



March 5, 2024

House Judiciary Committee  
House Ways & Means Committee  
Maryland House of Delegates  
Annapolis, Maryland 21401

**Re: Support for HB 1022 to Restore Voting Rights to Individuals With Felony Convictions**

Dear members of the House Judiciary and Ways & Means Committees:

On behalf of Campaign Legal Center (“CLC”), I am pleased to submit this testimony in support of HB 1022 to restore voting rights to individuals convicted of felonies with the exception of some voting-related convictions. I am providing this testimony at the invitation of Common Cause Maryland, a regulated lobbyist in the state.

My name is Yehehiah Downie, and I am the Restore Your Vote organizer for CLC’s Voting Rights program. CLC is a nonpartisan, nonprofit organization, based in Washington DC, that works to protect and strengthen American democracy across all levels of government. Our Restore Your Vote program helps restore voting rights to people with past convictions by providing direct rights restoration services and empowering community leaders to understand and monitor implementation of rights restoration laws.

I’m testifying today in support of House Bill 1022, a bill that would effectively end felony disenfranchisement in the State of Maryland. If passed, Maryland would join Vermont, Maine, Puerto Rico, and Washington, DC in eliminating this racist practice of felony disenfranchisement that serves no legitimate purpose within the criminal legal system and hinders rehabilitation and re-entry.

The United States is considered an anomaly amongst other democratic nations in its use of felony disenfranchisement. Out of 45 democratic nations, the United States is one of four nations that allows bans on voting after incarceration, and one of ten nations that allows bans on voting while incarcerated.<sup>1</sup> Maryland can be a better example for the country and lead the country in establishing a more inclusive and representative democracy.

Enfranchising incarcerated individuals is important for democratic accountability. Elected officials make consequential decisions every day that directly impact incarcerated voters: legislators make the laws that incarcerated voters are charged with breaking, district attorneys prosecute their cases, state judges adjudicate their cases, and sheriffs and other law enforcement police them on the streets and run the jails and prisons in which they are currently incarcerated. Incarcerated voters' exposure to the criminal legal system gives them a major stake in the outcome of public policy, and their participation is crucial if the ballot box is truly to be a site where we hold our elected officials accountable.

Still, despite these empirical facts and the experiences of incarcerated voters, felony disenfranchisement laws persist, and their history explains why. In many states, these laws were enacted after the Civil War and proliferated during the Jim Crow era with the explicit and open purpose of undermining the 14<sup>th</sup> and 15<sup>th</sup> Amendments.<sup>2</sup> Put simply, felony disenfranchisement exists and continues in the United States because of efforts to suppress voters and communities of color.<sup>3</sup>

This unfortunately rings true in Maryland, which has a history of delaying or obstructing progress toward equal voting rights for Black Marylanders. Maryland's 1867 Constitution allowed the state legislature to disenfranchise those convicted of "infamous crimes," and this language is still in the state's Constitution today.<sup>4</sup> A handful of other states have similar language in their constitutions, and these terms were intentionally designed post-Reconstruction as a loophole to the promise of equal protection and political rights. Disenfranchising individuals who were convicted of "infamous crimes" allowed states to target and disenfranchise Black voters, and its use in Maryland's Constitution suggests the framers of the 1867 Constitution had that intent. Indeed, just a few years later, in 1870 the Maryland legislature rejected ratification of the 15<sup>th</sup> Amendment, which prohibits denial of the right to vote based on race and granted voting rights to Black men.<sup>5</sup> Shamefully, Maryland was one of the last states to ratify the Fifteenth Amendment, which it did not officially ratify until 1973.<sup>6</sup>

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<sup>1</sup> Britannica ProCon.org, *International Comparison of Felon Voting Laws* (last updated July 20, 2021), <https://felonvoting.procon.org/international-comparison-of-felon-voting-laws/>.

<sup>2</sup> Jennifer Rae Taylor, *Jim Crow's Lasting Legacy at the Ballot Box*, The Marshall Project (Aug. 20, 2018), <https://www.themarshallproject.org/2018/08/20/jim-crow-s-lasting-legacy-at-the-ballot-box>.

