



Written by [C. Mitchell Shaw](#) on April 30, 2016

## Gov. McAuliffe Violated State Constitution by Restoring the Vote to Felons

When Virginia Democrat Governor Terry McAuliffe (shown) announced on April 22 that he was restoring the civil rights — including voting rights — of 206,000 convicted felons, he must have expected some pushback from Republican lawmakers. After all, the felons include violent and repeat offenders. But did he anticipate the extent of the pushback, with one Republican lawmaker pointing out that the governor's executive order violates the state constitution? Governor McAuliffe responded by telling Republicans to "quit complaining."



This is not the first time McAuliffe has overstepped his reach and found himself in the hot seat. In December of 2015, he [announced](#) that he had unilaterally decided to no longer recognize the concealed carry permits from 25 states that had previously been recognized. His hubris was short lived in that case; before the new policy could even go into effect, McAuliffe was forced to back-peddle and honor those permits anyway. As this writer said [then](#):

Virginia's governor, Terry McAuliffe, has "agreed to restore handgun reciprocity" with the 25 states that Virginia's Democrat Attorney General Mark Herring canceled a mere six weeks ago, according to a release from Republican Virginia Delegate James Edmunds.

In fact, the restoration comes before the change was set to go into effect, meaning gun owners living in or visiting the Old Dominion state will continue to enjoy the right to keep and bear arms without interruption.

What caused McAuliffe to reverse himself? Was it a change of heart? No; more like an increase in pressure. And it is likely that even more pressure will be applied in this case. As *The New American* reported in the article about McAuliffe backing down on the gun issue:

Republican delegate Lee Ware introduced legislation to take away the power of the state police to conduct surveys, such as the one on which Herring leaned for this draconian exercise. And, as *The Inquisitr* reported, "Republicans who control both houses of the Virginia legislature at one point considered pulling the funding for Gov. Terry McAuliffe's armed state police bodyguards."

It took the governor a mere six weeks to back down.

There are some similarities between then and now. Besides the fact that in both instances McAuliffe went too far, he also used spin to hide his real agenda. In the former case, he — and Herring — relied on the usual partisan talking points of making "Virginians and our law enforcement officers safer," while the real reason for depriving people of the ability to defend themselves was politically motivated. As this writer reported then:

According to a [report](#) by *The Virginian-Pilot*, the Virginia Citizen's Defense League has accused



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Herring of making his decision as a payoff for political contributions:

The Virginia Citizens Defense League, a gun-rights group, sent an email to its list Tuesday morning saying the announcement was done to pay back former New York Mayor Michael Bloomberg for his campaign donations in Virginia legislative races this fall.

Bloomberg's Everytown For Gun Safety group spent \$2.2 million for two Democrats in state Senate races.

"I've never heard of a single case of an out-of-state permit holder causing problems in Virginia," said Philip Van Cleave, president of the gun-rights group.

In this newest kerfuffle, McAuliffe says he is simply trying to help "disenfranchised voters" — particularly blacks. He told the *New York Times*, "There's no question that we've had a horrible history in voting rights as relates to African-Americans — we should remedy it." In reality, his actions appear — yet again — to be more about helping his party than anything else. He seems to hope that by allowing dangerous felons to visit the polls, he can get more votes for Democrats in upcoming elections.

Setting the similarities aside, there is at least one chief difference between the governor's action on the right to keep and bear arms and his blanket restoration of civil rights to hundreds of thousands of felons.

McAuliffe had the authority to either recognize or refuse to recognize permits from other states. In this new case, his order violates the state constitution, according to State Delegate James Edmunds. In an e-mail statement widely distributed by his office, Edmunds says the governor's executive order "applies to violent criminals who have committed even the most heinous violent crimes including murder, rape, child rape, and kidnapping," adding, "By applying no discretion or judiciousness to this process, the Governor is undermining the strength of the criminal justice system and the sanctity of our civil rights."

Edmunds does *not* believe that felons should *never* have their civil rights restored, but he is clear that both reason and the constitution of the Old Dominion state require that it be done on a case-by-case basis and that in each of those cases the decision must be based on certain criteria. His e-mail reads:

I believe that when convicted felons have completed their sentence and paid their debt to society, they deserve the opportunity to demonstrate they once again deserve their civil rights. However, there should be a clear and consistent delineated policy that applies fairly and equitably. That policy should take into account the nature of the crimes committed, whether they have paid back their victims and the court system, and their willingness to serve as productive members of society.

