How The Democrats Plan To Win In 2004
by Phyllis Schlafly Jan. 28, 2004
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Despite George W. Bush's high poll numbers, the Democrats think they have the key to winning the 2004 elections. Get the votes of convicted felons. Don't laugh; the Democrats are deadly serious.

The nation's four million convicted felons could be enough to swing next November's election. Surveys show that the overwhelming majority would vote Democratic if they could, so felons are a voting bloc the Democrats are itching to harvest.

In addition to providing the magic bullet to elect their candidates in November, this issue reprises all the sour-grapes whining by the Democrats about Bush winning Florida in 2000. The Democrats know that if felons had been allowed to vote in Florida, Al Gore would have won Florida and be president today.

The laws of forty-eight states place restrictions on the ability of convicted felons to vote. State laws vary widely in imposing restrictions.

State laws may distinguish between those who are now behind bars and those who have been released, or whether they are repeat offenders, or whether they are violent or nonviolent offenders, or whether they are parolees or probationers. Maine and Vermont allow convicts to vote even if they are still in prison.

Allowing felons to vote is highly unpopular with the American people, but the laws are amended from time to time. Since 1996, nine states have repealed a few of their voting barriers for convicted felons, while three states made their laws tougher.

These changes don't appear to have anything to do with partisanship or geography. The states easing their bans were Alabama, Maryland, Virginia, Connecticut, Delaware, Nevada, New Mexico, Texas and Wyoming, while the states that toughened their policies were Massachusetts (by constitutional amendment), Utah and Kansas.

The Democrats haven't a chance for wholesale repeal of these laws. So the Democrats are doing what liberals always do: they line up the American Civil Liberties Union and other left-wing lawyers and then seek out activist judges to issue rulings that elected legislators will not make.

The Democrats are using a study made by two sociologists, one at the University of Minnesota and the other at Northwestern University, who suggest that, since 1978, seven U.S. Senate races plus the 2000 presidential election would have turned out differently if felons had been allowed to vote. The professors estimate that Florida felons would have given Al Gore an additional 60,000 votes, more than enough to wipe out Bush's narrow margin of victory.

To try to give convicted felons the franchise, the Democrats are playing the race card, asserting that state laws have a "disparate impact" on blacks and Hispanics and therefore violate equal-protection guarantees. The laws of course are color-blind, and furthermore, it is no more discriminatory to deny felons their franchise than to deny them certain categories of employment, child custody, or gun ownership.

Lawsuits have been filed to overturn the laws that bar felons from voting in Florida, New York, New Jersey, and Washington State.

Florida's law permits felons to regain their voting rights by executive clemency, and Florida's department of corrections has agreed to assist felons navigate the restoration process. Officials estimate that 130,000

Florida felons will soon be empowered to vote, but the Democrats are still going forward with their lawsuit.

The Eleventh Circuit U.S. Court of Appeals in Atlanta by 2-1 reversed a District Court ruling in December and ordered a trial on the race allegations in Florida even though the plaintiffs presented no evidence of any racial animus. The Circuit Court decision was written by one of Clinton's most controversial nominees, Judge Rosemary Barkett.

The dissenting opinion in the Eleventh Circuit case pointed out that the 14th Amendment, Section 2, "explicitly allows states to disenfranchise convicted felons." Furthermore, the dissent explained, in the time period when Florida adopted the rule against voting by felons, no "disparate impact" on minorities existed, so there could not have been any bias in the adoption of the rule.

A U.S. District Court in Spokane dismissed a case brought by prison inmates, but the liberal Ninth Circuit sent Farrakhan v. State of Washington back for a trial. The felons want the law overturned because blacks are 37 percent of the felons denied the franchise.

New Jersey allows felons to vote after they complete their incarceration, parole or probation, but that doesn't please the Democrats. Ten ex-convicts (including a convicted killer) are suing to void the state law, because 81 percent of the prison population, 75 percent of parolees, and 52 percent of probationers are blacks or Hispanics.

These plaintiffs are backed by the Constitutional Litigation Clinic at Rutgers Law School, the ACLU, the New Jersey State NAACP, and the Latino Leadership Alliance of New Jersey.

The U.S. Constitution reserves the matter of voting regulations to state legislatures and specifically authorizes the disenfranchisement of felons. We should not permit activist judges to change the laws.