



## MEMORANDUM OF SUPPORT

S.1716 (Bailey) /A.1431 (Lentol) – The 2019 Discovery for Justice Reform Act  
February 7, 2019

FWD.us urges the Legislature to pass and the Governor to sign comprehensive criminal discovery reform this session. We strongly support the Discovery for Justice Reform Act S.1716 (Bailey) /A.1431 (Lentol), which will repeal the current “Blindfold Law” and bring early, open, and automatic discovery to our criminal legal system.

New York’s broken pretrial system is an embarrassment that harms our state’s families, economy, and communities and disproportionately impacts black, brown and poor New Yorkers. Reforming the state’s notorious discovery laws is a crucial step towards delivering New Yorkers the pretrial justice they deserve.

New York should be a leader in the nationwide movement to reform our criminal justice system. Instead, it’s home to one of the four worst discovery statutes in the country. Unlike in most other states, New York prosecutors and police are not required to provide evidence to people facing criminal allegations or to their attorneys until trial begins – months or years after an arrest. Because the vast majority of cases end in either dismissals or plea deals rather than trials, most people accused of crimes in New York never see all of the evidence against them. This includes police reports, witness statements, exculpatory information, and more. That is why many call New York’s existing discovery law the “Blindfold Law.”

This unfair law fuels mass incarceration, case delays, and wrongful convictions. It prevents people facing criminal accusations from making informed decisions about plea offers, forcing many to choose between pleading guilty or suffering the well-documented brutality of jail while fighting the charges against them without access to crucial evidence.

Nearly every other state in the country require broad access to both parties’ evidence in the early stages of criminal cases. Prosecutors and defense attorneys alike in these states consistently say broad discovery works and no state that has reformed its discovery statute has gone back to reverse its progress.

New York’s antiquated criminal discovery laws stand in stark contrast to civil law. In New York civil cases, where property and not liberty are at stake, both parties are required to turn over all of the information, live testimony, called depositions, questions and answers, called interrogatories and production of documents. Yet, people facing jail or prison, a criminal record, and a lifetime of related consequences, like loss of employment, housing,



educational opportunity, and deportation are not currently afforded even the most basic information prior to making a decision about whether to plead guilty or proceed to trial.

Again, FWD.us urges the legislature to pass and the Governor to sign comprehensive discovery reform this year.

Questions? Contact Rena Karefa-Johnson ([rena@fwd.us](mailto:rena@fwd.us)).