



**Testimony for the Senate Education, Health & Environmental Affairs
Committee**

March 5, 2020

**SB 372 Election Law - Correctional Facilities - Voter Registration
and Voting**

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FAVORABLE

The ACLU of Maryland urges a favorable report on SB 372, which requires the State Board of Elections establish a program to disseminate voting information, voter registration applications, and absentee ballot applications to eligible voters in correctional facilities.

Voting is the hallmark of our democracy—a system of government that is strongest when all voices are included. If an individual is eligible to vote, whether incarcerated or not, that right must be honored. As the Supreme Court noted in the 1964 case, *Reynolds v. Sims*:

Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.¹

Though the voting rights of people with criminal convictions vary from state to state, most people who are incarcerated in county jails across the country legally have the right to vote. However, most people are not aware of their right or experience obstacles when they reach for the ballot box. For instance, difficulty obtaining voter registration forms and absentee ballot applications, or inability to afford postage stamps, make it nearly impossible for even a very determined incarcerated voter to register or vote in an election. As a result, many eligible adult citizens are denied the right to vote purely because they happen to be incarcerated. This is known as de-facto disenfranchisement, when

¹ “Reynolds v. Sims, 377 U.S. 533 (1964).”

eligible would-be voters are deprived of their right to cast a ballot because of complicated practices and procedures.²

There are few programs that make it possible for those behind bars to exercise their right to vote and the logistical considerations of registering and/or voting from jail or prison can make it extremely difficult.

In 2011, San Francisco took steps much like that being proposed under SB 372 and saw that inmates had the highest turnout rate of any group in the 2012 election—approximately 90 percent.³

Voting allows individuals to maintain a connection with their communities during incarceration, which can be instrumental for effective re-entry.

Finally, Maryland's prisons and jails are disproportionately filled with Black and Brown bodies—the inability of this population to access the ballot raises serious racial equity concerns regarding the dilution of the voting power of these communities.

For the foregoing reasons, we urge a favorable report on SB 372.

² CHRISTOPHER UGGEN ET AL., *THE SENTENCING PROJECT, 6 MILLION LOST VOTERS: STATE-LEVEL ESTIMATES OF FELONY DISENFRANCHISEMENT*, 2016 6 (2016).

³ Aaron Sankin, *Huffington Post, San Francisco Prisoners Voting: Registration Among Inmates Reaches Record High* (Nov. 20, 2012).

