



Legislative Testimony
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**Written Testimony Supporting House Bill 5702, An Act Allowing
Incarcerated Individuals to Vote, and House Bill 5714, An Act Concerning
Incarcerated Individuals and Voting**

Senator Flexer, Representative Blumenthal, Ranking Members Sampson and Mastrofrancesco, and distinguished members of the Government Administration and Elections Committee:

My name is Jess Zaccagnino, and I am the policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am writing to testify in support of House Bill 5702, An Act Allowing Incarcerated Individuals to Vote, and House Bill 5714, An Act Concerning Incarcerated Individuals and Voting.

Voting is a foundation of democracy, a right through which we can protect and preserve our other rights. For that reason, the ACLU-CT supports extending voting rights to the greatest number of people, with the only permissible restrictions being those essential to making elections secure and fair. Connecticut's history with voting rights is long, checkered, and in many ways shamefully suppressive, but with continued efforts, like equitable early voting, to extend the franchise and make it as accessible as possible, we can move forward with a strong electorate and truly democratic elections.

From its early days, Connecticut has been the least expansive for voting rights for Black people of all the New England states, amending the state constitution to explicitly limit the franchise to white people in 1818 when other neighboring states

allowed Black men to vote without significant restriction.¹ After Connecticut ratified the Fifteenth Amendment, which guaranteed the right to vote to men of all races,² it took a further six years for Connecticut to amend its own state constitution to remove language restricting voting to white people.³ Connecticut was the last New England state to allow Black men to vote.⁴ Connecticut was one of only twelve states using a literacy test into the 1950s,⁵ and it was not ended until the federal Voting Rights Act finally banned them nationwide, when, in August 1965, the State Attorney General issued an opinion clarifying that the federal Voting Rights Act's prohibition on literacy tests took precedence over the state law that allowed them.⁶

Some voting laws and practices are still in effect in Connecticut which disproportionately harm voters of color. The state's well-known limitations on alternatives to in-person Election Day voting, for example, disproportionately harm Black and Latinx voters, who are more likely to face barriers to voting on Election Day.⁷ So do laws which restrict voting for people convicted of felonies and people on parole, due to systemic racism in the criminal legal system.⁸ Election management practices, repeated year after year, result in long lines in the urban areas where Connecticut's voters of color are most concentrated.⁹

¹ Elizabeth Normen, *Our Hard-Won Right to Vote*, CONN. EXPLORED (2016), available at <https://www.ctexplored.org/our-hard-won-right-to-vote/>.

² Katherine J. Harris, "No Taxation with Representation": *Black Voting in Connecticut*, CONN. EXPLORED (2016), available at <https://www.ctexplored.org/no-taxation-without-representation-voting-petitions-inconnecticut/>.

³ *Connecticut Civil Rights Law Chronology*, CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES, available at <https://portal.ct.gov/CHRO/Legal/Legal/Connecticut-Civil-Rights-Law-Chronology>.

⁴ Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* 55 (2000); see also Ramin Ganeshram & Elizabeth Normen, *Constitution of 1818 & Black Suffrage: Rights For All?*, CT EXPLORED (Fall 2018), <https://www.ctexplored.org/constitution-of-1818-rights-for-all/>.

⁵ Steve Thornton, *Literacy Tests and the Right to Vote*, CONN. HISTORY, available at <https://connecticuthistory.org/literacy-tests-and-the-right-to-vote/>.

⁶ See *id.*; David Holmberg, *Puerto Ricans Literate in Spanish to Get Vote: Opinion is Given by Mulvey*, HARTFORD COURANT (Aug. 25, 1965).

⁷ For common barriers to voting and reasons why voters do not vote, see, e.g., Amelia Thomson-DeVeaux, Jasmine Mithani & Laura Bronner, *Why Many Americans Don't Vote*, FIVETHIRTYEIGHT, (Oct. 26, 2020), available at <https://projects.fivethirtyeight.com/non-voters-poll-2020-election/>; *11 Barriers to Voting*, CARNEGIE CORP. N.Y. (Nov. 1, 2019), available at <https://www.carnegie.org/topics/topicarticles/voting-rights/11-barriers-voting/>. See also Vann R. Newkirk II, *Voter Suppression is Warping Democracy*, ATLANTIC (July 17, 2018), available at <https://www.theatlantic.com/politics/archive/2018/07/pollprri-voter-suppression/565355/>.

