



128 Dorrance Street, Suite 400  
Providence, RI 02903  
Phone: (401) 831-7171  
Fax: (401) 831-7175  
[www.riaclu.org](http://www.riaclu.org)  
[info@riaclu.org](mailto:info@riaclu.org)

## **ACLU OF RI POSITION: AMEND**

### **TESTIMONY ON 22-H 7323, AN ACT RELATING TO REAPPORTIONMENT February 7, 2022**

The ACLU of Rhode Island appreciates the opportunity to testify on this critical once-in-a-decade venture. The focus of our testimony, as it was at a number of meetings of the Reapportionment Commission, is on the issue of prison gerrymandering. As committee members are aware, this term refers to the problem of counting individuals incarcerated at the ACI on census day as residents of Cranston rather than their home community for redistricting purposes, even though state voting law specifically provides that people do not lose their residence for voting purposes by virtue of imprisonment.

For almost a decade, the ACLU and other voting rights advocates have been urging passage of a law that would eliminate this problem. In that regard, we are pleased that the Commission recognized this was a legitimate problem warranting a fix and took a first step towards addressing it by reallocating to their home community incarcerated individuals who were serving a prison sentence of two years or less. This purportedly led to the reallocation of approximately 41% of the prison population.

While we do not ask this committee to take any further steps for this year's redistricting, we firmly believe that now is the time to fully and finally address the problem for future reapportionments. It can do that by adding a section to this bill incorporating legislation introduced by Rep. Williams for a number of years (last year's bill was 21-H 5285) and making it effective beginning with the 2030 census. Doing it now and in this legislation will ensure that the General Assembly does not have to spend any more time in future years grappling with this issue. Instead, you can place the legislature's imprimatur on the solution to the problem for your successors.

It is worth noting that 12 other states have addressed prison gerrymandering by reassigning those who were counted at correctional institutions, but only one state, Pennsylvania, differentiates by the length of sentence, and in that case the state reassigns everyone serving a term of less than 10 years, not two. Rhode Island should fully join all those other states that have universally addressed this problem.

There are a number of equity reasons for the General Assembly to take this next step for future reapportionments. First, the individuals at the ACI are not treated as Cranston residents by the City for any other meaningful purpose. Among other things, ACI detainees and prisoners, whatever the length of their sentence, do not get to participate in Cranston's civic life in any way;

they are denied the right to send their children to Cranston schools based on their ACI address,<sup>1</sup> something that should be allowed if they truly were city residents; and Cranston's elected officials do not campaign or endeavor to represent their purported ACI "constituents."<sup>2</sup>

It is also crucial to remember that efforts to address prison gerrymandering seek to counter two evils: the under-representation of communities from where people at the ACI have come, and the *over-representation* of the communities where prisons are located. By continuing to count hundreds of incarcerated individuals as residents of the ACI, the Cranston districts encompassing the prison facilities will also continue to have inappropriately greater electoral power than all other districts in the state, as they will be representing a much smaller base of residents. It is perhaps for this reason that only Pennsylvania has sought to address prison gerrymandering with any type of hybrid approach.

For all these reasons, urge that you take the step of abolishing ACI prison gerrymandering for future reapportionments so that this debate does not need to continue for the next ten years. Please add a new section to this legislation incorporating Rep. Williams' legislation with a 2030 effective date.

We thank you in advance for considering our comments.

---

<sup>1</sup> "Rhode Island Mayor: Prisoners count as residents when it helps me, not when it helps them," by Sarah Mayeux, March 31, 2010. <https://www.prisonersofthecensus.org/news/2010/03/31/rimayo/>

<sup>2</sup> *Davidson v. City of Cranston*, 188 F.Supp.3d 146, 147-148 (D.R.I. 2016), reversed on other grounds, 837 F.3d 135 (1st Cir. 2016).