

**Oral Testimony of
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**Before the
New Jersey Senate State Government Committee**

January 31, 2019

Good morning. My name is Myrna Pérez and I am the Director of the Voting Rights and Elections project at the Brennan Center for Justice at NYU School of Law. I am also a resident of Jersey City. While the Brennan Center has never taken a position on a bill that permits voting while incarcerated, we have long and frequently urged that New Jersey amend its current policy on disenfranchising persons with criminal convictions. This hearing is an exciting move forward, and we hope that this Committee and the legislature goes beyond this step, and quickly, to ease the current restrictions on the voting rights of persons with criminal convictions.

The Brennan Center is a national nonpartisan law and policy institute affiliated with NYU School of Law that seeks to improve our systems of democracy and justice. Named after New Jersey's native son, Justice Brennan. We have a long history of partnering with election administrators, legislators, and other elected officials at the local, state, and federal level to reform and improve our elections and election administration. My top-notch colleagues in New Jersey have spoken impactfully and eloquently about specifics in New Jersey, but at the Brennan Center, we push back against strict criminal disenfranchisement laws all across the country. And from those experiences, there are three takeaways I'd like to share with this Committee:

(1) Americans of all political stripes believe in second chances, including when it comes to the right to vote.

This Committee has heard from my colleagues that this past November, about 65 percent of Florida voters cast a ballot in favor a ballot initiative restoring voting rights to 1.4 million people with past convictions.¹ This was in a state where a Republican governor was elected. The Brennan Center was the primary drafter of that amendment text and conducted numerous

¹ *Voting Rights Restoration Efforts in Florida*, BRENNAN CTR. FOR JUSTICE (Nov. 7, 2018), <https://www.brennancenter.org/analysis/voting-rights-restoration-efforts-florida>.

polls of voters as to their attitudes on criminal disenfranchisement. Over a period of years, voters from all walks of life consistently expressed support for second chances when it came to voting. There was support for this Amendment among churches, prosecutors, and even the Koch Family Foundation. Also, earlier this month, Republican Governor Kim Reynolds of Iowa announced her support for rights restoration.² And just last week in Kentucky a poll found significant support for re-enfranchising people with past felony convictions.³ Why am I telling you about what voters and electeds in other states think? It is because I think they provide ample evidence that a diverse group of voters do not consider this a republican or a democrat issue, but rather an issue of forgiveness and second chances. And those values resonate with all Americans, just like other commonsense, bipartisan reforms in New Jersey like “Ban the Box”⁴ (32-1 Senate vote and a 49-24 Assembly vote) and the recent bail reform legislation⁵ (31-0 Senate vote and 60-0 Assembly vote).

(2) It is politically advantageous these days to support an expanded and inclusive democracy.

Across the country, voters are paying attention to issues of democracy, and getting engaged. According to estimates from Dr. Michael McDonald, 50.3 percent of the voting-eligible population cast a ballot nationwide in the 2018 midterm elections. Nationally, this was the highest rate of turnout in a midterm election since 1914. That figure was 53.1 percent in New Jersey. To put that high number into context, New Jersey saw its prior most recent midterm high in 2006 and that was only 40.6%. New Jerseyans, like the rest of the country, are ushering in a pro-democracy moment.

Lawmakers across the country have gotten the message.⁶ Legislators in 31 states have filed or pre-filed at least 230 bills that would expand access to the ballot. In contrast, during the same time period, lawmakers in only 14 states have introduced only 24 bills that would cut back

² Brianne Pfannenstiel, *Gov. Kim Reynolds to Propose Constitutional Amendment Lifting Felon Voting Ban in Condition of the State*, DES MOINES REGISTER (Jan. 15, 2019), <https://www.desmoinesregister.com/story/news/politics/2019/01/15/kim-reynolds-felon-voting-rights-constitutional-amendment-lift-ban-iowa-legislature-proposal-2019/2572308002/>.

³ Joe Sonka, *Poll: Two-Thirds of Kentuckians Support Automatic Restoration of Voting Rights for Felons*, INSIDER LOUISVILLE (Jan. 22, 2019), <https://insiderlouisville.com/government/poll-two-thirds-of-kentuckians-support-automatic-restoration-of-voting-rights-for-felons/>.

⁴ Matt Arco, *Christie Signs Bill Preventing Employers from Asking About Applicants’ Criminal Backgrounds Early On*, NJ.COM (Aug. 11, 2014), http://www.nj.com/politics/index.ssf/2014/08/christie_signs_bill_preventing_employers_from_asking_about_applicants_criminal_backgrounds_early_on.html.

⁵ Matt Arco, *Christie Signs Bail Reform Measure, Lauds Lawmakers for Bipartisanship*, NJ.COM (Aug. 12, 2014), http://www.nj.com/politics/index.ssf/2014/08/christie_signs_bail_reform_measure_lauds_lawmakers_for_bipartisanship.html.

⁶ *Voting Laws Roundup 2019*, BRENNAN CTR. FOR JUSTICE (Jan. 23, 2019), <https://www.brennancenter.org/analysis/voting-laws-roundup-2019>.

access to the ballot.⁷ And at the national level, the House of Representatives made H.R. 1—its first piece of legislation—a sweeping pro-democracy bill.⁸ I want to repeat this again, the majority of the House of Representatives decided that election reform and voter access—not national security or the economy—would be its very first order of business this congressional term.

To those who are concerned about what re-enfranchised voters would do to the overall political winds of the state, I would note that numerous states have more relaxed restoration policies than New Jersey, and it has not brought about a stark shift in existing political dynamics. For example, in Louisiana, most Americans on probation, and even some who are on parole are able to vote, but Republicans were elected to five of the six congressional seats that were open in the 2018 midterm (it also re-elected a Democratic incumbent), and in Utah, which restores voting rights to all persons in the community, Republicans won their elections in three of the four congressional seats in the midterm.

(3) New Jersey is out of step with most of our neighboring states.

You've heard before that New Jersey has the same policy as Texas and Georgia, and that its disenfranchisement of people in the community sweeps in more people than any of the northeast states.

But the part of this that the Brennan Center believes is so disappointing, is that we (and I mean New Jersey when I say we) just seems to be stuck in our past on this issue, when so many states across the country and in our region have been taking steps forward to letting more persons with criminal convictions participate in our democracy.

Connecticut changed its criminal disenfranchisement law in 2001, Delaware changed its law in 2000, and again in 2016, Maryland amended its law in 2007, and again in 2015, Rhode Island changed its law in 2006, and New York changed its policy in 2018. In what has almost been a line entirely in one direction, the overwhelming trajectory of this country has been one of giving people with criminal convictions a second chance to participate in our democracy, and New Jersey's standstill has been a rare exception to the movement we see on this issue.

I am grateful for the opportunity to address you, I am thankful for your careful consideration of this issue, and I hope that the legislature, this session, will take a meaningful step forward. It's way past due.

⁷ *Id.*

⁸ WENDY R. WEISER, ET AL., BRENNAN CTR. FOR JUSTICE, *Letter to House Judiciary Committee in Support of the For the People Act* (Jan. 29, 2019), <https://www.brennancenter.org/analysis/letter-house-judiciary-committee-support-hr-1-people-act>.