



October 31, 2005

**VIA FACSIMILE**

Hon. Charles D. Lemmond and Hon. Anthony H. Williams  
Chairs, Senate State Government Committee  
Pennsylvania State Senate  
State Capitol  
Harrisburg, Pennsylvania 17120

Re: Opposition to H.B. 1318

Dear Senators Lemmond and Williams and Members of the Committee:

On behalf of the Brennan Center for Justice at NYU School of Law, we write in opposition to Pennsylvania H.B. 1318. H.B.1318 represents a great step backwards in Pennsylvania's long tradition of promoting free and open democracy. Our reading of the plain language of H.B. 1318 reveals that it would disenfranchise all individuals on parole and perhaps those on probation as well. The bill would also require all individuals to present photo identification before being able to vote. If passed, the bill would deprive thousands of eligible Pennsylvania voters of their fundamental right to participate in state and federal elections and create costly and unnecessary administrative burdens for the county boards of elections and poll workers throughout the Commonwealth.

The Brennan Center for Justice is a nonprofit, nonpartisan organization that unites thinkers and advocates in pursuit of a vision of inclusive and effective democracy. As part of our work to promote full participation and fair representation in government, we support voting rights for people with felony convictions and oppose requirements, such as photo identification, that prevent people from being able to exercise their legal right to vote.

**Felony Disenfranchisement**

Pennsylvania's current law, which permits individuals to vote as soon as they are released from prison, rightly focuses on rehabilitation and reintegration. As individuals return to their communities as working, tax-paying citizens, they are given a voice and are encouraged to participate in democratic decision making. This policy gives individuals a stake in their communities, and, as a natural consequence, discourages crime and recidivism. The current law also minimizes administrative burdens imposed on local election boards and poll workers – as long as a person is not in prison and meets the other age, residency, and citizenship requirements, election officials can be certain

that the person is allowed to vote. This simple policy smoothes the way for easy registration and maximum democratic participation.

The regressive felony disenfranchisement policies of H.B. 1318 will not only create stumbling blocks for individuals trying to reform their ways and re-enter their communities, they will create an administrative snare for the Commonwealth's local boards of elections. Laws that disenfranchise individuals even after they have been released from prison and have re-entered local communities cause enormous confusion among registrars and electors alike. In 2003, the Brennan Center's comprehensive study of New York's 63 county election boards documented widespread confusion about New York's law, which disenfranchises individuals while incarcerated and on parole. Inconsistent and burdensome procedures invented by local election officials seeking to implement the law denied many thousands of eligible New York voters their fundamental right to vote, leaving the state vulnerable to costly litigation.

Because H.B. 1318 is a change in the law, the situation will be even more complicated in Pennsylvania. Over the last few years, the Commonwealth has orchestrated an extensive public education campaign to inform its local boards of elections as well as individuals recently released from prison about how and when these individuals can exercise their right to vote. If H.B. 1318 is passed, the Commonwealth will effectively have to reverse this campaign, creating mass confusion at both registration offices and polling sites.

Adding to the confusion is H.B. 1318's particularly draconian proposal to take voting rights away from people currently on probation or parole who have been exercising their voting rights under the existing law since 2000. Individuals who care about democracy, have taken seriously their civic duty to vote, and have cast their ballots in elections over the last five years will suddenly be turned away at the polls. There is no conceivable justification for such a punitive, confiscatory policy.

To preserve Pennsylvania's open, active democratic process, and to avoid the administrative entanglement a change in the law is certain to create, we urge the members of the Committee to reject H.B. 1318.

### **Photo Identification**

H.B. 1318's proposal to require individuals to present valid photo identification before being allowed to cast their votes threatens to exclude thousands of eligible voters from the polls for no good reason. A federal court recently stopped enforcement of a nearly identical Georgia law on the grounds that it was likely that the photo ID requirements constitute an illegal poll tax and unduly infringe on the right to vote. *See Common Cause v. Billups*, No. 4:05-cv-00201, slip op. at 2 (D. Ga. Oct. 18, 2005). That is no less true in Pennsylvania. The legislature thus has a duty to both the U.S. Constitution and Pennsylvania's voters to reject this proposal.

Approximately ten percent of voting-age Americans do not have driver's licenses or state-issued non-driver's photo IDs. In Pennsylvania, that translates into over 1.2 million citizens who would be denied their fundamental right to vote under H.B. 1318 merely because they do not have the required ID.

Although H.B. 1318 includes a provision allowing the Department of Transportation to issue photo identification at no cost to an elector who states that he is unable pay the required fee for the identification, obtaining ID still costs substantial time and money. Not only must a would-be voter pay fees for the backup documents required to obtain the ID, but he may also have to take several hours off of work to visit government offices, which are often open only during select daytime hours. These same people who do not have driver's licenses (many of whom are elderly or disabled) would also have to find transportation to travel, sometimes significant distances, to these government offices.

Moreover, there is no evidence that photo ID requirements do anything to prevent voter fraud. Nationwide, since October 2002, only 52 individuals have been convicted of federal crimes relating to election fraud (included several offenses not remedied by ID requirements), while 196,139,871 ballots have been cast in federal elections. Statistically, Americans are more likely to be killed by a bolt of lightning.

Hard evidence shows that many citizens face extreme difficulty in obtaining photo identification, and that ID requirements are often discriminatorily implemented. ID requirements have the greatest impact on the elderly, students, people with disabilities, low-income individuals, and people of color. Restrictive ID requirements are not only unnecessary, but also will disenfranchise eligible voters, artificially depress voter turnout, and lead to administrative difficulties at the polls. For these reasons, the Committee should vote against H.B. 1318.

Sincerely,

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