

BRENNAN  
CENTER  
FOR JUSTICE

**Memorandum In Support of Senate Bill 3559A**

The Brennan Center for Justice at NYU School of Law writes in strong support of Senate Bill 3559A. The bill's long-overdue reforms would help correct years of confusion and misinformation and would encourage thousands of eligible New Yorkers to register and vote. Senate Bill 3559A would charge the Department of Corrections and the Division of Parole with providing individuals with information about voting rights, voter registration forms, and assistance with voter registration when requested.

Currently more than 108,000 New Yorkers cannot vote because of a criminal conviction in their past. Almost half of these disenfranchised citizens have completed their prison sentence and are on parole, living and working in the community. A new Brennan Center report titled *Jim Crow in New York* traces the history of New York's felony disenfranchisement law and reveals its roots firmly planted in some of the most discriminatory voting barriers to exist in our country.<sup>1</sup> New York's criminal disenfranchisement provisions were part of a concerted effort to exclude African Americans from participating in the political process. As African Americans gained freedom with the gradual end of slavery, New York's voting qualifications – including criminal disenfranchisement laws – became increasingly more restrictive.<sup>2</sup>

A careful reading of New York's constitutional history reveals that at the very time that the Fourteenth and Fifteenth Amendments forced the state to remove its nefarious property requirements for African-American voters, New York changed its law from allowing to *requiring* the disenfranchisement of those convicted of "infamous crimes."<sup>3</sup> Today, New York's Election Law disenfranchises people while in prison and on parole. The voting bar in the current constitution is nearly identical to the one enacted 140 years ago, and it continues to have its intended effects: 80 percent of those currently disenfranchised in New York due to a felony conviction are African-American or Latino.<sup>4</sup>

Providing voting information to people who have been through the criminal justice system empowers communities that are too often shut out of the democratic process. Senate Bill 3559A will provide crucial information and assistance to poor and minority communities and encourage democratic participation among all New Yorkers.

Senate Bill 3559A will also help remedy widespread and persistent misinformation among election officials regarding the eligibility of people with criminal histories in New York. Thousands

---

<sup>1</sup> See Erika Wood & Liz Budnitz, *Jim Crow in New York* (2010), available at <http://www.brennancenter.org/content/resource/jimcrowny>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 12-13.

<sup>4</sup> *Id.* at 5.

of eligible New Yorkers with felony convictions have been illegally denied the right to register and vote because of confusion and noncompliance on the part of county elections officials. A 2006 Brennan Center report revealed that one-third of all counties stated that people on probation are not eligible to vote, even though they never lose the right to vote, and another third of New York counties illegally required individuals to show documentation or proof of their eligibility status.<sup>5</sup>

Because of this persistent misinformation, many New Yorkers with criminal histories do not know whether they are eligible to vote. In 2005, researchers found that about half of New Yorkers surveyed incorrectly thought they were ineligible to vote while on probation and about 30% believed they lost their right to vote if they had only been arrested, but not convicted.<sup>6</sup> Nearly 30% of people with criminal convictions surveyed in New York thought they would never be eligible to vote again.<sup>7</sup> 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.<sup>8</sup> One of the greatest challenges facing those who are returning to the community is the transition from a focus on one's self as an individual that is central to the prison experience, to a focus on one's self as a member of a community that is the reality of life in our democratic society. Educating people on their right to vote and encouraging them to exercise this right gives them a voice and a stake in their community. It promotes positive behavior and serves as a powerful conduit for making the transition from criminal to becoming a law abiding member of the community. Someone who has a stake in the community, who sees himself as a member of that community, is less likely to offend the community.

Senate Bill 3559A is an important step in correcting decades of confusion and misinformation, and to assuring that all New Yorkers who are eligible to vote are encouraged to participate in our democracy.

**Contact: Erika Wood, Director, Right to Vote Project  
Brennan Center for Justice  
(212) 992-8638, [erika.wood@nyu.edu](mailto:erika.wood@nyu.edu)**

---

<sup>5</sup> Brennan Center for Justice at NYU School of Law & Demos: A Network of Ideas and Action, *Board of Elections Continues Illegally to Disenfranchise Voters with Felony Convictions* (Mar. 2006), [http://www.brennancenter.org/page/-/d/download\\_file\\_34665.pdf](http://www.brennancenter.org/page/-/d/download_file_34665.pdf).

<sup>6</sup> Ernest Drucker and 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](http://www.sentencingproject.org/Admin/Documents/publications/fd_studiesvotingbehavior.pdf).

<sup>7</sup> *Id.* at 9.

<sup>8</sup> See Erika Wood, *Restoring the Right to Vote* 10-12 (2008); American Probation & Parole Ass'n, *Resolution Supporting Restoration of Voting Rights* (Oct. 17 2007) available at [http://www.appa-net.org/newsreleases/2007/APPA\\_Voting\\_Rights\\_Release.pdf](http://www.appa-net.org/newsreleases/2007/APPA_Voting_Rights_Release.pdf); National Black Police Ass'n, *Resolution of Restoring Voting Rights* (June 2008) available at [http://brennan.3cdn.net/3fbb1fad944ddefbfb\\_11m6bh161.pdf](http://brennan.3cdn.net/3fbb1fad944ddefbfb_11m6bh161.pdf); Association of Paroling Authorities Int'l, *Resolution on Restoring Voting Rights* (April 30, 2008) available at [http://www.apaintl.org/en/aw\\_resolutions\\_voting.html](http://www.apaintl.org/en/aw_resolutions_voting.html); Leonard Marks, *Testimony Before the New York State Senate Elections Cmte* (April 24, 2009) available at <http://www.brennancenter.org/page/-/Democracy/Marks%20testimony%20NYS%20Senate%20Elections%20Cmte%204-24-09.pdf>