⁸ Karina Schroeder, *How Systemic Racism Keeps Millions of Black People from Voting*, VERA INST. JUST., (Feb. 16, 2018), available at <https://www.vera.org/blog/how-systemic-racism-keeps-millions-of-blackpeople-from-voting>.

⁹ Matt DeRienzo, *In Connecticut, Voters Face Some of the Biggest Obstacles Outside the South*, CTR. PUB. INTEGRITY (Oct. 7, 2020), available at <https://publicintegrity.org/politics/elections/us-polling-places/connecticutvoters-face-some-of-the-biggest-obstacles-outside-the-south/>; see also Jack Kramer, *In Connecticut, Long Lines and Problems at a Hartford Polling Place*, CT NEWS JUNKIE (Nov. 8, 2016), available at <https://ctnewsjunkie.com/2016/11/08/smooth-start-to-voting-in-tumultuous-year/>.

The modern practice of felony disenfranchisement became particularly widespread in the Jim Crow era, and after Reconstruction, white lawmakers codified felony disenfranchisement laws that explicitly targeted Black Americans to diminish their electoral strength.¹⁰ Because of systemic racism in the criminal legal system, laws that disenfranchise people because of felony convictions disproportionately disenfranchise Black Americans.¹¹ And in many states, felony disenfranchisement laws were intended to have this racist effect, including here in Connecticut. Before the 1818 Constitution, people in Connecticut were required to demonstrate “quiet and peaceable behavior and civil conversation” to qualify to vote.¹² In 1803, before Black people were barred from voting, the state invoked this provision to bar a Black man from voting.¹³

The 1818 Constitution later declared that various convictions would result in the loss of voting rights, including crimes involving “infamous punishment.”¹⁴ This was later interpreted to be inclusive of all felonies.¹⁵ In 1963, the Connecticut Constitution was amended to disenfranchise anyone convicted of a felony.¹⁶ In 1975, an amendment required that before a person can regain the right to vote, they must be discharged from incarceration, parole, and probation, and pay their fines.¹⁷ Connecticut only recently restored the right to vote to people on parole and ended the practice of prison gerrymandering.¹⁸

Connecticut law prohibits its citizens from voting who are incarcerated for a felony. Even if a person is eligible to vote, it is procedurally nearly impossible to vote behind

¹⁰ *Id.*

¹¹ Karina Schroeder, *How Systemic Racism Keeps Millions of Black People from Voting*, VERA INST. JUST. (Feb. 16, 2018), <https://www.vera.org/news/how-systemic-racism-keeps-millions-of-black-people-from-voting>.

¹² Ganeshram, *supra* note 4.

¹³ *Id.*

¹⁴ See Conn. Const. of 1818, art. VI. (forfeiting voting rights by a conviction of “bribery, forgery, perjury, dueling, fraudulent bankruptcy, theft, or other offence for which an infamous punishment is inflicted.”).

¹⁵ *Borino v. Gen. Registrars of Voters of City & Town of Bridgeport*, 86 Conn. 622 (1913).

¹⁶ Public Act 63-645.

¹⁷ Public Act 75-354.

¹⁸ See *Know Your Rights: Voting on Parole*, ACLU-CT (2022), <https://www.acluct.org/en/know-your-rights/know-your-rights-voting-parole>.

bars. In the 2020 election, many eligible voters in Connecticut’s jails and prisons could not exercise their fundamental right to vote because they could not complete the registration process or they could not return their ballots in time for Election Day.¹⁹ Under Connecticut law, people held before trial or incarcerated for misdemeanors do not lose their right to vote in detention. Every year, thousands of people incarcerated in Connecticut are eligible to vote, but often because of administrative complexities in registering while incarcerated, people are effectively denied their right to vote. Information gaps around registration and absentee balloting procedures, coupled with problems with the U.S. mail service, stand in the way.²⁰

Nationwide, felony disenfranchisement laws became popular when Black men got the right to vote. One study found that the larger a state’s Black population, the more likely the state is to have stringent voting laws for people convicted of felonies.²¹ Because of systemic racism, in January 2021, 70.6 percent of Connecticut’s incarcerated population were Black or Latinx, even though only 29 percent of the state’s residents are Black or Latinx.²² A nationwide study found that overall, eight percent of people in the U.S. are living with a felony record. But among Black adult men, the rate is one in three. That same study estimated that overall, between six and eight percent of Connecticut residents are living with a felony conviction—but among Black adult men, the rate was between 25 and 31 percent.²³ Racial disparities in felony convictions reflect racism in arrests, charging, and sentencing, and this systemic racism is then carried into our voting system via felony disenfranchisement laws.

