



RESEARCH AND ADVOCACY FOR REFORM

Testimony of Nicole D. Porter

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**In support of House Bill 53, a
Universal Suffrage Act**

**Before the House Ways and Means and
the House Judiciary Committees**

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Established in 1986, The Sentencing Project works for a fair and effective U.S. criminal justice system by promoting reforms in sentencing policy and addressing unjust racial disparities and practices. We are grateful for this opportunity to submit testimony endorsing House Bill 53. We thank Delegate Ivey for his leadership on this bill, and we are especially heartened to see a prompt hearing for the bill early in the present legislative session.

I am Nicole D. Porter, Director of Advocacy for The Sentencing Project. I have had extensive engagement in public policy research on criminal justice issues for many years, with a particular focus on sentencing, collateral consequences of incarceration, and racial disparity. I have also authored numerous journal articles, reports and public commentary on voting rights for people with felony convictions. I have previously been invited to testify before state legislative bodies in a number of states including Maine, Kentucky, and Virginia.

HB 53 repeals the prohibition on voting by individuals convicted of a felony and serving a court-ordered sentence of imprisonment for their conviction. Felony disenfranchisement policies can be traced back to the founding of the United States; settler colonialists implemented the policy when they occupied North America. The nation was founded on a paradox, a supposed experiment in democracy that was limited to wealthy white male property owners and excluded women, African Americans, persons who could not read, poor people, and persons with felony convictions. Over the course of two hundred years all of those voting exclusions have been eliminated with the exception of people with felony convictions.

EXPANDING THE FRANCHISE

HB 53 would mostly eliminate felony disenfranchisement and align Maryland with two states – Maine and Vermont - that do not disqualify voting for anyone with a felony conviction. Voting rights expansions in Washington, DC and Puerto Rico also allow American citizens the right to vote from prison.

Maryland is one of 17 states that ban voting for persons in prison with a felony conviction. The number of Marylanders disenfranchised from voting numbered 17, 874 according to The Sentencing Project's *Locked Out 2020: Estimates of People Denied Voting Rights Due to a Felony Conviction*. Nationally, more than 5 million American citizens were disenfranchised from voting last year.¹

Maryland lawmakers expanded voting rights to approximately 92,000 justice involved residents since 2002 that includes the repeal of lifetime voting bans and the expansion of voting rights to persons living in the community under felony probation or parole.²

¹ C. Uggen et. al, "[Locked Out 2020: Estimates of People Denied Voting Rights Due to a Felony Conviction](#)," The Sentencing Project (2020).

² M. McLeod, "[Expanding the Vote: Two Decades of Felony Enfranchisement Reforms](#)," The Sentencing Project (2018).

Maryland is among half of the states and Washington, DC that expanded voting rights to citizens with felony convictions over the last 25 years.

- Washington, DC ended felony disenfranchisement (2020).
- Florida ended lifetime disenfranchisement for at least 1.4 million voters with Amendment 4 in 2018.
- Wyoming in 2017 restored voting rights after five years to people who complete sentences for first-time, non-violent felony convictions.
- Governors in Iowa (2020) and Kentucky (2019) issued executive orders restoring civil rights to people who had completed their sentences, and the New York governor (2018) restored voting rights to people on parole.
- In Virginia (2016), then Governor McAuliffe signed individual voting rights restorations for 173,000 people.
- California restored voting rights to people serving time for felony convictions in jails (though not prisons) in 2016.
- Colorado and Nevada authorized voting rights for residents on parole in 2019. Louisiana (2019) and New Jersey (2019) re-enfranchised people serving probation and parole terms.

In addition to the end of felony disenfranchisement in DC, several other states have considered universal suffrage too. In recent years, Connecticut, Hawaii, Massachusetts, New Mexico and New Jersey have considered similar measures.

THE CASE FOR UNIVERSAL SUFFRAGE

Felony disenfranchisement policies are inherently undemocratic no matter how applied, including for persons serving prison sentences. The United States is very much out of line with world standards, and it's important to take a fresh look at the rationale and impact of policies that can only be described as aberrant by international norms.

A prison term results in barriers to employment including reduced lifetime earnings, and restrictions on access to various public benefits. Families of incarcerated residents themselves experience the shame and stigma of incarceration, as well as the loss of financial and emotional support with a loved one behind bars. And for the community at large, the challenges of reentry result in high rates of recidivism, extraction of social and political capital, and the consequent costs of a burgeoning prison system.

THE UNITED STATES IN THE CONTEXT OF INTERNATIONAL NORM

The European Court of Human Rights and international courts in Australia, Canada, and Kenya affirmed the right of some or all prisoners to participate in the electoral process. In nations where data is available, including Belgium, Lithuania, and Romania, more than 60% of persons in prison

vote.³ However, one study found that 12 (mostly former Eastern bloc nations) barred prisoner voting, and 11 imposed prison voting restrictions, generally applying to those sentenced to election related crimes.

FOR THOSE WHO OPPOSE VOTING

Some critics of prisoner voting contend that being convicted of a felony is an indicator of being “untrustworthy”. Any character test is a slippery slope and this minimizes eligible voters. You might be concerned that your neighbor is an alcoholic or has personality flaws, but they still maintain the right to vote in a democracy.

Felony disenfranchisement also ignores the important distinction between legitimate punishment for a crime and one’s rights as a citizen. Convicted individuals may be sentenced to prison, but they generally maintain their basic rights. So even if someone is held in a maximum security prison cell they still have the right to get married or divorced, or to buy or sell property. And to the extent that voting can be conceived as an expression of free speech, consider that a prisoner may have an op-ed published, perhaps with greater impact than casting a single vote.

Disenfranchisement proponents sometimes raise the possibility of a prisoners’ “voting bloc” that would run counter to the interests of the “law-abiding public.” The assertion of such a scenario should be obvious. If such a group of “pro-crime” individuals were a real threat, they would somehow have to convince the public into electing a majority of state legislators as well as a governor who shared their position. This farfetched concern is hardly a threat to public safety.

VOTING SHOULD BE UNIVERSAL

When this nation was founded as an experiment in democracy two centuries ago it was a very limited experiment rooted in a paradox. Women weren’t permitted to vote, nor African Americans or people who were poor or illiterate. Over time evolving public sentiment has enfranchised all those groups, and we now look back on that moment with a great deal of national embarrassment. It’s long past time to remedy the exclusion of the last remaining group of citizens who are denied the right to vote. This would represent a healthy expansion of our democracy enhance and public safety.

The Sentencing Project applauds HB 53 and is eager to see it advance through the House Ways and Means and Judiciary committees.

³ Laleh Ispahani, *Voting Rights and Human Rights: A Comparative Analysis of Criminal Disenfranchisement Laws in Criminal Disenfranchisement in an International Perspective*.