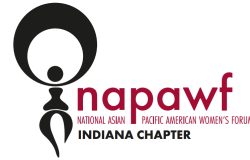




Count US IN 



March 17, 2023

Senator Greg Walker  
200 W. Washington St.  
Indianapolis, IN 46204

**VIA EMAIL:** Senator.Greg.Walker@iga.in.gov, Kirsten.Nielsen@iga.in.gov

Re: Opposition to Post-Conviction Disenfranchisement in House Bill 1116

Dear Senator Walker,

The undersigned non-partisan organizations who work to protect voting rights and increase civic participation oppose the post-conviction disenfranchisement provision of Indiana House Bill 1116. We are writing to respectfully request that the disenfranchisement provision, Section 4 of the introduced version of HB 1116, be removed from the bill. Instead, a potential alternative could be to study the impact of felony disenfranchisement on civic engagement and election integrity during a summer study committee in 2023. Such a study could include an examination of the positive impacts of civic engagement in reducing recidivism.

As we set forth in written testimony submitted to the House Elections and Apportionment Committee on January 24, 2023, the disenfranchisement provision of HB 1116 would perpetuate myths of voter fraud and expand the Jim Crow era practice of felony disenfranchisement. Our organizations take no position on the other provisions of the bill.

Given the dark history of disenfranchisement in our country and our state, it is a complex topic that warrants careful study, including an opportunity to hear perspectives from people who are currently and formerly incarcerated. From the time of our nation's founding, disenfranchisement of imprisoned individuals was viewed as a transparent attempt to limit the political power of what were thought of as the country's "lower classes". Laws across the United States that disenfranchised people serving a sentence for a criminal conviction were initially explicitly enacted to serve the racist function of suppressing Black voters. Today, felony disenfranchisement laws and bills continue to have those unfair *effects*, even if that is no longer the primary *intention*.

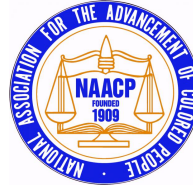
Post-conviction disenfranchisement has not been shown to have a deterrent effect on crime or a positive effect on safety and, in fact, may increase likelihood of reoffense by further marginalizing returning citizens. Around 95% of incarcerated people will someday return home.<sup>1</sup> Research suggests that people with strong community connections, which can be strengthened through electoral participation, are less likely to reoffend.

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<sup>1</sup> See Timothy Hughes & Doris James Wilson, *Reentry Trends in the U.S.* (Bureau of Justice Statistics, Mar. 22, 2021), <https://bjs.ojp.gov/topics/recidivism-and-reentry>.



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In recent years, election fraud has consumed the narrative surrounding the integrity and security of our elections. It is understandable that constituents across Indiana have questions, and they deserve accurate answers. The small number of voter fraud convictions in the past decade indicate that it is exceedingly rare and not as rampant as the narrative would suggest. IndyStar's comprehensive 2020 story<sup>2</sup> about voter fraud data is one of the few empirical resources on voter fraud in Indiana. According to that 2020 report, voter fraud is rare both nationally and in Indiana. When questioned for the report, the Indiana Secretary of State's office stated that they do not track voter fraud cases, and the Indiana Attorney General's office directed reporters to the Secretary of State's office. The Secretary of State's office stated clearly that Indiana's elections are safe and secure, including both absentee in-person voting (early voting) and absentee-by-mail voting.

Thank you for considering our request to remove the post-conviction disenfranchisement provision from HB 1116. For your reference, we also enclose here testimony that we submitted to the House Elections and Apportionment Committee on January 24, 2023.

Sincerely,

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Cliff Helm, Senior Counsel  
Chicago Lawyers' Committee for Civil Rights  
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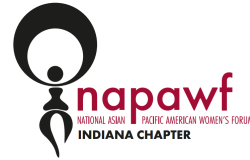
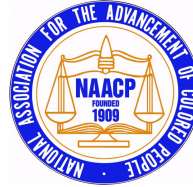
Melissa Borja and Michelle Dahl, Co-Chairs  
National Asian Pacific American Women's Forum - Indiana Chapter  
E-mail: [indianachapter@napawf.org](mailto:indianachapter@napawf.org)

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<sup>2</sup> <https://www.indystar.com/story/news/politics/elections/2020/10/06/voter-fraud-indiana-cases-show-rarity-voter-fraud/3586956001>



