

**New Jersey Assembly Regulatory Oversight Committee
Hearing on Barriers to Reentry Facing Formerly Incarcerated Individuals
Testimony of Nancy Fishman, Senior Law & Policy Analyst
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Good morning.

I would like to thank Chairman Payne and the members of the Assembly Regulatory Oversight Committee for the invitation to address you here today on this very important topic.

My name is Nancy Fishman and I am Senior Law and Policy Analyst at the New Jersey Institute for Social Justice (NJISJ), a Newark-based urban advocacy and research organization established in 1999. NJISJ works to promote the economic vitality of urban communities, and to challenge policies and practices that prevent urban residents and communities in New Jersey from achieving their full potential.¹ Our former Executive Director, Ken Zimmerman had the opportunity to address this committee in one of your prior hearings on reentry, and I'm please to be able to supplement his earlier testimony.

Over the past four years, the Institute has focused substantial attention on research and support for efforts to address how the state responds to the issue of prisoner reentry. Among other activities, the Institute co-convened the New Jersey Reentry Roundtable, chaired by John Farmer and former Public Advocate Stanley Van Ness, which commissioned research and analysis on New Jersey's reentering population and their challenges. The Roundtable, which included participation from state policy leaders, including the Commissioner of Corrections, the Attorney General, and the Chairman of the State Parole Board, as well as researchers and community leaders, released its findings and recommendations in a major report, *Coming Home for Good: Meeting the Challenge of Prisoner Reentry in New Jersey*, which has provided a blueprint for those in the state working on these issues. We have provided copies of this report with our testimony; additional papers and information are available at our website, www.njisj.org. Of special interest is a paper prepared by the Urban Institute, *A Portrait of Prisoner Reentry in New Jersey*, which provides a detailed empirical picture of who is coming home, how they are released, and the communities to which they return.

The challenge posed by prisoner reentry is a critical one for New Jersey, as it is for other states. Due to unprecedented growth in the state prison population over the past 25 years,

Established by Alan Lowenstein and his late wife Amy, the Institute's three major initiative areas are: (1) economic opportunity, which focuses on barriers to employment and business opportunities for urban residents; (2) equal justice, which addresses the impact of the state's criminal justice policies and how they affect urban areas and residents; and (3) regional equity, which focuses on overcoming disparities between urban and suburban communities in the state. The Institute undertakes its work by establishing demonstration programs, applied research, and advocacy (including litigation when appropriate). The Institute is chaired by former Attorney General John Farmer, and its officers include the Honorable Dickinson Debevoise, Douglas Eakeley, and Ted Wells.

an expected 70,000 individuals will be released to their communities over the next five years. One third come from and are expected to return to two counties, Camden and Essex, to neighborhoods already under significant social and economic strain, and 80% of them are minority. Historically, two thirds of those released are rearrested within three years of their release, at great cost to the state and to the families and communities from which they come. Our efforts, in collaboration with public agencies, community and faith based groups in the state, have been designed to figure out how we can keep that from happening.

In our prior testimony we focused on the range of substantial challenges individuals leaving prison face, including education, skill and work experience deficits, health and substance abuse problems, and very limited systematic use of assessment and programming to prepare for and facilitate the transition home. I want to talk today more specifically about the issue of legal barriers to reentry.

Since we last appeared before this committee, we have released a series of fact sheets detailing the specific legal and regulatory barriers faced by individuals returning home from prison and jail (many of which also affect those in the community on probation). To my knowledge this is the only such catalog of these legal restrictions, which are found throughout the New Jersey code, and I would venture to guess that few participants in the criminal justice system – judges, prosecutors, defense attorneys, defendants—have any idea of the scope of the civil consequences of criminal convictions. I'm going to quickly review some of the primary restrictions, but if there is a key point I'd like to leave with you today, it's that these legal barriers are cumulative: they reach every aspect of an individual's life and, most importantly, directly affect their ability to do what we expect of them upon reentry, such as work, stay out of trouble, support their families.

For example:

- **Employment:** There are about 22 categories of jobs that are subject to permanent, life time bars on individuals with certain kinds of convictions, primarily those that constitute “crimes of moral turpitude.” An expanding category of jobs have mandatory background checks. Unlike some other states, such as New York, New Jersey does not have protection against employment discrimination solely on the basis of a criminal record, except in the licensing context. Expungement is an extremely limited remedy, and is only available 10 years post release or post-parole for someone with a qualifying offense.
- **Housing:** Allowing someone who is just released from prison for a drug offense to stay with you—and research shows that family support can be the key to reentry success—can be grounds for eviction from private housing under New Jersey law. Landlords can exclude someone solely on the basis of a criminal record. Public housing authorities may exclude or evict individuals with criminal convictions.
- **Public Assistance:** New Jersey has chosen to continue to exclude individuals with drug convictions (but not other kinds of convictions) from receiving Work First TANF, GA and Food Stamps, although federal law does not require this. Those with possession offenses may be able to receive benefits and food stamps if they have completed a licensed residential treatment program and those with distribution offense may be able to receive food stamps under the same circumstances. Public assistance can provide a little economic stability during the crucial first weeks post-release but that resource is unavailable, for example, to parole officers who are trying to help parolees make it through that high stress period.

I can speak in further detail about these or other areas, such as child support and license suspension, parental rights, education, voting and jury service, if the committee is interested. The scope and details of specific barriers in each of these areas, along with any existing remedies, are in the fact sheets that are included with my testimony.

We have also included a briefing paper on legal barriers which highlights some of the possible remedies that the state could undertake, beginning with a thorough assessment of which of these restrictions are reasonable approaches to ensuring public safety and which are immediately or ultimately counterproductive to that important goal. We have also suggested some specific policies that would at least mitigate the impact of these restrictions to encourage and reward responsible, law abiding behavior. In the employment context, these would include:

- Create a New Jersey Certificate of Rehabilitation: Certificates of Rehabilitation are official documents that recognize that an individual has been rehabilitated with the effect of restoring rights and lifting restrictions on licenses and benefits. They can be awarded by a sentencing court or by the parole board and can provide relief from, for example, employment restrictions in an individual's chosen field, allowing them to work. New York, Illinois, California, Arizona and Nevada are a few of the states that have these provisions. New Jersey's Rehabilitation of Convicted Offenders Act can be modified to extend the state's current certificate of rehabilitation, which has a very limited scope, to provide this kind of relief.
- Create a Restricted Use Driver's License: Most license suspensions in New Jersey are imposed for financial reasons, not dangerous driving, and these suspensions are imposed most frequently in poor minority neighborhoods, according to the MVC's Affordability and Fairness Task Force. A common problem for individuals leaving prison, the lack of license can be a major barrier to employment. More than half the states have instituted some form of limited use driver's license, to permit those under suspension to drive for work, job training or education, or health reasons while paying off outstanding fees.
- Model in public employment a fair and reasonable approach to criminal convictions for all employers: A number of cities and the State of Florida have taken the lead as employers in revamping how they take into account a criminal background, under the general principle that decisions should be made on an individual basis. The box on the application that asks about criminal convictions is eliminated, and the background check is only done, if it is necessary, once an individual has been shown to be otherwise qualified. Job applicants are given the opportunity to provide correct the record and provide evidence of rehabilitation. If the state were to take on this kind of approach, it would be in a better position to encourage private employers to give New Jersey residents with criminal records a second chance.

These short-term measures would begin to expand the opportunities for successful reentry for New Jersey residents. We would be happy to provide more detail or answer any questions that the committee may have.

Thank you very much.