¹⁹ Lori Mack, *Voting Presents Challenges in Connecticut Jails*, CONN. PUBLIC RADIO (Oct. 27, 2020),

<https://www.ctpublic.org/news/2020-10-27/ballots-behind-bars-voting-presents-challenges-in-connecticut-jails>.

²⁰ Christopher Uggen et al., *Locked Out 2022: Estimates of People Denied Voting Rights*, SENTENCING PROJECT (Oct. 25, 2022),

<https://www.sentencingproject.org/reports/locked-out-2022-estimates-of-people-denied-voting-rights/>.

²¹ Angela Behrens & Christopher Uggen, *Ballot Manipulation and the “Menace of Negro Domination”: Racial Threat and Felon Disenfranchisement in the United States, 1850-2002*, 109 AM. J. SOC. 559 (2003),

https://users.cla.umn.edu/~uggen/Behrens_Uggen_Manza_ajs.pdf.

²² *Average Confined Inmate Population and Legal Status*, CONN. DEPT. CORRECTION (2023), <https://portal.ct.gov/-/media/DOC/Pdf/MonthlyStat/Stat02012023.pdf>.

²³ Sarah K.S. Shannon, et al., *The Growth, Scope, and Spatial Distribution of People with Felony Records in the United States, 1948-2010*, 54 DEMOGRAPHY 1795 (2017), <https://pubmed.ncbi.nlm.nih.gov/28895078/>.

Black Americans of voting age are almost four times as likely to lose their voting rights compared to the rest of the adult population, and one of every sixteen Black adults is disenfranchised nationally.²⁴ Harsh punishments for voting while ineligible has caused widespread de facto disenfranchisement, both for people with felony convictions and people who are too afraid to vote because they are unsure of their criminal history or of what the impact of their conviction is on their rights.²⁵

Felony enfranchisement aids re-entry and promotes public safety. Re-enfranchising incarcerated people helps them reintegrate into their communities upon release. Civic participation has been linked to lower recidivism rates: One study of people who had previously been arrested found that 27 percent of non-voters were rearrested, compared to 12 percent of voters.²⁶ Restoring the right to vote for people who have been disenfranchised strengthens our democracy by increasing voter participation and helping formerly incarcerated people reintegrate into society. The American Medical Association has even identified voting rights as a social determinant of health and declared its support for “measures to facilitate safe and equitable access to voting as a harm-reduction strategy to safeguard public health.”²⁷ Additionally, voting during late adolescence and early adulthood is associated with overall well-being, like decreased risky health behaviors, higher socioeconomic status in adulthood, more years of education, higher household income, and higher personal earnings.²⁸

²⁴ Christopher Uggen et al., *Locked Out 2022: Estimates of People Denied Voting Rights*, SENTENCING PROJECT (Oct. 25, 2022), <https://www.sentencingproject.org/reports/locked-out-2022-estimates-of-people-denied-voting-rights/>.

²⁵ *Id.*

²⁶ Christopher Uggen & Jeff Manza, *Voting and Subsequent Crime and Arrest: Evidence from a Community Sample*, 36 COLUM. HUM. RTS L. REV. 193 (2004), <https://experts.umn.edu/en/publications/voting-and-subsequent-crime-and-arrest-evidence-from-a-community->.

²⁷ American Medical Association, *Support for Safe and Equitable Access to Voting H-440.805* (2022), <https://policysearch.ama-assn.org/policyfinder/detail/voting?uri=%2FAMADoc%2FHOD.xml-h-440.805.xml>; see also Anna K. Hing, *The Right to Vote, The Right to Health: Voter Suppression as a Determinant of Racial Health Disparities*, 12 J. HEALTH DISPARITIES RES. & PRACTICE 48 (2019), <https://digitalscholarship.unlv.edu/jhdrp/vol12/iss6/5>.

