figure 8: Reclassification Experiment: Classes Removed under Alternative Felony Definition



In North Carolina, a felony conviction disenfranchises the offender until the full completion of their sentence, which includes parole, outstanding fines, or any other additional requirements. Figure 8 then shows the far-reaching impacts of minimum felony sentencing definition. North Carolina’s minimum felony definition disenfranchises 49% of offenders that would remain voter-eligible under federal standard. Moreover, out of the 49% of offenders that would be refranchised, 45.96% are Black offenders, and 45.07% are White offenders.

Discussion

The Fair Sentencing Act in North Carolina was established to regulate the overpopulation of North Carolina prisons and to introduce predictability into the sentencing process. However,

the Structured Sentencing Act implemented a felony sentencing minimum of 4 months of community service, which is the least severe minimum sentence provided for a felony in the United States. The national standard and most common minimum felony sentence require 1 year in prison, this overlaps with the minimum felony sentence outlined by the federal government.

The felony sentencing minimum of 4 months of inactive punishment has far reaching implications for North Carolina's judicial system. An offender in North Carolina is felony eligible when they commit a crime that is of such severity that it requires a punishment of at least 4 months of, for example, drug treatment. This definition therefore includes a much greater number of crimes, with a larger variety of severity, than when the state requires a year in prison to be felony eligible. In North Carolina, and 49 of the other jurisdictions studied in this research, a felony conviction revokes the offender's right to vote⁷¹. Thus, expanding the number of felony eligible crimes has direct consequences for voting rights, as well as political representation. The short minimum felony sentence is especially notable in context of North Carolina's status as a swing state, where presidential elections happen on the margins. Further investigating the reaching implications of a minimum felony sentencing on presidential campaign would provide valuable insight on to what extent campaign incentives play a role in upholding felony disenfranchisement. Additionally, completing a comparative study of minimum felony sentence definition and felony disenfranchisement policy would contribute greatly to the understanding of the way political incentives dictate voting rights.

The analysis of felony distribution highlights that 71.65% of felony sentences in North Carolina are located in the lowest ranking classes: Class H and I. When the study imposed the minimum felony definition of the federal government onto North Carolina's felonies, these class

⁷¹ NCSL. (2024). Felon Voting Rights. *National Congress of State Legislature*.

H and class I felonies are redefined to be misdemeanors. Recall that the minimum felony definition as outlined by the federal government calls for a minimum felony sentence of a year in prison, this is also the most frequently used minimum sentence by other jurisdictions in the United States. The reclassification of Class H and I felonies redefines 70.63% of felonies to be misdemeanors. With regard to hypothesis 2, the study established that 46% of felony convictions in North Carolina are given to Blacks, highlighting that Black offenders are overrepresented in the data. However, when the alternative minimum felony definition is imposed on North Carolina's felonies, the Black offenders continue to be overrepresented in the data in the remaining felony classes. Thus, the study cannot confirm hypothesis two, as it cannot be concluded that the minimum definition of a felony is the reason for the overrepresentation of Black offenders in North Carolina felony convictions.

On a by-person scale, the study provides valuable insight about the number of people that have been disenfranchised following a felony conviction from 1985 to 2019. Under NCSL's felony disenfranchisement classification, North Carolina is a level 3 state, meaning that felons are disenfranchised during incarceration and until any additional requirements are fulfilled. After the completion of one's sentence, North Carolina then automatically restores the right to vote. Thus, the study finds that 558,484 felons have been disenfranchised between the years of 1985 and 2019. Applying the alternative minimum felony sentence to the classification distribution for the number of felons in North Carolina revealed that 49% of felons in the data would not receive felony convictions and therefore not lose their right to vote. Thus, if North Carolina were to move their felony definition to a minimum of 1 year in prison, 273,591 offenders would have retained their ability to vote between 1985 and 2019. Of the offenders that would not have been disenfranchised under an alternative felony definition, 45.96% are Black offenders. Although

only 22.1% of North Carolina's population is Black, this study as consistently seen the overrepresentation of Black individuals in the analyzed data. By using a shorter minimum felony sentence than used by the federal government and national sentencing trends, North Carolina increases the number of offenders that are eligible for disenfranchisement. In support of hypothesis 3, this study notes that the consistent overrepresentation of Black offenders in felony convictions therefore leads North Carolina's felony definition to disproportionately disenfranchise Black offenders.

Conclusion

A democracy in which the right to vote is systematically revoked following a felony conviction cannot succeed at accurately representing its constituents. It is troubling, that the grounds on which citizens lose their right to vote, as well as other civic opportunities, are not consistent across all jurisdictions. The subjection of felony sentences to the jurisdictions of states through federalism does not promote equal protection under the United States government. The analysis of this study shows that the minimum felony sentence of 4 months of community punishment in North Carolina is an outlier on a national felony sentencing scale. However, the additional variation in ranges of severity associated with felonies resulting from the variety of felony definitions in the U.S. violates the integrity of the criminal justice system's ability to impose a proportional punishment following a crime. Moreover, the study reveals that deviation from national minimum felony sentencing trends allows for the amplification of racial disparities that are already observed in North Carolina's justice system. It is imperative to the promotion of racial justice in North Carolina that the minimum sentence for a felony is changed to match the standard already in practice by the federal government and the vast majority of other jurisdictions. North Carolina currently stands alone in assigning felony status to hundreds of

thousands of individuals who were never convicted of a crime serious enough to merit even a year in prison.

