



Legislative Testimony
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Written Testimony Supporting Senate Bill 1226, An Act Concerning State Voting Rights in Recognition of John R. Lewis

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

My name is Jess Zaccagnino, and I am the policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am writing to testify in support of Senate Bill 1226, An Act Concerning State Voting Rights in Recognition of John R. Lewis.

Voting is a foundation of democracy, the right through which all our other rights are protected and preserved. For that reason, the ACLU-CT supports extending voting rights to the greatest number of people, with the only permissible restrictions being those essential to making elections secure and fair. Connecticut's history with voting rights is long, checkered, and in many ways shamefully suppressive, but with continued efforts, like those in Senate Bill 1226, to extend the franchise and make it as accessible as possible, we can move forward with a strong electorate and truly democratic elections.

The importance of the right to vote cannot be overstated. The United States Supreme Court has long described voting as a fundamental right, because it is preservative of all other rights.¹ Voting is “the citizen’s link to his laws and government”² and “the

¹ See *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

² *Evans v. Cornman*, 398 U.S. 419, 422 (1970).

essence of a democratic society.”³ If the right to vote is undermined, the Court has cautioned, other rights “are illusory.”⁴ Thus, in a democracy, safeguarding the right to vote “is a fundamental matter.”⁵

Yet the State of Connecticut long denied this fundamental right to its Black citizens and other citizens of color. From its founding through the recent past, Connecticut has a troubling history of racial discrimination in voting. This history includes the use of explicitly racist constitutional provisions regarding who could and could not vote,⁶ English-only literacy tests,⁷ discriminatory local redistricting plans,⁸ and voter purges that disproportionately targeted voters of color.⁹ And unequal barriers to the franchise persist in Connecticut today, manifesting in long lines at the polls in predominantly Black and brown neighborhoods and significant disparities in voter registration and turnout between white voters and voters of color.¹⁰

I. Connecticut’s History of Voting Discrimination

For most of the nineteenth century, Connecticut categorically restricted the franchise to white men.¹¹ The state enshrined this racial exclusion in its constitution in 1818, at a time when several New England states allowed some Black men to vote.¹² Subsequently, the people of Connecticut twice voted down proposed amendments to the state constitution to strike the word “white” from the provision setting forth the

³ *Harman v. Forsenius*, 380 U.S. 528, 537 (1965).

⁴ *WeS.B.erry v. Sanders*, 376 U.S. 1, 17 (1964).

⁵ *Reynolds v. Sims*, 377 U.S. 533, 561–62 (1964).

⁶ Mary M. Janicki, *OLR Research Report: The Rights to Vote and Hold Office* (Oct. 29, 1998), <https://www.cga.ct.gov/PS98/rpt%5Colr%5Chtm/98-R-1215.htm> (explaining that a “race restriction” in the Connecticut Constitution requiring voters to be white remained in place until 1876).

⁷ Steve Thornton, *Literacy Tests and the Right to Vote*, CONNECTICUTHISTORY.ORG (Sept. 15, 2022), <https://connecticuthistory.org/literacy-tests-and-the-right-to-vote/> (detailing Connecticut’s discriminatory use of an English-only literacy test to disenfranchise Puerto Rican voters until stopped by federal legislation).

⁸ *Bridgeport Coalition for Fair Representation v. City of Bridgeport*, 1993 WL 742750.

⁹ *Voters in Hartford Still Need Federal Court’s Protection*, ACLU-CT (July 11, 2013), <https://www.acluct.org/en/press-releases/voters-in-hartford-still-need-federal-courts-protection> (describing the *Santa v. Cimiano* litigation, arising from a Hartford voter purge process in which Latinx voters were twice as other voters to be removed from canvassing lists).

¹⁰ See *infra* note 39.

¹¹ Conn. Const. of 1818, art. VI, § 2 (listing an elector’s qualifications, including that the individual in question be a “white male citizen of the United States”); *Crandall v. State*, 10 Conn. 339, 360 (Conn. 1834) (confirming that “none other than white male citizens can be made electors” and approving “this distinction of colour”).

¹² Elizabeth Normen, *Our Hard-Won Right to Vote*, CONN. EXPLORED (Spring 2016), <https://www.ctexplored.org/our-hard-won-right-to-vote/>.

qualifications of electors.¹³ Only in 1876—six years *after* the ratification of the Fifteenth Amendment to the U.S. Constitution outlawed racial discrimination in voting—did Connecticut finally amend its Constitution to remove this explicitly racist language.¹⁴

Connecticut was the first state to enact a literacy test as a requirement for voting, and one of the last to abandon it.¹⁵ Literacy tests like Connecticut’s long functioned as racially discriminatory means of exclusion, because they interacted with language barriers and socioeconomic disparities, including unequal access to education, to produce discriminatory effects—and because election officials often administered them discriminatorily.¹⁶ After 1897, when Connecticut’s literacy requirement was amended to specify that only English literacy counted, the test effectively disenfranchised U.S. citizens who were fluent in other languages but not English, including many eligible Puerto Rican voters, who were educated in Spanish. The literacy test also stood as a barrier for some eligible Black voters who came to Connecticut during the Great Migration from southern states like Georgia and Virginia, where they had been denied an equal education under Jim Crow laws.¹⁷

Connecticut only began allowing Puerto Rican voters to cast ballots without passing the literacy test in August of 1965—and only because the state had no choice after the enactment of the federal VRA, which included a provision drafted specifically to prevent northern states’ use of literacy tests to disenfranchise Puerto Rican voters.¹⁸

¹³ Rebecca Furer, *Who Gets to Vote? History of Voting Rights in Connecticut and the United States*, CONN. HUMANITIES, <https://teachitct.org/lessons/who-gets-to-vote-history-of-voting-rights-in-connecticut-and-the-united-states/>.

¹⁴ See Ramin Ganeshram & Elizabeth Normen, *The Battle for Black Suffrage in Connecticut Gives Perspective on Today*, HARTFORD COURANT (Feb. 23, 2020), <https://www.courant.com/opinion/op-ed/hc-op-ganeshram-normen-black-suffrage-0223-20200223-dgovvu2lobggicoq4jqtf2ufev-story.html>

¹⁵ Thornton, *supra* note 7.

¹⁶ *Id.*; see also John E. Filer, Lawrence W. Kenny & Rebecca B. Morton, *Voting Laws, Educational Policies, and Minority Turnout*, 34 J. L. & ECON. 371, 374 (Oct. 1991) (noting that “the African-American literacy rate did not equal the literacy rate of whites after the Civil War until 1940”).

¹⁷ Kurt Schlichting, Peter Tuckel & Richard Maisel, *Great Migration of African Americans to Hartford, Connecticut, 1910–1930: A GIS Analysis at the Neighborhood and Street Level*, 39 SOC. SCIENCE HIST. 287, 297 n.7 (2015) (noting that, according to the 1920 census, Black Hartford residents who were born in Connecticut had far higher literacy rates than Black Hartford residents who were born in Georgia or Virginia).

