S T A T E O F N E W Y O R K

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I N S E N A T E

January 28, 2009

Introduced by Sens. MONTGOMERY, DILAN, DUANE, HASSELL-THOMPSON, KRUEGER, MONSERRATE, ONORATO, PARKER, SAMPSON, SAVINO, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, the criminal procedure law, the correction law and the executive law, in relation to enacting the "voting rights notification and registration act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known and may be cited as the "voting rights notification and registration act".

S 2. The opening paragraph and subdivisions 2, 4, 5, 8, 12, 13 and 14 of section 5-211 of the election law, the opening paragraph and subdivision 14 as amended by chapter 200 of the laws of 1996, subdivisions 2 and 8 as amended and subdivisions 4, 5, 12 and 13 as added by chapter 659 of the laws of 1994, are amended to read as follows:

Each agency designated as a participating agency under the provisions of this section shall implement and administer a program of distribution of voter registration forms pursuant to the provisions of this section. The following offices which provide public assistance and/or provide state funded programs primarily engaged in providing services to persons with disabilities are hereby designated as voter registration agencies: designated as the state agencies which provide public assistance are the department of social services and the department of health. Also designated as public assistance agencies are all agencies of local government that provide such assistance AND LOCAL PROBATION DEPARTMENTS. Designated as state agencies that provide programs primarily engaged in providing services to people with disabilities are the department of labor, office for the aging, division of veterans' affairs, office of

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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mental health, office of vocational and educational services for individuals with disabilities, commission on quality of care for the mentally disabled, office of mental retardation and developmental disabilities, commission for the blind and visually handicapped, office of alcoholism and substance abuse services, the office of the advocate for the disabled and all offices which administer programs established or funded by such agencies. Additional state agencies designated as voter registration offices are the department of state [and], the [division of] workers' compensation BOARD, THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES WHEN PROVIDING DIRECT PROBATION SUPERVISION SERVICES UNDER SECTION TWO HUNDRED FORTY-SEVEN OF THE EXECUTIVE LAW. Such agencies shall be required to offer voter registration forms to persons upon initial application for services, renewal or recertification for services [and], change of address relating to such services, AND ORIENTATION OR INITIAL INTAKE FOR THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES AND LOCAL PROBATION DEPARTMENTS. Such agencies shall also be responsible for providing assistance to [applicants] SUCH PERSONS in completing voter registration forms, receiving and transmitting the completed [application] REGISTRATION form from all [applicants] PERSONS who wish to have such form transmitted to the appropriate board of elections. The state board of elections shall, together with representatives of the department of defense, develop and implement procedures for including recruitment offices of the armed forces of the United States as voter registration offices when such offices are so designated by federal law. The state board shall also make request of the United States Immigration and Naturalization Service to include applications for registration by mail with any materials which are given to new citizens. All institutions of the state university of New York and the city university of New York, shall, at the beginning of the school year, and again in January of a year in which the president of the United States is to be elected, provide an application for registration to each student in each such institution. The state board of elections may, by regulation, grant a waiver from any or all of the requirements of this section to any office or program of an agency, if it determines that it is not feasible for such office or program to administer such requirement.

2. Strict neutrality with respect to a person's party enrollment shall be maintained and all persons seeking voter registration forms and information shall be advised that government services are not conditioned on being registered to vote. No statement shall be made nor any action taken to discourage the [applicant] PERSON from registering to vote.

4. Each participating agency shall provide to each [applicant] PERSON who does not decline to register to vote the same degree of assistance with regard to the completion of the VOTER registration [application] form as is provided by the agency with regard to the completion of its own form unless the [applicant] PERSON refuses such assistance.

5. Employees of a voter registration agency who provide voter registration assistance shall not:

(a) seek to influence [an applicant's] A PERSON'S political preference or party designation;

(b) display any political preference or party allegiance;

(c) make any statement [to an applicant] or take any action the purpose or effect of which is to discourage [the applicant] A PERSON from registering to vote; or

(d) make any statement [to an applicant] or take any action the purpose or effect of which is to lead [the applicant] A PERSON to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

8. Each participating agency, department, division or office that makes available voter registration forms pursuant to this section shall offer with each application for the services or assistance of such agency, department, division or office, OR, IN THE CASE OF THE LOCAL PROBATION DEPARTMENTS AND THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES, UPON ORIENTATION OR INITIAL INTAKE, and with each recertification, renewal or change of address form relating to such service or assistance, a VOTER registration form together with instructions relating to eligibility to register and for completing the form except that forms used by the department of social services for the initial application for services, renewal or recertification for services and change of address relating to such services shall physically incorporate a voter registration [application] FORM in a fashion that permits the voter registration portion of the agency form to be detached therefrom. Such voter registration [application] FORM shall be designed so as to ensure the confidentiality of the source of the application. Included on each participating agency's application for services or assistance or on a separate form shall be:

(a) the question, "If you are not registered to vote where you live now, would you like to apply to register here today?"

