



**Written Testimony of Eliza Sweren-Becker  
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Submitted to the Subcommittee of the Judiciary Committee of the Iowa State Senate  
February 10, 2020**

My name is Eliza Sweren-Becker and I am counsel in the Voting Rights and Elections Program at the Brennan Center for Justice at NYU School of Law. I appreciate the opportunity to submit written testimony on Senate File 2129, which the Brennan Center emphatically opposes.

The Brennan Center is a national nonpartisan law and policy institute affiliated with NYU School of Law that seeks to improve our systems of democracy and justice. Named after Justice William Brennan, we have a long history of partnering with election administrators, legislators, and other elected officials at the local, state, and federal level to reform and improve our elections and election administration. At the Brennan Center, we have worked to reform criminal disenfranchisement laws at the state and federal levels for decades, through research, legislative and executive advocacy, public education, and litigation.

The Brennan Center enthusiastically supports House Joint Resolution 14, which would amend Iowa's constitution to restore voting eligibility to people who have completed by their sentences. We are encouraged by the House's passage of H.J.R. 14 last year and we urge the Senate to pass the resolution this year.

However, we oppose S.F. 2129, which imposes unnecessary restrictions on the restoration that H.J.R. 14 seeks enact. Simply put, eligibility to vote should not be predicated on the payment of legal financial obligations. Below, I highlight three reasons why this is the case.

**(1) Restoration of voting eligibility benefits everyone in Iowa communities.**

There is no criminal justice purpose served by restricting the eligibility to vote because of outstanding legal financial obligations. Denying voting eligibility to Iowans because of court debts would not make communities safer. To the contrary, studies have shown that restoring eligibility to vote reduces rates of re-arrest, re-incarceration, and self-reported criminal behavior.<sup>1</sup> Likewise, an official analysis by the Florida government found that restoring voting rights reduced recidivism rates by roughly a third.<sup>2</sup>

Our communities benefit when we encourage returning citizens to see themselves as a worthy part of the larger society. We can do that by giving them a vote and a voice. On the other

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<sup>1</sup> Christopher Uggen & Jeff Manza, *Voting and Subsequent Crime and Arrest: Evidence from a Community Sample*, 36 Colum. Hum. Rts. L. Rev. 193 (2004).

<sup>2</sup> Fla. Parole Comm'n, *Status Update: Restoration of Civil Rights (RCR) Cases Granted 2009 and 2010*, at 7, 13 (2011), <https://www.fcor.state.fl.us/docs/reports/2009-2010clemencyreport.pdf>.

hand, when we deny people the right to vote, we tell them that their voices do not matter, and that they do not have a stake in the community.

That's why the American Probation and Parole Association and the Association of Paroling Authorities International have passed resolutions in favor of restoring voting rights upon release from prison.<sup>3</sup> And public safety officials across the country agree – for example, the Washington Department of Corrections and District Attorneys across New York have advocated for restoration of voting eligibility.

Excluding individuals from the political process only makes it harder for them to successfully reintegrate. Instead, Iowa should welcome back all those who have served their sentences. Like Americans across the country, Iowans are ready to do so.<sup>4</sup>

## **(2) Conditioning eligibility to vote on the repayment of court debts serves no legitimate purpose.**

S.F. 2129 would require that individuals pay off restitution before they regain their eligibility to vote. This prerequisite would serve no governmental interest, public safety or otherwise. Instead, S.F. 2129 strikes at the heart of American ideals of equality and fairness and it would violate the Equal Protection Clause of the U.S. Constitution.

Absent S.F. 2129, restoring voting eligibility would not wipe away an individual's obligation to pay off any outstanding restitution, the duty to pay would remain just the same. In other words, S.F. 2129 would not make those to whom restitution is owed any better off. S.F. 2129, if enacted, would not suddenly change the economic circumstances of people who are unable to pay off their court debts. Instead, people who cannot afford to pay would have to sit on the sidelines, election after election, because they are too poor to vote. There is nothing more unamerican than a law that conditions access to democracy on a person's wealth.

S.F. 2129 is especially harsh because those who are assessed court debts are often the least able to afford them. One national study found that 36% people arrested in 2017 made less than \$10,000 per year.<sup>5</sup> This number is even higher for individuals who were arrested multiple times. Legal debts are particularly troublesome for minority communities because they compound existing wealth disparities. For example, the overall poverty rate in Iowa is 9.7%, but it is 29% for Black

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<sup>3</sup> See Am. Probation & Parole Ass'n, *Resolution Supporting Restoration of Voting Rights* (Oct. 17, 2007), [https://appa-net.org/eweb/Dynamicpage.aspx?site=APPA\\_2&webcode=IE\\_NewsRelease&wps\\_key=a587deaf-9cbf-4efdbd8d-025c14143f65](https://appa-net.org/eweb/Dynamicpage.aspx?site=APPA_2&webcode=IE_NewsRelease&wps_key=a587deaf-9cbf-4efdbd8d-025c14143f65); Ass'n Of Paroling Auths. Int'l, *Resolution on Restoring Voting Rights* (Apr. 30, 2008), <http://www.apaintl.org/about/resolutions.html>.