¹⁸ See David Holmberg, *Puerto Ricans Literate in Spanish to Get Vote: Opinion is Given by Mulvey*, HARTFORD COURANT (Aug. 25, 1965); Juan Cartagena, *Puerto Ricans and the 50th Anniversary of the Voting Rights Act* (Aug. 14, 2015), <https://centropr.archive.hunter.cuny.edu/centrovoices/current-affairs/puerto-ricans-and-50th-anniversary-voting-rights-act>; see also

Yet, for other Connecticut voters, the literacy test remained in place until 1970.¹⁹ That year, responding to “a long history of the discriminatory use of literacy tests to disfranchise voters on account of their race,” Congress enacted a five-year, nationwide suspension on all such tests.²⁰ Even then, Connecticut waited until 1976—a year after Congress made the ban permanent—to amend its constitution and finally make clear that the literacy test would no longer be used.²¹

In recent memory, discriminatory practices in local redistricting and election administration in Connecticut have resulted in successful litigation under the federal VRA to vindicate the rights of voters of color facing dilution and suppression.²² In Bridgeport, for example, Black and Latinx voters filed a lawsuit in 1993 to challenge a redistricting plan for the city council that packed Black and Latinx voters into two of the city’s ten districts.²³ They brought claims under Section 2 of the federal VRA and the Fourteenth and Fifteenth Amendments to the U.S. Constitution and sought an injunction in federal court citing Bridgeport’s long history of racial discrimination in voting and present-day realities, and instructed the city to redraw the plan with two majority-Latinx districts, two majority-Black districts, and one additional combined majority-minority “coalition” district.²⁴ Rather than implement this remedy, Bridgeport appealed. The Second Circuit upheld the district court’s grant of

Katzenbach v. Morgan, 384 U.S. 641, 652 (1966) (describing Section 4(e) of the federal VRA as “a measure to secure for the Puerto Rican community residing in New York nondiscriminatory treatment by government—both in the imposition of voting qualifications and the provision or administration of governmental services, such as public schools, public housing and law enforcement”).

¹⁹ Thornton, *supra* note 7.

²⁰ *Oregon v. Mitchell*, 400 U.S. 112, 132 (1970) (Op. of Black, J.); see also U.S. Comm’n on Civil Rights, Summary and Text of the Voting Rights Act (Sept. 1971), <https://www2.law.umaryland.edu/marshall/usccr/documents/cr11032.pdf>.

²¹ Connecticut State Library, The Connecticut Constitution, 1965-2008: Legislative History of Amendments, *Legislative History for Amendment Article IX, Constitutional Article VI, Sec. 1, HJR 48 of 1975 (adopted Nov. 24, 1976)*, http://libguides.ctstatelibrary.org/ld.php?content_id=30248233&_ga=2.14239671.182397562.1677450643-167704479.1674852581&_gl=1*i7vw68*_ga*mtv3nza0ndc5lje2nzq4ntilode.*_ga_x4e5txlnv4*mtv3nza1mdy0my4zljieumty3nza1mdy0my4wljauma (“The Amendment would also abolish the literacy test, which has been suspended by the Federal Voting Rights Act until August 5th, 1975 and will probably be suspended again temporarily, or permanently.”); Act of Aug. 6, 1975, Pub. L. No. 94-73, 89 Stat. 400 (describing the purposes of 1975 amendments to the federal VRA as, inter alia, “to make permanent the ban against certain prerequisites to voting”).

²² See Laughlin McDonald & Daniel Levitas, *The Case for Extending and Amending the Voting Rights Act: Voting Rights Litigation, 1982-2006: A Report of the Voting Rights Project of the American Civil Liberties Union*, ACLU (Mar. 2006), <https://www.aclu.org/sites/default/files/pdfs/votingrightsreport20060307.pdf>.

²³ *Bridgeport Coalition for Fair Representation v. City of Bridgeport*, 1993 WL 742750.

²⁴ *Id.*

a preliminary injunction²⁵ yet Bridgeport appealed again. At this time, the Supreme Court issued a decision that clarified aspects of Section 2 law in *Johnson v. De Grandy* and asked the lower courts to reconsider this case in light of its holding. Ultimately, the city settled and implemented the remedy plaintiffs sought—a plan that gave minority voters three additional majority-minority districts.

In Hartford, Latinx voters challenged a racially discriminatory voter purge process in 1991 under the federal VRA and the Fourteenth and Fifteenth Amendments to the U.S. Constitution, receiving a favorable judgement the following year.²⁶ Plaintiffs’ uncontroverted evidence in the case showed that Latino voters were twice as likely to be purged from the voter rolls as other registered voters, and that voters who still lived in Hartford had been wrongfully purged.²⁷ The court ordered the city to implement a series of measures to address these issues.²⁸ However, Hartford failed to comply with the court’s judgment, continuing its discriminatory practices.²⁹ In October of 1993, the district court was forced to intervene again and enjoin the city “from further failure to implement the judgment in this case.”³⁰ Two decades later, in 2013, the court denied a motion by Hartford for relief from the judgment, siding with the plaintiffs, who argued that the evidence showed “every indication that this discriminatory disenfranchisement has continued to date and that the Judgment is still sorely needed to ensure that all Hartford residents have equal access to the polls.”³¹

These examples show that statewide protections are necessary to ensure that communities of color have equal access to the ballot box. The CTVRA would establish

²⁵ *Bridgeport Coalition for Fair Representation v. City of Bridgeport*, 26 F.3d 271, 278 (2d Cir. 1994).

²⁶ Judgment, *Santa v. Cimiano*, No. 2:91-cv-01005 (D. Conn. May 11, 1992), ECF No. 10.

²⁷ *Voters in Hartford Still Need Federal Court’s Protection*, ACLU-CT (July 11, 2013), <https://www.acluct.org/en/press-releases/voters-in-hartford-still-need-federal-courts-protection>.

²⁸ *Id.*

²⁹ See Pls.’ Mem. in Opp. to Dfs.’ Mot. For Relief from J., *Santa v. Cimiano*, No. 2:91-cv-01005-AVC (D. Conn. July 9, 2013), ECF No. 36, at 2-10 (reciting case history and Hartford’s record of noncompliance).

³⁰ Order, *Santa v. Cimiano*, No. 2:91-cv-01005 (D. Conn. Oct. 25, 1993), ECF No. 14.

³¹ Order, *Santa v. Cimiano*, No. 2:91-cv-01005 (D. Conn. Oct. 16, 2013), ECF No. 38; see Pls.’ Mem. in Opp. to Dfs.’ Mot. for Relief from J., *Santa v. Cimiano*, No. 2:91-cv-01005 (D. Conn. July 9, 2013), ECF No. 36, at 1-2.

strong protections against voter suppression and would make Connecticut a nationwide leader on voting rights.

