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Testimony of Tomas Lopez
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Before the
Education, Health, and Environmental Affairs Committee
Maryland Senate
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The Brennan Center for Justice at New York University School of Law submits this testimony in support of Senate Bill 340, which would restore the right to vote to people with criminal convictions who have been released from incarceration. This reform will make Maryland's disenfranchisement law easier to administer, simpler to understand, and most importantly, more fair.

The Brennan Center is a non-partisan law and policy institute that seeks to improve our systems of democracy and justice. Through legislative advocacy, policy research, and litigation, we work to advance reforms that will make our elections more free, fair, and accessible. While we work on a range of voting rights and election law issues, our organization has a particularly long record of supporting efforts to reform felony disenfranchisement laws at the state and federal levels. The Brennan Center has published a series of reports on voting rights restoration, provided support to legislative reform efforts throughout the country, and authored the policy proposal that was the basis for the Democracy Restoration Act, a bill that would restore voting rights in federal elections. In 2007, the Brennan Center supported and helped draft the legislation that ended lifetime felony disenfranchisement in Maryland, and we testified in this same body to support that measure. This year, we again support and helped draft the legislation now under consideration.

Senate Bill 340 would enable citizens to vote upon their release from incarceration, instead of upon the final completion of their sentence, including probation and parole. It would also facilitate voter registration by providing assistance with voter registration to former prisoners at the time of their release.

When Maryland last revised its disenfranchisement law, it restored the right to vote to over 50,000 of its citizens. Senate Bill 340 would accomplish the same for a group nearly as large. Approximately 40,000 Marylanders currently on probation or parole would be able to join the voter rolls under this bill. Passing this legislation is good public policy because it will 1) strengthen this state's democracy and serve the criminal justice system by facilitating the re-

entry process for ex-offenders; and 2) reduce the administrative burden associated with felony disenfranchisement.

A. Expanding the Population of Voters Will Confer Broad Community Benefits by Increasing Political Participation and Facilitating Successful Re-Entry

Restoring the right to vote would benefit both affected individuals and their communities by increasing political participation, particularly in currently underserved communities, and by facilitating a successful re-entry experience for those leaving incarceration.

As to the former, a range of research findings point to the positive impact that restoring civil rights can have on political participation for individuals, their families, and their communities. Disenfranchisement laws may depress voter turnout in neighborhoods with high incarceration rates, even among people who are eligible to vote.ⁱ Within a family unit, research finds that voting is behavior learned by children from their parents, and that a parent's political participation (or lack thereof) heavily influences a child's future political participation.ⁱⁱ The inability to vote can therefore spread political disengagement across generations. Further, disenfranchisement can preclude the opportunity for individuals returning from incarceration to model civic participation for young people, especially their children, and build their communities' social capital.ⁱⁱⁱ Removing this barrier to voting could encourage political participation not only by those with a restored right to vote but also by their families and neighbors.

The restoration of voting rights helps with the re-entry process by integrating newly released former prisoners into their communities. Parole and probation professionals believe that having the right to vote helps individuals think of themselves as parts of a community where their views matter, and that this personal investment can help reduce recidivism.^{iv} Research reinforces this view. One study on the relationship between voting and recidivism found "consistent differences between voters and non-voters in rates of subsequent arrests, incarceration, and self-reported criminal behavior;"^v and a Florida government analysis found that the recidivism rate of those whose voting rights were restored was roughly one-third that of those who remained unable to vote.^{vi}

These benefits will only have their farthest reach if they reach the largest population possible. A number of states currently delay rights restoration for people with convictions categorized as violent and also require that individuals pay any fees and fines before being eligible for rights restoration.^{vii} Senate Bill 340 is a more effective bill because it both avoids such categorizations and facilitates the voter registration process for individuals leaving incarceration. By giving these individuals both the right to vote and the means to act upon it, this legislation allows the benefits of rights restoration to reach tens of thousands additional Marylanders and their communities.

