

**Memorandum In Support of Senate Bill 1266/Assembly Bill 2266
The Voting Rights Notification and Registration Act**

The Brennan Center for Justice at NYU School of Law writes in strong support of Senate Bill 1266/Assembly Bill 2266, the Voting Rights Notification and Registration Act. The Act's long-overdue reforms would help correct years of confusion and misinformation and would encourage thousands of eligible New Yorkers to register and vote.

The Voting Rights Notification and Registration Act would require courts to advise defendants at the time of a guilty plea and sentencing that incarceration for a felony conviction will result in the loss of voting rights. The law would also charge the department of corrections and probation and parole offices with providing individuals with written information about voting rights, voter registration forms, and assistance with voter registration when requested. It would require local departments of corrections to inform people of their right to vote by absentee ballot and it would require criminal justice agencies to share information with the Board of Elections when an individual again becomes eligible to vote. Finally, it would require the Board of Elections to develop educational programs informing elections and criminal justice officials and people in the community about voting rights.

S1266/A2266 will help remedy widespread and persistent misinformation among election officials regarding the eligibility of people with criminal histories in New York. Thousands 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.¹

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.² Nearly 30% of people

¹ 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.

² 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

with criminal convictions surveyed in New York thought they would never be eligible to vote again.³ 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.

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. Disproportionate incarceration rates have caused New York's disenfranchised population to be overwhelmingly composed of people of color. 64% of those disenfranchised under New York's law are African-American,⁴ and 33% are Latino.⁵ In contrast, probationers in New York, who never lose their right to vote, are 46% white.⁶ S1266/A2266 will provide crucial information and assistance to poor and minority communities and encourage democratic participation of all New Yorkers.

Law enforcement officials and criminal justice experts across the country and in New York recognize that voting rights and rehabilitation are closely related.⁷ 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.

The Voting Rights Notification and Registration Act 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.

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(2005), available at

http://www.sentencingproject.org/Admin/Documents/publications/fd_studiesvotingbehavior.pdf.

³ *Id.* at 9.

⁴ See JEFF MANZA & CHRISTOPHER UGGEN, LOCKED OUT: FELONY DISENFRANCHISEMENT AND AMERICAN DEMOCRACY 249, 252 (2006).

⁵ Mexican American Legal Defense and Educational 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>.

⁶ New York State Division of Criminal Justice Services, *New York State Probation Population 2007 Profile* (June 30, 2008) available at <http://dpc.state.ny.us/pdfs/nysprobationreport2007profile.pdf>

⁷ 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; National Black Police Ass'n, *Resolution of Restoring Voting Rights* (June 2008) available at http://brennan.3cdn.net/3fbb1fad944ddefbfb_11m6bh16i.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; Lenoard 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>