



Legislative Testimony
765 Asylum Avenue, First Floor
Hartford, CT 06105
860-523-9146
www.acluct.org

Written Testimony Supporting Senate Bill 5, An Act Concerning Increased Opportunities for Absentee Voting, Safe and Secure In-Person Voting and Voter Registration

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

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am testifying in support of Senate Bill 5, An Act Concerning Increased Opportunities for Absentee Voting, Safe and Secure In-Person Voting and Voter Registration.

Voting is the foundation of democracy, the right through which all our other rights are protected and preserved. 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 those in Senate Bill 5, to extend the franchise and make it as accessible as possible, we can move forward with a strong electorate and truly democratic elections.

Senate Bill 5 covers quite a few substantive policies to make voting easier, more accessible, and fairer. We support the bill overall, and in particular support the provisions specified below:

Voting for People on Parole

The right to vote is a fundamental part of America's democracy, and the government should not abridge that right lightly. Restoring the right to vote for people who have

been disenfranchised strengthens our democracy by increasing voter participation and helping formerly incarcerated people to reintegrate into society. As an organization that defends the right to vote and believes that enfranchisement is an incredibly important way for people to participate in America's democracy, the ACLU-CT supports Section 14 this bill, which would allow formerly incarcerated people convicted of a felony who are on parole to vote.

More than six million Americans are currently disenfranchised due to a felony conviction.¹ Laws that disenfranchise people because of felony convictions disproportionately disenfranchise Black Americans.² In many states, they were, in fact, intended to have this racist effect. 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.³

Not only is it past time to remove this racist legacy from our code, but it is also time to eliminate a nonsensical disparity in voting laws. Other people under carceral supervision – specifically, people on probation – can vote in Connecticut.⁴ The practical distinctions between people on probation and people on parole are insignificant: both groups are people who are living in the community and are under continuing supervision after leaving incarceration.⁵ People on probation have been eligible to vote in Connecticut since 2001.⁶ Extending this fundamental right to people on parole just makes sense.

¹ Christopher Uggen, Ryan Larson, and Sarah Shannon, "6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, 2016." The Sentencing Project, Oct. 6, 2016, *available at* <https://www.sentencingproject.org/publications/6-million-lost-voters-state-level-estimates-felony-disenfranchisement-2016/>.

² Karina Schroeder, "How Systemic Racism Keeps Millions of Black People from Voting." Vera Institute of Justice, Feb. 16, 2018, *available at* <https://www.vera.org/blog/how-systemic-racism-keeps-millions-of-black-people-from-voting>.

³ *Id.*

⁴ Kelan Lyons, "Unlocking the vote of Connecticut's formerly incarcerated." PBS, Jun. 9, 2020, *available at* <https://www.pbs.org/wgbh/americanexperience/features/vote-unlocking-vote-connecticuts-formerly-incarcerated/>.

⁵ *See, e.g.*, "Probation, Parole and Prison Populations." Connecticut Office of Policy and Management, *available at* <https://portal.ct.gov/OPM/CJ-About/CJ-SAC/CJ-Research-SAC/Projects/Probation-Parole-and-Prison-Populations>.

⁶ Conn. P.A. 01-11 (2001), *available at* <https://www.cga.ct.gov/2001/act/Pa/2001PA-00011-R00HB-05042-PA.htm>.

Section 14 of also removes the requirement that people must pay all fines before being restored to voting status. Removing this provision ensures Connecticut does not just substitute one Jim Crow-era voter suppression measure (disenfranchising people on parole) for another (poll taxes). Requiring people to pay to vote is fundamentally undemocratic and a relic of times of times that had even more voter suppression;⁷ the ACLU-CT strongly supports this bill's removal of that language.

Section 13, though, contains an overbroad limitation on the otherwise good provisions regarding refranchising people on parole. Section 13 proposes to once again disenfranchise people who return to incarceration due to violation of the terms of supervision, without regarding the nature of the violation. We believe that incarcerated people should retain the franchise, but even if the legislature is not ready to make that step towards truly universal suffrage, people should only lose their right to vote if the reason is a disqualifying felony. Many parole violations that could potentially result in a return to incarceration are not, themselves, offenses that result in a loss of voting rights. Those violations, therefore, should not result in disenfranchisement. We encourage this Committee to more narrowly draw Section 13 to ensure that people do not lose their voting rights for violations or offenses which do not merit disenfranchisement.