<sup>4</sup> Barbara Rodriguez & Stephen Gruber-Miller, *Iowa Poll: Nearly two-thirds of Iowans say felons should regain voting rights after completing sentences*, Des Moines Register, Feb. 16, 2019), <https://www.desmoinesregister.com/story/news/politics/iowa-poll/2019/02/17/iowa-poll-felon-voting-rights-restore-prison-crime-vote-election-2020-kim-reynolds-ia-constitution/2875580002/>. Just last year, Kentucky, New Jersey, Nevada, and Colorado restored access to the ballot for those with convictions in their past.

<sup>5</sup> Alexi Jones & Wendy Sawyer, Prison Policy Initiative, *Arrest, Release, Repeat: How Policy and Jails are Misused to Respond to Social Problems* (Aug. 2019), <https://www.prisonpolicy.org/reports/repeatarrests.html>.

Iowans.<sup>6</sup> As a result, S.F. 2129 will have a disproportionate impact on access to the ballot box for Black Iowans.

Apart from being unjust, S.F. 2129 would harm Iowa's interest in reliable and fair election administration. As we have already seen from the Secretary of State's efforts to clean up data regarding voting eligibility and past convictions, Iowa's records regarding underlying criminal history status are a mess. Data on court debts is even more unwieldy and prone to error, and such records are sure to be in an even worse state of disarray. S.F. 2129 will create uncertainty about who is eligible to vote, sewing confusion and doubt in Iowa's election administration.

**(3) The U.S. Constitution forbids conditioning rights restoration on the payment of sums that a person cannot afford.**

A cornerstone of American democracy is that we do not discriminate against low-income voters. It's why we passed the Twenty Fourth Amendment, which prohibits denying access to the vote because of a failure to pay a poll tax or any other tax. S.F. 2129 contravenes this principle. The bill would establish two classes of people: those who can afford to pay their debts and therefore can vote, and those who cannot. A law that makes access to the ballot dependent on an individual's resources is wealth discrimination; that goes against American values and the U.S. Constitution.

Florida provides a cautionary tale. In 2018, Florida voters passed a ballot initiative ending the state's lifetime disenfranchisement policy. Shortly thereafter, Florida enacted a law defining "completion of all terms of sentence" to require the repayment of all fines, fees, court costs, and restitution assessed at sentencing for a felony conviction. Advocates from six civil rights organizations (including the Brennan Center) filed three lawsuits challenging the constitutionality of Florida's new statute. A federal court granted a preliminary injunction, recognizing that Florida's law discriminates based on wealth in violation of the U.S. Constitution. The court explained that "the State of Florida cannot deny restoration of a felon's right to vote solely because the felon does not have the financial resources necessary to pay restitution" and specifically noted that "there is no reason to treat restitution differently from other financial obligations included in a sentence[.]"<sup>7</sup> By the judge's own description, the result of Florida's law is "an administrative nightmare." It is nearly impossible for those with past convictions *or* for election officials to know whether such individuals have paid off their court debts and are eligible to vote. Those who are uncertain about the status of their debts risk criminal prosecution if they register while ineligible – a risk so grave that many people are afraid to register. At the same time, a handful of county courts have devoted resources to so-called "rocket dockets" to make it easier for individuals to get fees, fines, and costs waived.

Legislation like S.F. 2129 would put county auditors and court clerks in a very difficult position. Instead, these officials should be spending their time running Iowa's elections and justice system, and protecting Iowa's election technology against cybercriminals. Let Florida's experience be a lesson to Iowa.

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<sup>6</sup> Campaign Legal Ctr. & Georgetown Law Civil Rights Clinic, *Can't Pay, Can't Vote: A National Survey on the Modern Poll Tax* at 39, (July 25, 2019), [https://campaignlegal.org/sites/default/files/2019-07/CLC\\_CPCV\\_Report\\_Final\\_0.pdf](https://campaignlegal.org/sites/default/files/2019-07/CLC_CPCV_Report_Final_0.pdf).

<sup>7</sup> *Jones v. DeSantis*, 410 F. Supp. 3d 1284, 1300 (N.D. Fla. 2019).

Americans from all walks of life believe in second chances. That's what H.J.R. 14 would mean to tens of thousands of Iowans – a second chance to rejoin the community and exercise the rights and responsibilities of full citizens. The opportunity for redemption shouldn't belong only to those who can afford to pay off court debts. I urge the Subcommittee to advise the broader Judiciary Committee to vote no on S.F. 2129.

Thank you for the opportunity to submit this testimony and for your careful consideration of this important issue.