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TESTIMONY IN SUPPORT OF 20-H 7140 –
RELATING TO STATE AFFAIRS AND GOVERNMENT
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The right to vote is the quintessential right underlying the democratic process, and malapportioned districts or the failure to provide appropriate voting strength to racial minorities raise fundamental civil liberties concerns. This legislation would positively address an issue bearing directly on that problem, and for that reason we strongly support this bill.

The issue is that of prison-based gerrymandering. For geographical reasons, it is an especially critical issue in Rhode Island, because a failure to address it places our state far outside the mainstream when it comes to prison-related malapportionment. Following the lead of a handful of other states and more than two hundred local governments across the country, this bill would count incarcerated people's last home residence for redistricting purposes, rather than counting them as "residing" at the ACI.

Rhode Island currently gives extra representation at both the state and municipal level to the people who live near the ACI. That is because reapportionments have relied on U.S. Census data that counts people in prison as if they were all residents of Howard Avenue in Cranston. The Supreme Court's "one person-one vote" rule requires legislative districts to be redrawn each decade so that each district contains the same population and each resident is therefore given the same access to government. But this process fails when an underlying premise, such as the one involving the residency status of Rhode Island's prison population, is faulty. The resulting redistricting with skewed district populations is often referred to as prison gerrymandering. The impact is that the voting strength of the communities from which the inmates come – often poor urban areas – is diluted, while the political influence of the municipal residents in which the prison is located is inflated.

Under the redistricting plan adopted in 2012, 25 percent of Cranston's City Council Ward 6 is comprised of prisoners. Although Ward 6 has only 10,209 true constituents, those constituents wield the same political power as 13,300 constituents in each of the other wards. One-quarter of the residents of Ward 6 – many of whom retain their voting rights during their incarceration – are counted as if they are represented by people for whom they cannot not vote.

The allocation of all prisoners to Cranston for redistricting purposes is particularly problematic and flawed because that premise is in direct conflict with state voting law, which explicitly provides that incarceration does not change a person's residence:

> "A person's residence for voting purposes is his or her fixed and established domicile... A person can have only one domicile, and the domicile shall not be considered lost solely by reason of absence for any of the following reasons: ... Confinement in a correctional facility..."

Thus, even though inmates at the ACI are counted as residents of Cranston for redistricting purposes, they are statutorily denied the right to vote from there even if they want to. This inconsistency is unconscionable. However, because the U.S. Court of Appeals for the First Circuit Court of Appeals held a few years ago that any remedy for this must be statutory rather than judicial, it is crucial for the General Assembly to step in.

The need for remedying this problem in Rhode Island is heightened by our state's special status. We believe we may be the only state with just one prison complex. This fact combines negatively with the fact that Rhode Island legislative districts are smaller by population than in most states. According to Peter Wagner, Executive Director of the Prison Policy Initiative and the national expert on prison populations and redistricting, Rhode Island currently provides one of the most dramatic examples of how prison populations distort representation.

We urge this Committee to follow the example of other states – such as New York, Maryland, California and Delaware – that have taken action to end prison-based gerrymandering, by approving this legislation.