By passing a bill with reasonable limitations on Section 13, Connecticut would join Massachusetts, Rhode Island, New Hampshire, and fifteen other states in affording people on parole their rights to vote.⁸ Mass incarceration, when combined with disenfranchisement laws, subverts participatory democracy, particularly for communities of color. Restoring the right to vote for people on parole is the first step to dismantling these harmful and discriminatory laws.

Automatic Voter Registration

⁷ See Perry Grossman & Mark Joseph Stern, "The decision upholding Florida's Jim Crow-style poll tax is an affront to democracy." *Slate*, Sept. 14, 2020, *available at* <https://slate.com/news-and-politics/2020/09/florida-felony-disenfranchisement-pryor-decision.html>.

⁸ "Felon Voting Rights." National Conference of State Legislatures, Jan. 8, 2020 *available at* <https://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>.

As a measure that makes voting easier but still fundamentally fair and secure, the ACLU-CT supports the automatic voter registration provisions in Senate Bill 5. Section 1-6 of the bill would require the use of electronic systems to make registering to vote automatic for Connecticut residents, unless they opt out. Codifying what is already happening at the Department of Motor Vehicles – where they use electronic systems for online voter registration, changing a voter’s address, and notifying people that they have received their applications – and extending these practices to additional state agencies helps everyone. The use of electronic systems most significantly impacts people who are vulnerable to disenfranchisement, including people living with disabilities, those who lack transportation, students, and people who have unpredictable work schedules because they may be less likely to be able to visit offices in person.

We also support section 7 of the bill, which provides voter eligibility information to public high school students. While this is not the same as, or as helpful as, automatic voter registration, it is a good way to get future voters ready and prepared when they reach the legal voting age.

Election Day Accessibility

The ACLU-CT strives for a country free of discrimination against people with disabilities, where people with disabilities are valued, integrated members of society who have full access to fundamental rights and civic engagement. We also fully support making voting more accessible for people who face other barriers to in-person voting, such as the disproportionately low-income people who lack transportation, childcare, or access to time off from work to vote. In addition, many people continue to lack language access to voting. Even though voting is the linchpin right in a representative democracy, accessibility persists as a problem throughout society for all these groups, including in the voting booth. In 2020, when absentee voting was expanded due to COVID-19, for example, voters with visual impairments experienced difficulties with both certain forms being only printed and

with filing absentee ballots.⁹ Some suggested accommodations removed voters' autonomy and independence, instead making the only option for voters with disabilities to rely on other people.¹⁰

We support the sections of Senate Bill that seek to increase accessibility. Sections 10-12 are targeted at ensuring the people with developmental disabilities who require voting assistance will be able to consistently access such assistance. Section 27 directs municipalities to provide for accessible absentee ballot return methods for voters with disabilities. The provisions of Section 18 that allow for telephonic and online absentee ballot applications will also broaden accessibility for people with disabilities and all people. Indeed, all of these are important not only for voters with disabilities but also for everyone. The safeguards required in these sections ensure that elections can still be secure even while expanding accessibility. We encourage the Committee to continue working with people with disabilities and advocates for them to ensure that accessibility needs are met across the board.

Expanding language accessibility is highlighted in section 29, which reduces the thresholds for when municipalities must provide language support to communities with limited English access. Language access is essential to ensure that all eligible Connecticut voters can participate fully and equally in the democratic process and we support these changes.

Finally, we strongly support efforts to make voting more realistically accessible to working people, such as section 8's aim to make Election Day a holiday and the policy in section 9 requiring employers to provide two hours of paid time of for voting. Voters of color are more likely to report barriers to voting in part due to less-flexible work schedules and longer hours.¹¹ These sections provide a start to closing

⁹ Greg Little, "Persons with disabilities face challenges voting." WTIC News Talk 1080, Oct. 27, 2020, *available at* <https://www.radio.com/wtic/news/local/advocate-for-disabled-say-they-face-challenges-vvoting>.

¹⁰ Jodi Latina, "Blind community wants equal access to absentee ballots in a COVID-19 free environment." WTNH New 8, Jul. 30, 2020, *available at* <https://www.wtnh.com/news/politics/blind-community-wants-equal-access-to-absentee-ballots-in-a-covid-free-environment/>.

