



Legislative Testimony
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Written Testimony Supporting Senate Bill 820, An Act Concerning a State Voting Rights Act

Senator Flexer, Representative Fox, Ranking Members Sampson and Mastrofrancesco, and distinguished members of the Government Administration and Elections Committee:

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am testifying in support of Senate Bill 820, An Act Concerning a State Voting Rights Act.

The ACLU of Connecticut strongly supports measures to ensure equal access to the ballot box and we especially support measures that increase voting access for historically disenfranchised groups, particularly Black voters. Improving voting rights and voting access strengthens democracy, since voting is the foundation of democracy itself. For many years, the Voting Rights Act of 1965 existed across 50 states to ensure nationwide access to the ballot was fair and universal. Over the years, though, court decisions chipped away at the Voting Rights Act, reaching the nadir in the notorious *Shelby County v. Holder*¹ decision, which had the effect of removing requirements in the law that certain geographic areas with a history of racist voter suppression submit proposed changes in voting procedure to a federal district court or the U.S. Department of Justice for “preclearance” of those changes.² Since that change, many jurisdictions which had been previously subject to

¹ 570 U.S. 529 (2013).

² See, e.g., “Shelby County v. Holder.” Brennan Center for Justice, Aug. 4, 2018, *available at* <https://www.brennancenter.org/our-work/court-cases/shelby-county-v-holder>.

preclearance have contracted voting rights in ways that disproportionately disenfranchise voters of color.³

While the gutting of the Voting Rights Act has precipitated a rollback of voting rights, it would be a mistake to think that the only problem areas for voting rights are places previously subject to preclearance requirements. To the contrary, many states and localities had racist histories of voter suppression that did not meet the specific standards for preclearance. Connecticut, unfortunately, is a state with a long history of racism in its voting laws.

From its early days, Connecticut has been the least expansive for voting rights for Black people of all the New England states, amending the state constitution to explicitly limit the franchise to white people in the 1818 when other neighboring states allowed Black men to vote without significant restriction.⁴ After Connecticut ratified the Fifteenth Amendment, which guaranteed the right to vote to men of all races,⁵ it took a further six years for Connecticut to amend its own state constitution to remove language restricting voting to white people.⁶ Connecticut was one of only twelve states using a literacy test into the 1950s,⁷ and it was not until a 1970 federal law prohibited literacy tests that the possibility of their use in Connecticut was finally ended.⁸

Some voting laws and practices are still in effect in Connecticut which disproportionately affect voters of color. The state's well-known limitations on

³ Matt DeRienzo, "Analysis: New and age-old voter suppression tactics at the heart of the 2020 power struggle." Center for Public Integrity, Oct. 28, 2020, *available at* <https://publicintegrity.org/politics/elections/ballotboxbarriers/analysis-voter-suppression-never-went-away-tactics-changed/>.

⁴ Elizabeth Normen, "Our Hard-Won Right to Vote." Connecticut Explored, Spring 2016, *available at* <https://www.ctexplored.org/our-hard-won-right-to-vote/>.

⁵ Katherine J. Harris, "No Taxation with Representation': Black Voting in Connecticut." Connecticut Explored, Spring 2016, *available at* <https://www.ctexplored.org/no-taxation-without-representation-voting-petitions-in-connecticut/>.

⁶ "Connecticut Civil Rights Law Chronology," Connecticut Commission on Human Rights and Opportunities, *available at* <https://portal.ct.gov/CHRO/Legal/Legal/Connecticut-Civil-Rights-Law-Chronology>.

⁷ Steve Thornton, "Literacy Tests and the Right to Vote." Connecticut History, last visited on Mar. 24, 2021, *available at* <https://connecticuthistory.org/literacy-tests-and-the-right-to-vote/>.

