

Testimony in Favor of HB 6606. An Act Concerning the Determination of the Residence of Incarcerated Persons for Purposes of Legislative Districting

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I'd like to thank the Senate Judiciary Committee for this opportunity to testify in favor of HB 6606, which would end prison-based gerrymandering in Connecticut. My name is Matthew Smith and, along with my colleague Meghan McCormack who helped me prepare this testimony, I am currently a student at Yale Law School. I have studied issues related to felon disenfranchisement for almost two years and have also pursued a number of projects on the relationships between education and incarceration.

As others have testified, there are compelling reasons to overturn the state's current practice of prison-based districting. Counting prisoners as members of the legislative districts where they are imprisoned contravenes the fundamental democratic value of 'one person, one vote,' which the United States Supreme Court endorsed in *Reynolds v. Sims*. It misallocates political representation across counties. And to the extent that minorities are over-represented in prison populations, a social ill in and of itself, it denies minorities equal political power.

Though these are compelling reasons to overturn the current practice, some legislators may worry whether they have the authority to do so. Such worries are easily assuaged. Though the Federal census counts prisoners in the district in which they are imprisoned, states are not required to follow suit. As the Third Circuit explains in *Mahan v. Howell*, states are free to choose how to 'count' prisoners so long as they respect the rights enunciated in the Constitution. Delaware, Maryland and New York have already passed laws to eliminate prison-based gerrymandering. In these states, prisoners will be counted as constituents of their self-declared home-district. Far from lacking the authority to overturn prison-based districting, the Connecticut legislature will better live up to the spirit of the law by so doing.

A second concern that legislators may have is the cost of overturning prison-based districting. More specifically, prison officials will need to collect and report data on prisoners' home districts and federal census data will need to be altered to accurately reflect this information. Fortunately the cost of these actions is likely to be extremely small. Estimates from other states have shown that redistricting costs about \$1.60 per prisoner. With roughly 18,000 prisoners in Connecticut that translates to mere 0.0041% of the CT Department of Correction's 2008 General Fund Expenditures. Furthermore, the administrative burdens associated with this bill are very low: given the lengthy intake procedures already present, the additional requirements of determining a home address and amending Federal census data will be minor burdens.

The Connecticut legislature must act to pass HB 6606. The costs of the bill are negligible, it faces no legal hurdles, and both legal precedent and democratic values compel its passage. Thank you.