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Appendix

A: State

B: Felony Definition

C: Minimum felony sentence in months

D: Constitutional Code

E: Minimum felony definition based on maximum misdemeanor definition

F: Maximum misdemeanor sentence

G: Felony Disenfranchisement Class

* = United States Federal Government

** = District of Columbia

A	B	C	D	E	F	G
US*	Felony is defined under federal law as a crime that is punishable by a prison sentence of more than one year.	12	Title 18, Part II, Chapter 227, paragraph 3559	0	12	NA
AL	An offense for which a sentence to a term of imprisonment in excess of one year is authorized by this title.	12	Section 13A-1-2(8)	0	12	4
AK	"Felony" means a crime for which a sentence of imprisonment for a term of more than one year is authorized	12	AS 11.81.900	0	12	3
AZ	Means an offense for which a sentence to a term of imprisonment in the custody of the state department of corrections is authorized by any law of this state	6	13-105	1	6	4
AR	Felonies are the highest ranked crimes in Arkansas. The Arkansas Criminal Justice system posits that crimes in this category are punishable by jail term or incarceration in the state prison. It could also be by life imprisonment or even the death sentence. These punishments depend on the severity of the crime as dictated by the state's penal codes.	12	AR Code § 5-4-401 (2024)	1	12	3

CA	Every offense which is prescribed by any law of the state to be a felony punishable by imprisonment or by a fine, but without an alternate sentence to the county jail for a period not exceeding one year, may be punishable by imprisonment in the county jail not exceeding one year or by a fine, or by both.	12	CA Penal Code § 18 (2024)	0	6	2
CO	Felony offenses are categorized as classes 1 through 6 and unclassified. The penalty for the commission of a certain felony offense depends on its classification and the date the felony was committed.	24	CO Rev Stat § 18-1.3-401 (2024)	1	24	2
CT	Felony (General Statutes § 53a-25): An offense for which a person may be sentenced to a term of imprisonment in excess of one year is a felony.	12	General Statutes § 53a-25	0	12	2
DE	A sentence of incarceration for a felony shall be a definite sentence	12	4205	1	12	4
DC**	"Felony" means an offense punishable by imprisonment for more than one year.	12	Rule 43	0	12	1
FL	The term "felony" shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in a state penitentiary. "State penitentiary" shall include state correctional facilities. A person shall be imprisoned in the state penitentiary for each sentence which, except an extended term, exceeds 1 year.	12	775.08	0	12	0
GA	"Felony" means a crime punishable by death, by imprisonment for life, or by imprisonment for more than 12 months.	12	GA Code § 16-1-3 (2024)	0	12	3

HI	A crime is a felony if it is so designated in this Code or if persons convicted thereof may be sentenced to imprisonment for a term which is in excess of one year.	12	§701-107	0	12	2
ID	A felony is a crime which is punishable with death or by imprisonment in the state prison.	6	Title 18, Chapter 1 and 18-112	1	6	3
IL	"Felony". "Felony" means an offense for which a sentence to a term of imprisonment in a penitentiary for one year or more is provided.	12	(720 ILCS 5/2-7) (from Ch. 38, par. 2-7)	0	12	2
IN	A felony in Indiana is a criminal offense that attracts more than one year jail sentence. They are the most serious of all criminal offenses in Indiana. An offender that is convicted of a felony is referred to as a felon.	12	IN Code § 35-50-1-2 (2024)	0	12	2
IA	A public offense is a felony of a particular class when the statute defining the crime declares it to be a felony.	24	§902.7 - §902.13	1	24	4
KS	Felony is a crime punishable by death or by imprisonment in any state correctional institution or a crime which is defined as a felony by law.	12	21-5102	1	12	3
KY	Offenses punishable by death or confinement in the penitentiary, whether or not a fine or other penalty may also be assessed, are felonies.	12	KRS.514.160	1	12	4
LA	"Felony" is any crime for which an offender may be sentenced to death or imprisonment at hard labor	6	RS 14:2	1	6	3
ME	No felony definition	NA	NA	NA	NA	1
MD	A felony is a crime that attracts more than one year prison sentence	12	Maryland Court Records	0	12	2

