



April 9, 2018

***Via Email***

The Honorable Michael E. Danahay, Chair  
Louisiana House of Representatives  
House and Governmental Affairs Committee  
Box 94062 (900 North Third St.)  
Baton Rouge, LA 70804

**RE: Support for House Bill 265 (Smith)**

Dear Representative Danahay and Members of the House & Governmental Affairs Committee:

The NAACP Legal Defense and Educational Fund, Inc. (LDF) writes in strong support of House Bill (HB) 265, which would reduce the exceedingly high number of people in Louisiana—primarily people of color—who are deprived of their right to vote because of a felony conviction.

LDF is the nation's oldest civil and human rights law organization. LDF was founded in 1940 by Thurgood Marshall, who later became the first Black Supreme Court Justice, and, since its inception, has worked to defend and advance the voting rights of Black Americans and protect the integrity of our nation's democracy. LDF has been on the frontlines of the fight for equal voting rights, using litigation, policy advocacy, and public education to promote the full and active participation of Black Americans in our democracy. We have worked to reform the nation's antiquated and discriminatory felony disenfranchisement laws,<sup>1</sup> which were adopted and proliferated in the late 19th century and during the era of Jim Crow to bar newly freed Black citizens from exercising their right to vote based on felony crimes disproportionately prosecuted against them.<sup>2</sup> In November 2017, LDF continued the work of fighting this remnant of Jim Crow by filing an *amicus* brief in support of a lawsuit involving over 71,000 people in Louisiana who have been released from incarceration but are still barred from voting because they are under probation or parole supervision.<sup>3</sup>

Louisiana's felony disenfranchisement laws have created a true crisis in democratic legitimacy. As the top incarcerator in the country, imprisoning its adult population at 1.5 times the

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<sup>1</sup> LDF has litigated several challenges to discriminatory felony disenfranchisement state laws that disproportionately deny voting rights to people of color with criminal records, including in Alabama, New York, and Washington State. *Chapman v. Gooden*, 974 So. 2d 972 (Ala. 2007); *Glasgow v. Allen*, No. 2:08-cv-801 (M.D. Ala. 2008); *Hayden v. Paterson*, 594 F.3d 150 (2d Cir. 2010); *Farrakhan v. Gregoire*, 623 F.3d 990 (9th Cir. 2010).

<sup>2</sup> See generally NAACP LDF, *Free the Vote: Unlocking Democracy in the Cells and on the Streets*, <https://bit.ly/2uWU1F4>.

<sup>3</sup> Brief for NAACP Legal Defense & Educational Fund, Inc., et al. as Amicus Curiae Supporting Plaintiffs-Appellants, *Voice of the Ex-Offender, et al. v. State of Louisiana, et al.*, No. 2017-CA-1141 (La. App. 1st Cir. Nov. 6, 2017), available at <https://bit.ly/2IExa39>.



national average, Louisiana’s felony disenfranchisement laws have a sweeping effect,<sup>4</sup> with Black Americans disproportionately likely to be exposed to the criminal justice system.<sup>5</sup> Louisiana deprives more than one out of every 33 adults the right to vote due to a past felony conviction, a rate 23% higher than the national average.<sup>6</sup> The most substantial impact is borne by Black Louisianans, for whom the harm is significantly disproportionate: Black residents of the state are excluded at more than twice the rate of Louisianans generally.<sup>7</sup> And of those disenfranchised, more than 71,000—predominantly Black individuals—are on parole and probation, attempting to reintegrate into their communities.<sup>8</sup> Indeed, while only 32% of the Louisiana population is Black, Black people comprise 63% of everyone who has been disenfranchised because of a felony conviction.<sup>9</sup> These are the intolerable and lingering effects of Jim Crow-era attempts to suppress Black voters, when registration among eligible Black voters in Louisiana went from 44% after the Civil War down to 1% in 1920.<sup>10</sup>

The impact of restrictive criminal disenfranchisement laws is not limited to the disproportionate deprivation of voting rights on Black Americans with felony convictions in Louisiana or elsewhere. Rather, the impact is felt directly in communities, where disenfranchisement laws lead to an overall reduction in voter participation and create an additional barrier for people trying to reintegrate into their communities and avoid recidivism after release from incarceration. The ripple effect of disproportionately denying Black Americans the right to vote can extend to the children of disenfranchised parents, who are less likely to grow up to become

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<sup>4</sup> E. Ann Carson & Elizabeth Anderson, Prisoners in 2015, Bureau of Just. Stats., U.S. Dep’t of Just. 8 (Dec. 2016), <http://bit.ly/2gULGI0>.

<sup>5</sup> See, e.g., LAWYERS’ COMM. FOR CIVIL RIGHTS UNDER LAW & SOUTHERN POVERTY LAW CTR., INDIGENT DEFENSE IN LOUISIANA: MASS DETENTION, INCARCERATION, & CONVICTION 2-3 (Feb. 2017) (providing statistics showing that Black individuals are far more likely to be arrested than white individuals, including for felony marijuana possession, despite similar rates of marijuana use among Black and white individuals).

