

Testimony of

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Introduction

The Brennan Center for Justice at NYU School of Law (“Brennan Center”) writes in strong support of the Right To Vote bill, A.B. 301. The Brennan Center is a non-partisan public policy and law institute that works nationwide to restore the vote to people with criminal convictions. A.B. 301 would automatically restore voting and jury rights to anyone who completes a felony sentence of imprisonment, probation, or parole, and provide election officials accurate and current information about voter eligibility. A.B. 301 would enhance public safety, facilitate election administration, and advance civil rights.

Voting is both a fundamental right and a civic duty. However, disenfranchisement after criminal conviction remains the most significant barrier to voting rights. Nationally, 5.3 million American citizens are not allowed to vote because of a criminal conviction – 4 million of whom live, work, and raise families in our communities.¹ Nevada’s disenfranchisement law is one of the most restrictive in the country. Under the current law, more than 40,000 Nevadans are unable to cast a vote due to a past criminal conviction, half of whom have completed their full sentences and are living in the community.² Nearly a third of the disenfranchised individuals are African-American.³

There has been a national recognition that harsh criminal disenfranchisement laws serve no legitimate purpose. Since 1997, 19 states have changed their laws to restore voting rights or

¹ Jeff Manza & Christopher Uggen, *Locked Out: Felon Disenfranchisement and American Democracy* 249 (2006); See also The Sentencing Project, 2009 data available at <http://sentencingproject.org/map/statedata.cfm?abbrev=NV&mapdata=true>.

² Manza, *supra* note 1.

³ *Id.*

eased the restoration process.⁴ These changes have occurred under both Republican and Democratic governors.

A.B. 301 will streamline the voting restoration process to the benefit of election officials, public safety, and individuals with criminal convictions.

A.B. 301 will simplify Nevada's laws governing the restoration of the right to vote, which are currently among the most complex in the nation. The bill will automatically restore voting rights to individuals immediately after their completion of any felony sentence of prison, probation, or parole. These changes will apply to any individual, regardless of the jurisdiction of their conviction or their ability to obtain documentary proof of restored voting rights, as is now required under the law. Any individual becoming eligible to vote will be informed of their eligibility in writing and provided with a voter registration application.

A.B. 301 will also increase the sharing of voter eligibility information between the Nevada Department of Corrections, the Department of Parole and Probation, and appropriate elections officials to ensure better, more up-to-date voter rolls and assist election officials in determining voter eligibility. By eliminating the requirement that only registrants with past criminal convictions provide proof of eligibility, this bill should reduce the burden currently placed on registrars as *de facto* criminal investigators. It will also remove the Catch-22 placed on those with out-of-state convictions who are unable to obtain documents required by current Nevada law, but which simply do not exist in their state of conviction. Nevada stands alone in enforcing requirements that frequently cannot be met by people with out of state convictions. While the current laws expressly grant voting rights to individuals with criminal convictions from another state, the practical differences among the states' disenfranchisement laws make the application of Nevada's restoration laws at times unworkable. No eligible voter should be prevented from casting a ballot because of burdensome requirements that cannot be met, even as the policy of the state supports that right.

As described in more detail below, A.B. 301 will decrease administrative burdens on election officials, increase the accuracy of voter eligibility information, encourage successful reentry of individuals living in our communities, enhance public safety, and correct a longstanding barrier to civil rights that carries deep racial overtones. Passage of A.B. 301 is not only the morally right course of action; it has numerous practical benefits for the state of Nevada and its citizens.

Automatically restoring voting rights furthers successful reentry.

Law enforcement officials and criminal justice experts across the nation, including the American Correctional Association, American Probation and Parole Association, Association of Paroling Authorities International, and the National Black Police Association, agree that restoring the right to vote after completion of a sentence builds community ties, reduces

⁴ See Ryan S. King, The Sentencing Project, *Expanding the Right to Vote: State Felony Disenfranchisement Reform, 1997-2008* (Sept. 2008), available at http://www.sentencingproject.org/Admin/Documents/publications/fd_statedisenfranchisement.pdf.

recidivism, and protects public safety.⁵ These renowned organizations view civic engagement, including voting, as a crucial tool in preventing recidivism. A.B. 301 would restore the right to vote for tens of thousands of Nevadans who currently work and live in our communities but lack a full voice in their democracy.

A critical element of protecting public safety is successful reintegration of former offenders back into their communities, and barriers to civic engagement are barriers to reintegration. As Leonard Marks, a retired Brooklyn Bureau Chief in the New York State Division of Parole, has stated:

“One of the greatest challenges facing those who are coming out of prison is the transition from the 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. Having the right to vote and learning how to exercise that right gives one a voice and a stake in the 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.”⁶

Encouraging people to exercise their right to vote gives them a voice and a stake in their communities. It also promotes positive behavior and serves as a powerful conduit for making the transition from being in the criminal justice system 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 against that community. Additionally, barring people from the political process hinders effective policing by undermining the ability for police to build strong community partnerships.