(b) [The] THE statement, "applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency."

(c) boxes for the applicant to check to indicate whether the applicant would like to register or decline to register to vote.

(d) the statement in prominent type, "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME."

(e) the statement, "If you would like help in filling out the voter registration [application] form, we will help you. The decision whether to seek or accept help is yours. You may fill out the [application] VOTER REGISTRATION form in private."

(f) the statement, "If you believe that someone has interfered with your right to register or decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the state board of elections (address and toll free telephone number)."

(g) a toll free number at the state board of elections that can be called for answers to registration questions.

12. Completed [application] VOTER REGISTRATION forms, when received by a participating agency not later than the twenty-fifth day before the next ensuing primary, general or special election and transmitted by such agency to the appropriate board of elections so that they are received by such board not later than the twentieth day before such election shall entitle the [applicant] PERSON to vote in such election provided the board determines that the [applicant] PERSON is otherwise qualified.

13. The state board of elections shall provide [application] VOTER REGISTRATION forms for use pursuant to this section except that any agency which uses a form other than such registration form shall be responsible for providing such form. Forms which vary in design [and or]

AND/OR content from the form approved by the state board of elections may only be used with the approval of such board.

14. [Applications] VOTER REGISTRATION FORMS shall be processed by the board of elections in the manner prescribed by section 5-210 of this title or, if the [applicant] PERSON is already registered to vote from another address in the county or city, in the manner prescribed by section 5-208 of this title. The board shall send the appropriate notice of approval or rejection as required by either subdivision nine of such section 5-210 or subdivision five of such section 5-208.

S 3. Section 220.50 of the criminal procedure law is amended by adding a new subdivision 8 to read as follows:

8. PRIOR TO ACCEPTING A DEFENDANT'S PLEA OF GUILTY TO A COUNT OR COUNTS OF AN INDICTMENT OR A SUPERIOR COURT INFORMATION CHARGING A FELONY OFFENSE FOR WHICH THE COURT WILL IMPOSE A SENTENCE OF IMPRISONMENT, THE COURT MUST ADVISE THE DEFENDANT ON THE RECORD THAT THE CONVICTION WILL RESULT IN LOSS OF THE RIGHT TO VOTE UNTIL THE INDIVIDUAL HAS SERVED HIS MAXIMUM SENTENCE OF IMPRISONMENT OR BEEN DISCHARGED FROM PAROLE; AND THAT THE DEFENDANT MAY REGISTER OR RE-REGISTER TO VOTE AS SOON AS HE HAS SERVED HIS MAXIMUM SENTENCE OF IMPRISONMENT OR BEEN DISCHARGED FROM PAROLE. THE FAILURE TO ADVISE THE DEFENDANT PURSUANT TO THIS SUBDIVISION SHALL NOT BE DEEMED TO AFFECT THE VOLUNTARINESS OF A PLEA OF GUILTY OR THE VALIDITY OF A CONVICTION.

S 4. The criminal procedure law is amended by adding a new section 380.51 to read as follows:

S 380.51 STATEMENTS REGARDING VOTING RIGHTS.

BEFORE IMPOSING A SENTENCE OF IMPRISONMENT FOR A FELONY CONVICTION, THE COURT MUST ADVISE THE DEFENDANT ON THE RECORD THAT THE CONVICTION WILL RESULT IN THE LOSS OF THE RIGHT TO VOTE UNTIL THE INDIVIDUAL HAS SERVED HIS MAXIMUM SENTENCE OF IMPRISONMENT OR BEEN DISCHARGED FROM PAROLE; AND THAT THE DEFENDANT MAY REGISTER OR RE-REGISTER TO VOTE AS SOON AS HE HAS SERVED HIS MAXIMUM SENTENCE OF IMPRISONMENT OR BEEN DISCHARGED FROM PAROLE. THE FAILURE TO ADVISE THE DEFENDANT PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO AFFECT THE VOLUNTARINESS OF A PLEA OF GUILTY OR THE VALIDITY OF A CONVICTION.