<sup>3</sup> Erin Kelley, *Racism & Felony Disenfranchisement: An Intertwined History*, Brennan Center for Justice (May 9, 2017), <https://www.brennancenter.org/our-work/research-reports/racism-felony-disenfranchisement-intertwined-history>; George Brooks, *Felon Disenfranchisement: Law, History, Policy, and Politics*, 32 *Fordham Urban L.J.* 101 (2005), <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?httpsredir=1&article=2140&context=ulj>.

<sup>4</sup> Md. Const. art. I, § 4.

<sup>5</sup> Baltimore & the Fifteenth Amendment, May 19, 1870 (1996), <https://msa.maryland.gov/dtroy/project/ratify/>; The Story of the 15th Amendment in Maryland (1996), <https://msa.maryland.gov/dtroy/project/story.html#:~:text=The%2015th%20Amendment%20would%20force.their%20support%20for%20black%20suffrage>.

<sup>6</sup> Baltimore & the Fifteenth Amendment, May 19, 1870 (1996).

Maryland’s felony disenfranchisement system still carries the legacy of this history, as Black citizens in Maryland are disenfranchised at a rate six times that of white citizens, and Latinx citizens are disenfranchised at a rate of over twice that of white citizens.<sup>7</sup> Black Maryland residents are incarcerated in state prisons at 5.3 times the rate of white Maryland residents, and because of this, the state’s felony disenfranchisement laws overwhelmingly silence the voices of Black voters.<sup>8</sup> Felony disenfranchisement and its racist roots are a stain on our democracy. HB 1022 will erase this exclusionary electoral feature and restore the right to vote to thousands of voters from the state.<sup>9</sup>

A system of universal enfranchisement also protects against *de facto* disenfranchisement—i.e., the process by which confusion and misinformation around voting after a felony conviction leads many people with past convictions—and election officials—to believe wrongly that they cannot vote, even if they are eligible.<sup>10</sup> To combat this, HB 1022 will create a simple, bright line rule that improves election administrability.

In sum, HB 1022 is Maryland’s opportunity to join a growing vanguard of states that are working toward restoring voting rights to citizens with past convictions,<sup>11</sup> and to become a national leader on the issue. HB 1022 will eliminate the outdated, discriminatory, and anti-democratic practice of felony disenfranchisement, will solidify ballot access for incarcerated voters, and will affirm Maryland’s commitment to the principle that democracy works best when all eligible voters can participate. We urge you to take this important step and support HB 1022.

Respectfully submitted,

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<sup>7</sup> The Sentencing Project, Christopher Uggen, Ryan Larson, Sarah Shannon, & Robert Stewart, *Locked Out 2022: Estimates of People Denied Voting Rights* (Oct. 25, 2022) (showing higher rates of disenfranchisement for Black and Latino Maryland residents than the overall disenfranchisement rates).

<sup>8</sup> Prison Policy Initiative, [https://www.prisonpolicy.org/blog/2023/09/27/updated\\_race\\_data/#compare:see\\_also](https://www.prisonpolicy.org/blog/2023/09/27/updated_race_data/#compare:see_also) Ashley Nellis, The Sentencing Project, *The Color of Justice: Racial and Ethnic Disparity in State Prisons 21* (2021), [https://www.sentencingproject.org/publications/the-color-of-justice-racial-and-ethnic-disparity-in-state-prisons.pdf](https://www.sentencingproject.org/publications/the-color-of-justice-racial-and-ethnic-disparity-in-state-prisons) (sentencingproject.org).

<sup>9</sup> *See id.* at 16.

<sup>10</sup> *See* Erika Wood & Rachel Bloom, *De Facto Disenfranchisement*, Am. Civil Liberties Union & Brennan Ctr. for Justice 2-5 (2008), <https://www.aclu.org/other/de-facto-disenfranchisement>.

<sup>11</sup> *See* National Conference of State Legislatures, *Felon Voting Rights* (Feb. 9, 2023), <https://www.ncsl.org/elections-and-campaigns/felon-voting-rights>.