

# SOURCES RE NEW JERSEY LEGISLATION ON ELECTION LAW REFORM: RESTORING VOTING RIGHTS TO PRISONERS, PAROLEES AND PROBATIONERS

Compiled by Robert Joe Lee  
November 28, 2017

## Outline of Major Issues

The following source does a pretty good job of outlining what the issues are. They actually range from whether prisoners should be allowed to vote to the point at which anyone convicted of a crime should be allowed to vote going forward. Check it out:

<https://felonvoting.procon.org/>

## Members of the Legislature from Our Districts

1. District 14
  - a. Senate: Linda Greenstein
  - b. Assembly: Daniel Benson and Wayne DeAngelo
2. District 15
  - a. Senate: Shirley Turner
  - b. Assembly: Reed Gusciora and Elizabeth Muoio

## Current New Jersey Law

### **New Jersey Constitution, Article II, Section 1**

[Compiler's note: §§ 1 and 2 omitted] 3. (a) Every citizen of the United States, of the age of 18 years, who shall have been a resident of this State and of the county in which he claims his vote 30 days, next before the election, shall be entitled to vote for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to a vote of the people; and

(b) (Deleted by amendment, effective December 5, 1974.)

(c) Any person registered as a voter in any election district of this State who has removed or shall remove to another state or to another county within this State and is not able there to qualify to vote by reason of an insufficient period of residence in such state or county, shall, as a citizen of the United States, have the right to vote for electors for President and Vice President of the United States, only, by Presidential Elector Absentee Ballot, in the county from which he has removed, in such manner as the Legislature shall provide. Article II, Section I, paragraph 3 amended effective December 5, 1974.

4. In time of war no elector in the military service of the State or in the armed forces of the United States shall be deprived of his vote by reason of absence from his election district. The Legislature may provide for absentee voting by members of the armed forces of the United States in time of peace. The Legislature may provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election district in which they respectively reside.

5. No person in the military, naval or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.
6. No person who has been adjudicated by a court of competent jurisdiction to lack the capacity to understand the act of voting shall enjoy the right of suffrage. Article II, Section I, paragraph 6 amended effective November 6, 2007.
7. The Legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of such crimes as it may designate. Any person so deprived, when pardoned or otherwise restored by law to the right of suffrage, shall again enjoy that right.

**NJ Rev Stat § 19:4-1 (2013)**

**19:4-1 Constitutional qualifications; persons not having right of suffrage; right to register.**

19:4-1. Except as provided in R.S.19:4-2 and R.S.19:4-3, every person possessing the qualifications required by Article II, paragraph 3, of the Constitution of the State of New Jersey and having none of the disqualifications hereinafter stated and being duly registered as required by Title 19, shall have the right of suffrage and shall be entitled to vote in the polling place assigned to the election district in which he actually resides, and not elsewhere.

No person shall have the right of suffrage—

- (1) Who has been adjudicated by a court of competent jurisdiction to lack the capacity to understand the act of voting; or
- (2) (Deleted by amendment.)
- (3) (Deleted by amendment.)
- (4) (Deleted by amendment.)
- (5) (Deleted by amendment.)
- (6) Who has been convicted of a violation of any of the provisions of this Title, for which criminal penalties were imposed, if such person was deprived of such right as part of the punishment therefor according to law unless pardoned or restored by law to the right of suffrage; or
- (7) Who shall be convicted of the violation of any of the provisions of this Title, for which criminal penalties are imposed, if such person shall be deprived of such right as part of the punishment therefor according to law, unless pardoned or restored by law to the right of suffrage; or
- (8) Who is serving a sentence or is on parole or probation as the result of a conviction of any indictable offense under the laws of this or another state or of the United States.

A person who will have on the day of the next general election the qualifications to entitle him to vote shall have the right to be registered for and vote at such general election and register for and vote at any election, intervening between such date of registration and such general election, if he shall be a citizen of the United States and shall meet the age and residence requirements prescribed by the Constitution of this State and the laws of the United States, when such intervening election is held, as though such

qualifications were met before registration. amended 1948, c.438, s.3; 1955, c.156; 1957, c.205; 1959, c.127, s.1; 1964, c.7, s.1; 1971, c.280; 2010, c.50, s.17.

