

TESTIMONY OF LALEH ISPAHANI (NATIONAL AMERICAN CIVIL LIBERTIES UNION)

Thank you for the opportunity to testify today before the Constitutional and Gaming Issues Committee regarding Senate Bills 458 and 575. I am Laleh Ispahani, Voting Rights Fellow at the American Civil Liberties Union, an organization that works to uphold the Bill of Rights. The ACLU is a member of the national Right to Vote Campaign, which works to reform felony disenfranchisement policies nationwide. I have worked intensively on felony disenfranchisement for three years, including by writing and speaking frequently on the issue, and by publishing the report *Purged!* last fall that examined the procedures states use to purge people from their voter rolls.

In my testimony I will present a brief overview of the national scale of this problem and recent legislative developments, followed by a rationale for why this legislation would establish a more fair and effective policy for Rhode Island.

National Overview

Currently, nearly five million American citizens cannot vote as a result of a felony conviction. In recent years, there has been a great deal of legislative activity around the nation concerning disenfranchisement policies, as the public and policymakers have become aware of the broad impact of these practices. This has led to a reconsideration of the wisdom of policies that in many cases were developed a century or two ago. Since 1996, ten states have enacted reforms to their disenfranchisement statutes, under both Republican and Democratic Governors, significantly including neighboring Connecticut's extension of voting rights to persons on probation.

No Penological Justification for Disfranchising People on Probation and Parole

Persons under probation or parole supervision have been deemed by courts and corrections officials to be safe to rejoin and live in their communities. These persons are presumed to have the same rights and responsibilities as other citizens, except for

supervision and reporting requirements imposed by corrections agencies. Persons on probation, for example, can marry or divorce, write letters to the editor, and participate in their children's PTA organizations. It is in the community's best interest to encourage these activities, because to the degree that persons under supervision maintain positive connections with the community, they will be less likely to recidivate. Encouraging such activities is also consistent with the Rhode Island Department of Corrections' asserted purposes of parole and probation, namely, "rehabilitation, responsibility, and meaningful reintegration", which includes good citizenship. In this regard, a recent study found that voters were half as likely to recidivate as non-voters.

Expansion of Voting Rights Would Eliminate Problems of Determining Eligibility

While each state has its own laws regarding voting eligibility for people with felony convictions, there are also a variety of practical issues that determine who is actually able to vote. In recent years, we have witnessed enormous problems involved in making these determinations, leading to both eligible people being inappropriately denied the right to vote and ineligible people being permitted to vote.

Such situations in Colorado, Florida and Washington State, among others, all resulted from a combination of confusing laws, limitations in database technology, and inadequate training of election officials. While some advances may be made in the area of technology, there is no strong reason to believe that these problems can be substantially remedied in most states in the near future.

Because of these practical problems, a state policy that permits voting for all non-incarcerated persons would be the simplest one for election officials. Anyone applying in person to register to vote would by definition not be incarcerated, and therefore election officials would not need to conduct any investigation into their status. In states like Pennsylvania, where this is the case, election officials are clear about who is eligible; voter fraud has not been an issue and is, in any case, prevented by a statute denying ballots to incarcerated felons.

Rhode Island v. New England v. the Nation

Rhode Island currently has the most restrictive disfranchisement policy in New England, disfranchising not only incarcerated felons, but also those serving time in the community under parole and probation. The state also leads New England states by disfranchising the greatest number (15,758) and rate of its voting age population (2.09%). By barring 20 percent of African-American men from voting, Rhode Island also disfranchises a higher percentage of African-Americans than Mississippi, Louisiana, Georgia, South Carolina, Tennessee and 32 other states. It bears noting that 86 percent of those deprived of the vote in Rhode Island are not in prison, but live and work in the community. Moreover, Rhode Island has the second highest rate of people on probation – second only to Texas - which means that individuals who have committed low-level felony offenses can be deprived of the right to vote for decades.

In New England, Vermont and Maine disfranchise no one, and prisoners regularly vote from their cells without incident. New Hampshire and Massachusetts only disfranchise prisoners. And Connecticut disfranchises prisoners and parolees, but people on probation may vote. Changing state policy along the lines of Senate Bills 457 and 575 would place Rhode Island closer to these other New England states.

Where would it place Rhode Island nationally? Fourteen states restore voting rights to those on parole, and twenty states retain voting rights for people sentenced to probation. Enfranchising citizens on probation would thus place Rhode Island in the national mainstream. Enfranchising parolees as well would put Rhode Island slightly ahead of the national mainstream, closer to the states that enfranchise all people post-incarceration. These states do not fit any traditional patterns of being liberal or conservative, and include states as diverse as Illinois, Massachusetts, North Dakota, and Oregon.

Conclusion: Growing Support for Reform

I hope that Rhode Island can join the growing movement for reform of disfranchisement policies. Such a change would aid persons returning to the community from incarceration, as well providing public safety benefits for all residents. I appreciate your consideration of these remarks and would be pleased to work with the Committee if I can be of any further assistance.
