

# NEW YORK REENTRY ROUNDTABLE

*ADDRESSING THE ISSUES FACED BY THE  
FORMERLY INCARCERATED AS THEY RE-ENTER THE COMMUNITY*

## Advocacy Day 2008 Legislative Proposals

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### INTRODUCTION

The Community Service Society (CSS), an organization with a 160-year history representing the needs of low-income New Yorkers, recognizes the challenges facing residents of our city who return to their families and communities after periods of incarceration. Most striking is the concentration of this population in a handful of neighborhoods in the city. As the rate of incarceration has increased and recidivism has undermined family stability, it has become clear that these individuals and their families fall within the universe of New Yorkers whose life chances are limited by their lack of economic opportunity and political voice. As a result of our research, we initiated a series of roundtable called the New York Reentry Roundtable, which resulted in a successful Reentry Advocacy Day in May 2007. CSS recognizes the importance of playing a more direct role in challenging systematic barriers to civic participation facing formerly incarcerated persons.

On June 7, 2006, Governor Pataki signed into law a monumental change affecting sentencing in New York, amending the Penal Law to add “promotion of successful and productive reentry and reintegration into society” to the four traditional sentencing goals of deterrence, rehabilitation, retribution, and incapacitation. This change reflected a broader movement by advocates, family and community-members, and formerly incarcerated individuals who understand that removing unfair barriers faced by people with criminal records trying to meet their most basic needs is crucial to increasing public safety while decreasing public spending on jails and prisons. In a time of budget shortfalls, the following proposals address costly and ineffective sentencing policies, unnecessary criminal justice expenditures, and counter-productive obstacles faced by individuals who have had criminal justice involvement.

The New York Reentry Roundtable is united behind all of the following legislative recommendations, which address the crucial areas of employment, voting rights, higher education, sentencing policy, healthcare, and financial debt. They are endorsed by all the participating organizations in the CSS Reentry Roundtable<sup>1</sup> and are consistent with recommendations of the New York State Bar Association, the Independent Committee on Reentry & Employment, and the Coalition for Criminal Justice Reform's *Blueprint for Criminal Justice Reform*.

## **GENERAL RECOMMENDATIONS**

With the prison population drastically lower than it was ten years ago, **the New York Reentry Roundtable urges the legislature to continue to consider closing underutilized prison and juvenile justice facilities.** The millions of dollars in savings could be reinvested in economic development projects statewide aimed at creating jobs and improving services in communities throughout New York State.

In addition, the Roundtable supports parole decisions that account for achievements of incarcerated individuals during their time of incarceration, and that avoid unnecessary spending of taxpayer's dollars to confine people who pose no threat to society. Because we think it will establish unnecessary barriers to parole release, ***We Oppose S. 06908*** which requires that all members of the parole board agree on the parole of an incarcerated individual convicted of any class A. felony.

## **EMPLOYMENT & RESTORATION OF RIGHTS**

***We Support A. 10288 / S. 7638***, The Employer Education Act of 2008<sup>2</sup> which:

- Amends the New York State Fair Credit Reporting Act (N.Y. Gen. Bus. L. § 380 et seq.) to limit unfair discrimination by employers against qualified jobseekers previously convicted of one or more criminal offenses by requiring that any Credit Reporting Agency (CRA) providing information about a job-seeker's criminal history must also notify employers of their obligations under New York State Law to give the application fair consideration.

***We Support*** the Re-entry Tax Credit sponsored by Assemblymember Jeffries (**A. 05438-A**) which establishes a re-entry employment incentive tax credit, providing a \$10,000 tax credit to employers who hire individuals released from New York correctional facilities in full-time jobs at 140% of the state minimum wage.

***We Support S. 7660 / A. 10866***, which amends the New York State Human Rights Law so that individuals are not required to divulge information pertaining to Youthful Offender adjudications and sealed violation convictions.

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<sup>1</sup> See attached list of Endorsers

<sup>2</sup> Drafted by the Fortune Society

**We Support S. 8022/A. 10860**, which would amend existing laws that create a blanket prohibition against individuals with criminal records working in establishments with liquor licenses and to restore discretion in hiring decisions to individual employers.