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**TESTIMONY BY CHICAGO LAWYERS' COMMITTEE FOR CIVIL RIGHTS,  
INDIANA STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED PEOPLE, COUNT US INDIANA, AND NATIONAL  
ASIAN PACIFIC AMERICAN WOMEN'S FORUM - INDIANA  
BEFORE THE INDIANA HOUSE ELECTIONS & APPORTIONMENT COMMITTEE  
IN OPPOSITION TO HOUSE BILL 1116  
JANUARY 24, 2023**

Submitted By:

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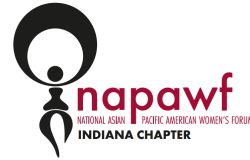
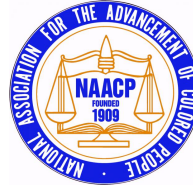
Melissa Borja and Michelle Dahl, Co-Chairs  
National Asian Pacific American Women's Forum - Indiana Chapter  
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## **I. Introduction**

The right to vote is fundamental to a healthy democracy. Chicago Lawyers' Committee for Civil Rights is a non-profit, non-partisan organization that has been working for the past 50 years to advance racial equity and economic opportunity for all. Our voting rights attorneys work to reduce barriers to voting and civic participation, especially in communities of color and low-income communities, to ensure that all eligible voters are able to cast their ballots and make their voices heard. Chicago Lawyers' Committee for Civil Rights, the Indiana State Conference of the NAACP, Count US Indiana, and National Asian Pacific American Women's Forum - Indiana Chapter submit this testimony today in opposition to Section 4 of the introduced version of Indiana House Bill 1116 (HB 1116) because it would perpetuate myths of voter fraud and expand the Jim Crow era practice of felony disenfranchisement. The organizations take no position on the other portions of the bill.



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HB 1116 institutes a ten-year period of *post-conviction* disenfranchisement for people convicted of one of the crimes categorized as vote fraud in 3-14-2 of the Indiana Code. Proponents of HB 1116 have acknowledged that there is no widespread voter fraud and have instead supplied general, one-off anecdotes of fraud. Proponents offer no legitimate election administration or election security justification for burdening community members with the threat of the loss of the fundamental right to vote. Instead, such a provision would only further disenfranchise marginalized communities, including voters of color and others disproportionately affected by the carceral system.

The non-partisan voting rights work conducted by our organizations puts us in a unique position to understand barriers to access from the point of view of the voter. A major component of Chicago Lawyers' Committee's work is Election Protection, the nation's largest and oldest non-partisan voter protection program, which operates the 866-OUR-VOTE hotline and supports companion lines at 888-VE-Y-VOTA, 888-API-VOTE, and 844-YALLA-US. Our staff and pro bono volunteers answer calls from around the country, including Indiana, and have answered hundreds of thousands of voter questions. Hoosiers have called us in increasing numbers during recent elections, with many of them reporting they experienced unfair barriers to registering and voting. We are proud to work with national Lawyers' Committee for Civil Rights Under Law, Common Cause Indiana, and the Indiana State Conference of the NAACP on a number of initiatives to strengthen voter access, including litigation challenging Indiana state laws that undermine the fundamental right to vote.

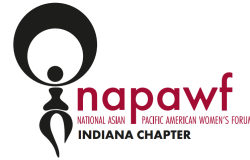
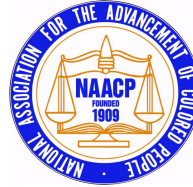
The Indiana State Conference of the NAACP is a civil rights organization advocating for educational equity, employment fairness, environmental justice, and protecting the right to vote and voters. Count US IN is the first Indiana-based 501(c)3 non-partisan non-profit and movement whose mission is to uplift the voice of citizens and foster more inclusive and equitable political participation by encouraging a larger, more diverse voter turnout. The organization seeks to educate and empower the community as well as show that our voices matter. The Indiana Chapter of the National Asian Pacific American Women's Forum (NAPAWF) is an organization that builds power with AAPI women and girls in Indiana to influence critical decisions that affect our lives, our families and our communities.

## II. Data shows that there is no widespread voter fraud in Indiana.

The facts show in Indiana and across the nation that voter fraud occurs at an exceedingly low rates, with most violations resulting from simple inadvertent error rather than intentional malfeasance. There are numerous existing protections to keep ineligible voters off the rolls, as well as existing criminal penalties for voter fraud.