<sup>6</sup> VOTE, et al., DISENFRANCHISEMENT OF INDIVIDUALS ON COMMUNITY SUPERVISION IN LOUISIANA 4 (Feb. 2017), available at <https://bit.ly/2GKBelS>.

<sup>7</sup> SENTENCING PROJECT, 6 MILLION LOST VOTERS: STATE-LEVEL ESTIMATES OF FELONY DISENFRANCHISEMENT 15-16 (2016), <http://bit.ly/2xLSS05> (comparing Table 3 and Table 4).

<sup>8</sup> *Id.*

<sup>9</sup> Kwame Akosah, *Fighting for the Right to Vote in Louisiana*, BRENNAN CTR. FOR JUSTICE (Mar. 13, 2017), <http://bit.ly/2zpK44d>.

<sup>10</sup> Eli L. Levine, *Does the Social Contract Justify Felony Disenfranchisement?*, 1 WASH. U. JURIS. REV. 193, 199 n.40 (2009).



voting adults,<sup>11</sup> and to voter turnout among non-disenfranchised Black Americans due to the erosion of social networks that facilitate political learning and information sharing.<sup>12</sup>

Conversely, expanding voter eligibility would have a positive impact on communities by facilitating voter turnout generally and by helping people released from incarceration return and adjust to their communities while embracing civic participation and citizenship. Ensuring that eligible individuals with felony convictions can participate in the political process as they work, take care of their families, and otherwise reintegrate into their communities has public safety benefits for *all* communities. Criminologists have found that a self-perception as a responsible citizen reduces the likelihood of committing a criminal offense.<sup>13</sup> This self-perception includes being a responsible citizen in all aspects of one's life, including as an active citizen in the community, capable of fully rejoining society and not hampered by the stigmatization and alienation of being denied rights necessary for civic participation. Thus, through voting, along with other forms of civic engagement, a person with a conviction record reinforces an identity as a responsible citizen and reduces their likelihood of recidivism.

By passing HB 265, Louisiana has the opportunity to push forward democratic values, racial justice, and public safety. By doing so, it would join at least 24 other states that have enacted policies designed to reduce the scale of felony disenfranchisement and/or to facilitate voter registration among persons with a prior felony conviction. HB 265 would (1) reduce the amount of time that people on probation or parole for felony convictions would have their voting rights suspended; (2) restore voting rights to people on probation who have not violated its terms in the past five years; (3) restore voting rights to people on parole who have not been incarcerated in the past five years; and (4) allow people with felony convictions to vote if they have not been incarcerated within the past five years. While we believe that people in Louisiana are granted the right to vote upon release from prison under the state constitution, which is the basis for the pending lawsuit in which we serve as *amicus* as discussed *infra*, the expansion of voting rights that would be achieved by HB 265 is a critical *first* step that would have substantial positive effects for Louisiana, and particularly for pursuing the values of racial equality and democracy. In addition to being the right thing to do legally and morally, the kinds of reforms promised by HB 265 have been met with overwhelming public support around the country. Indeed, surveys report that eight

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<sup>11</sup> Eric Plutzer, *Becoming a Habitual Voter: Inertia, Resources, and Growth in Young Adulthood*, 96 AM. POL. SCI. REV. 1 (Mar. 2002), <http://bit.ly/2iSNdCM>.

<sup>12</sup> Aman McLeod, Ismail K. White, Amelia R. Gavin, *The Locked Ballot Box*, 11 VA. J. OF SOC. POL'Y & THE LAW 66, 81 (2003); Melanie Bowers & Robert R. Preuhs, *Collateral Consequences of a Collateral Penalty*, 90 SOC. SCI. Q. 722, 724–26, 740–41 (2009).

<sup>13</sup> Christopher Uggen, Jeff Manza, & Angela Behrens, *Less than the Average Citizen: Stigma, Role Transition and the Civic Reintegration of Convicted Felons* in *After Crime and Punishment: Ex-Offender Reintegration and Desistance from Crime*, 258, 259–60 (Shadd Maruna & Russ Immarigeon, eds., Willan Pub. 2004).



in ten Americans support voting rights for persons who have completed their sentence and nearly two-thirds support voting rights for persons on probation or parole.<sup>14</sup>

For the above reasons, LDF strongly supports HB 265 and urges you to vote in favor of this important legislation.

Thank you for considering this request. If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah C. Aden".

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<sup>14</sup> Nicole D. Porter, *Expanding the Vote: State Felony Disenfranchisement Reform*, Sentencing Project (2010) 3, <http://bit.ly/2xLd81y>; see also Brian Pinaire, Milton Heumann, and Laura Bilotta, *Barred from the Vote: Public Attitudes Towards the Disfranchisements of Felons*, 30 FORDHAM URB. L. J. 1519, 1540 (2003) (finding 81.7 percent approval for restoration of voting rights); Jeff Manza, Clem Brooks, and Christopher Uggen, *Public Attitudes Toward Felon Disenfranchisement in the United States*, 68 PUB. OPINION Q. 275, 281 (2004) (finding 80 percent approval).

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*Cc (by email):* Rep. Patricia Haynes Smith