### **New Jersey Case Law: State Conference-NAACP v. Harvey**

“The ACLU-NJ and Constitutional Litigation Clinic at Rutgers Law School filed a lawsuit on January 6, 2004, challenging the denial of voting rights to persons on probation or parole in New Jersey. The lawsuit, the first in the nation to raise a state constitutional challenge to such a law, maintains that because minorities are vastly overrepresented in the criminal justice system, our laws denying probationers and parolees the right to vote result in a denial of the New Jersey Constitution's guarantee of Equal Protection under the law. Plaintiffs in the suit are the New Jersey State Conference of the NAACP, the Latino Leadership Alliance of New Jersey, Councilwoman Patricia Perkins-Aguste and Councilman Carlos J. Alma, both of Elizabeth, and ten individuals on parole or probation. On June 30, 2004, the lower court ruled against plaintiffs. The ACLU-NJ appealed and the New Jersey Supreme Court denied the petition for certification, so the appellate decision stands.” <https://www.aclu-nj.org/cases/naacpvharvey/>

- Opinion available at <http://caselaw.findlaw.com/nj-superior-court-appellate-division/1113303.html>, 885 A. 2d 445 (381 N.J. Super. 155), Appellate Div. 2005; Decided November 2, 2005
- Civil Complaint filed by Frank Askin and Laughlin McDonald January 5, 2004; <https://www.aclu.org/files/FilesPDFs/harvey.pdf>

### Antecedent Legislative History in New Jersey

- To find bills and track their movement (or non-movement!), the link is <http://www.njleg.state.nj.us/Default.asp>
- Bills introduced to allow persons on probation and/or parole to vote:
  - 2002-2003, A-584/S421, “Allows persons on probation and certain persons on parole to vote” (sponsored by Bonnie Coleman Watson), introduced 1/8/2002:
    - [http://njleg.state.nj.us/2002/Bills/A1000/584\\_I1.PDF](http://njleg.state.nj.us/2002/Bills/A1000/584_I1.PDF)
    - <http://www.trentonian.com/article/TT/20030224/ENTERTAINMENT01/302249979>
    - From the statement at the end of the bill: “This bill would amend existing law to allow a person who is on probation to vote. It would also permit a person convicted of a crime of the fourth degree, or its equivalent in another jurisdiction, to vote while on parole.” P. 10
  - 2004-2005, A4587. “Extends right to vote to individuals on probation,” introduced 12/5/2005, [http://www.njleg.state.nj.us/2004/Bills/A3500/4587\\_I1.PDF](http://www.njleg.state.nj.us/2004/Bills/A3500/4587_I1.PDF)
  - 2006-2007, A8580, “Extends right to vote to individuals on probation,” introduced 1/10/2006, [http://www.njleg.state.nj.us/2006/Bills/A1000/850\\_I1.PDF](http://www.njleg.state.nj.us/2006/Bills/A1000/850_I1.PDF)
  - 2008-2009, A748, “Extends right to vote to individuals on probation,” introduced 1/10/2006,” [http://www.njleg.state.nj.us/2008/Bills/A1000/748\\_I1.PDF](http://www.njleg.state.nj.us/2008/Bills/A1000/748_I1.PDF)
  - 2010-2011, A1015/S557, “Allows persons on probation and certain persons on parole to vote; provides registration assistance to persons on probation, parolees, and persons completing sentences,” introduced 1/10/2012, [http://www.njleg.state.nj.us/2010/Bills/A1500/1015\\_I1.PDF](http://www.njleg.state.nj.us/2010/Bills/A1500/1015_I1.PDF)

