



ACLU of New York

Legislative Affairs
One Whitehall Street
New York, NY 10004
212-607-3300
www.nyclu.org

2021-2022 Legislative Memorandum

Subject: Fully and Automatically Restoring the Right to Vote Upon Release to Parole Supervision S.830-B (Comrie) / A.4448-A (O'Donnell)

Position: SUPPORT

At any given time, roughly 35,000 people are out on parole in New York. Nearly three-quarters are Black or Latinx, and most have limited economic resources. Once out of prison, these New Yorkers must reenter their communities and adjust to life outside a cell: finding work, finding housing, reestablishing family and community relationships, and avoiding reincarceration. The system demands that they become “productive” and “participating” members of society, and their futures require it.

Without a clear, certain right to vote, however, that demand is a cynical one: requiring formerly incarcerated persons to rejoin the community and participate fully while denying them the ability to take part in democratic process is simply unfair. It is also unwise, because when people on parole vote, everyone wins. Communities with high incarceration rates suffer from lower overall turnout on average.¹ And community supervision officials report that increased civic engagement correlates with lower recidivism, improved public safety, and much better outcomes for people on parole.²

S.830-B/A.4448-A would establish a clear rule of law that is easy for all to administer and to understand: if you are living in the community, you can vote. Denying this right to New Yorkers who have come home to our communities is unfair, counterproductive, venomously racist in its origins, and serves no legitimate purpose. **The NYCLU strongly supports S.830-B/A.4448-A and urges lawmakers to pass it promptly.**

¹ See, e.g., Kevin Morris, *Neighborhoods and Felony Disenfranchisement: The Case of New York City* (Urban Affairs Rev., May 20, 2020), <https://doi.org/10.1177/1078087420921522>; Am. Bar Fdn., *Major Empirical Research Effort Finds Incarceration Suppresses Overall Voter Turnout* (Feb. 2014), <http://www.americanbarfoundation.org/news/467>.

² See, e.g., Carl Wicklund, Am. Probation & Parole Ass'n, *Felon voting rights make us all safer*, Lexington Herald-Journal (Mar 2014), available at <https://www.kentucky.com/opinion/op-ed/article44475018.html>.

Currently, the letter of New York law strips the right to vote from people convicted of felony offenses, and doesn't give it back until they've completed their sentence, which is deemed to include the full term of parole. This leaves New York lagging behind 20 states and DC: 18 states across the political gamut permit all former offenders to vote while they are in the community, and two states and DC never revoke a person's right to vote on account of their involvement with the criminal legal system.³

In 2018 Governor Andrew Cuomo offered a partial fix, with an executive order that created a conditional pardon process for people on parole. Under that order, which remains in effect, the Department of Corrections and Community Supervision compiles and submits to the Governor's office a monthly list of each person released onto parole. The Governor's office reviews the list, verifies each parolee's status, and grants a conditional pardon to each parolee, restoring their right to vote.

The Executive Order was a solid step in the right direction, in that it recognized a serious civil rights problem and offered a creative solution. However, the existing "conditional pardon" approach suffers from several administrative and practical flaws.

First, the process is time-consuming. People released to parole supervision aren't notified of their pardons until their first or second post-release meeting with a parole officer, leaving an unnecessary gap between release and vote re-eligibility. Second, the process is confusing: people on parole may not know the pardon process exists, and those that do may not know whether they've been pardoned, or how to find out – and many who are aware may be unsure about how to register or vote. The process can also be confusing for election officials, who may not have up-to-date information or may be unfamiliar with registration and voting issues that impact people on parole. Third, the process is inefficient, imposing multiple administrative burdens and diverting the limited resources of parole officers and election officials. And finally, any executive order continues solely at the discretion of the Governor's office and may be eliminated or changed by a subsequent administration.

S.830-B/A.4448-A rectifies these problems by permanently and automatically restoring the right to vote in all local, state, and federal elections upon release. It also requires criminal and correctional system officials to educate people moving through the system about how their rights will be impacted, what resources are available to them, and how to enfranchise themselves as soon as they return to their communities. Importantly, it ensures restoration is automatic and immediate, without lag times or potential penalties for inadvertently registering before a pardon is processed.

S.830-B/A.4448-A will fulfill the promise of voting rights restoration following a felony conviction. The NYCLU strongly supports this legislation and calls for its passage.

³ See <https://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>.