

Feb. 12, 2019

The Hon. Ralph Northam
Governor of Virginia
Office of the Governor
Patrick Henry Building, Third Floor
1111 E. Broad Street
Richmond, Va. 23219

Dear Gov. Northam:

I am writing on behalf of the American Civil Liberties Union of Virginia and its more than 25,000 members in the Commonwealth on the topic of voting rights.



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We learned today through press reports that, since you took office, you have restored the voting rights of nearly 11,000 people previously convicted of a felony offense. We are grateful that you kept your promise, made soon after assuming office, that you would continue the policy first put in place by Governor McAuliffe of restoring the voting and civil rights of all persons upon completion of their sentences and any period of supervision regardless of the felony of which they were convicted and without requiring payment of fines, fees or restitution.

At the same time, however, we regret that you continue to justify the racially discriminatory policy of felon disenfranchisement and to laud yourself and others for granting “second chances” by restoring a civil and human right that should never have been taken away by government in the first instance. As you know, despite yours and McAuliffe’s more expansive policies on restoration of rights, hundreds of thousands of Virginians – including one in five African-Americans – remain barred from fully participating in our democracy, and 12,000 more people are felonized each year are added to this count.

Voting is a cornerstone of our democracy. So much so that the right to vote is mentioned more times than any other in the U.S. Constitution. Yet, there is no right-to-vote guarantee in it or in the Virginia Constitution. It is time we made clear that the vote is basic to citizenship, the main building block of civic life, and it belongs to the people — not the government they elect.

It is not acceptable for you, as someone who says he hopes to lead on racial equity issues, to simply support a policy that allows you as governor or the legislature to decide who gets to vote or which privileges some voters over others. Every person in Virginia — including those in jails or prisons, and their families — is governed by the same laws. It is only right that everyone who meets the qualifications of age, citizenship and residency has the same opportunity to choose who represents them in crafting those laws.

It is past time for Virginia to amend our constitution to remove this Jim Crow-era limit — one intended at its inception to block previously enslaved black people from voting. It is time to end government’s control on our right

to vote and to amend our constitution simply to say: Every person 18 or over, is a citizen, a Virginia resident and who registers shall have the fundamental right to vote in the commonwealth, and such right shall not be abridged by law.

Rather than focus on the questions of whether and when someone deserves to get back the right to vote, as we have for decades, we ask you to join us in opposing the very idea that government should be able to take away this fundamental right in the first place. We urge you to speak against any effort to tinker with the current lifetime ban on voting by amending it to separate people convicted of felonies into politically defined classes, or to amend the language to constitutionalize barriers to voting such as required repayment of court costs, fines and fees — essentially a modern-day poll tax. All citizens should be able to use their right to vote. Full citizenship means having a voice in government.



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Additionally, we know from data provided by Governor McAuliffe that individual restoration of rights such as you announced today does not correct the racial disparity in disenfranchisement. According to data released by Governor McAuliffe regarding the makeup of the almost 175,000 people whose rights he restored, 53.5 percent of people disenfranchised from voting in 2016 were black, and 51.5 percent of those whose rights he restored while in office were white. Restoration of rights clearly is not an effective means of erasing the unequal effect on the voting rights of people of color that arises from racial disparities in our criminal justice system, from arrest through prosecution and punishment.

If you truly want to achieve racial justice at the ballot box, the only effective strategy is to enact a concise constitutional amendment that repeals the current lifetime ban on voting for people convicted of felonies and inserts an affirmative right to vote in Virginia that cannot be abridged by law. If you are indeed serious about ending historically rooted racial injustices you will immediately announce your public support and commitment to lead the charge to amend the Virginia constitution to positively affirm and guarantee the right to vote of every citizen over the age of 18. The ACLU of Virginia will be enthusiastic to work with you to achieve this important goal.

Very truly yours,

A handwritten signature in blue ink, which appears to read "Claire Guthrie Gastañaga". The signature is fluid and cursive.

Claire Guthrie Gastañaga
Executive Director