- 2012-2013, A596/S858, “Allows persons on probation and certain persons on parole to vote; provides registration assistance to persons on probation, parolees, and persons completing sentences,” introduced 1/10/2012,  
[http://www.njleg.state.nj.us/2012/Bills/A1000/596\\_I1.PDF](http://www.njleg.state.nj.us/2012/Bills/A1000/596_I1.PDF)
- 2014-2015, A2982/S478, “Allows persons on parole and probation to vote; provides registration assistance to persons on probation, parolees, and persons completing sentences,” introduced 3/24/2014,  
[http://njleg.state.nj.us/2014/Bills/A3000/2982\\_I1.PDF](http://njleg.state.nj.us/2014/Bills/A3000/2982_I1.PDF)
- Bills introduced to provide voter registration assistance to persons completing parole, probation, and criminal sentences:
  - 2004-2005, A3989/S2328, “Provides voter registration assistance to persons completing parole, probation, and criminal sentences,” introduced 5/2/2005,  
[http://njleg.state.nj.us/2004/Bills/A3500/3989\\_I1.PDF](http://njleg.state.nj.us/2004/Bills/A3500/3989_I1.PDF)
  - 2006-2007, A1804: “Provides voter registration assistance to persons completing parole, probation, and criminal sentences,” introduced 1/10/2006,  
[http://njleg.state.nj.us/2006/Bills/A2000/1804\\_I1.PDF](http://njleg.state.nj.us/2006/Bills/A2000/1804_I1.PDF)
  - 2008-2009, A1212: “Provides voter registration assistance to persons completing parole, probation, and criminal sentences,” introduced 1/8/2008,  
[http://njleg.state.nj.us/2008/Bills/A1500/1212\\_I1.PDF](http://njleg.state.nj.us/2008/Bills/A1500/1212_I1.PDF)
  - 2010-2011, A877: “Provides voter registration assistance to persons completing parole, probation, and criminal sentences,” introduced 1/12/2010;  
[http://njleg.state.nj.us/2010/Bills/A1000/877\\_I1.PDF](http://njleg.state.nj.us/2010/Bills/A1000/877_I1.PDF)
  - 2012-2013, A466/S650: “Provides voter registration assistance to persons completing parole, probation, and criminal sentences,” introduced 1/10/2012  
[http://njleg.state.nj.us/2012/Bills/A0500/466\\_I1.PDF](http://njleg.state.nj.us/2012/Bills/A0500/466_I1.PDF)
  - 2014-2015, A426/S650, “Provides voter registration assistance to persons completing parole, probation, and criminal sentences,” introduced 1/16/2014,  
[http://njleg.state.nj.us/2014/Bills/A0500/426\\_I1.PDF](http://njleg.state.nj.us/2014/Bills/A0500/426_I1.PDF)
- Bills introduced “to revise various voter registration and voting procedures”
  - Note: There are bills prior to “The Democracy Act” but they are not nearly as comprehensive (see, e.g., S2364/A3553 in the 2012-2013 legislative session, “Requires availability of early voting for certain elections; makes appropriation,” which passed both houses but was vetoed by Governor Christie) and are not included here.
  - 2014-2015, **A4613/S50, “The Democracy Act,”**  
[http://njleg.state.nj.us/2014/Bills/A5000/4613\\_I1.PDF](http://njleg.state.nj.us/2014/Bills/A5000/4613_I1.PDF)
    - Provides list of primary sponsors (which included DeAngelo) and co-sponsors (which included Greenstein and Turner)
    - Introduced and passed both houses in June 2015
      - Assembly, 45-31, 3 abstentions and 1 did not vote
      - Senate, 24-16
      - All six legislators from our two districts voted Yes
    - Legislative Fiscal Estimate published 6-15-2015,  
[http://www.njleg.state.nj.us/2014/Bills/A5000/4613\\_E1.PDF](http://www.njleg.state.nj.us/2014/Bills/A5000/4613_E1.PDF)

- Vetoed (absolute veto) by Governor Christie November 9, 2015, [http://www.njleg.state.nj.us/2014/Bills/A5000/4613\\_V1.PDF](http://www.njleg.state.nj.us/2014/Bills/A5000/4613_V1.PDF)
- This bill does NOT address voting rights for probationers or parolees.
- Statement appended to the bill (just the summary introduction; more detailed comments are in the bill starting at page 60):
 

“This bill establishes “The Democracy Act” to revise various voter registration and voting procedures. Specifically, the bill establishes early voting, online voter registration, automatic voter registration, and allows for the pre-registration of 17-year-olds. The bill expands various language accessibility provisions in current law by lowering the population threshold that triggers requirements for the publication of certain election notices and materials in languages other than English. The bill also makes various changes to current procedures for voting by mail, military and overseas voting under the Overseas Residents Absentee Voting Law, and filling vacancies in the United States Senate and House of Representatives. Finally, the bill establishes an Office of Accessible Elections in the Division of Elections in the Department of State; codifies portions of a 1982 federal consent decree that prohibits certain actions by persons and political parties concerning the implementation of deceptive voting practices during elections, and extends its application to all persons and political parties; lowers the standard for challenging election voter fraud in court; and requires the periodic reporting on incidents of voter fraud during the conduct of an election.”

