

Testimony of Tomas Lopez
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Before the
Ways and Means Committee
Maryland House of Delegates
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The Brennan Center for Justice at New York University School of Lawⁱ submits this testimony in support of House Bill 980, which would restore the right to vote to people with criminal convictions who have been released from incarceration. This reform will confer broad benefits on Maryland's communities while making the state's disenfranchisement law easier to administer and simpler to understand.

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. Our organization has a particularly long record of supporting efforts at the state and federal levels to reform felony disenfranchisement laws. The Brennan Center has published a series of reports on voting rights restoration and provided support to legislative reform efforts throughout the country. In 2007, the Brennan Center supported the bill that ended lifetime felony disenfranchisement in Maryland, and we testified in the General Assembly in favor of that measure. This year, we again support the legislation now under consideration.

Maryland's current disenfranchisement law bars individuals with criminal convictions in their past who are living and working in our communities from voting until they fully complete all terms of their sentence, including probation and parole. House Bill 980 would change that law and give citizens who have criminal convictions in their past the right to vote when they are in the community. More basically, House Bill 980 gives them a second chance to show they can be productive and contributing members of society. The bill would also provide for assistance with voter registration to former prisoners at the time of their release.

House Bill 980 would restore the right to vote for approximately 40,000 Marylanders currently on probation or parole. Passing this legislation is good public policy because it will 1) strengthen this state's democracy and serve the criminal justice system by facilitating a successful re-entry process for people with past convictions; and 2) reduce the administrative burden on election administrators.

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 voting 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.ⁱⁱ 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.ⁱⁱⁱ 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.^{iv} 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.^v 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;"^{vi} 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.^{vii}

The more people whose rights are restored, the more our communities will accrue these benefits. House Bill 980 is an effective bill because it reaches the entire population outside of incarceration.

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

By restoring voting rights to individuals upon release from incarceration, House Bill 980 will lift the administrative burden on election officials under the current law. Currently, 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 date—on top of other responsibilities. While Maryland election officials regularly receive records from the state court system, those records are not consistently up to date.

HB 980 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 an easily implementable rule: 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.

The current system in Maryland is vulnerable to unwitting misapplications of the law. A policy that allowed anyone with a past criminal conviction who is living and working in the community to vote would reduce complexity and make Maryland's law easier to implement.

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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. By extending the right to vote to these citizens, who already live and work in the state's communities, House Bill 980 will maximize the many benefits that rights restoration produces for both democracy and public safety.

ⁱ This testimony has been prepared by a Center affiliated with New York University School of Law, but does not purport to present the school's institutional views, if any.

ⁱⁱ 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).

ⁱⁱⁱ *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).

^{iv} 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>.

^v 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>.

^{vi} 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).

^{vii} 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>.