



Testimony in Support of S.B. 753 – “An Act Concerning the Counting of Incarcerated Persons for Purposes of Determining Legislative Districts”

**Connecticut General Assembly Government Administration and Elections Committee
March 16, 2021**

The Campaign Legal Center (“CLC”) strongly supports the elimination of prison gerrymandering in Connecticut, and we urge you to pass S.B. 753.

CLC is a nonprofit organization dedicated to protecting and strengthening the democratic process across all levels of government. Since the organization’s founding in 2002, CLC has participated in major redistricting, voting rights, and campaign finance cases before the U.S. Supreme Court and federal and state courts. CLC has also engaged in advocacy across the country to promote democratic reforms and ensure that justice-involved citizens have access to the ballot and fair representation.

Through this work, CLC has seen firsthand the urgent need for reforms like S.B. 753, which would end prison gerrymandering in Connecticut. Prison gerrymandering distorts the democratic process by counting incarcerated individuals where they are in prison rather than their legal residency for the purposes of redistricting. Passing S.B. 753 and abolishing prison gerrymandering would correct the systemic distortion of Connecticut’s redistricting process and give Connecticut communities the fair and equal representation that they deserve.

Now is the time for the Connecticut legislature to act. With the 2021 redistricting cycle set to begin later this year, if the General Assembly fails to abolish prison gerrymandering in this session, it will likely be another decade before the legislature can correct this unjust practice.

I. If the General Assembly fails to act now, the harm will be severe and long-lasting.

Failing to abolish prison gerrymandering in Connecticut during this legislative session will harm communities across Connecticut for the next decade. Prison gerrymandering distorts the population counts used for redistricting by counting incarcerated individuals at their place of confinement, rather than their legal residency. In states that engage in prison gerrymandering, like Connecticut, elected officials in jurisdictions that house prisons “represent” large populations of people—disproportionately low-income, people of color—who have no connection to the area, who cannot vote there, and who have no friends, family, or community of interest that can advocate on their behalf. Prison gerrymandering also artificially inflates the voting power of districts with prisons, while disempowering communities where the incarcerated individuals lived before and where they will ultimately return—their legal residence. This distortion often disproportionately affects urban communities and communities of color. And, because districts are drawn decennially, these skewed population counts are locked in place for the next decade.

The ongoing impact of prison gerrymandering in Connecticut is substantial. There are approximately 15,500 people in state and federal prisons in Connecticut.¹ By counting these people at their place of confinement rather than in their home jurisdictions, Connecticut artificially inflates its population counts in typically rural areas where prisons are located and undercounts populations in urban areas where incarcerated people are often from.²

Prison gerrymandering also disproportionately harms communities of color in Connecticut. There are significant racial disparities in Connecticut's prisons: Black people make up 41% percent of Connecticut's incarcerated population, even though they comprise only 10% percent of the total state population.³ Similarly, Latinx people make up 29% of Connecticut's incarcerated population, while constituting only 13% of the total state population.⁴ As a result, many of Connecticut's predominantly white rural districts are built on Black and Latinx "ghost voters," who count towards the district's population for the purposes of redistricting, but cannot vote due to their incarceration.⁵ This practice continues to deny many communities of color, where these individuals are from, fair representation.

In many ways, these effects of prison gerrymandering harken back to the three-fifths compromise—abusing state power to disproportionately disenfranchise citizens of color and count them in a way that often inflates the power of predominantly white communities.⁶ Connecticut should resoundingly reject this practice.

With the 2021 redistricting cycle set to begin later this year, the General Assembly must act now to correct this systemic distortion of the state's districts.

II. Abolishing prison gerrymandering has broad popular support.

S.B. 753 presents a unique opportunity for the General Assembly to join the national movement to abolish prison gerrymandering before the 2021 redistricting cycle is complete. Since 2010, Maryland, California, Colorado, Delaware, Nevada, New Jersey, New York, Virginia, and Washington State have adopted laws that eliminate prison gerrymandering.⁷ Other states, such as Michigan and Tennessee, now prohibit or discourage local governments from engaging in prison gerrymandering.⁸ And hundreds of county and municipal governments across the country have also rejected prison gerrymandering.⁹

¹ *Connecticut Profile*, Prison Policy Initiative (2018 data), <https://www.prisonpolicy.org/profiles/CT.html>.