MA	<p>A crime punishable by death or imprisonment in the state prison is a felony. All other crimes are misdemeanors.</p> <p>Persons confined in this facility (state prison) are either awaiting trial for a serious offense, committed for a crime in which the sentence is above 2.5 years, or civilly committed for addiction or treatment. The Massachusetts Department of Corrections controls and maintains the state prisons.</p>	30	Part IV, Title I, Chapter 274, Section 1	0	30	2
MI	<p>Felony—The term "felony" when used in this act, shall be construed to mean an offense for which the offender, on conviction may be punished by death, or by imprisonment in state prison.</p> <p>A felony in Michigan is a criminal offense that is punishable by long term imprisonment which could last for a minimum of two years and a maximum of life imprisonment depending on the severity of the offense committed.</p>	24	CL 1948, 750.7	0	24	2
MN	"Felony" means a crime for which a sentence of imprisonment for one year or more may be imposed.	12	609.025	0	4	2
MS	"Felony," when used in any statute, shall mean any violation of law punished with death or confinement in the penitentiary.	12	MS Code § 1-3-11 (2024)	1	12	4
MO	Felonies are defined as a serious offense and punishable by either death or term in state prison of one year or longer.	12	Missouri Sentencing Advisory Commission	0	12	3
MT	"Felony" means an offense in which the sentence imposed upon conviction is death or imprisonment in a state prison for a term exceeding 1 year	12	45-2-101	0	12	2

NE	A felony is a serious criminal offense for which a conviction may result in imprisonment for a year or more, in addition to other penalties.	12	28-105	0	12	3
NV	Category E felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years.	12	NRS 193.130 Categories and punishment of felonies.	0	12	2
NH	A felony is murder or a crime so designated by statute within or outside this code or a crime defined by statute outside of this code where the maximum penalty provided is imprisonment in excess of one year; provided, however, that a crime defined by statute outside of this code is a felony when committed by a corporation or an unincorporated association if the maximum fine therein provided is more than \$200.	12	NH Rev Stat § 625:9 (2023)	0		2
NJ	No felony definition BUT uses "crime" to refer to felony: An offense defined by this code or by any other statute of this State, for which a sentence of imprisonment in excess of 6 months is authorized, constitutes a crime within the meaning of the Constitution of this State	NA	NA	NA	NA	2
NM	Felony - one year or more	12	30-1-6	0	12	2
NY	If someone is found guilty of a felony, he or she may be sent to prison for at least 1 year, or as long as life imprisonment.	12	New York State Unified Court System	0	12	2
NC	A felony is a crime which was a felony at common law; is or may be punishable by death; is or may be punishable by imprisonment in the State's prison; or is denominated as a felony by statute	0	Chapter 15A Article 81B	1	5	3

ND	A serious crime is any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit any of those crimes.	12	12.1-32-01.	1	12	2
OH	Any offense not specifically classified is a felony if imprisonment for more than one year may be imposed as a penalty	12	2901.02	0	12	2
OK	A felony is a crime which is, or may be, punishable with death, or by imprisonment in the penitentiary.	12	21 OK Stat § 5 (2024)	1	12	3
OR	A crime is a felony if it is so designated in any statute of this state or if a person convicted under a statute of this state may be sentenced to a maximum term of imprisonment of more than one year.	12	ORS 161.525	0	12	2
PA	An offense defined by this title for which a sentence of death or of imprisonment is authorized constitutes a crime. A crime is a felony of the third degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than seven years.	60	Title 18, § 106	1	60	2

RI	Unless otherwise provided, any criminal offense which at any given time may be punished by imprisonment for a term of more than one year, or by a fine of more than one thousand dollars (\$1,000), is declared to be a felony	12	RI Gen L § 11-1-2. (2024)	0	12	2
SC	For a Class F felony, not more than five years	36	SECTION 16-1-10	0	36	3
SD	Except as otherwise provided by law, felonies are divided into the following nine classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction	12	22-6-1.	1	12	3
TN	A sentence for a felony is a determinate sentence. Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute.	12	TN Code § 40-35-111 (2024)	0	12	4
TX	Felonies are classified according to the relative seriousness of the offense into five categories: an individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than two years or less than 180 days	6	Title 3. Chapter 12. Subchapter C. Sec. 12.35	0	12	3
UT	"Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.	12	76-3-203.5.	0	12	2
VT	Any offense whose maximum term of imprisonment is more than two years, for life, or which may be punished by death is a felony.	24	Title 13, Chapter 1, § 1	0	24	1

VA	Offenses as are punishable with confinement in a state correctional facility are felonies	12	§ 18.2-8	1	12	4
WA	Every person convicted of a classified felony shall be punished as follows: For a class C felony, by imprisonment in a state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than ten thousand dollars, or by both such imprisonment and fine.	12	RCW 9A.20.020	1	12	2
WV	Such offenses as are punishable by confinement in the penitentiary are felonies They attract punishment of at least one-year imprisonment in a state penitentiary	12	W. V. Ann. Code § 61-11-1.	0	12	3
WI	A felony is a crime punishable by imprisonment in a state prison, generally for a term of more than one year.	12	Wis. Stat. § 939.50 (3)	0	12	3
WY	Crimes which may be punished by death or by imprisonment for more than one (1) year are felonies	12	6-10-101	0	12	4