S 5. The correction law is amended by adding a new section 510 to read as follows:

S 510. VOTING BY QUALIFIED INMATES. 1. AT THE TIME OF THE INITIAL ORIENTATION OR INTAKE OF AN INMATE AT A LOCAL CORRECTIONAL FACILITY, THE CHIEF ADMINISTRATIVE OFFICER OF SUCH LOCAL CORRECTIONAL FACILITY, OR HIS OR HER DESIGNEE, SHALL INFORM THE INMATE IN WRITING OF HIS OR HER RIGHT TO APPLY TO REGISTER TO VOTE. IN ADDITION, SUCH NOTICE SHALL BE POSTED IN A PLACE CONSPICUOUS TO ALL INMATES. SUCH POSTED NOTICE SHALL INCLUDE QUALIFICATIONS REQUIRED TO EXERCISE THE RIGHT TO VOTE, AND THE AVAILABILITY AT THE CORRECTIONAL FACILITY OF ASSISTANCE TO APPLY TO REGISTER TO VOTE AND TO REQUEST AN ABSENTEE BALLOT APPLICATION. SUCH CHIEF ADMINISTRATIVE OFFICER, OR HIS OR HER DESIGNEE, SHALL ASSIST INMATES IN APPLYING TO REGISTER TO VOTE IN THE SAME MANNER AND TO THE SAME EXTENT AS THE AGENCIES LISTED IN SECTION 5-211 OF THE ELECTION LAW.

2. ON AN ANNUAL BASIS, THIRTY DAYS BEFORE EACH PRIMARY AND GENERAL ELECTION, THE CHIEF ADMINISTRATIVE OFFICER, OR HIS OR HER DESIGNEE, SHALL PROVIDE EACH INMATE WITH WRITTEN INFORMATION ABOUT QUALIFICATIONS AND PROCEDURES FOR VOTING BY ABSENTEE BALLOT AND SHALL MAKE ABSENTEE BALLOT APPLICATIONS AVAILABLE TO ALL INMATES.

IN THE EVENT THAT AN INMATE OF A LOCAL CORRECTIONAL FACILITY IS TEMPORARILY ABSENT FROM SUCH FACILITY FOR THE PURPOSE OF RECEIVING MEDICAL

CARE AT A LOCAL HEALTH CARE FACILITY, THE INFORMATION REQUIRED UNDER THIS SECTION SHALL BE MAILED TO SUCH INMATE.

S 6. The correction law is amended by adding a new section 75 to read as follows:

S 75. VOTING RIGHTS UPON COMPLETION OF SENTENCE. 1. UPON THE DISCHARGE FROM A CORRECTIONAL FACILITY OF ANY PERSON WHO HAS REACHED HIS OR HER MAXIMUM SENTENCE OF IMPRISONMENT FOR THE CONVICTION OF A FELONY, THE DEPARTMENT, AND, SUBJECT TO THEIR AGREEMENT, FEDERAL CORRECTIONAL INSTITUTIONS IN NEW YORK, SHALL NOTIFY SUCH PERSON OF HIS OR HER RIGHT TO VOTE, PROVIDE SUCH PERSON WITH A FORM OF APPLICATION FOR VOTER REGISTRATION TOGETHER WITH WRITTEN INFORMATION DISTRIBUTED BY THE BOARD OF ELECTIONS ON THE IMPORTANCE AND THE MECHANICS OF VOTING AND SHALL ASSIST SUCH PERSON IN REGISTERING TO VOTE IN THE SAME MANNER AND TO THE SAME EXTENT AS THE AGENCIES LISTED IN SECTION 5-211 OF THE ELECTION LAW.

2. THE DEPARTMENT AND, SUBJECT TO THEIR AGREEMENT, FEDERAL CORRECTIONAL INSTITUTIONS IN NEW YORK, SHALL, ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH, TRANSMIT TO THE STATE BOARD OF ELECTIONS A LIST CONTAINING THE FOLLOWING INFORMATION ABOUT PERSONS AGE EIGHTEEN OR OLDER WHO, DURING THE PRECEDING PERIOD, HAVE BECOME ELIGIBLE TO VOTE BECAUSE OF THEIR DISCHARGE FROM IMPRISONMENT: (A) NAME; (B) DATE OF BIRTH; (C) LAST KNOWN ADDRESS WITH COUNTY OF RESIDENCE; AND (D) DRIVER'S LICENSE NUMBER (IF KNOWN) OR LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER (IF KNOWN).