Furthermore:

The Constitution of Virginia grants the Governor the authority to restore the civil rights of convicted felons. The Constitution also vests the clemency power in the office of the Governor. However, that authority is limited and must be applied on an individual basis. The Constitution says no "person" may vote unless "his" civil rights have been restored by the Governor.

And it's not as if McAuliffe was unaware that he was introducing a novelty to Virginia's laws regarding the restoration of civil rights. Even former Democratic Governor Tim Kaine refused to consider doing what McAuliffe has done. As Edmunds said in his e-mail, "In 2010, counsel to Democratic Governor Tim Kaine said blanket orders restoring rights was not a contemplated use of executive authority and would be a 'rewrite of the law.'"

That is pretty clear. In fact, even the *New York Times* [seems to realize](#) that McAuliffe is violating the



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state constitution with his order, though the left-leaning news outlet referred to it in another way:

Gov. Terry McAuliffe of Virginia used his executive power ... to restore voting rights to more than 200,000 convicted felons, circumventing the Republican-run legislature. The action effectively overturns a Civil War-era provision in the state's Constitution aimed, he said, at disenfranchising African-Americans.

The problem for McAuliffe — and the *Times* — is that the governor doesn't have the authority to "overturn" anything in the constitution. His very job description is to execute the laws of Virginia. The *Times*, while justifying McAuliffe's actions, made an interesting admission against interest: McAuliffe's actions are motivated not by the greater good of his state, but are instead motivated by partisan politics. The article says:

The sweeping order, in a swing state that could play a role in deciding the November presidential election, will enable all felons who have served their prison time and finished parole or probation to register to vote. Most are African-Americans, a core constituency of Democrats, Mr. McAuliffe's political party.

When even the *Times* can see the winds of political influence at work in the actions of Democrats, is there much point in anyone else denying it? Rather than answer the charges that his order is designed to swell the ranks of Democrat voters, McAuliffe said Republicans should "quit complaining." As *The Hill* [reported](#):

"Well, I would tell the Republicans, 'Quit complaining and go out and earn these folks' right to vote for you. Go out and talk to them,' " he said in response to a question about people saying his order was an election-year ploy to help Democratic presidential front-runner Hillary Clinton.

It comes, then, as no surprise that the Democratic nominee-assumptive, Hillary Clinton, praised her fellow Democrat for his heavy-handed and unconstitutional behavior. *The Hill* also [reported](#) that Mrs. Clinton took to Twitter to express her "pride" over the executive order:

Democratic presidential front-runner [Hillary Clinton](#) praised Virginia's governor Friday for signing an executive order that will extend voting rights to more than 200,000 convicted felons.

Proud of my friend [@GovernorVA](#) for continuing to break down barriers to voting. -H  
<https://t.co/sL6NBLKwho>

— Hillary Clinton (@HillaryClinton) [April 22, 2016](#)

Mrs. Clinton apparently knows which side her political bread is buttered on. So does Governor McAuliffe. He seems to believe he is able to ignore both the state constitution and the voice of concerned Virginians. As Edmunds said in his e-mail:

We are reviewing the legal options available to challenge the Governor's action. While we explore our options, Republican leaders called on the Governor to convene a Special Session of the General Assembly and was promptly rejected. This matter is very important to the people of Virginia. They deserve to have their voices heard through their elected representatives.

However, McAuliffe *can* ignore his duties as governor without having to fear being voted out of office by angry constituents. The reason for this is that Virginia limits its governor to a single term. As a consequence, those holding the office have no hopes of reelection. There is no way for the people to hold them accountable in the polls and — as in this case — Virginia's governors too often spend their time in office grooming themselves for some other office (and currying favor with the leaders of their



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own parties) instead of looking out for the interests of Virginians. Advocates of term limits would do well to consider that.

Unless Virginia's Republicans are successful in "reviewing the legal options available to challenge the Governor's action," felons will likely help deliver Virginia's electoral votes to whoever wins the Democratic nomination.

*Photo of Gov. Terry McAuliffe*



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