*Commentary in the press* (This is a partial listing; for more sources, do Google Search under “Christie Veto of The Democracy Act” or something similar)

- <http://lougrewald.com/prieto-greenwalds-democracy-act-overhaul-new-jerseys-outdated-voting-laws-advanced-assembly-committee>
- [https://njcitizenaction.org/?page\\_id=697](https://njcitizenaction.org/?page_id=697)
- <http://workingfamilies.org/2015/12/5413/>
- [http://www.nj.com/politics/index.ssf/2015/06/christie\\_attacks\\_njs\\_democracy\\_act\\_as\\_dnc\\_attempt.html](http://www.nj.com/politics/index.ssf/2015/06/christie_attacks_njs_democracy_act_as_dnc_attempt.html)
- [http://www.nj.com/opinion/index.ssf/2015/11/governors\\_veto\\_of\\_nj\\_democracy\\_act\\_leaves\\_walls\\_in.html](http://www.nj.com/opinion/index.ssf/2015/11/governors_veto_of_nj_democracy_act_leaves_walls_in.html)
- [http://www.nj.com/politics/index.ssf/2015/11/nj\\_assembly\\_senate\\_dem\\_huddle\\_on\\_democracy\\_act.html](http://www.nj.com/politics/index.ssf/2015/11/nj_assembly_senate_dem_huddle_on_democracy_act.html)
- <https://thinkprogress.org/christie-voter-fraud-7807b4afd31d/>
- <https://www.brennancenter.org/press-release/gov-christie-vetoes-groundbreaking-voting-reform-new-jersey>
- [http://www.njdems.org/currie\\_statement\\_on\\_christie\\_s\\_veto\\_of\\_democracy\\_act](http://www.njdems.org/currie_statement_on_christie_s_veto_of_democracy_act)
- <http://www.democrats.org/Post/dnc-statement-on-governor-christies-veto-of-the-democracy-act>
- <http://genprogress.org/voices/2015/09/10/39511/how-the-new-jersey-democracy-act-could-change-statewide-voting-laws/>

- 2016-2017, **A2002/S613, “The Democracy Act”** introduced 1/27/2016 and referred to Assembly Judiciary Committee, from which it went no further, [http://njleg.state.nj.us/2016/Bills/A2500/2002\\_I1.PDF](http://njleg.state.nj.us/2016/Bills/A2500/2002_I1.PDF)
  - Provides list of primary sponsors (which included DeAngelo) and co-sponsors (which included Greenstein and Turner)
  - This bill appears to be virtually identical to A4613/S50 from the previous legislative session.

#### Articles on Restoration of Voting Rights of Parolees and Probationers in New Jersey

- <https://www.politico.com/states/new-jersey/story/2015/12/future-of-democracy-act-uncertain-as-black-lawmakers-push-for-changes-096363>
- [http://www.nj.com/opinion/index.ssf/2017/11/restore\\_voting\\_rights\\_to\\_parolees\\_marist\\_football.html](http://www.nj.com/opinion/index.ssf/2017/11/restore_voting_rights_to_parolees_marist_football.html)
- [http://www.nj.com/opinion/index.ssf/2014/02/new\\_jersey\\_should\\_not\\_deny\\_felons\\_the\\_vote\\_editorial.html](http://www.nj.com/opinion/index.ssf/2014/02/new_jersey_should_not_deny_felons_the_vote_editorial.html)
- <http://www.njspotlight.com/stories/17/05/15/a-matter-of-democracy-restore-voting-rights-to-people-on-parole-and-probation/>
- <https://www.brennancenter.org/analysis/voting-rights-restoration-efforts-new-jersey>
- [http://lwvnj.org/issues\\_protection.html](http://lwvnj.org/issues_protection.html)
- <https://thevotingnews.com/restoring-voting-rights-to-felons-is-political-its-also-right-the-star-ledger/>

