



January 14, 2021

Members of the Washington State Legislature
House Committee on State Government & Tribal Relations

Via Email and Online Portal

Re: Support for HB 1078 to Restore Voting Rights to Washingtonians on Community Supervision

Dear Chair Valdez and Members of the State Government & Tribal Affairs Committee,

We write to urge you to support HB 1078, a bill to restore the right to vote to Washingtonians serving community supervision. HB 1078 will re-enfranchise tens of thousands of Washingtonians, simplify the current law, and eliminate a modern-day poll tax present in only a handful of states across the country.

Campaign Legal Center is a nonpartisan, nonprofit organization working to protect and strengthen the U.S. democratic process across all levels of government through litigation, policy analysis and public education. Our Restore Your Vote program helps restore voting rights to people with past convictions by providing direct rights restoration services, empowering community leaders to understand and monitor implementation of rights restoration laws, and breaking down the false notion that a felony conviction always means you cannot vote. Since 2017, we have provided voting rights restoration services to over 12,000 people.

Right now, Washington's felony disenfranchisement law is among the more restrictive in the country. Washington is one of only eight states that explicitly attach the right to vote to payment of legal financial obligations.¹ It is the only state that provisionally restores voting rights to people while an individual is current on a payment plan but will revoke it if a person falls behind on payments.² It is also one of only eleven states that do not simply automatically restore voting rights upon completion of probation and parole.³ HB 1078

¹ See Campaign Legal Center, Can't Pay, Can't Vote: A National Survey on the Modern Poll Tax 21 (July 25, 2019), <https://campaignlegal.org/document/cant-pay-cant-vote-national-survey-modern-poll-tax>

² *Id.*

³ Restoreyourvote.org

would bring Washington in line with 18 other states that only strip people of the right to vote while they are incarcerated for a felony.⁴

We strongly support ending Washington’s disenfranchisement of people on probation and parole. The right to vote is sacred and foundational; to strip someone of that right is a profound and serious governmental act. Yet, felony disenfranchisement—particularly post-incarceration—serves no legitimate criminal legal purpose. These laws have no meaningful punitive, deterrent, or restorative value. In fact, studies show that disenfranchisement actually hinders re-entry⁵ and that restoring the right to vote can improve transition back into society.⁶ Despite those empirical facts, felony disenfranchisement laws proliferated around the country in the late 19th and early 20th centuries and history explains why. Put simply, broad felony disenfranchisement exists and persists in the United States because of efforts to suppress Black voters and to enshrine White Supremacy in state government.⁷ Washington’s law currently disenfranchises Black citizens at four times the rate of the general population.⁸ Felony disenfranchisement is a stain on our democracy.

In addition to restoring the right to vote to more than 20,000 Washingtonians who are serving probation or parole, HB 1078 will create a simple, bright line rule, alleviating *de facto* disenfranchisement and improving administrability for election officials. Confusion around voting rights after a felony conviction is rampant, compounded by the patchwork of varying laws across the states, misinformation, and a lack of access to legal information and services. The result is that in states with complex disenfranchisement and re-enfranchisement laws, many people with past convictions wrongly believe they cannot vote even if they are eligible. Stories of people prosecuted for unknowingly voting when they were ineligible exacerbate this misconception and intimidate eligible voters. Simplifying the law can drastically reduce *de facto* disenfranchisement, improving political participation even among citizens who were already eligible to vote, particularly when the change in the law is accompanied by a robust public education effort.

Finally, and importantly, HB 1078 will do away with Washington’s current pay-to-vote system. Right now, Washington is one of only eight states that explicitly hinge the right to

⁴ *Id.*

⁵ Christopher Uggen & Jeff Manza, Voting and Subsequent Crime and Arrest: Evidence From a Community Sample, 36 COLUM. HUM. RTS. L. REV. 193, 205 (2004).

⁶ *See, e.g.*, Victoria Shineman, Restoring Rights, Restoring Trust: Evidence that Reversing Felon Disenfranchisement Penalties Increases Both Trust and Cooperation with Government (Oct. 25, 2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3272694.

⁷ Washington’s current disenfranchising provision, Wa. Const. Art. 6 § 3, was adopted in 1889 and borrows the language of infamy, which the former confederate states openly and explicitly adopted to disenfranchise and degrade Black citizens after Reconstruction. *See* Pippa Holloway, LIVING IN INFAMY: FELON DISENFRANCHISEMENT AND THE HISTORY OF AMERICAN CITIZENSHIP, 2-3 (2014).

⁸ The Sentencing Project, Locked Out: Estimates of People Denied Voting Rights Due to a Felony Conviction, at 18 (Oct. 30, 2020) <https://www.sentencingproject.org/publications/locked-out-2020-estimates-of-people-denied-voting-rights-due-to-a-felony-conviction/#III.%20Disenfranchisement%20in%202020>.

vote on payment of legal financial obligations. This requirement is a modern-day poll tax, making the right to vote contingent on the size a person's bank account. Such policies inevitably have a disparate impact on Black and Indigenous citizens and other communities of color who experience unemployment⁹ and poverty¹⁰ at disproportionate rates. Particularly at this economically difficult time for Washingtonians, the legislature should finally and decisively break the link between finances and the right to vote. Furthermore, Washington's current law—which revokes the right to vote solely because a person has fallen behind on payments to the state—raises serious questions under the Fourteenth Amendment's Equal Protection and Due Process Clauses and the Twenty-Fourth Amendment.

When an underrepresented constituency speaks up about what it needs, it is the job of responsive legislators to listen. It is momentous that Washington has recently elected the first formerly incarcerated state legislator in the country. Now, with one of her first bills, on behalf of other Washingtonians who have been through the criminal legal system, Representative Simmons is telling you what they need: a voice. There are tens of thousands of Washingtonians working to put their lives back together while serving probation or parole. These are fathers, mothers, daughters, and sons who live and work in their communities. They deserve a voice in our democracy and a say in the future of the state. We urge you to support and advance HB 1078.

Sincerely,

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⁹ Economic Policy Institute, State Unemployment by Race and Ethnicity, <https://www.epi.org/indicators/state-unemployment-race-ethnicity/>.

¹⁰ Kaiser Family Foundation, Poverty Rate by Race/Ethnicity, <https://www.kff.org/other/state-indicator/poverty-rate-by-raceethnicity/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.