² See Peter Wagner, *Imported "Constituents": Incarcerated People and Political Clout in Connecticut*, Prison Policy Initiative (Apr. 17, 2013), <https://www.prisonersofthecensus.org/ct/report2013.html>.

³ *Connecticut Profile*, Prison Policy Initiative (2018 data), <https://www.prisonpolicy.org/profiles/CT.html>.

⁴ *Id.*

⁵ See Wagner, *supra* note 2, at Table 1.

⁶ See Andrew Marantz, *The Five-Fifths Clause*, Slate (Nov. 6, 2006), <https://slate.com/news-and-politics/2006/11/how-we-count-and-use-our-prisoners.html>; John C. Drake, *Locked Up and Counted Out: Bringing an End to Prison-based Gerrymandering*, 37 WASH. U. J. L. & POLICY 237, 238 (2011).

⁷ *Momentum Is Building to End Prison-Based Gerrymandering*, Prison Policy Initiative (2020), <https://www.prisonpolicy.org/graphs/momentum.html>.

⁸ *Id.*

⁹ *Local Governments that Avoid Prison-Based Gerrymandering*, Prison Policy Initiative (Jan. 7, 2019), <https://www.prisonersofthecensus.org/local/>.

This movement is rooted in broad-based popular support. Just recently, for instance, over 99% of the comments from the public on the 2020 Census supported counting prisoners at their last known residence: “Of the 77,887 comments pertaining to [where] prisoners [are to be counted], 77,863 suggested that prisoners should be counted at their home or pre-incarceration address.”¹⁰ The General Assembly should enact this popular reform in Connecticut.

III. This reform is administrable, low-cost, and lawful.

Eliminating prison gerrymandering is administrable and low-cost. The Connecticut Department of Corrections already collects the data necessary to count incarcerated individuals at their last address, and could easily provide this information to the Office of Policy and Management to correct the census data used for redistricting. Other states, such as Maryland and New York, implemented this system effectively during the 2011 redistricting cycle.¹¹

This reform is also on strong legal footing. The statutes that abolished prison gerrymandering in states that have already implemented this reform have been upheld both in state¹² and federal courts, including the U.S. Supreme Court.¹³

* * *

The General Assembly should act now to end prison gerrymandering in Connecticut. Without action during this legislative session, Connecticut will continue to undermine the accuracy of its decennial redistricting and deny Connecticut communities the fair and equal representation that they deserve. For these reasons, we urge Connecticut’s legislature to pass S.B. 753.

¹⁰ Final 2020 Census Residence Criteria and Residence Situations, 85 Fed. Reg. 5,526 (Feb. 8, 2018), <https://www.federalregister.gov/documents/2018/02/08/2018-02370/final-2020-census-residence-criteria-and-residence-situations>.

¹¹ See Erika L. Wood, *One Significant Step: How Reforms to Prison Districts Begin to Address Political Inequality*, 49 U. MICH. J. L. REFORM 179, 193, 198-99 (2015) (citing *Correctional Facility Locator*, Md. Dep’t of Pub. Safety & Corr. Servs., <http://www.dpscs.state.md.us/locations/prisons.shtml>).

¹² *Little v. LATFOR*, No. 2310-2011 (N.Y. Sup. Ct. Apr. 4, 2011); *Little v. LATFOR*, SSD 3 (N.Y. Ct. App. Feb. 14, 2012) (denying plaintiffs’ direct appeal to the New York Court of Appeals, the highest state court in New York).

¹³ *Fletcher v. Lamone*, 831 F. Supp. 2d 887, 891 (D. Md. 2011), *aff’d*, 567 U.S. 930 (2012).