**We Support S. 4970/A. 8464**, legislation requiring the Division of Criminal Justice Services (DCJS) and the Department of Correctional Services to provide a rap sheet, free of charge, to every individual being released from a New York State correctional facility, *on the day of release*. Each rap sheet should be accompanied by instructions for how to read, understand, and review the rap sheet for errors.

**We Support** Restoration of Rights of individuals with prior criminal convictions through the passage of the Restoration of Rights Act<sup>3</sup> which:

- Amends Corrections Law § 701 and § 703 to replace the Certificate of Relief from Disabilities and Certificate of Good Conduct, respectively, with one *Certificate of Restoration* with all the same effects and functions of the existing certificates: the *Certificate of Restoration* overcomes automatic bars to voting, employment, licensing, public housing, and any other civil disabilities imposed as a result of a criminal conviction;
- Amends the Criminal Procedure Law § 160 by instituting a timetable for automatic sealing of some criminal convictions a certain number of years after the conviction or the end of the period of incarceration without a subsequent criminal conviction;
- Amends the New York State Human Rights Law (Subdivision 16 of § 296 of the Executive Law) to prohibit a prospective employer from making any inquiry about an applicant's criminal record until a conditional offer of employment has been made contingent upon a satisfactory criminal background check. The offer can then be withdrawn only if, consistent with Corrections Law Article 23-A, the applicant's criminal conviction record bears direct relationship to the duties and responsibilities of the position or hiring the individual poses an unreasonable risk to persons or property; and
- Clarifies that licensing agencies should be held to the same standard as employers including relying on balancing factors established in Article 23-A and honoring Certificates of Restoration for license applicants.

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<sup>3</sup> Drafted by the Interfaith Coalition of Advocates for Reentry & Employment

*We Support* the consolidation and simplification of the collateral consequences and legal barriers resulting from criminal proceedings in New York State<sup>4</sup> including:

- Consolidation of all collateral sanctions in one section of the Penal Law; and
- Executive branch review of all collateral sanctions and legal barriers to ensure they are consistent with New York State's stated policy of promoting successful reintegration and employment for individuals with prior criminal convictions.

## **VOTING RIGHTS**

*We Support* increasing the political participation and power of racial and language minorities in New York State, as well as expanded avenues to civic participation for all New Yorkers, including:

- Enactment of **A. 05555**, which extends the right to register and vote in any election to individuals who have been released from prison on parole<sup>5</sup>. We also note that the same goal could be accomplished by Executive Order, and urge the Governor to restore voting rights to individuals on parole;
- Enactment of **S. 1934**, which aims to remedy the U.S. Census' policy of counting individuals where they are incarcerated instead of in their home communities by adjusting, for redistricting purposes, home districts of New York prisoners; and
- Enactment of **S. 7012**, the Voting Rights Notification and Registration Act, introduced by Senator Volker, which will insure that individuals sentenced to probation or to sentences of imprisonment in local jails, and individuals being released from prison or discharged from parole, will be notified of their voting rights and afforded opportunities to register and vote.

## **HIGHER EDUCATION**

*We Support* policies that expand access to higher education for individuals in prison and those who have returned home<sup>6</sup>

- Restoration of eligibility for the New York State Tuition Assistance Program (TAP) to people in prison.
- Enactment of **A. 09477**, introduced by Assemblymember Greene, and **S. 2012**, introduced by Senator Montgomery, which establish a commission to study and develop a plan to improve education in state prison.

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<sup>4</sup> As recommended by the ABA Commission on Effective Criminal Sanctions and the New York State Bar Association Special Committee on Collateral Consequences of Criminal Proceedings.

<sup>5</sup> As recommended by the New York State Bar Association Special Committee on Collateral Consequences of Criminal Proceedings.

<sup>6</sup> The following policy recommendations were developed and recommended by the Correctional Association, the National H.I.R.E. Network, the David Rothenberg Center for Public Policy of the Fortune Society, the Bard Prison Initiative, and College & Community Fellowship.