II. Connecticut’s Voters of Color Face Continued Obstacles and Discrimination

This state has made strides recently with respect to voting rights, but, even today, there remain serious gaps in Connecticut’s protection of the rights of Black voters and other voters of color. With no access to early voting, as of yet, and limited absentee voting, Connecticut has been described as “home to some of the most restrictive voting laws in the country.”³² There is no private right of action in Connecticut state courts for voters who face intimidation or obstruction at the polls. And the prevalence of at-large election structures in many of Connecticut’s local government bodies³³—a form of election which can “operate to minimize or cancel out the voting strength of racial minorities in the voting population”—raises serious questions about potential racial vote dilution that may be going unchallenged under the federal VRA.³⁴

These conditions impose disproportionate barriers to the franchise on voters of color.³⁵ The state’s well-known limitations on 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.³⁶ So do laws which restrict voting for people convicted of felonies and people on parole, due

³² Matt DeRienzo, *In Connecticut, Voters Face some of the Biggest Obstacles Outside the South*, CTR. PUB. INTEGRITY (Oct. 7, 2020), <https://publicintegrity.org/politics/elections/us-polling-places/connecticut-voters-face-some-of-the-biggest-obstacles-outside-the-south/>; see also *Preparing Your State for an Election Under Pandemic Conditions*, BRENNAN CTR. JUST. (Feb. 1, 2021), <https://www.brennancenter.org/our-work/research-reports/preparing-your-state-election-under-pandemic-conditions>.

³³ Based on analysis by the NAACP-LDF, at least 41 Connecticut municipalities use at-large elections for their legislative bodies.

³⁴ *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986) (internal quotations and brackets omitted).

³⁵ For example, studies show that Black voters are more likely to vote early than non-Black voters. Sarah Smith, *Which Voters Show Up When States Allow Early Voting?*, PROPUBLICA (Sept. 22, 2016), <https://www.propublica.org/article/which-voters-show-up-when-states-allow-early-voting>.

³⁶ 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, (Oct. 26, 2020), available at <https://projects.fivethirtyeight.com/non-voters-poll-2020-election/>; *11 Barriers to Voting*, CARNEGIE CORP. N.Y. (Nov. 1, 2019), available at <https://www.carnegie.org/topics/topicarticles/voting-rights/11-barriers-voting/>. See also Vann R. Newkirk II, *Voter Suppression is Warping Democracy*, ATLANTIC (July 17, 2018), available at <https://www.theatlantic.com/politics/archive/2018/07/pollprri-voter-suppression/565355/>.

to systemic racism in the criminal legal system.³⁷ Election management practices, repeated year after year, result in long lines in the urban areas where Connecticut's voters of color are most concentrated.³⁸ In many recent elections, government decisions about election management have caused long lines in the same cities and precincts repeatedly—these are always areas with the greatest concentrations of voters of color.³⁹ Because of interlocking systems of oppression, voters who are less likely to be able to get to the polls on Election Day—people with little job flexibility, people lacking transportation, disabled people, and voters who lack language access—are all disproportionately likely to be voters of color.⁴⁰

These factors show that Connecticut is not immune from the nationwide problem of discriminatory barriers that impede equal and effective political participation by voters of color. Nationwide, post-election surveys⁴¹ and analyses of smartphone data⁴² have made clear that Black and brown voters wait in significantly longer lines than white voters to cast their ballots in person. Black voters and other voters of color are also more likely to be unable to take time off work to vote,⁴³ more likely to be asked

³⁷ Karina Schroeder, *How Systemic Racism Keeps Millions of Black People from Voting*, VERA INST. JUST., (Feb. 16, 2018), available at <https://www.vera.org/blog/how-systemic-racism-keeps-millions-of-blackpeople-from-voting>.

³⁸ Matt DeRienzo, *In Connecticut, Voters Face Some of the Biggest Obstacles Outside the South*, CTR. PUB. INTEGRITY (Oct. 7, 2020), available at <https://publicintegrity.org/politics/elections/us-polling-places/connecticutvoters-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/.

³⁹ Shayla Colon, *From the Sky: Drone Photos Capture Long Voting Line In CT*, CT POST (Nov. 3, 2020), <https://www.ctpost.com/elections/slideshow/Norwalk-voters-endure-long-lines-and-cold-212063.php>; *Polling Location in Hartford Had Long Lines on Election Day*, NBC CONNECTICUT (Nov. 4, 2020), <https://www.nbcconnecticut.com/news/local/polling-location-in-hartford-had-long-lines-on-election-day/2355523/>; Jack Kramer, *In Connecticut, Long Lines and Problems at a Hartford Polling Place*, CT NEWS JUNKIE (Nov. 8, 2016 at 8:47 AM), https://ctnewsjunkie.com/2016/11/08/smooth_start_to_voting_in_tumultuous_year/; Dan Corcoran, *Hartford Registrars of Voters Office Fined \$9,600 for 2014 Election Debacle*, NBC CONNECTICUT (Aug. 17, 2017 at 7:15PM), <https://www.nbcconnecticut.com/news/local/hartford-registrars-of-voters-office-fined-9600-for-2014-election-debacle/20665/>; *Bridgeport Voting Extended to 10pm Because of Ballot Shortage*, GREENWICH TIMES (Nov. 2, 2010), <https://www.greenwichtime.com/news/article/Bridgeport-voting-extended-to-10-p-m-because-of-791129.php>.

⁴⁰ See, e.g., Vann R. Newkirk II, *Voter Suppression is Warping Democracy*, ATLANTIC (July 17, 2018), <https://www.theatlantic.com/politics/archive/2018/07/poll-prri-voter-suppression/565355/>.

⁴¹ Hannah Klain et al., *Waiting to Vote: Racial Disparities in Election Day Experiences*, BRENNAN CTR. JUST. (June 3, 2020), https://www.brennancenter.org/sites/default/files/2020-06/6_02_WaitingtoVote_FINAL.pdf.

⁴² M. Keith Chen et al., *Racial Disparities in Voting Wait Times: Evidence from Smartphone Data* (Oct. 30, 2020), <https://arxiv.org/pdf/1909.00024.pdf>.

