

November 15, 2024

Governor Kathy Hochul
New York State Capitol Building
Albany, NY 12224

Re: Jury of Our Peers Act - A.1432-C (Aubry) / S.206-B (Cleare)

Dear Governor Hochul:

We, the undersigned organizations, urge you to sign into law the Jury of Our Peers Act, A.1432-C (Aubry)/S.206-B (Cleare) to end New York's lifetime ban on jury service for people with felony convictions. The Jury of Our Peers Act is a significant step towards achieving jury fairness and rectifying long-standing inequality. We further urge the adoption of a chapter amendment, as discussed below, to ensure the efficient and complete implementation of the bill in furtherance of the legislature's intent.

Background

Jury service is a cornerstone of our system of self-government and, along with voting, represents Americans' "most significant opportunity to participate in the democratic process."¹ It is a core right of citizenship and of civic participation, the deprivation of which impacts a person's ability to engage with their community and have a voice in government decisions.

The majority of states automatically restore the right to serve on a jury and the right to vote upon release from incarceration or after certain conditions are met. New York's permanent ban on jury service for people with a past felony conviction places it behind more than half of U.S. states—behind states like Florida, Louisiana, North Dakota, South Dakota, Indiana, Iowa, and Kansas.

Civic Participation Facilitates Reintegration into Society

When passing voting rights restoration in 2021, the New York State Legislature recognized that facilitating re-entrance in the voting process "prevent[s] individuals from straying from the confines of our laws and society's norms" and "should be an essential component of rehabilitation and reintegration."² The same is true of jury service.

Civic engagement—including through political participation such as jury service—is a critical means to facilitate sustainable reintegration back into society. The restoration of civil rights enhances public safety and community stability, as research shows that people whose civil rights have been restored are substantially less likely to reoffend.³

Increasing Participation in the Jury Process and Diversifying Juries Strengthens our Democracy

¹ *Powers v. Ohio*, 499 U.S. 400, 407 (1991).

² Sponsor Memo, N.Y. Senate Bill S.830B, <https://www.nysenate.gov/legislation/bills/2021/S830>.

³ Hanna Hoover, Civil Rights Restoration and Recidivism (January 26, 2021), available at SSRN: <https://ssrn.com/abstract=3773572> or <http://dx.doi.org/10.2139/ssrn.3773572>.

Just as ensuring access to the ballot strengthens our democracy, increasing access to the jury strengthens our judicial decision-making processes. Data from the New York State Division of Criminal Justice Services indicates that from 2002 through 2019, Black people in Manhattan were arrested for a felony at a rate 16.6 times greater than white people and convicted of felonies at a rate 21.3 times greater than white people.⁴ In Manhattan and many other counties, New Yorkers of color are significantly underrepresented in jury pools and overrepresented among the population with felony convictions.

The reduction in jury diversity compromises the quality of deliberations and erodes public confidence in the fairness of the jury system.⁵ Research is clear: more diverse juries are better juries.⁶ Ensuring a more diverse and equitable jury pool in New York State is an imperative for strengthening our democracy and building stronger, safer, and more prosperous communities.

A Chapter Amendment is necessary to Effectively and Constitutionally Implement the Act

We join the call for a chapter amendment to ensure this critical legislation is able to be administered and implemented as intended. For most of the life of the bill, the Jury of Our Peers Act simply removed the felony conviction barrier to jury service. However, in response to concerns about completing court-ordered supervision, the bill that passed—S.206-B (Cleare) / A.1432-C (Aubry)—amended New York Judiciary Law § 510(3) to restore the right to serve on a jury for people with felony convictions after completion of *“all sentencing requirements related to such conviction, including any required term of imprisonment, probation, or community supervision.”*

Legal experts agree that the phrase “sentencing requirements” is vague, and can be read to include fines, restitution, and potentially fees. This vagueness would create serious bureaucratic hurdles for the courts, lead to the continued ineligibility to an unknown number of New Yorkers, and would undermine the expansion of jury eligibility, which was the intent of this bill.

To avoid both administrative hurdles and potential litigation, Section 3 should be amended to read:

~~“If convicted of a felony, have completed ALL SENTENCING REQUIREMENTS RELATED TO SUCH CONVICTION, INCLUDING ANY REQUIRED TERM OF IMPRISONMENT, PROBATION, OR COMMUNITY SUPERVISION.”~~

By removing the language in red, you will preserve the intent of the legislation—which was to ensure that people with felony convictions complete any term of imprisonment and community supervision before their right to serve on a jury is restored— while also eliminating the unintended administrative burdens imposed by the current language.

We strongly urge you to make this amendment and sign the Jury of Our Peers legislation into law.

⁴ Complaint, Justin v. Tingling, No. 1:22-cv-10370, ¶ 40 (SDNY filed Dec. 8, 2022)

⁵ Judge Milton A. Tingling, *Jury Duty Is a Right and a Privilege*, N.Y. Amsterdam News (Oct. 1, 2020), <https://amsterdamnews.com/news/2020/10/01/jury-duty-right-and-privilege/>.

⁶ Shamena Anwar, Patrick Bayer, Randi Hjalmarsson *The Impact of Jury Race in Criminal Trials*, (April 17th, 2012), <https://academic.oup.com/qjc/article/127/2/1017/1826107?login=false>.

Sincerely,

AAS EMPOWERMENT

ACE (Association of Community Employment)

American Probation and Parole Association

Asian American Legal Defense and Education Fund AALDEF

Assigned Counsel Program

Bronx Defenders

Brooklyn Defender Services

Broome County Public Defender's Office

Campaign Zero

Center for Alternative Sentencing and Employment Services

Center for Community Alternatives

Center for Employment Opportunities

Center for Independence of the Disabled, New York

Center for Law and Justice

Center for Law and Social Justice at Medgar Evers College

Chemung County Public Advocate's Office

Chief Defenders Association of New York

Citizen Action of New York

Common Cause NY

Community Service Society of New York

Dutchess County Progressive Action Alliance

Erie Co. Bar Assoc.'s Assigned Counsel Program

Five Borough Defenders

Freedom Agenda

#HALTsolitary Campaign

Innocence Project

Katal Center for Equity, Health, and Justice

LatinoJustice PRLDEF

Legal Action Center

Legal Aid Bureau of Buffalo

Legal Aid Society of Nassau County

Legal Aid Society of Westchester County

Livingston County Public Defender

Long Island Social Justice Action Network

Monroe County Assigned Counsel Program

Monroe County Conflict Defender's Office

Monroe County Public Defenders Office

NAACP Legal Defense Fund

National Association of Social Workers - NYS and NYC

Neighborhood Defender Service of Harlem

New Hour

New York County Defender Services

New York Immigration Coalition

New York State Association of Criminal Defense Lawyers
New York State Defenders Association
Office of the Appellate Defender
Office of the Genesee County Public Defender
Onondaga County Bar Assoc. Assigned Counsel Program
Osborne Association
Partnership for the Public Good
Pretrial Justice Institute
Prison Policy Initiative
Queens Defenders
Release Aging People In Prison Campaign
The Fortune Society
The Juror Project
The Legal Aid Society
The New York Civil Liberties Union
Vera Institute of Justice
VOCAL-NY
Vote Early New York
Youth Represent