



January 27, 2020

Colorado General Assembly  
200 E Colfax Ave  
Denver, CO 80203

Re: HB20-1010

Dear Committee Member:

The Campaign Legal Center (“CLC”) respectfully requests your support for HB20-1010, a bill that seeks to end prison gerrymandering and ensure that every incarcerated person is counted in a fair and accurate manner.

CLC is a nonpartisan, nonprofit organization dedicated to protecting and strengthening the democratic process across all levels of government. Our work centers on one foundational belief: that every citizen has a right to participate in the democratic process. Since the organization’s founding in 2002, CLC has participated in major redistricting, voting rights, and campaign finance cases before the U.S. Supreme Court as well as numerous other federal and state court cases and worked to advance policy that promotes democratic reform. As part of this project, CLC has often found itself working at the intersection of criminal justice reform and voting access. Through this work, we have seen firsthand the many ways that our criminal justice system can become entangled in our democracy and deprive people of their political voices.

By addressing prison gerrymandering in Colorado, HB20-1010 takes an important step to advance democracy in Colorado and ensure that the criminal justice system no longer distorts political representation across the state. Prison gerrymandering dramatically distorts community representation because it counts incarcerated people at their place of confinement rather than at their residence prior to incarceration. Incarcerated people are disproportionately people of color who come from more urban areas, and they rarely come from the surrounding community where they are incarcerated. Not only can they not vote in that jurisdiction during their incarceration, their families, friends, and communities are also not constituents in the district. Though incarcerated people are counted as part of the district, the elected official who “represents” them has no connection to them or their communities of interest. This system also gives outsized power to voters in jurisdictions with prisons in them. Because a large number of people in these jurisdictions cannot vote, those who can have more power to choose who represents them. As a result, the political voices of more rural, less diverse voters are empowered, while marginalized communities’ voices are excluded and political power is hijacked.

### *Colorado Would Address a Crucial Civil Rights Issue*

This problem is not unique to Colorado, but Colorado could join other states in addressing it. Like most states, Colorado currently bases its legislative districts on U.S. Census Bureau data and counts incarcerated people as residents of the towns where they are confined rather than where they lived prior to incarceration. HB 20-1010 solves Colorado's prison gerrymandering problem by counting the approximately 20,000<sup>1</sup> incarcerated residents at their last known address.

### *HB 20-1010 Would Create a Fairer and More Representative Democracy*

HB20-1010 would remove incarcerated people from the district where they are incarcerated and place them in the district where they last had actual ties to the community. This, in turn, would lead to legislative districts that better reflect the population. HB20-1010 would also remove one of the unintended consequences of mass incarceration. Home communities of incarcerated people are unintentionally penalized because the weight of a vote cast in districts that contain prisons are enhanced at the expense of all other districts in the state.

### *HB20-1010 Will Be Low Cost and Easily Administrable*

The Colorado Department of Corrections already collects the data necessary to implement the bill. Where this information does not exist—for example, if the last known address is outside of Colorado or unknown—the incarcerated persons are not counted for redistricting purposes. Further, county commission districts already account for prison gerrymandering so this process is not completely new to Colorado.<sup>2</sup>

### *Colorado Would Join Other States in Banning Prison Gerrymandering*

Seven states – California, Delaware, Maryland, Nevada, New York, New Jersey and Washington – have prohibited prison gerrymandering. Statutes in those states have been upheld both in state<sup>3</sup> and federal courts.<sup>4</sup> Thus, Coloradoans can be confident that this bill would likely survive a legal challenge.

In conclusion, we applaud Colorado's efforts to ban prison gerrymandering and hope this bill becomes law to ensure Colorado's upcoming redistricting creates a system that fairly represents Coloradans. We would happy to answer any questions or provide additional information as needed.

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<sup>1</sup> <https://www.prisonpolicy.org/profiles/CO.html>

<sup>2</sup> Colorado Revised Statute § 30-10-306.7(5)(a)

<sup>3</sup> <https://www.brennancenter.org/sites/default/files/legacy/Court%27s%20Order%20and%20Decision%20Regarding%20Appeal%202.14.12.pdf>

<sup>4</sup> *Fletcher v. Lamone*, 831 F. Supp. 2d 887, 891 (D. Md. 2011), *aff'd*, 567 U.S. 930 (2012).

Respectfully submitted,

/s/

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/s/

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/s/

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/s/

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