



**NEW YORK
CITY BAR**

Contact: Maria Cilenti - Director of Legislative Affairs - mcilenti@nycbar.org - (212) 382-6655

**REPORT ON LEGISLATION BY THE
CORRECTIONS COMMITTEE¹**

**A.2266-A
S.1266 -A**

**M. of A. Wright
Senator Montgomery**

AN ACT to amend the election, criminal procedure, correction, and executive laws to require that people with felony convictions be notified of their voting rights.

THIS BILL IS APPROVED

The Corrections Committee of the New York City Bar Association supports Assembly Bill 2266-A and Senate Bill 1266-A, the New York Voting Rights Notification and Registration Act. The Act's long-overdue reforms would enable thousands of eligible New Yorkers to register and vote, make New York's election law less discriminatory, and ease administration of the law.

The Voting Rights Notification and Registration Act would require courts to inform a defendant that incarceration for a felony conviction will result in the loss of voting rights at the time he or she pleads guilty or is sentenced. It would give local Departments of Corrections, local Probation Departments, and the Division of Parole the responsibility of providing individuals under their supervision written information about voting rights, voter registration forms, absentee ballots, and assistance with registration once individuals become eligible to vote. The Act would also require criminal justice agencies to inform the Board of Elections when an individual becomes eligible to vote after completing a term of incarceration. Additionally, the Act would require the Board of Elections to develop educational programs informing elections officials, criminal justice officials, and people in the community of their right to vote.

This Act is necessary because confusion about New York's current laws has left citizens without a voice. Officials responsible for administering elections in the state and members of the community demonstrably misunderstand and misapply current New York law. A 2006 survey of sixty-three local election boards found that more than one third of them, including four in New York City, are disenfranchising former prisoners and probationers who are eligible to register and vote.² Twenty-four boards, or 38%, either did not know whether individuals on probation were eligible to vote under current New York Law or incorrectly responded that they were

¹ This report has been revised and reissued to reflect amendments made to the bill.

² BRENNAN CTR. FOR JUSTICE & DEMOS, BOARD OF ELECTIONS CONTINUES ILLEGALLY TO DISENFRANCHISE VOTERS WITH FELONY CONVICTIONS 4 (Mar. 2006), *available at* http://www.brennancenter.org/page/download_file_34665.pdf.

ineligible;³ this is especially significant because there were 123,015 New Yorkers on probation in 2007.⁴ Additionally, many local election officials require individuals with conviction histories to affirmatively prove—by, for example, providing a Certificate of Relief from Disabilities—that they can register to vote when in fact the franchise is automatically restored by operation of law.⁵

As a result, many New Yorkers with criminal histories remain unsure about their voting eligibility and do not vote. Some incorrectly believe they lost the right to vote while on probation, while others believe they have permanently lost the right to vote in New York due to their conviction history.⁶ This troubling confusion among election officials and the public suggests that proper notification and a strong public education campaign are needed to ensure the participation of all eligible voters.

Law enforcement officials and criminal justice experts across the country and in New York recognize that voting rights and rehabilitation are closely related.⁷ Voting promotes positive behavior and ensures that an individual is invested in the well-being of his or her community. Communities of color—particularly African-American and Latino—are disproportionately impacted by high incarceration rates and by the disenfranchisement this Act seeks to remedy.⁸ When election officials misapply the law, communities that have lost their voice through disenfranchisement of incarcerated members never get it back. The Voting Rights Notification and Registration Act will help those communities to access the democratic process.

For the foregoing reasons, the Corrections Committee recommends passage of this bill as an important step in correcting decades of confusion and misinformation regarding voting rights in New York State.

Reissued March 2010

³ *Id.*

⁴ N.Y. STATE DIV. OF CRIMINAL JUSTICE SERVS., NEW YORK STATE CRIMINAL JUSTICE 2007 CRIMESTAT REPORT 32-40 (Mar. 2008), available at <http://www.criminaljustice.state.ny.us/pio/annualreport/2007crimestatreport.pdf>

⁵ Brennan Ctr., *supra* note 1, at 4.

⁶ ERNEST DRUCKER & RICARDO BARRERAS, THE SENTENCING PROJECT, STUDIES OF VOTING BEHAVIOR AND FELONY DISENFRANCHISEMENT AMONG INDIVIDUALS IN THE CRIMINAL JUSTICE SYSTEM IN NEW YORK, CONNECTICUT, AND OHIO 8 (2005), available at http://www.sentencingproject.org/Admin/Documents/publications/fd_studiesvotingbehavior.pdf.

⁷ See ERIKA WOOD, RESTORING THE RIGHT TO VOTE 10-12 (2009), available at http://www.brennancenter.org/content/resource/restoring_the_right_to_vote/; Resolution Supporting Restoration of Voting Rights, Am. Prob. & Parole Ass'n (Oct. 17, 2007), available at <http://www.appa-net.org/newsreleases/2007/APPVotingRightsRelease.pdf>; Resolution of Restoring Voting Rights, Nat'l Black Police Ass'n, (June 2008), available at http://brennan.3cdn.net/3fbb1fad944ddefbfb_11m6bh16i.pdf; Resolution on Restoring Voting Rights, Ass'n of Paroling Authorities Int'l (Apr. 30, 2008), available at http://www.apaintl.org/en/aw_resolutions_voting.html.

⁸ See JEFF MANZA & CHRISTOPHER UGGEN, LOCKED OUT: FELONY DISENFRANCHISEMENT AND AMERICAN DEMOCRACY 249, 252 (2006); MEXICAN AM. LEGAL DEFENSE AND EDUC. FUND, DIMINISHED VOTING POWER IN THE LATINO COMMUNITY: THE IMPACT OF FELONY DISENFRANCHISEMENT LAWS IN TEN TARGETED STATES 10 (2003), available at <http://maldef.org/assets/pdf/FEB18-LatinoVotingRightsReport.pdf>.