- Administrative policies reinstating the systematic use of “Educational Release” and related practices as a means of supporting individuals’ transition from prison to the community.<sup>7</sup>
- Parole policies ensuring that decisions that sensibly reflect and support educational achievement before and after release.
- Support for programs statewide that connect those with criminal records to accredited colleges and universities, assisting them up through the attainment of a degree.<sup>8</sup>

**We Support** enactment of legislation prohibiting colleges and universities from banning the applications of formerly incarcerated individuals solely based on the criminal record, or to have blanket policies of refusing to consider applications from students with criminal records.<sup>9</sup>

## SENTENCING

The Roundtable endorses a public health approach to drug policy, and as a first step **we support A. 04342A**, introduced by Assemblymember Aubry, which calls for real reform of New York State’s sentencing laws and full repeal of the Rockefeller era Drug Laws, including:

- Restoration of judicial discretion in all drug cases;
- Expansion of community-based drug treatment and other alternative-to-incarceration programs;
- Reductions in lengths of sentences for all drug cases; and
- Retroactive sentencing relief for all prisoners currently incarcerated under the Rockefeller era Drug Laws.

**We Support S. 3164**, introduced by Senator Volker, and **A. 6150**, introduced by Assemblymember Weinstein. These bills extend merit time release eligibility to domestic violence survivors incarcerated for committing violent crimes.

## HEALTHCARE

**We Support** the enactment of **A. 3787**, introduced by Assemblymember Gottfried, which would require the New York State Department of Health to oversee and monitor HIV and Hepatitis C care in prison.

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<sup>7</sup> Educational releases, holds and other tools still exist under current DOCS Regulations and Directives.

<sup>8</sup> Programs such as the College and Community Fellowship and the College Initiative are examples that have proven to be effective in making these connections.

<sup>9</sup> As recommended by the Interfaith Coalition of Advocates for Reentry & Employment (ICARE), the College & Community Fellowship, the David Rothenberg Center for Public Policy of the Fortune Society, the Bard Prison Initiative, the Center for Community Alternatives, and the Community Service Society.

*We Support* Medicaid for All legislation requiring New York State to file and process Medicaid applications for eligible incarcerated individuals who entered prisons without Medicaid coverage in place.

- *We Support* the proposal for a Medicaid Pilot Project where DOCS and Division of Parole would work together to prepare and submit Medicaid applications for project participants. Department of Health would process applications through its central office and provide Medicaid cards for distribution within the correctional facility. Project funding would come from \$200,000 already allocated in the 2008 State Budget.

## **FAMILY CONNECTIONS**

*We support* the enactment of **A. 8465-A**, introduced by Assemblymember Aubry, which grants discretion to foster care agencies to make fair and appropriate decisions on case-by-case bases regarding termination of parental rights when a parent is incarcerated or in a court-ordered drug treatment program.

*We Support* sound policies that promote employment and facilitate the repayment of child support debts including amendments to the Family Court Act and Social Services Law so that individuals who accumulate child support arrears while incarcerated are not subject to suspension of driver's or professional licenses. In cases where a drivers license is suspended provisional employment and driver's licenses should be allowed to individuals who rely on them for employment purposes and therefore require them to earn income used to make child support, restitution, or other payments.

*We Support* the Office of Temporary and Disability Assistance's legislative proposals that would address challenges facing low-income families by clarifying and extending the existing "substantial change in circumstances" threshold and establishing mechanisms that would more accurately align support orders with parents' ability to pay.

*We Support* an amendment to the Family Court Act and the Domestic Relations Law in relation to setting or modifying child support obligations of incarcerated non-custodial parents so that incarceration is no longer defined as "willful unemployment."

## **FINANCIAL DEBT**

*We Propose* a review of existing and moratorium on the imposition of new fees and fines that create insurmountable debt and barriers to individuals attempting to reintegrate after incarceration.

*We Propose* that judges be granted authority to waive any existing fees and fines at their discretion, at the time of sentencing, if the judge believes that levying the fee or fine in question would undermine the sentencing goal of promoting successful reintegration.