B. A Policy That Reaches All Individuals Released from Incarceration will Reduce Administrative Burden

By restoring voting rights to individuals upon release from incarceration, Senate Bill 340 will lift a heavy administrative burden on election officials under the current law. Right now, election officials must know whether an applicant registering to vote not only has a felony conviction, but whether that person has completed his or her sentence. They have to understand the conditions under which a sentence is complete, and they must also keep these records consistently up to minute accurate—on top of other responsibilities. While Maryland election officials regularly receive records from the state court system, these records are not delivered in real time and are therefore vulnerable to being outdated.

SB 340 proposes a simple alternative by enfranchising all individuals who are not incarcerated. This would remove the burdensome and difficult-to-implement felony conviction verification process from state law and instead establish the most straightforward rule possible: if a person is free from incarceration and therefore physically able to register to vote, that person is eligible to vote. Whether someone is registering via mail, online, in person at an election office, or through a voter registration agency like Maryland's Motor Vehicle Administration, that person can be assumed to not be disenfranchised because of a felony conviction.

In contrast, the current system in Maryland is vulnerable to unwitting misapplications of the law and outdated information. Election officials already have a difficult job to do under limited resources. SB 340 would reduce the law's complexity and make it easier to implement for Maryland's hardworking election officials.

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The tens of thousands of Maryland citizens who are banned from the voting booth are also prevented from fully being a part of their communities. Their disenfranchisement separates them from the activities and institutions that bind them to their neighbors and strengthen their communities overall. Research tells us that voting is a learned behavior that parents can pass on to children, and also that it is tied to other forms of civil engagement that help integrate people into society and turn away from crime. By extending the right to vote to these citizens, who already live and work in the state's communities, Senate Bill 340 will maximize the many benefits that rights restoration produces for both democracy and public safety.

ⁱ Erika Wood, *Restoring the Right to Vote*, Brennan Center for Justice (2009) at 12, citing Arman McLeod, et al., *The Locked Ballot Box: The Impact of State Criminal Disenfranchisement Laws on African-American Voting Behavior and Implications for Reform*, 11 Va. J. Soc. Pol'y & L. 66, 77-78 (2003).

ⁱⁱ *Id.* at 12, citing Eric Plutzer, *Becoming a Habitual Voter: Inertia, Resources, and Growth in Young Adulthood*, 96 Am. Pol. Sci. Rev. 41, 43 (Mar. 2002).

ⁱⁱⁱ See Dina R. Rose & Todd R. Clear, *Incarceration, Reentry, and Social Capital: Social Networks in the Balance* (Dec. 2001), available at <http://aspe.hhs.gov/hsp/prison2home02/Rose.htm>.

^{iv} See Testimony of Carl Wicklund, Executive Director, American Probation and Parole Association, Before the United States House of Representatives Judiciary Committee, Constitution, Civil Rights, and Civil Liberties Subcommittee, March 16, 2010, *available at* <https://www.brennancenter.org/sites/default/files/legacy/Democracy/Carl%20Wicklund%20APPA%20testimony%20on%20DRA%203-10-10A.pdf>.

^v Christopher Uggen and Jeff Manza, *Voting and Subsequent Crime and Arrest: Evidence from a Community Sample*, 36 Colum. Hum. Rts. L. Rev. 193, 213 (2004-05).

^{vi} Florida Parole Commission, *Status Update: Restoration of Civil Rights (RCR) Cases Granted, 2009 and 2010* at 7, 13, *available at* <https://fpc.state.fl.us/docs/reports/2009-2010ClemencyReport.pdf>.

^{vii} No evidence exists to indicate that barring people with violent felonies from voting deters future crimes, and the distinctions themselves create an administrative burden that slows the process for everyone. Additionally, the fees and fines associated with criminal convictions can significantly burden re-entering individuals, who are often unable to satisfy their debts for years after their release. See Alicia Bannon, Mitali Nagrecha, Rebekah Diller, *Criminal Justice Debt: A Barrier to Re-Entry*, Brennan Center for Justice (2010), *available at* <http://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>.