A.B. 301 presents an opportunity for Nevada to show it is serious about preventing recidivism by adopting the best practices endorsed by corrections and parole experts. Automatically restoring the right to vote to those with criminal convictions truly gives them a second chance to be welcomed back into our communities, and a reason to stay in them for life. Simply put, restoring civil rights protects public safety.

Automatic restoration of civil rights saves precious government resources.

Nevada’s laws governing the restoration of civil rights are difficult to navigate for both election officials and individuals with criminal histories. A.B. 301 would simplify Nevada’s rules for restoring the right to vote after a criminal conviction while increasing access to information for both voters and election clerks. Streamlining the voting process and providing

⁵ Press Release, Restoration of Voting Rights, American Correctional Association (Jan. 24, 2001) (on file with author); Press Release, Resolution Supporting Restoration of Voting Rights Released, American Probation and Parole Association (Oct. 17, 2007) (on file with author); Press Release, Resolution on Restoring Voting Rights, Association of Paroling Authorities International (Apr. 30, 2008) (on file with author); Press Release, National Black Police Association Resolution of Restoring Voting Rights, National Black Police Association, Inc. (June 2008) (on file with author).

⁶ Testimony of Leonard Marks, Retired Brooklyn Bureau Chief, New York State Division of Parole, Before the New York State Senate Elections Committee, April 24, 2009.

increased access to information will ensure consistent election administration and help prevent election fraud.

Even more striking, an extremely recent survey completed by the ACLU of Nevada⁷ indicates widespread confusion among election employees about the proper procedures for rights restoration. Many election employees gave incomplete, inaccurate, and inconsistent responses to basic questions about the requirements of the rights restoration process. The laws are difficult for even a lawyer to discern; it is simply unfair to place this complex burden at the feet of election employees who are charged with registering voters.

This confusion leads to one of two things: eligible voters chilled from casting a lawful vote, or ineligible voters intentionally – or unintentionally – casting a ballot. Both are terrible outcomes for our democracy. Bringing clarity to the laws will help ensure that all – and only – eligible voters can vote.

Allowing people to vote as soon as they are released from a felony sentence simplifies election administration – if they are not under a current felony sentence, they are eligible to vote. There is no longer any need to coordinate complicated data matches, administer convoluted eligibility requirements, or sort through restoration applications. The policy saves the state valuable time, energy and resources, and avoids the potential for burdensome lawsuits by those wrongfully denied a vote. Adoption of A.B. 301 will benefit not only individuals currently prevented from voting by Nevada's byzantine laws, it will also ease the difficulty of election administration for the counties.

Automatically restoring the right to vote is an issue of racial justice.

Felony disenfranchisement laws in the United States are deeply rooted in the troubled history of American race relations, and the disproportionate racial impact of these laws continues to be reflected today. In 1870 the Fifteenth Amendment enfranchised African-American men, but grandfather clauses, literacy tests, and poll taxes still barred most freedmen from the voting booth. Most state disenfranchisement laws were designed as ways to further dilute the voting power of African-Americans. By restoring voting rights immediately after the completion of any felony sentence, A.B. 301 would help to reduce the impact of historically racially prejudiced disenfranchisement laws.

The most comprehensive study of Nevada's disenfranchised population occurred in 2009, and found 43,594 people disfranchised in the state or about 2.6% of Nevada's population. Tens of thousands of those individuals – about half – had fully paid their debts to society and were living and working in their Nevada communities. **Of the total disfranchised population, 12,632 (or 29%) are African-American, making the state's African-American disfranchisement rate a whopping 12.4%, almost 5 times the statewide disfranchisement rate.**⁸ The disparate racial impact of Nevada's disenfranchisement law is stark. Restoring the right to vote to tens of thousands of these individuals can begin to reverse this racial injustice.

⁷ ACLU of Nevada, *Voting with a Criminal Conviction in Nevada: Administrative Problems and the Need for Reform* (March 2011).

⁸ The Sentencing Project, 2009 data *available at* <http://sentencingproject.org/map/statedata.cfm?abbrev=NV&mapdata=true>.

Conclusion

The right to vote forms the core of American democracy. Our history is marked by successful struggles to expand the franchise, to include those previously barred from the electorate because of race, class, or gender. As a result our democracy is richer, more diverse, and more representative of the people than ever before. However, felony disenfranchisement represents one of the last remaining barriers between citizens and the ballot box. Passing A.B. 301 is a step in the right direction for voting rights, public safety, and racial justice. We urge your support for this bill.

Please do not hesitate to contact me at any time if I can be of further assistance.

Sincerely,



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