²⁸ Parissa J. Ballard et al., *Impacts of Adolescent and Young Adult Civic Engagement on Health and Socioeconomic Status in Adulthood*, 90 CHILD DEV. 1138 (2019), https://votingissocialwork.org/wp-content/uploads/sites/2468/2020/09/Ballard_et_al-2019-Child_Development.pdf.

When people are enfranchised, the whole community benefits. More than half of people incarcerated in Connecticut are parents.²⁹ Felony enfranchisement would allow parents to have input on decisions that will shape the lives of their children and grandchildren, like local issues including school funding, healthcare, and policing. Communities with greater voter turnout experience greater access to healthcare and positive health outcomes in comparison to communities with low voter turnout.³⁰ Studies of communities that vote in higher rates have greater access to resources, as voting allows citizens to influence governmental decision-making.³¹

Our neighbors in Maine and Vermont have consistently facilitated voting from within their prisons.³² In both states, people register to vote in the towns where they lived before they were incarcerated and request absentee ballots from town clerks. They complete and return ballots by mail, like one typically does when voting absentee. Volunteers frequently hold voter registration drives and informational sessions.³³ Last year, Washington D.C. passed a law to enfranchise incarcerated people and sends over 2,000 ballots to prisons.³⁴ Puerto Rico allows people to vote from prison and has created in-person voting for its incarcerated citizens.³⁵ Even in the Deep South, Alabama and Mississippi made it possible for people incarcerated for select felonies to vote.³⁶ In Europe, 26 countries allow people who are incarcerated to vote, as well as Canada, South Africa, and Kenya.³⁷

²⁹ *Connecticut Children with Incarcerated Parents Initiative*, CHILDREN WITH INCARCERATED PARENTS INITIATIVE (2020), <https://ctcip.org/wp-content/uploads/2020/02/2020-Fact-Sheet.pdf>.

³⁰ See, e.g., *2016 Kansas Civic Health Index*, KANSAS HEALTH FOUNDATION (2016), <https://votingissocialwork.org/wp-content/uploads/sites/2468/2020/09/KS-Civic-Health-Index.pdf>.

³¹ See, e.g., Paul S. Martin, *Voting's Rewards: Voter Turnout, Attentive Publics, and Congressional Allocation of Federal Money*, 47 AM. J. POL. SCI. 110 (2003), <https://www.jstor.org/stable/3186096>

³² See, e.g., Ariel White & Avery Nguyen, *Locking Up the Vote? Evidence from Maine and Vermont on Voting in Prison*, MIT (Mar. 26, 2020), https://arwhite.mit.edu/sites/default/files/images/VTprison_researchnote_RR_forwebmarch2020.pdf.

³³ *Id.*

³⁴ See, e.g., Kira Lerner & Daniel Nichanian, *D.C. is Poised to Abolish Felony Disenfranchisement*, APPEAL (July 8, 2020), <https://theappeal.org/politicalreport/washington-d-c-felony-disenfranchisement/>.

³⁵ See, e.g., Vann R. Newkirk II, *Polls for Prisons*, ATLANTIC (Mar. 9, 2016), <https://www.theatlantic.com/politics/archive/2016/03/inmates-voting-primary/473016/>.

³⁶ *Voting Rights for People with a Felony Conviction*, NONPROFIT VOTE (last updated Aug. 2021), <https://www.nonprofitvote.org/voting-in-your-state/voting-as-an-ex-offender/>.

³⁷ These policies vary by country. See, e.g., Sanjana Manjeshwar, *Voting Behind Bars: Why Incarceration Should Not Limit the Right to Vote*, BERKELEY POL. REV. (May 21, 2021), <https://bpr.berkeley.edu/2021/05/21/voting-behind-bars-why-incarceration-should-not-limit-the-right-to-vote/>; *Prisoner Votes by European Country*, BBC (Nov. 22, 2012), <https://www.bbc.com/news/uk-20447504>.

By supporting felony re-enfranchisement, Connecticut would address a pressing racial justice issue, foster re-entry efforts, empower historically marginalized communities, and build upon recent efforts by this legislature to reform the state's criminal legal systems and expand democratic access. This legislation would bring Connecticut voting procedures in conformity with best practices surrounding administering voting from behind bars. The ACLU-CT wholeheartedly supports ending felony disenfranchisement entirely and ensuring that voting is truly accessible in Connecticut's prisons. The ACLU-CT supports both House Bill 5702 and 5714, and urges this Committee to do the same.