



Corrections and Community Supervision

Testimony of Anthony J. Annucci

Acting Commissioner

State Department of Corrections and Community Supervision

**Before the State Senate Standing Committee on Crime Victims,
Crime and Corrections**

&

NYS Senate Standing Committee on Elections

Executive Order 181

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Monday, October 1, 2018

Written testimony submitted by Anthony J. Annucci, Acting Commissioner, New York State Department of Corrections & Community Supervision.

Chairman Gallivan and Chairman Akshar and other distinguished members of the Legislature. I am Anthony J. Annucci, Acting Commissioner of the Department of Corrections and Community Supervision. I provide these committees with information as they examine the parole board process and Executive Order 181 related to the granting of conditional pardons to parolees.

As you know, it is the mission of the Department to improve public safety by providing a continuity of appropriate treatment services in safe and secure facilities where incarcerated individuals' needs are addressed and they are prepared for release, followed by supportive services and supervision for released individuals to facilitate a successful reentry into society and completion of their sentence. These values are not the Department's alone. Indeed, fundamental to our State's penal law is the promotion of public safety through rehabilitation of those convicted of crime and the promotion of their productive return to society. Executive Order 181 furthers both of these critical principles.

At the outset, it is the law and public policy of the State to encourage the licensure and employment of persons previously convicted of one or more criminal offenses. Similarly, it is unlawful to, without any deliberative analysis, deny an application for a license or employment by reason of an individual's criminal history. Furthermore, the Department has broad authority to issue certificates of relief from disabilities and certificates of good conduct, which restore various rights, including the right to vote.

Further, State law enacted almost twenty years ago -- the Sexual Assault Reform Act (SARA) in 2000 and the Notice of Voting Rights (NVR) in 2010 -- both restricts the movement of certain sex offenders in certain circumstances but unequivocally permits

those same individuals to enter school grounds in order to be a participant in activities – only if the school has provided consent. The Legislature rightfully recognized then that we can protect public safety without completely eliminating a formerly incarcerated individual's ability to function as a member of society. That provision remains unchanged to this day.

The Legislature's passage of the Notice of Voting Rights Act also brought with it a mandate that the Department notify any person whose maximum sentence of imprisonment has expired, or who is being discharged from community supervision, of his or her right to vote, and to affirmatively provide to such person a voter registration application, together with written information distributed by the Board of Elections on the importance and the mechanics of voting. With the enactment into law of these statutes, the Legislature delivered a resounding message. If formerly incarcerated individuals are to become law-abiding citizens, then active civic participation through voting, must not only be allowed, it must be strongly encouraged.

The Governor's Executive Order 181 builds upon these fundamental principles by using the pardon power to conditionally restore voting rights to formerly incarcerated individuals, who are successfully under supervision within the community after an individualized review. The Order creates a process whereby individuals being released from incarceration to parole, and individuals who were already under parole supervision at the time of its issuance on April 18, 2018, are considered for a conditional pardon for the sole purpose of restoration of voting rights. Conditional pardons can be revoked by the Governor, as clearly explained in guidance provided on the Governor's clemency website.

Since the promulgation of the Executive Order, the total number of voter pardons issued was 30,666, as of September 18, 2018. With each pardon issued, the Parole Officer meets with the parolee to provide him or her with the pardon, as well as the same voter information required by Correction Law §75. The Department will also note that a conditional pardon has been issued on the Parolee Lookup screen on our website.

Despite concerns expressed by certain State legislators over the possibility of sex offenders exercising their right to vote at designated schools, the Department has implemented protective measures that go beyond those required under existing law.

All sex offenders on parole who received a conditional pardon, regardless of whether they are covered by the Sex Offender Rehabilitation Act (SARA), were given special conditions. The special conditions required parolees to advise their Parole Officers of their intention to vote, to identify if the polling location was a school, and to receive written permission from both their Parole Officer and school administrator, in order to be allowed to vote. Parolees were also required to inform their parole officers of their travel plans to and from the school in advance of election day, and informed that they could only enter school grounds after 7:00 PM on the date of the election for the purpose of voting. Finally, they could not remain or loiter around the school grounds, once the voting process was completed.

A total of eleven sex offenders requested permission to vote at a location that was identified as a school. Two of those requests were ultimately approved.

In conclusion, the conditional restoration of voting rights to formerly incarcerated individuals who are being supervised in the community by the Department, was the next logical step for this State to further promote their successful reintegration into society. This has been proven effective in, not one or two, but fourteen other states and the District of Columbia and Puerto Rico, as well as two other states which do not revoke voting rights based on criminal history. Through the conscientious and tireless efforts of the Department's dedicated workforce, we will continue to support our overall mission, while simultaneously preserving public safety.

Thank you.