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I appear before you today in support of Senate Bill 488, which would restore the vote to people with criminal convictions who have completed their sentences. This is an important reform that will make Maryland's disenfranchisement law easier to administer, simpler to understand, and most importantly, more fair.

I am Counsel in the Democracy Program of the Brennan Center for Justice at New York University School of Law. The Brennan Center for Justice is a non-partisan public policy and law institute that focuses on the fundamental issues of democracy and justice. We are partners, with the ACLU and the Sentencing Project, in the Right to Vote Campaign, a national collaboration whose mission is to remove barriers to voting by people with felony convictions. Working with state and local partners, the Campaign is engaged in policy reform, litigation, public education, and voter registration both nationally and in targeted states.

Senate Bill 488 would make two key changes to Maryland's criminal disenfranchisement law: it would change which crimes cause individuals to lose their vote, and it would restore the vote to individuals after they have completed their criminal sentences.

Currently, Maryland law disenfranchises all persons convicted of "infamous crimes." The phrase "infamous crimes" is an old-fashioned common law phrase that has been interpreted by Maryland courts and defined in the Elections code to mean all felonies plus misdemeanors that include an element of deceit, fraud, or corruption. In order to enforce the current law, the Attorney General has to periodically issue a list of "infamous crimes" for use by elections officials. The most recent list was 19 pages long. By changing the crimes that disenfranchise from "infamous crimes" to "felonies," Senate Bill 488 would simplify this complicated law and lessen the administrative burden on both elections officials and the Attorney General.

Changing the "infamous crimes" language would also have the important effect of ending the disenfranchisement of misdemeanants. Throughout most of the United States, because disenfranchisement is a serious punishment, it is reserved only for people convicted of felonies, the most serious crimes. Maryland is one of only six states that generally disenfranchises misdemeanants, and one of only two states that does so even when a person receives no jail time for the offense. Under current law, intentionally mislabeling a crate of apples with the wrong variety is a disenfranchising crime. Senate Bill 488 would end this harsh practice and bring Maryland in step with the majority of the country.

The current rules controlling when individuals have their right to vote restored are also extremely complicated and hard to administer. Under existing law, those convicted of one infamous crime have their rights restored after completion of sentence. Those convicted of two or more infamous crimes must wait three years after the completion of the sentence for their most recent conviction. And those convicted of two or more crimes of violence as defined in Section 14-101 of the Criminal Law Article are disenfranchised for life. This complicated three-tier waiting period places Maryland in the minority of only eleven states that disenfranchise some people for life. Senate Bill 488 streamlines the law by restoring the right to vote at the completion of sentence. This change would make the law easier to enforce, and it would restore the right to vote to 50,000 Marylanders who are living in the community—working, raising families, and paying taxes.

Proposed Amendments

We support Senate Bill 488 as introduced, but advocate three additional changes to the law: (1) changing the definition of “infamous crimes” in Section 1-101(aa) of the Election Code; (2) requiring court clerks to transmit to elections officials information only on persons convicted of felonies, rather than theft and other infamous crimes, in Section 3-504 of the Election Code; and (3) changing the eligibility language in Section 3-102 of the Election Code to make clear that once people have finished probation, parole, and imprisonment for their convictions, they are eligible to vote.

The first two of these alterations, changing the definition of infamous crimes and clarifying the information to be transmitted between courts and elections officials, would make the law simpler, internally consistent, and easier to administer. Senate Bill 488 as introduced would change the set of disenfranchising crimes in Maryland from “infamous crimes” to felonies. The proposed changes to Sections 1-101(aa) and 3-504 would implement that change throughout the Election Code, making these sections consistent with the new language in Senate Bill 488 and avoiding confusion that might otherwise arise in enforcing the new law.

Section 1-101(aa) defines “infamous crime,” for the purposes of the election code, as “felony, treason, perjury, or any crime involving an element of deceit, fraud, or corruption.” Because Senate Bill 488 changes the eligibility rules to disenfranchise only people convicted of felonies, and not those convicted of misdemeanors involving an element of deceit, fraud, or corruption, the definition of disenfranchising crimes should be simplified as well.

Section 3-504 of the Election Code currently requires courts to provide voter registration agencies with the names and addresses of those convicted of “theft or infamous crimes.” Those individuals are then removed from the voter rolls. Because Senate Bill 488 does

not change the notification requirements of section 3-504, if enacted the law would continue to require courts to report information on a broader category of people than those who are legally disenfranchised under the new law. We therefore support amending Senate Bill 488 to change Section 3-504 to require courts to report felony convictions only.

The last of these changes, altering the new language defining when persons are ineligible due to criminal conviction from those who are serving a “court-ordered sentence” to those serving a “court-ordered sentence of imprisonment, including any term of parole, or probation for the conviction.” This change in language is designed to ensure that anyone who has completed their criminal sentence is allowed to vote, even if they still owe fines or restitution. This change is important to guarantee that people will not have to overcome financial hurdles before being able to vote. In fact, courts have recognized that a system that distinguishes between people who have fully repaid their legal financial obligations and those who have not is unconstitutional.

Thank you for the opportunity to submit these remarks. The Brennan Center is pleased to testify in support of this important bill.

A handwritten signature in black ink, appearing to read "Renée Paradis". The signature is fluid and cursive, with a large initial "R" and "P".

Renée Paradis
Counsel, Democracy Program