⁴³ Alex Vandermaas-Peeler et al., *American Democracy in Crisis: The Challenges of Voter Knowledge, Participation, and Polarization*, PRRI (July 17, 2018), <https://www.prri.org/research/American-democracy-in-crisis-voters-midterms-trump-election-2018/>.

to vote by provisional ballot,⁴⁴ and more likely to have those provisional ballots rejected.⁴⁵

The restrictive effects of many Connecticut voting laws and practices are further exacerbated by troubling racial disparities in health, housing, employment, education, arrest rates and incarceration, and vehicle ownership—all of which have been shown to negatively impact political participation for eligible voters of color.⁴⁶

As a result of these unequal barriers to the franchise, Connecticut elections are marked by significant racial disparities in voter registration and turnout. With respect to registration, according to data published by the U.S. Census Bureau, 77.4 percent of non-Hispanic white citizens in Connecticut were registered to vote as of the November 2020 election.⁴⁷ By contrast, only 68.6 percent of Black citizens, only 67.8 percent of Latinx citizens, and only 60.5 percent of Asian citizens in Connecticut were registered to vote as of that election.⁴⁸ These data reflect registration gaps of nearly 9 percentage points between white citizens and Black citizens, 10 percentage points between white citizens and Latinx citizens, and 17 percentage points between white citizens and Asian citizens—strongly suggesting that opportunities to register

⁴⁴ Daron Shaw, *Report on Provisional Ballots and American Elections* (June 21, 2013), [http://web.mit.edu/supportthevoter/www/files/2013/08/Provisional-Ballots-Shaw-and-Hutchings.docx .pdf](http://web.mit.edu/supportthevoter/www/files/2013/08/Provisional-Ballots-Shaw-and-Hutchings.docx.pdf); Joshua Field et al., *Uncounted Votes: The Racially Discriminatory Effects of Provisional Ballots*, CTR. AM. PROGRESS (Oct. 2014), https://cdn.americanprogress.org/wp-content/uploads/2014/10/ProvisionalBallots-report.pdf?_ga=2.111276417.42375908.1621859427-264694957.1618767359.

⁴⁵ Thessalia Merivaki & Daniel A. Smith, *A Failsafe for Voters? Cast and Rejected Provisional Ballots in North Carolina*, 73 POL. RES. Q. (Sept. 19, 2019) <https://journals.sagepub.com/doi/10.1177/1065912919875816>; see Field et al., *supra* note 17.

⁴⁶ See, e.g., Conn. Off. of Policy & Management, *2021 Analysis of Prosecutor Data (PA 19-59)* (July 29, 2021), <https://portal.ct.gov/-/media/OPM/CJPPD/CjResearch/Prosecutor-Data-Analysis/Second-Analysis-of-Prosecutor-Data-PA-1959-2021-Report.pdf> (noting that “[t]he demographic composition of disposed cases is disproportionate to the state resident population”); Arielle Levin Becker, *Health Disparities in Connecticut: Causes, Effects, and What We Can Do*, CONN. HEALTH FOUND. (Jan. 2020); Cynthia Willner, *Racial and Ethnic Disparities in Earnings, Employment, and Education in Connecticut*, CT DATA COLLABORATIVE (June 16, 2022), <https://www.ctdata.org/acs-racial-and-ethnicity-disparities> (explaining that “marked disparities still exist in educational attainment, employment and earnings across racial and ethnic groups in Connecticut”); *Car Ownership: Connecticut*, NAT’L EQUITY ATLAS (accessed Mar. 17, 2023), https://nationalequityatlas.org/indicators/Car_access#/?geo=02000000000009000 (reporting that 21% of Black households, 18% of Native American households, 17% of Latino households, and 8% of AAPI households lack access to a vehicle—as compared to only 6% of white households).

⁴⁷ U.S. Census Bureau, *Voting and Registration in the Election of November 2020* (April 2021), <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html> (Table 4b, Reported Voting and Registration, by Sex, Race and Hispanic Origin, for States: November 2020).

⁴⁸ *Id.*

to vote are not equally available in Connecticut, and that this inequality in access falls along racial lines.

With respect to voter turnout, Census data reveal similar disparities. According to the Census Bureau, 71 percent of Connecticut’s non-Hispanic white citizens voted in the 2020 election. This compares to 64.5 percent of Connecticut’s Black citizens, 56.6 percent of Connecticut’s Asian citizens, and 56.4 percent of Connecticut’s Latinx citizens.⁴⁹ Together, these data reveal racial turnout gaps of 6 percentage points between white voters and Black voters and over 14 percentage points between white voters and Asian or Latinx voters—strongly suggesting the presence of unequal barriers to the franchise that impede participation by eligible Black, Latinx, and Asian voters.⁵⁰

And turnout is only part of the story. As the Fifth Circuit Court of Appeals has explained, discriminatory barriers to the exercise of the right to vote can constitute an unlawful abridgement of that fundamental right even if some voters overcome the burdens and are able to cast ballots.⁵¹ As that court observed, “in previous times, some people paid the poll tax or passed the literacy test and therefore voted, but their rights were still abridged.”⁵² Overcoming unequal burdens does not mean those burdens do not exist. Nor is a two-tiered model of access to the franchise acceptable or lawful.

Today, literacy tests and explicit racial classifications are no longer part of Connecticut’s electoral landscape, but discriminatory barriers to the right to vote persist, perpetuating new forms of the same “insidious and pervasive evil” that

⁴⁹ *Id.*

⁵⁰ Further, recent research indicates that the Census Bureau’s statistics on turnout may overestimate the incidence of voting among communities of color, suggesting that racial turnout disparities may be even greater than Census data reveals. See Stephen Ansolabehere, Bernard L. Fraga & Brian F. Schaffner, *The CPS Voting and Registration Supplement Overstates Minority Turnout*, J. POL. (2021), https://static1.squarespace.com/static/5fac72852ca67743c720d6a1/t/5ff8a986c87fc6090567c6d0/1610131850413/CPS_AFS_2021.pdf.

⁵¹ See *Veasey v. Abbott*, 830 F.3d 216, 260 (5th Cir. 2016).

⁵² *Id.* at 260 n.58.

Congress enacted the federal VRA to combat.⁵³ Clearly, there is significant work for a comprehensive state-level voting rights act to do in addressing continuing barriers to the political process and moving Connecticut closer to becoming a truly equitable, racially inclusive democracy.

III. Current Limitations of the Federal Voting Rights Act

Unfortunately, existing federal legislation does not fully address the need for voting rights protections in Connecticut. Although the individual and collective provisions of the federal VRA have been effective at combatting a wide range of barriers and burdens,⁵⁴ federal courts have eliminated or weakened some of the federal VRA's protections, making it increasingly complex and burdensome for litigants to vindicate their rights under the law. As a result, despite the federal VRA's importance, voters of color often still lack an equal opportunity to participate in the political process and elect candidates of their choice.

For nearly fifty years, Section 5 of the federal VRA, the core provision of the legislation, protected millions of voters of color from racial discrimination in voting by requiring certain states and localities to obtain approval from the federal government *before* implementing a voting change.⁵⁵ However, in *Shelby County, Alabama v. Holder*, the United States Supreme Court rendered Section 5 inoperable by striking down Section 4(b) of the VRA, which identified the places in our country where Section 5 applied.⁵⁶ The *Shelby County* decision unleashed a wave of voter suppression in states that were previously covered under Section 4(b).⁵⁷ This onslaught accelerated after the 2020 election, which saw historic levels of

⁵³ See *South Carolina v. Katzenbach*, 383 U.S. 301, 309 (1966).

⁵⁴ Myrna Pérez, *Voting Rights Act: The Legacy of the 15th Amendment*, BRENNAN CTR. JUST. (June 30, 2009), <https://www.brennancenter.org/our-work/analysis-opinion/voting-rights-act-legacy-15th-amendment>.

⁵⁵ 52 U.S.C. § 10304.