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IndyStar's comprehensive 2020 story<sup>1</sup> about voter fraud data is one of the few empirical resources on voter fraud in Indiana. According to that 2020 report, voter fraud is rare both nationally and in Indiana. When questioned for the report, the Indiana Secretary of State's office stated that they do not track voter fraud cases, and the Indiana Attorney General's office directed reporters to the Secretary of State's office. The Secretary of State's office stated clearly that Indiana's elections are safe and secure, including both absentee in-person voting (early voting) and absentee-by-mail voting.

Rhetoric about voter fraud has been used to disenfranchise and intimidate eligible voters and election workers, particularly people of color. Hardworking election officials and poll workers across Indiana deserve better. Voters deserve better. Given the January 6, 2021 violent insurrection and ongoing claims by some leaders who discredit American elections, this is a frightening moment for the Indiana state legislature to perpetuate myths of widespread voter fraud. Indiana should be tearing down barriers to voting, not building new ones, in a time when we need *more* citizens to take an interest in participating in our democracy. States that are legitimately working to improve election security have been taking actions to modernize voter registration, for example. Instead, Indiana would be taking a step in the wrong direction with HB 1116.

Not only does the bill perpetuate misinformation about fraud and cause intimidation but, as explained below, it targets our most vulnerable communities who stand to be unfairly disenfranchised by this bill.

**III. If we wish to start to heal from Indiana's history of racial exclusion, this is not the time to *expand* felony disenfranchisement to post-conviction – for any crimes, much less the non-existent threat of voter fraud.**

Laws across the United States that disenfranchised people serving a sentence for a criminal conviction were initially explicitly enacted to serve the racist function of suppressing Black voters. Today, disenfranchisement laws, including the law in Indiana, continue to have that *effect*, even if that is no longer the primary *intention*. A law that further expands felony and misdemeanor disenfranchisement to ten years post-conviction would only worsen this problem of racial inequity.

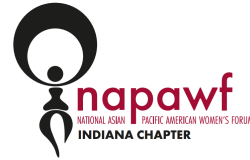
From the time of our nation's founding, disenfranchisement of imprisoned individuals was viewed as a transparent attempt to limit the political power of the country's "lower classes". Following the Civil War, states reinforced harmful myths of Black inferiority and criminality when they instituted felony disenfranchisement laws, along with poll taxes and literacy tests. Concerning racial disparities still persist today in our country's prison population, with 39% of people disenfranchised in prisons being Black, while Black individuals make up only 13% of the nation's

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<sup>1</sup> <https://www.indystar.com/story/news/politics/elections/2020/10/06/voter-fraud-indiana-cases-show-rarity-voter-fraud/3586956001>



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population.<sup>2</sup> These disparities are not reflective of increased criminality, but instead reflect racial bias and discriminatory enforcement at each stage of the criminal justice system, including arrests, prosecutions and sentencing disparities. The disparity in Indiana mirrors the nationwide disparity. Approximately 34% of Indiana's incarcerated population is Black, while the Black population in Indiana is around 10%.

Post-conviction disenfranchisement has not been shown to have a deterrent effect on crime or a positive effect on safety and, in fact, may increase likelihood of reoffense by further marginalizing returning citizens. Around 95% of incarcerated people will someday return home.<sup>3</sup> Research suggests that people with strong community connections, which can be strengthened through electoral participation, are less likely to reoffend.

#### IV. Conclusion

As Common Cause Indiana has set forth in previous testimony, this proposed change to the Indiana election system is a solution in search of a problem. Proponents of HB 1116 have failed to provide any concrete facts to support a legitimate election administration or election security justification for post-conviction disenfranchisement. On the contrary, the facts in Indiana and across the nation demonstrate that our elections are secure. Throughout our history, and unfortunately still today, false and inflammatory rhetoric about voter fraud has been used to disenfranchise and intimidate eligible voters, particularly voters of color. Given the danger caused by recent efforts to discredit American elections, this is a frightening time for the Indiana legislature to perpetuate these lies.

Our organizations are focused on racial equity are deeply concerned about the unnecessary and unjustified disenfranchisement that House Bill 1116 would cause. The Indiana House Elections & Apportionment Committee should reject the disenfranchisement provision of the bill, Section 4, in its entirety. Thank you for the opportunity to submit testimony today.

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<sup>2</sup> Additional data, including data from The Sentencing Project, is available upon request.

<sup>3</sup> See Timothy Hughes & Doris James Wilson, *Reentry Trends in the U.S.* (Bureau of Justice Statistics, Mar. 22, 2021), <https://www.bjs.gov/content/reentry/reentry.cfm>.