#### Articles on Restoration of Voting Rights of Parolees and Probationers Nationally

- Summary of voting laws in all 50 states: <https://felonvoting.procon.org/view.resource.php?resourceID=000286>
- Summary of state actions on the subject: <http://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>
- Survey of public opinion on the subject: <http://www.scholarsstrategynetwork.org/brief/what-americans-believe-about-voting-rights-criminals>
- List of pros and cons on the subject: <https://felonvoting.procon.org/view.resource.php?resourceID=000283>
- <http://ww2.kqed.org/lowdown/2016/11/04/map-felon-voter-disenfranchisement-by-the-numbers/>
- <http://www.latimes.com/opinion/editorials/la-ed-voting-rights-after-parole-20150806-story.html>
- [https://en.wikipedia.org/wiki/Felony\\_disenfranchisement](https://en.wikipedia.org/wiki/Felony_disenfranchisement)
- <http://www.motherjones.com/politics/2015/08/california-voting-rights-felons/>
- [http://www.slate.com/articles/news\\_and\\_politics/crime/2015/03/why\\_can\\_t\\_ex\\_cons\\_vo\\_te\\_the\\_surprisingly\\_complicated\\_politics\\_behind\\_felon.html](http://www.slate.com/articles/news_and_politics/crime/2015/03/why_can_t_ex_cons_vo_te_the_surprisingly_complicated_politics_behind_felon.html)
- <http://www.projectvote.org/wp-content/uploads/2014/03/POLICY-PAPER-FELON-RESTORATION-MARCH-2014.pdf>
- <https://www.hrw.org/legacy/reports98/vote/usvot98o.htm>
- [http://www.legis.state.ak.us/basis/get\\_documents.asp?session=27&docid=243](http://www.legis.state.ak.us/basis/get_documents.asp?session=27&docid=243)

- <http://www.nytimes.com/2001/05/15/nyregion/felons-gain-voting-rights-in-connecticut.html>
- <http://allianceforajustsociety.org/wp-content/uploads/2016/03/Disenfranchised-by-Debt-FINAL-3.8.pdf>
- <http://newamericamedia.org/2014/02/holder-calls-for-restoration-of-felon-voting-rights.php>
- <https://www.americanprogress.org/issues/general/news/2004/01/15/470/think-again-is-the-right-to-vote-a-criminal-matter/>
- [https://www.huffingtonpost.com/entry/virginia-restoration-of-voting-rights\\_us\\_5a026556e4b092053058cd0e](https://www.huffingtonpost.com/entry/virginia-restoration-of-voting-rights_us_5a026556e4b092053058cd0e)

Law Review Articles and Other Major Sources on Disenfranchisement (There's much, much more; these are just some I found doing a quick search)

- Suggested keywords for doing searches: felon/felony disenfranchisement, restore/restoring felon voting rights, felon voting rights pros and cons
- Human Rights Watch and The Sentencing Project, *Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States*, 1998, <https://www.hrw.org/legacy/reports98/vote/>
- Frank Askin, "Disfranchising Felons (Or, How William Rehnquist Earned His Stripes)," 59 *Rutgers Law Review* 875 (2007); <http://electionlawblog.org/archives/Disfranchising%20Felons.pdf>
- Frank Askin, "Expanding Voter Participation in New Jersey," *New Jersey Lawyer* 5 (February 2014); <https://pdfs.semanticscholar.org/9a38/e1feadc061c9eaaab9c9615de2617a7fe3a2.pdf>
- Petition "To the Honorable Members of the Inter-American Commission on Human Rights, Organization of American States" (September 13, 2006); <https://felonvoting.procon.org/sourcefiles/IACIpetition.pdf> (This was submitted on behalf of several African American and Latino leaders as well as former prisoners and includes a broad summary of the issues as well as examples of the impact disenfranchisement has on minority citizens.
- William Walton Liles, "Challenges to Felony Disenfranchisement Laws: Past, Present, and Future," 58 *Alabama Law Review* 615 (2007)
- George Brooks, "Felon Disenfranchisement: Law, History, Policy, and Politics," 32 *Fordham Urban Law Journal* 851 (2005)
- Alec C. Ewald and Brandon Rottinghaus, eds., *Criminal Disenfranchisement in International Perspective*. New York: Cambridge University Press, 2009.

#### Related State Policies in New Jersey

- Helping ex-offenders register to vote: <http://www.nj.gov/state/elections/publications/voter-restore-handbook-060710.pdf>
- New Jersey law on loss of right to vote: <https://www.hg.org/article.asp?id=28179>
- <https://d3n8a8pro7vhmx.cloudfront.net/njisj/pages/68/attachments/original/1458587478/Voting.JuryService.7-06.pdf?1458587478>