⁵⁶ See *Shelby Cty, Ala. v. Holder*, 570 U.S. 529, 557 (2013).

⁵⁷ See *Democracy Defended*, NAACP LEGAL DEF. FUND & THURGOOD MARSHALL INST. (Sept. 2, 2021), https://www.naacpldf.org/wp-content/uploads/LDF_2020_DemocracyDefended-1-3.pdf; see also *A Primer on Sections 2 and 3(e) of the Voting Rights Act 1*, NAACP LEGAL DEF. FUND (Jan. 5, 2021), <https://www.naacpldf.org/wp-content/uploads/LDF-Sections-2-and-3c-VRA-primer-1.5.21.pdf>.

participation by voters of color (albeit with persistent racial turnout gaps).⁵⁸ Following that election, in 2021, state lawmakers introduced more than 440 bills with provisions that restrict voting access in 49 states, and 34 such laws were enacted.⁵⁹ This wave of restrictive voting changes shows no signs of abating—by the end of the first month of the 2023 legislative sessions, lawmakers in 32 states had introduced or pre-filed at least 150 additional restrictive voting bills, outpacing the totals from 2021 and 2022.⁶⁰

Section 2 of the federal VRA offers a private right of action—which means that a person is legally entitled to file a lawsuit—against any voting practice or procedure that “results in a denial or abridgment of the right of any citizen of the United States to vote on account of race.”⁶¹ But, for all its power, Section 2 litigation imposes a high bar for plaintiffs as it is expensive and can take years to reach resolution. Section 2 lawsuits generally require multiple expert witnesses for both plaintiffs and defendants.⁶² Plaintiffs and their lawyers risk at least six- or seven-figure expenditures in Section 2 litigations, often over several years.⁶³ Individual plaintiffs, even when supported by civil rights organizations or private lawyers, often lack the resources and expertise to effectively prosecute Section 2 claims.⁶⁴ Moreover, even when voters ultimately win lawsuits, several unfair elections may be held while the litigation is pending, subjecting voters to irreparable harm.⁶⁵ Due to these challenges,

⁵⁸ Kevin Morris & Coryn Grange, *Large Racial Turnout Gap Persisted in 2020 Election*, B BRENNAN CTR. JUST. (Aug. 6, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/large-racial-turnout-gap-persisted-2020-election>.

⁵⁹ *Voting Laws Roundup: December 2021*, BRENNAN CTR. JUST. (Jan. 12, 2022), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>.

⁶⁰ *Voting Laws Roundup: February 2023*, BRENNAN CTR. JUST. (Feb. 22, 2023), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2023>.

⁶¹ 52 U.S.C. § 10301.

⁶² *The Cost (in Time, Money, and Burden) of Section 2 of the Voting Rights Act Litigation*, NAACP LEGAL DEF. FUND 2 (Feb. 2021), <https://www.naacpldf.org/wp-content/uploads/Section-2-costs-2.19.21.pdf>; see also, e.g., Mike Faulk, *Big Costs, Heavy Hitters in ACLU Suit Against Yakima*, YAKIMA HERALD (Aug. 10, 2014), https://www.yakimaherald.com/special_projects/aclu/big-costs-heavy-hitters-in-aclu-suit-against-yakima/article_3cbce20-ee9d-11e4-bfba-f3e05bd949ca.html.

⁶³ *The Cost (in Time, Money, and Burden) of Section 2 of the Voting Rights Act Litigation*, NAACP LEGAL DEF. FUND, *supra* note 22, at 2; Voting Rights Act: Section 5 of the Act – History, Scope, and Purpose: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary, 109th Cong. 92 (2005) (“Two to five years is a rough average” for the length of Section 2 lawsuits).

⁶⁴ Voting Rights and Election Administration in the Dakotas: Hearing Before the Subcomm. on Elections, 116th Cong. 64 (2019).

⁶⁵ *Shelby County*, 570 U.S. at 572 (Ginsburg, J., dissenting) (“An illegal scheme might be in place for several election cycles before a Section 2 plaintiff can gather sufficient evidence to challenge it.”).

some potential Section 2 violations are never identified, addressed, or litigated in court.⁶⁶

Section 2 claims are also expensive for jurisdictions to defend, regularly costing states and localities considerable amounts of taxpayer money. Locally, the city of Bridgeport experienced these costs first-hand in 1994 when Black and brown residents challenged Bridgeport’s redistricting plan under Section 2.⁶⁷ As part of a settlement agreement, Bridgeport agreed to pay plaintiffs \$175,000 for legal expenses and court costs.⁶⁸ Since then, the costs of such litigation have risen. In a more recent example, the East Ramapo Central School District in New York State paid its lawyers more than \$7 million for unsuccessfully defending a Section 2 lawsuit brought by the local NAACP branch—and was ordered to pay over \$4 million in plaintiffs’ attorneys’ fees and costs as well.⁶⁹ In *Veasey v. Perry*, in which the NAACP Legal Defense and Education Fund challenged the State of Texas’s Voter ID law alongside other civil rights groups and the U.S. Department of Justice (DOJ), the district court and an appellate court affirmed an order requiring Texas to pay more than \$6.7 million toward the (non-DOJ) plaintiffs’ documented costs.⁷⁰

Above and beyond its complexity and cost, litigation under Section 2 of the federal VRA simply cannot keep up with the urgency of the political process. Because elections occur frequently, discriminatory electoral maps or practices can harm voters almost immediately after rules are changed. However, on average, Section 2 cases can last two to five years, and unlawful elections often take place before a case can

⁶⁶ Congressional Authority to Protect Voting Rights After *Shelby County v. Holder*: Hearing Before the Subcomm. on the Constitution, Civil Rights and Civil Liberties of the H. Comm. on Judiciary, 116th Cong. 14 (Sept. 24, 2019) (Written Testimony of Professor Justin Levitt).

⁶⁷ *Bridgeport Coal. for Fair Representation v. City of Bridgeport*, No. CIV. 3:93-1476(PCD), 1993 WL 742750, at *6 (D. Conn. Oct. 27, 1993).

⁶⁸ Edmund Mahoney, *Bridgeport’s Redistricting Suit Settled*, HARTFORD COURANT (Mar. 10, 1995), <https://www.courant.com/news/connecticut/hc-xpm-1995-03-10-9503100390-story.html>.

⁶⁹ Jennifer Korn, *ERCSD Threatens to Fire Teachers if Legal Fees Not Cut to \$1: NAACP Leaders Respond*, ROCKLAND COUNTY TIMES (Jan. 21, 2020), <https://www.rocklandtimes.com/2021/01/21/ercsd-threatens-to-fire-teachers-if-legal-fees-not-cut-to-1-naacp-leaders-respond/>; Report and Recommendation, *NAACP, Spring Valley Branch v. East Ramapo Central School Dist.*, No. 7:17-08943-CS-JCM (S.D.N.Y. Dec. 29, 2020).