⁸ Steve Thornton, "Literacy Tests and the Right to Vote." Connecticut History, *available at* <https://connecticuthistory.org/literacy-tests-and-the-right-to-vote/>.

alternatives to in-person Election Day voting, for example, may have the effect of disproportionately impacting Black and Latinx voters, who are more likely to face barriers to voting on Election Day.⁹ So do laws which restrict voting for people convicted of felonies and people on parole, due to systemic racism in the criminal legal system.¹⁰ Election management practices, repeated year after year, result in long lines in the urban areas where Connecticut's voters of color are most concentrated.¹¹

In short, discriminatory voting laws and practices is not a problem that happens in other places with different histories: it is, in fact, a historical and current Connecticut problem. The Connecticut Voting Rights Act is targeted at eliminating persistent structural electoral processes in the state that continue to prevent people of color from voting and that dilute the votes of voters of color. Its five main provisions are:

- 1) creating new rights of action for affected voters, organizations comprising or working for affected voters, and the Attorney General for voting practices, procedures, and policies that result in a denial of voting rights for "members of a race, color or language minority group" in Section 2;
- 2) requiring preclearance for jurisdictions with a history of civil rights violations enforced by court order or governmental action, certain levels of

⁹ For common barriers to voting and reasons why voters do not vote, *see, e.g.*, Amelia Thomson-DeVeaux, Jasmine Mithani & Laura Bronner, "Why many Americans don't vote." FiveThirtyEight.com, Oct. 26, 2020, *available at* <https://projects.fivethirtyeight.com/non-voters-poll-2020-election/> and "11 barriers to voting." Carnegie Corporation of New York, Nov. 1, 2019, *available at* <https://www.carnegie.org/topics/topic-articles/voting-rights/11-barriers-voting/>. *See also* Vann R. Newkirk II, "Voter suppression is warping democracy." The Atlantic, Jul. 17, 2018, *available at* <https://www.theatlantic.com/politics/archive/2018/07/poll-prri-voter-suppression/565355/>.

¹⁰ Karina Schroeder, "How Systemic Racism Keeps Millions of Black People from Voting." Vera Institute of Justice, Feb. 16, 2018, *available at* <https://www.vera.org/blog/how-systemic-racism-keeps-millions-of-black-people-from-voting>.

¹¹ Matt DeRienzo, "In Connecticut, voters face some of the biggest obstacles outside the south." Center for Public Integrity, Oct. 7, 2020, *available at* <https://publicintegrity.org/politics/elections/us-polling-places/connecticut-voters-face-some-of-the-biggest-obstacles-outside-the-south/>; *see also* Jack Kramer, "In Connecticut, long lines and problems at a Hartford polling place." CT News Junkie, Nov. 8, 2016, *available at* https://ctnewsjunkie.com/2016/11/08/smooth_start_to_voting_in_tumultuous_year/.

racial disparities in arrest rates, certain levels of geographic segregation, or noncompliance with reporting requirements in the bill, in section 5;

3) require language assistance with ballots and voting based on lower thresholds than currently exist, in section 4;

4) create a statewide database of elections information for transparency, standardization, and use in crafting future policy, in section 3; and

5) create a new private right of action for voter intimidation, deception and obstruction that provides injunctive relief and money damages, in section 6.

This bill also contains a safeguard to ensure that municipalities are not unexpectedly or undeservedly attacked for voting practices. In subsection (g) of section 2 of the bill, potential plaintiffs are required to file a notification letter with the municipal clerk outlining the purported violation of the Connecticut Voting Rights Act. In response, the municipality can choose to craft a remedy which, if approved by the Attorney General, will provide the municipality with a safe harbor from litigation. This provision is crafted to ensure that municipalities acting in good faith can have a level of confidence that, first, their voting decisions will not harm voters of color or other protected classes and, second, that they will not be haled into court without having a chance to remedy any unintended harms.

There will doubtless be those who say that these provisions are not necessary in Connecticut. There will be others who will compare Connecticut's current voting scheme to efforts underway right now to significantly restrict voting rights in other parts of the country. Connecticut's history as the most regressive voting rights state in New England demonstrates the need for continued skepticism of any belief that voting rights are uniquely strong in this state. More even than our history, though, Connecticut's voting present shows that we are not, in fact, exceptional. To the contrary, Connecticut is ranked in the bottom of all states, sometimes as low as the

fourth-worst, for voting options.¹² Black voters, and other protected class voters, in Connecticut have been denied equal electoral participation for well over two hundred years. The Connecticut Voting Rights Act has the potential to bring these failings to an end, forever.

Because it has the tools – both carrot and stick – to end discriminatory voting laws and practices in Connecticut for good, the ACLU-CT fully supports Senate Bill 820. We strongly urge this Committee to report favorably on this bill.

¹² See Bill Theobald, “The 6 toughest states for voting during the pandemic.” The Fulcrum, Apr. 29, 2020, *available at* <https://thefulcrum.us/voting/voting-during-coronavirus>.