¹¹ Jeremy Adam Smith, Teja Pattabhiraman, "How inequality keeps people from voting." Greater Good Magazine, Oct. 29, 2020, *available at* https://greatergood.berkeley.edu/article/item/how_inequality_keeps_people_from_voting.

those gaps and providing options for people whose jobs are a barrier to voting. We support them fully.

Modifications to Support Absentee Voting

This Committee has already demonstrated a strong commitment to expanded absentee voting, based on its joint favorable report on House Joint Resolution 58. This bill contains several sections that will strengthen absentee voting as it exists now and if and when it expands in the future. Making return of absentee ballots more accessible, as seen in section 19, is good for people with barriers to accessibility and indeed all people. Changes intended to make sorting and validating absentee ballots easier, faster, and more timely for local elections officials mean that absentee ballots will be processed more efficiently, with potentially fewer rejections, and with plenty of time for notification to voters of problems. Building in notification of absentee ballot rejection is a good fix for Connecticut's current lack of absentee ballot cure provisions, and we strongly support section 23 and 24. Finally, clarifying that long-term illnesses, in addition to disabilities, qualify a person to access absentee ballots is the bare minimum for accessibility. This language complies with existing state constitutional limitations; while these limitations should be removed, making the greatest possible accessibility under these limitations while they are in place is an important means of harm reduction for vulnerable voters.

Discouraging Voter Intimidation

The ACLU-CT believes in ensuring that every eligible voter can exercise their right to vote without barriers or intimidation. The risk for racial voter intimidation in Connecticut is real. From its early days, Connecticut has been the least expansive for voting rights for Black people of all the New England states, limiting their franchise in the 1800s when other states allowed Black men to vote without

significant restriction.¹² Voter intimidation began as soon as Connecticut ratified the Fifteenth Amendment, which guaranteed the right to vote to men of all races.¹³ Connecticut was one of only twelve states using a literacy test into the 1950s.¹⁴ Even today, voter suppression is overwhelmingly directed at Black voters and other voters of color¹⁵ by people who want to limit the political power of people of color. Through this country's history, voter intimidation led not only to disenfranchisement of Black people and other people of color, but often cost them their lives.¹⁶

Accordingly, we support the restrictions proposed by sections 12 and 15 on firearms within a limited distance from polling places. These represent a reasonable restriction that is limited in time and location and that would likely result in reduced voter intimidation, actual or perceived. When voter intimidation is reduced, more people feel safe voting and voter participation could increase.

Privacy

The ACLU-CT believes that every voter should have the right to protect their privacy while also exercising their right to vote. We view these two rights as equally important to the people of Connecticut. The exercise of a person's right to vote does not, and should not, waive their right to privacy. To this end, we support the provisions in section 28 that allow a voter to opt off the official registry. We believe that solution is the best solution to voter privacy, and that other provisions limiting the information that can be accessed regarding voters who do not opt off the official registry are unnecessary. Accordingly, we urge the Committee to revise section 28

¹² Elizabeth Normen, "Our Hard-Won Right to Vote." Connecticut Explored, Spring 2016, *available at* <https://www.ctexplored.org/our-hard-won-right-to-vote/>.

¹³ Katherine J. Harris, "No Taxation with Representation": Black Voting in Connecticut." Connecticut Explored, Spring 2016, *available at* <https://www.ctexplored.org/no-taxation-without-representation-voting-petitions-in-connecticut/>.

¹⁴ Steve Thornton, "Literacy Tests and the Right to Vote." Connecticut History, last visited on October 20, 2020, *available at* <https://connecticuthistory.org/literacy-tests-and-the-right-to-vote/>.

¹⁵ Vann R. Newkirk II, "Voter Suppression Is Warping Democracy." The Atlantic, July 17, 2018, *available at* <https://www.theatlantic.com/politics/archive/2018/07/poll-prri-voter-suppression/565355/>.

¹⁶ Peniel E. Joseph, "In 2020, voting rights are on the ballot." Washington Post, Sep. 10, 2020, *available at* <https://www.washingtonpost.com/outlook/2020/09/10/2020-voting-rights-are-ballot/>.

to remove the date of birth limitations and leave the voter opt-off provisions intact. In our view, that provides the best balance between the right to privacy and the right of the public to obtain information from the government.

Conclusion

The provisions in Senate Bill 5 will make voting fairer and more accessible to everyone in Connecticut. We urge this Committee to revise section 28 to remove the date of birth limitations, since voter opt-off will resolve those concerns, and then to support Senate Bill 5, as the ACLU-CT does.