⁷⁰ See Mike Scarcella, *5th Circuit Upholds \$6.7 Million in Fees for Plaintiffs in Voting Rights Case*, REUTERS (Sept. 4, 2021), <https://reut.rs/3tN14L7>.

be resolved.⁷¹ Voters of color in Bridgeport experienced this in 1993, when a court held that the city’s redistricting plan violated the federal VRA but still permitted city council elections to proceed under the discriminatory plan that diluted the strength of Black and Latino votes.⁷² By 1995, when new lawful districts were drawn, council members elected under the discriminatory plan had been in power for two years.⁷³

IV. Detailed Information on the CTVRA’s Provisions

S.B. 1226 would implement several critical measures to restore and complement protections modeled on the federal VRA and expand the tools available to voters facing discrimination. It would provide efficient, practical ways to identify and resolve barriers to equal participation in local democracy. In addition, it would require local governments with recent records of discrimination to “preclear” certain voting changes *before* they can be implemented, preventing harm to voters. It would also strengthen state-level protections against voter intimidation, deception, and obstruction; expand language assistance for voters with limited English proficiency; and promote transparency by creating a central, publicly accessible hub for election data and information. Each of these provisions is powerful and critically needed in Connecticut.

A. Preclearance

Section 5 of S.B. 1226 will create a “preclearance” program within the Office of the Secretary of the State (“SOTS”), modeled after the program enacted by New York State in 2022,⁷⁴ which was based in turn upon the federal VRA—one of the most effective civil rights laws in American history.⁷⁵ Through this program, municipalities with recent civil rights violations or other indicators of discrimination would be required to obtain approval from the Secretary of the State or a state court

⁷¹ *Shelby County*, 570 U.S. at 572 (Ginsburg, J., concurring) (“An illegal scheme might be in place for several election cycles before a Section 2 plaintiff can gather sufficient evidence to challenge it.”).

⁷² *Bridgeport Coal. For Fair Representation v. City of Bridgeport*, No. CIV. 3:93-1476, 1993 WL 742750, at *6 (D. Conn. Oct. 27, 1993).

⁷³ Mahoney, *supra* note 68.

⁷⁴ NYVRA § 17-210.

⁷⁵ 52 U.S.C. § 10303.

before making changes to certain election rules or practices.⁷⁶ S.B. 1226 would require these municipalities to demonstrate that changes will not diminish the ability of minority groups to participate in the political process *before* the changes can be implemented. Through this program, SOTS experts would be able to identify changes that would have a discriminatory impact in advance and prevent them from going into effect.

As Congress recognized in 1965, case-by-case litigation alone is inadequate—too slow and too costly—to eradicate voting discrimination and prevent its resurgence.⁷⁷ Even if voters of color can muster the resources to sue, the discriminatory practices or procedures they challenge can remain in effect for years while litigation is pending. Preclearance relieves voters facing discrimination of the substantial burdens of litigation by “shifting the advantage of time and inertia” from the jurisdiction to the voters themselves.⁷⁸ Thus, instead of voters having to go to court to prove that new election laws and practices are discriminatory, jurisdictions must show that new voting laws and practices are *not* discriminatory. For example, when a polling site in a covered municipality is relocated, preclearance will ensure that local officials first justify the shift and show the change is not harmful to voters of color, instead of requiring voters to sue after the fact.

Preclearance at the federal level was effective at protecting voters of color without unduly burdening local election officials. In fact, some covered jurisdictions appreciated preclearance because the process ensured the use of best practices for fostering political participation, particularly among voters of color.⁷⁹ Covered jurisdictions also made clear that they viewed preclearance as a way to prevent

⁷⁶ See S.B. 1226 § 5.

⁷⁷ *South Carolina v. Katzenbach*, 383 U.S. 301, 314 (1966).

⁷⁸ *Katzenbach*, 383 U.S. at 314.

⁷⁹ See, e.g., Brief for the States of New York, California, Mississippi, and North Carolina as *Amici Curiae* in Support of Respondents, at 3, *Shelby County, Ala. v. Holder*, No. 12-96 (U.S. 2013), (describing preclearance as “a streamlined administrative process” that “fosters governmental transparency” and “provides substantial benefits to covered States and localities”).

expensive and prolonged litigation.⁸⁰ As Travis County, Texas, wrote concerning its own preclearance obligations in a brief defending the constitutionality of Section 5 of the federal VRA in 2009: “If ever there were a circumstance where an ounce of prevention is worth a pound of cure, it is in the fundamental democratic event of conducting elections free of racially discriminatory actions.”⁸¹

Three Connecticut towns have experience complying with federal preclearance.⁸² Unlike the federal VRA, which required those towns to obtain preclearance for all voting-related changes, S.B. 1226 only requires preclearance for an enumerated set of changes that have been shown to have the potential for discriminatory outcomes.⁸³ Where warranted by current conditions, for example, S.B. 1226’s preclearance program would provide expert review of local election administration decisions, including polling-place designations or voting-machine allocations, to ensure they do not lead to long lines and unreasonable wait times.

To determine which jurisdictions are subject to the preclearance requirement, S.B. 1226 sets out a coverage framework consisting of five criteria, or “prongs.”⁸⁴ Each prong is directly tied to past discrimination or assesses other indicia that are relevant

⁸⁰ See, e.g., *id.* at 8-10.

⁸¹ See, e.g., Brief of Appellee Travis County, *Nw. Austin Municipal Utility District No. 1 v. Holder*, 08-322 at 11 (2009), https://campaignlegal.org/sites/default/files/FINAL_TRAVIS_COUNTY_BRIEF.pdf.

⁸² The towns of Groton, Mansfield, and Southbury were covered by Section 5 preclearance from 1970 to 1984. See Paul F. Hancock & Lora L. Tredway, *The Bailout Standard of the Voting Rights Act: An Incentive to End Discrimination*, 17 URBAN LAWYER 379, 396-97, 414 (Summer 1985).

⁸³ S.B. 1226 § 5(b).

⁸⁴ *Id.* § 5(c). Under this section, a municipality is covered for preclearance if:

- (1) The municipality “has been subject to any court order or government enforcement action” based on a voting rights or civil rights violation within the previous 25 years;
- (2) The municipality, “within the three immediately preceding years,” it has failed to comply with its duties under S.B. 1226’s Section 3, pertaining to the statewide database;
- (3) There are substantial racial disparities in the municipality’s misdemeanor and felony arrest rates;
- (4) The municipality has seen significant racial disparities in turnout between registered voters of color and other registered voters; or
- (5) The municipality, during the prior ten years, “was found to have enacted or implemented a covered policy without obtaining preclearance” when required to do so. *Id.*

to the question of whether the political process is equally accessible. Taken as a whole, the CTVRA's coverage formula serves to identify jurisdictions where recent violations or other indicia of discrimination substantially increase the risk of current or future problems. Critically, each prong is time-bound, only covering jurisdictions that meet its criteria within a certain number of years. This ensures that the coverage framework responds to current conditions. It also means that jurisdictions are not covered in perpetuity; instead, they can leave coverage automatically after a sustained period of nondiscriminatory voting administration.