S 7. The executive law is amended by adding a new section 259-jj to read as follows:

S 259-JJ. VOTING RIGHTS UPON DISCHARGE. 1. UPON DISCHARGE OF A PERSON FROM PRESUMPTIVE RELEASE, PAROLE, OR CONDITIONAL RELEASE, OR UPON THE EXPIRATION OF A PERSON'S MAXIMUM SENTENCE OF IMPRISONMENT WHILE UNDER THE SUPERVISION OF THE DIVISION OF PAROLE, THE DIVISION OF PAROLE SHALL NOTIFY SUCH PERSON OF HIS OR HER RIGHT TO VOTE, PROVIDE SUCH PERSON WITH A FORM OF APPLICATION FOR VOTER REGISTRATION TOGETHER WITH WRITTEN INFORMATION DISTRIBUTED BY THE BOARD OF ELECTIONS ON THE IMPORTANCE AND THE MECHANICS OF VOTING AND SHALL ASSIST SUCH PERSON IN REGISTERING TO VOTE IN THE SAME MANNER AND TO THE SAME EXTENT AS THE AGENCIES LISTED IN SECTION 5-211 OF THE ELECTION LAW.

2. THE DIVISION OF PAROLE SHALL, ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH, TRANSMIT TO THE STATE BOARD OF ELECTIONS A LIST CONTAINING THE FOLLOWING INFORMATION ABOUT PERSONS AGE EIGHTEEN OR OLDER WHO, DURING THE PRECEDING PERIOD, HAVE BECOME ELIGIBLE TO VOTE BECAUSE OF THEIR DISCHARGE FROM PRESUMPTIVE RELEASE, PAROLE OR CONDITIONAL RELEASE, OR UPON THE EXPIRATION OF THEIR MAXIMUM SENTENCE OF IMPRISONMENT WHILE UNDER THE SUPERVISION OF THE DIVISION OF PAROLE: (A) NAME; (B) DATE OF BIRTH; (C) LAST KNOWN ADDRESS WITH COUNTY OF RESIDENCE; AND (D) DRIVER'S LICENSE NUMBER (IF KNOWN) OR LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER (IF KNOWN).

S 8. Section 5-614 of the election law is amended by adding three new subdivisions 6-a, 6-b and 6-c to read as follows:

6-A. ONCE EVERY MONTH, AND WITHIN FIVE DAYS OF RECEIPT, THE STATE BOARD OF ELECTIONS SHALL OBTAIN AND TRANSMIT TO LOCAL BOARDS OF ELECTIONS THE INFORMATION PROVIDED BY THE DEPARTMENT OF CORRECTIONAL SERVICES PURSUANT TO SUBDIVISION TWO OF SECTION SEVENTY-FIVE OF THE CORRECTION LAW, AND BY THE DIVISION OF PAROLE PURSUANT TO SUBDIVISION TWO OF SECTION TWO HUNDRED FIFTY-NINE-JJ OF THE EXECUTIVE LAW.

6-B. EACH LOCAL BOARD OF ELECTIONS SHALL USE SUCH LIST, WITHIN TEN DAYS AFTER RECEIPT, TO ENSURE THAT THERE ARE NO REMAINING BARRIERS TO REGISTRATION, INCLUDING THE USE OF ELECTRONIC CODES OR OTHER FORMS OF

ELIGIBILITY DEMARCATION, RESULTING FROM PAST CONVICTIONS OF THE PEOPLE SO LISTED.

6-C. ANY VOTER REGISTRATION APPLICATION THAT WAS REJECTED AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION AND PRIOR TO THE LOCAL BOARD'S RECEIPT AND PROCESSING OF THE INFORMATION DESCRIBED IN SUBDIVISIONS SIX-A AND SIX-B OF THIS SECTION SHALL BE REVIEWED UPON RECEIPT AND PROCESSING OF SUCH INFORMATION. ANY APPLICANT THAT IS FOUND TO BE ELIGIBLE, SHALL BE APPROVED AND THE VOTER SHALL BE REGISTERED AND SO NOTIFIED.

