



Jim Carlson, Chair
Bonnie Westlin, Vice Chair
Elections Committee
Minnesota State Senate
95 University Avenue W.
St. Paul, MN 55155

March 7, 2024

Letter from Campaign Legal Center in Support of SF 3878

Dear Chair Carlson, Vice Chair Westlin, and Members of the Senate Elections Committee:

Campaign Legal Center (“CLC”) strongly supports the elimination of prison gerrymandering in Minnesota, and we urge you to pass SF 3878.

CLC is a nonpartisan, nonprofit organization dedicated to protecting and strengthening the democratic process across all levels of government. 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 and federal and state courts. CLC has also engaged in advocacy across the country to promote democratic reforms and ensure that justice-involved citizens have access to the ballot and fair representation. Through this work, CLC has seen firsthand the urgent need for reforms like SF 3878, which would help to end prison gerrymandering in Minnesota.

I. If Minnesota fails to act, the harm will be severe and long-lasting.

Prison gerrymandering distorts the democratic process by counting incarcerated individuals where they are in prison rather than their legal residency for the purposes of redistricting. In states that engage in prison gerrymandering, like Minnesota, elected officials in jurisdictions that house prisons “represent” large populations of people—disproportionately low-income, people of color—who have no connection to the area, who cannot vote there, and who have no friends, family, or community of interest that can advocate on their behalf. Prison gerrymandering also artificially inflates the voting power of districts with prisons, while disempowering communities where the incarcerated individuals lived before and where they will ultimately return—their legal residence.

This system not only directly hurts the 17,500 state residents who are incarcerated across Minnesota,¹ it also disfigures voting districts throughout the state and creates inaccurate population data for research and planning purposes. When one district has its numbers artificially inflated, other districts suffer. This distortion often disproportionately affects urban communities and communities of color. And, because districts are drawn decennially, these skewed population counts are locked in place for the next decade.

Prison gerrymandering also disproportionately harms communities of color in Minnesota. There are significant racial disparities in Minnesota's prisons: Black people make up 35% percent of Minnesota's incarcerated population, even though they comprise only 7% percent of the total state population.² As a result, prison gerrymandering in Minnesota denies many communities of color, where these individuals are from, fair representation.

II. Abolishing prison gerrymandering has broad bipartisan support.

Minnesota has an opportunity to join a growing national movement to abolish prison gerrymandering, following the lead of states such as Maryland, California, Colorado, Connecticut, Delaware, Montana, Nevada, New Jersey, New York, Virginia, and Washington.³ Hundreds of county and municipal governments across the country have also rejected prison gerrymandering.⁴ This ever-growing roster includes red, blue, and purple governments, evidencing widespread recognition that prison gerrymandering is not a partisan issue. Indeed, a recent analysis of the Prison Policy Initiative showed that of the ten worst prison gerrymandered districts in the country, six are held by Democrats while four are held by Republicans.⁵

The movement to end prison gerrymandering is also rooted in broad-based popular support. Just recently, for instance, over 99% of the comments from the public on the 2020 Census supported counting prisoners at their last known residence: "Of the 77,887 comments pertaining to [where] prisoners [are to be counted], 77,863 suggested that prisoners should be counted at their home or pre-incarceration address."⁶ Minnesota should enact this popular reform.

III. This reform is administrable, low-cost, and lawful.

¹ *Minnesota Profile*, Prison Policy Initiative, <https://www.prisonpolicy.org/profiles/MN.html>.

² *Id.*

³ *Momentum Is Building to End Prison-Based Gerrymandering*, Prison Policy Initiative (2020), <https://www.prisonpolicy.org/graphs/momentum.html>; *With unanimous, bipartisan support, Montana ends prison gerrymandering*, Prison Policy Initiative (Feb. 13, 2023), https://www.prisonersofthecensus.org/news/2023/02/13/montana_victory.

⁴ *Local Governments that Avoid Prison-Based Gerrymandering*, Prison Policy Initiative (Jan. 7, 2019), <https://www.prisonersofthecensus.org/local/>.

⁵ *What the ten worst prison gerrymanders of the 2020 redistricting cycle tell us about how the problem is changing*, Prison Policy Initiative (Feb. 26, 2024), <https://www.prisonersofthecensus.org/news/2024/02/26/worst-gerrymanders/>.

⁶ *Final 2020 Census Residence Criteria and Residence Situations*, 85 Fed. Reg. 5,526 (Feb. 8, 2018), <https://www.federalregister.gov/documents/2018/02/08/2018-02370/final-2020-census-residence-criteria-and-residencesituations>.

Eliminating prison gerrymandering is administrable and low-cost. Approximately a dozen states have already implemented this reform, including Maryland and New York, which effectively implemented it during the 2011 redistricting cycle.⁷

SF 3878 would require the Minnesota Department of Corrections, which runs the state's prisons, to collect the data necessary to count incarcerated individuals at their last home address and then provide this information to the Legislative Coordinating Commission. The Legislative Coordinating Commission would then correct the census data used for redistricting by reallocating incarcerated people from the jurisdictions where they are currently incarcerated to the jurisdictions where their last known addresses are located. For people incarcerated in Minnesota who have no last known addresses or whose last known addresses are outside of the state, the Commission would exclude them from the jurisdiction where they are incarcerated but count them towards the state's total population. The legislature and local governments would then use this corrected data to draw congressional, legislative, and all other election districts.

This reform is also on strong legal footing. The statutes that abolished prison gerrymandering in states that have already implemented this reform have been upheld both in state⁸ and federal courts, including the U.S. Supreme Court.⁹

Minnesota should act now to end prison gerrymandering in legislative and congressional redistricting. If it does not take action, Minnesota will continue to undermine the accuracy of its decennial redistricting and deny communities throughout the state the fair and equal representation that they deserve. For these reasons, CLC respectfully requests your support for this legislation.

Respectfully submitted,

/s/ Lata Nott

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⁷ See Erika L. Wood, *One Significant Step: How Reforms to Prison Districts Begin to Address Political Inequality*, 49 U. Mich. J. L. Reform 179, 193, 198-99 (2015) (citing Correctional Facility Locator, Md. Dep't of Pub. Safety & Corr. Servs., <http://www.dpscs.state.md.us/locations/prisons.shtml>), <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1146&context=mjlr>.

⁸ *Little v. LATFOR*, No. 2310-2011 (N.Y. Sup. Ct. Apr. 4, 2011); *Little v. LATFOR*, SSD 3 (N.Y. Ct. App. Feb. 14, 2012) (denying plaintiffs' direct appeal to the New York Court of Appeals, the highest state court in New York).

⁹ *Fletcher v. Lamone*, 831 F. Supp. 2d 887, 891 (D. Md. 2011), *aff'd*, 567 U.S. 930 (2012).