While preclearance imposes a small compliance requirement on covered municipalities, it can also save covered municipalities significant time and money by identifying discriminatory policies before they are enacted, thereby avoiding subsequent litigation. Moreover, it will serve as a powerful prophylactic to prevent voting discrimination and promote fairness and equal access to the fundamental right to vote for Connecticut citizens.

B. Legal Tools to Address Voting Discrimination

Section 2 of Senate Bill 1226 provides voters of color, as well as organizations that represent or serve voters of color, with a private right of action against municipalities that adopt policies or practices that result in the denial or abridgment of minority votes or the dilution of minority voting strength. The bill incorporates practical improvements on federal law, modeled on provisions in similar state-level voting rights acts in New York and California, to make it easier for voters with meritorious voting rights claims to prove their cases in Connecticut state courts. Senate Bill 1126 also allows for additional enforcement of these measures by the Secretary of the State.

Voter suppression. Section 2(a) of SB 1126 provides an efficient and consistent framework for prosecuting voter suppression claims. SB 1126 allows voters of color to address practices that create barriers to people of colors' access to the ballot,

including, among other things, inaccessible or insufficient polling locations; wrongful voter purges; or improper election administration decisions or equipment allocations that lead to longer lines at polling places serving voters of color.⁸⁵ These provisions are especially important in Connecticut, where voters of color have routinely been affected by long lines at polling places.⁸⁶

Vote dilution. Section 2(b) provides an effective means of identifying and resolving racial vote dilution claims. Modeled on the success of the California Voting Rights Act, as well as measures enacted last year in New York, S.B. 1226 will create a clear and straightforward framework for contesting at-large municipal elections that dilute minority voting strength.⁸⁷ The bill also provides a practical framework for contesting unfair district-based or alternative methods of election, if those methods interact with the presence of racially polarized voting or other circumstances to impair equal voting rights and create a situation “in which the candidates or electoral choices preferred by protected class members would usually be defeated.”⁸⁸ S.B. 1226 will make this type of litigation less time-intensive and less costly than litigation under the federal VRA—not only for plaintiffs, but for jurisdictions and all parties.

Notification and safe harbor. Section 2(g) of SB 1126 contains important “safe harbor” and notification provisions that provide protections for municipalities who wish to prevent discrimination and work collaboratively with their constituents to resolve potential violations without litigation.⁸⁹ Prospective plaintiffs under SB 1126’s measures are required to notify municipalities in writing of any alleged violation *before* commencing any action in court. Municipalities are then afforded a “safe harbor” period during which they may take steps to cure the alleged violation without exposure to litigation. These provisions incentivize municipalities to resolve violations amicably, collaboratively, and practically outside of court.

⁸⁵ *Id.* § 2(a).

⁸⁶ DeRienzo, *supra* note 12.

⁸⁷ S.B. 1226 § 2(b)(2)(A)(i).

⁸⁸ *Id.* § 2(b)(2)(A)(ii).

⁸⁹ *Id.* § 2(g).

C. Protections Against Voter Intimidation

SB 1126 also provides Connecticut voters with a civil cause of action in state court against voter intimidation, deception, or obstruction.⁹⁰ The 2020 election demonstrated once again that voter intimidation is re-emerging as a significant problem across the country. Recent elections have seen extremists showing up at polling places heavily armed; truck caravans driving into Black and brown neighborhoods to intimidate voters; and police presence at several polling places in communities where the relationship with law enforcement is historically fraught.⁹¹

Connecticut is not immune from this concerning national trend and should remain vigilant. Black voters and other voters of color are particularly vulnerable and bore the brunt of voter intimidation in the 2020 election cycle.⁹² Accordingly, SB 1126 will provide voters with tools to protect themselves against these critical and growing threats. The bill gives any voter the right to sue a person or group engaging in “acts of intimidation, deception or obstruction that affect the right of voters to exercise their electoral privileges.”⁹³ This supplements protections in the federal VRA providing a civil cause of action for private individuals—enabling courts to “order appropriate remedies that are tailored to address [the] violation” and resolve the harms thus caused—that is not currently available under Connecticut law.⁹⁴ This private right of action would bolster and work in tandem with the enforcement powers of the State Election Enforcement Commission.

D. Language Assistance

Providing adequate election assistance to language minority voters has also been a problem in Connecticut—a state that enjoys significant language diversity. Federal

⁹⁰ S.B. 1226 § 6.

⁹¹ *Democracy Defended*, NAACP LEGAL DEF. FUND 12-14, 21-22 (Sept. 2, 2021), https://www.naacpldf.org/wp-content/uploads/LDF_2020_DemocracyDefended-1-3.pdf.

⁹² *See Defended*, NAACP LEGAL DEF. FUND 75-76 (Sept. 2, 2021), https://www.naacpldf.org/wp-content/uploads/LDF_2020_DemocracyDefended-1-3.pdf.

⁹³ S.B. 1226 § 6.

⁹⁴ *Id.* § 6(1).

law “covers those localities where there are more than 10,000 or over 5 percent of the total voting age citizens in a single political subdivision . . . who are members of a single language minority group, have depressed literacy rates, and do not speak English very well.”⁹⁵ Currently, only ten municipalities in Connecticut meet the federal criteria for Spanish and thus must provide language assistance in voting to Spanish-speaking voters.⁹⁶ As other states and localities (including California and New York)⁹⁷ have done, Connecticut can and should provide language assistance well above the federal statutory minimum. SB 1126 lowers the statutory threshold to cover a broader set of municipalities and enhances language assistance to better enfranchise language-minority voters.⁹⁸ SB 1126 also improves upon federal law by allowing for language assistance in any language where “a significant and substantial need exists,” even if the language for which assistance is needed is not covered by the federal VRA.⁹⁹

E. Public Database of Election Information

Finally, Section 3 of SB 1126 will establish a statewide, publicly accessible database of election information and demographic data, housed in the Office of the Secretary of the State. This database will increase transparency regarding the functioning of local democracy, facilitate evidence-based decision-making in local election administration, and assist voters, community organizations, election officials, and others in identifying and resolving potential voting rights issues.¹⁰⁰

The database will foster unprecedented transparency and facilitate evidence-based election administration across the state. Making this information will enable

⁹⁵ *Section 203 of the Voting Rights Act*, U.S. Dept. of Justice, <https://www.justice.gov/crt/language-minority-citizens> (last updated Mar. 11, 2020).

⁹⁶ Voting Rights Act Amendments of 2006, Determinations Under Section 203, 86 Fed. Reg. 69,613 (Dec. 8, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-12-08/pdf/2021-26547.pdf>. The ten municipalities are Bridgeport, East Hartford, Hartford, Meriden, New Britain, New Haven, New London, Norwalk, Waterbury, and Windham.