S 9. The election law is amended by adding a new section 3-102-a to read as follows:

S 3-102-A. STATE BOARD OF ELECTIONS; DUTIES UNDER THE VOTING RIGHTS NOTIFICATION AND REGISTRATION ACT. 1. THE STATE BOARD OF ELECTIONS SHALL DEVELOP AND IMPLEMENT A PROGRAM TO EDUCATE ATTORNEYS; JUDGES; EMPLOYEES OF THE STATE AND LOCAL BOARDS OF ELECTIONS; EMPLOYEES OF THE DEPARTMENT OF CORRECTIONAL SERVICES, THE DIVISION OF PAROLE, THE DEPARTMENT OF PROBATION AND CORRECTIONAL ALTERNATIVES, AND LOCAL PROBATION DEPARTMENTS AND MEMBERS OF THE PUBLIC ABOUT THE REQUIREMENTS OF THE VOTING RIGHTS NOTIFICATION AND REGISTRATION ACT, ENSURING THAT:

(A) JUDGES ARE INFORMED OF THEIR OBLIGATION TO NOTIFY CRIMINAL DEFENDANTS OF THE POTENTIAL LOSS AND RESTORATION OF THEIR VOTING RIGHTS, IN ACCORDANCE WITH SUBDIVISION EIGHT OF SECTION 220.50 AND SECTION 380.51 OF THE CRIMINAL PROCEDURE LAW;

(B) THE DEPARTMENT OF CORRECTIONAL SERVICES AND, SUBJECT TO THEIR AGREEMENT, FEDERAL CORRECTIONAL INSTITUTIONS IN NEW YORK, ARE PREPARED TO ASSIST PEOPLE TO REGISTER TO VOTE IN ANTICIPATION OF THEIR DISCHARGE FROM IMPRISONMENT, INCLUDING BY FORWARDING THEIR COMPLETED VOTER REGISTRATION FORMS TO THE LOCAL ELECTION BOARDS;

(C) THE DEPARTMENT OF CORRECTIONAL SERVICES AND, SUBJECT TO THEIR AGREEMENT, FEDERAL CORRECTIONAL INSTITUTIONS IN NEW YORK, AND THE DIVISION OF PAROLE, ARE PREPARED TO TRANSMIT TO THE STATE BOARD OF ELECTIONS THE INFORMATION SPECIFIED IN SUBDIVISION TWO OF SECTION SEVENTY-FIVE OF THE CORRECTION LAW AND SUBDIVISION TWO OF SECTION TWO HUNDRED FIFTY-NINE-JJ OF THE EXECUTIVE LAW;

(D) LOCAL CORRECTIONAL FACILITIES ARE PREPARED TO ASSIST PEOPLE TO REGISTER TO VOTE;

(E) PROBATION AND PAROLE OFFICERS ARE INFORMED OF THE CHANGES IN THE LAW AND ARE PREPARED TO NOTIFY PROBATIONERS AND PAROLEES OF THEIR VOTING RIGHTS;

(F) THE LANGUAGE ON VOTER REGISTRATION FORMS MAKES CLEAR THAT PEOPLE ARE DISQUALIFIED FROM VOTING ONLY WHILE THEY ARE SERVING A SENTENCE OF IMPRISONMENT OR ARE ON PAROLE FOR A FELONY CONVICTION AND THAT THEY AUTOMATICALLY REGAIN THE RIGHT TO REGISTER OR RE-REGISTER TO VOTE UPON COMPLETION OF THEIR MAXIMUM SENTENCE OF IMPRISONMENT OR DISCHARGE FROM PAROLE;

(G) ALL LOCAL BOARDS OF ELECTIONS ARE PREPARED TO RESTORE NAMES TO THE COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST IN ACCORDANCE WITH SECTION 5-614 OF THE ELECTION LAW; AND

(H) ACCURATE AND COMPLETE INFORMATION ABOUT THE VOTING RIGHTS OF PEOPLE WHO HAVE BEEN CHARGED WITH OR CONVICTED OF CRIMES IS MADE AVAILABLE THROUGH A SINGLE PUBLICATION TO GOVERNMENT OFFICIALS AND THE PUBLIC.

2. THE STATE BOARD OF ELECTIONS SHALL AMEND OR PROMULGATE PERTINENT RULES AND REGULATIONS AS NECESSARY TO IMPLEMENT THIS SECTION.

S 10. This act shall take effect on the ninetieth day after it shall have become a law.