⁹⁷ See generally Ca. Sec’y of State, *Language Requirements for Election Materials*, <https://www.sos.ca.gov/elections/voting-resources/language-requirements>; NYVRA § 4; NYC Civic Engagement Commission, *Language Access Plan*, <https://www1.nyc.gov/site/civicengagement/about/language-access-plan.page>.

⁹⁸ S.B. 1226 § 4. Under the bill’s language-assistance provisions, a Connecticut municipality is covered if more than 4,000 or more than 2% of its total voting age citizens are members of a single language minority group and have limited English proficiency.

⁹⁹ *Id.* § 4(a); see Hansi Lo Wang, *A federal law requires translated voting ballots, but not in Arabic or Haitian Creole*, NPR (June 26, 2022), <https://www.npr.org/2022/06/24/1083848846/bilingual-ballots-voting-rights-act-section-203-explained>.

¹⁰⁰ S.B. 1226 § 3.

policymakers, election administrators, voters, community groups, scholars, civil rights advocates, and others to access the data and analyses they need to identify practices that undermine equal democracy and to develop ways to improve equitable access to the right to vote. It will provide voters with access to public information that can often be difficult to access, including redistricting maps in electronic format, Census and American Community Survey data on demographics, locations of polling places, anonymized voter files, and district-level election results.¹⁰¹ In concert with SB 1126's other landmark measures, the database will empower Connecticut voters and community groups to identify and resolve barriers to the franchise, while helping election administrators and local officials to understand and address such issues proactively.

F. Benefits of Equitable Voting Rights Protections

By enacting these measures in the CTVRA, Connecticut can turn the page on its discriminatory past and pave the way for a more equal future. Equitable voting rights protections, like those in the federal Voting Rights Act of 1965 (“federal VRA”) and other state-level voting rights acts, have had powerful effects in making the democratic process fairer, more equal, and more inclusive. These effects include reducing racial turnout disparities,¹⁰² making government more responsive to the needs and legislative priorities of communities of color,¹⁰³ and increasing diversity in government office,¹⁰⁴ so that elected representatives more fully reflect the communities they serve.

¹⁰¹ *Id.*

¹⁰² Zachary L. Hertz, *Analyzing the Effects of a Switch to By-District Elections in California*, MIT ELECTIONS LAB (July 19, 2021), https://electionlab.mit.edu/sites/default/files/2021-07/hertz_2020.pdf.

¹⁰³ Sophie Schlit & Jon C. Rogowski, *Race, Representation, and the Voting Rights Act*, 61 AMER. J. POL. SCI. 513 (July 2017).

¹⁰⁴ Loren Collingwood & Sean Long, *Can States Promote Minority Representation? Assessing the Effects of the California Voting Rights Act*, 57 URBAN AFF. REV. 731, 757 (2021), https://www.collingwoodresearch.com/uploads/8/3/6/0/8360930/cvra_project.pdf; see Pei-te Lien et al., *The Voting Rights Act and the Election of Nonwhite Officials*, 40 POL. SCI. & POL. 489 (July 2007) <https://www.jstor.org/stable/20452002>; Paru R. Shah et al., *Are We There Yet? The Voting Rights Act and Black Representation on City Councils, 1981-2006*, 75 J. POL. 993 (2013).

There is also evidence that measures like those in the CTVRA can have powerful, downstream benefits in economic equality and health. For example, researchers have concluded that the federal VRA's preclearance program, by making elected officials more accountable to Black voters, brought about improvements in governmental policy and hiring practices that "reduced the wage gap between [B]lack and white workers by around 5.5 percentage points" in covered counties.¹⁰⁵ Recent analyses show that incremental improvements in diversity in local representation translate into more equitable educational and policy outcomes.¹⁰⁶ And Professor Thomas A. LaVeist of Tulane University, in a landmark study, identified the federal VRA as a causal factor in reducing infant mortality in Black communities where the law's protections had led to fairer representation of Black voters' preferred candidates.¹⁰⁷ For these reasons, the American Medical Association has recognized voting rights as a social determinant of health and declared support for "measures to facilitate safe and equitable access to voting as a harm-reduction strategy to safeguard public health."¹⁰⁸

In short, the CTVRA can have significant, potentially transformative benefits for democracy and society in this state.

G. Conclusion

¹⁰⁵ Abhay P. Aneja & Carlos F. Avenancio-León, *The Effect of Political Power on Labor Market Inequality: Evidence from the 1965 Voting Rights Act* 3, WASH. CTR. EQUITABLE GROWTH, Working Paper Series (Oct. 2020), <https://equitablegrowth.org/working-papers/the-effect-of-political-power-on-labor-market-inequality-evidence-from-the-1965-voting-rights-act/>; see also Abhay P. Aneja & Carlos F. Avenancio-León, *Disenfranchisement and Economic Inequality: Downstream Effects of Shelby County v. Holder*, 109 AEA PAPERS & PROCEEDINGS 161 (May 2019).

¹⁰⁶ See, e.g. Vladimir Kogan et al., *How Does Minority Political Representation Affect School District Administration and Student Outcomes*, EDWORKINGPAPERS (June 19, 2020), <https://www.edworkingpapers.com/ai20-244> (discussing "evidence that increases in minority representation lead to cumulative achievement gains . . . among minority students"); Brett Fischer, *No Spending Without Representation: School Boards and the Racial Gap in Education Finance* (Mar. 20, 2020), <https://ssrn.com/abstract=3558239> (presenting "causal evidence that greater minority representation on school boards translates into greater investment in minority students").

¹⁰⁷ Thomas A. LaVeist, *The Political Empowerment and Health Status of African-Americans: Mapping a New Territory*, 97 AM. J. SOC. 1080 (Jan. 1992).

¹⁰⁸ American Medical Association, *Support for Safe and Equitable Access to Voting H-440.805* (2022), <https://policysearch.ama-assn.org/policyfinder/detail/voting?uri=%2FAMADoc%2FHOD.xml-h-440.805.xml>; see also Anna K. Hing, *The Right to Vote, The Right to Health: Voter Suppression as a Determinant of Racial Health Disparities*, 12 J. HEALTH DISPARITIES RES. & PRACTICE 48 (2019), <https://digitalscholarship.unlv.edu/jhrp/vol12/iss6/5>.

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.¹⁰⁹ Black voters, and other protected class voters, in worst, for voting options. 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.

The provisions in Senate Bill 1226 will make voting fairer and more accessible to everyone in Connecticut. The price of inaction to protect the voting rights of Connecticut residents is high, and history offers myriad examples demonstrating its cost to the nation. Historical and current evidence shows that the right to vote remains in threat for many. Connecticut must be a leader in eradicating discrimination at the ballot box, and Senate Bill 1226 would be a major step in that effort. The ACLU-CT strongly supports Senate Bill 1226, and urges this Committee to do the same.

¹⁰⁹ See Bill Theobald, *The 6 Toughest States for Voting During the Pandemic*, FULCRUM (Apr. 29, 2020), available at <https://thefulcrum.us/voting/votingduringcoronavirus>.