



April 5, 2021

Hon. Kathleen Passidomo, Chair, and Members of the Senate Committee on Rules
404 South Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 90 – Most Recent Signature Rule

Dear Committee Members:

We write to express our firm opposition to Senate Bill 90, and specifically the “most recent signature” provisions, which would prohibit election authorities from consulting any signature on file from the voter other than the most recent signature. These provisions directly contradict best practices for reliable signature matching established by forensic experts and Florida election officials.

If enacted, Senate Bill 90 will lead to higher rates of erroneous ballot rejections, and thus unjustly disenfranchise eligible voters across Florida. These erroneous rejections will also disproportionately affect senior voters, young voters, voters of color, voters with disabilities, and voters who learned English as a second language.

As organizations committed to protecting the democratic process, we urge you to oppose Senate Bill 90 and reject this attempt to establish a dangerously unreliable signature matching process that experts and Florida election authorities unanimously denounce.

I. Senate Bill 90’s most recent signature rule contravenes best practices established by forensic experts and Florida election officials.

Senate Bill 90 forces election officials to consult only the “most recent signature” on file while canvassing vote-by-mail ballots and vote-by-mail ballot cure affidavits.¹ This change would be a radical departure from current law. Under Florida’s current system election officials have the authority to review multiple signatures on file—not just the most recent signature—when canvassing vote-by-mail ballots. Importantly, as Florida election officials have pointed out, for many voters in Florida, their

¹ See S.B. 90 § 4 (2021), <https://www.flsenate.gov/Session/Bill/2021/90/BillText/c2/PDF>.

most recent signature could be one they wrote on an electronic touchscreen while standing in line during in-person voting in a prior election or during a visit to the DHSMV.²

Senate Bill 90's most recent signature rule directly contradicts best practices established by forensic experts and Florida election officials. There is broad consensus among forensic experts that “[a]t minimum *several* signature samples are required for accurate signature determination.”³ This is necessary to “account for an individual’s signature variability,”⁴ since it is common for people to have variations in their legitimate signature due to differences in writing conditions. These differences include changes in writing instrument, surface, position, and speed, as well as changes in level of concentration, age, and health.⁵ Many people also use different “styles” of signatures “based on the type of document that is being signed.”⁶ Indeed, anyone who has signed a document using an electronic touchscreen while standing in line can attest to the differences in their signature caused by changes in writing conditions and the type of document being signed.

The forensic expert hired by the Florida Department of State to host a state-wide training for supervisors of elections and canvassing board members before the November 2020 election espoused these same principles. As he put it during the training, “No one writes exactly the same way twice.”⁷

That is why forensic experts and Florida election officials agree: comparing only *two* signatures—as Senate Bill 90 would require election officials to do—is a dangerously unreliable signature matching process.⁸ It prohibits election officials from comparing a range of legitimate signatures from the voter (including the voter’s most recent signature on file), and instead forces them to examine only two of those signatures, which may have been written under substantially different writing conditions.

² See *Florida Supervisors of Elections Statement on PCB-PIE 21-05*, Florida Supervisors of Elections (Mar. 22, 2021), https://www.myfloridaelections.com/portals/fsase/Documents/Public%20Policy/FSE_Statement_032221.pdf [hereinafter “March 22, 2021 Statement of Florida Supervisors of Elections”].

³ See Declaration of Dr. Linton A. Mohammed, *League of Women Voters of New Jersey v. Way*, No. 20-cv-05990-MAS-LHG, ECF No. 163 at 7 (D.N.J. 2020) (expert report from a Forensic Document Examiner certified by the American Board of Forensic Document Examiners, professor at Oklahoma State University, former Senior Document Examiner for the San Diego Sheriff’s Department Regional Crime Laboratory, and former Technical Lead of the Questioned Documents Section of the Regional Crime Laboratory) (emphasis added) [hereinafter “*League of Women Voters of New Jersey v. Way*, Expert Report from Dr. Mohammed”]; Ordway Hilton, *A Further Look at Writing Standards*, 56 J. CRIM. L. CRIMINOLOGY, & POL. SCI. 382, 383 (1965) (recommending a minimum of ten signature samples for accurate signature comparison determinations), <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=5325&context=jclc>.

⁴ *League of Women Voters of New Jersey v. Way*, Expert Report from Dr. Mohammed, *supra* note 3, at 7.

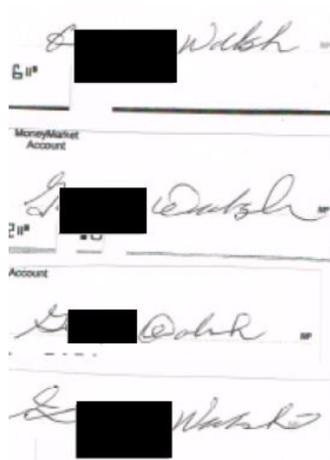
⁵ See ROY HUBER & A.M. HEADRICK, *HANDWRITING IDENTIFICATION: FACTS AND FUNDAMENTALS* 49-54 (2017) (identifying twenty common reasons why an individual’s signature may exhibit variations); *League of Women Voters of New Jersey v. Way*, Expert Report from Dr. Mohammed, *supra* note 3, at 14 (citing HUBER & HEADRICK, *supra*).

⁶ *Richardson v. Texas Sec’y of State*, 485 F. Supp. 3d 744, 780 (W.D. Tex. 2020).

⁷ See Adam Walser, *Florida Election Officials Receive little Training and Are Not Tested in Signature Matching*, ABC Action News (Oct. 5, 2020), (statement by Tom Vastrick, forensic expert hired by Florida Department of State, during the training) <https://www.abcactionnews.com/news/local-news/i-team-investigates/florida-election-officials-receive-little-training-and-are-not-tested-in-signature-matching>.

⁸ See, e.g., *League of Women Voters of New Jersey v. Way*, Expert Report from Dr. Mohammed, *supra* note 3, at 7, 11 (citing Hilton, *supra* note 3, at 383).

To illustrate this point, the figure below shows four signatures of one individual (redacted) that exhibit variations, which could easily be mistaken as signatures written by different individuals if compared only in pairs.⁹



Given the prevalence of these variations and the potential for significant differences in writing conditions across any two signatures on file, it is basic common sense to review multiple signatures from a voter rather than just two when trying to conduct accurate signature matching.

Florida supervisors of elections have expressed unanimous opposition to the most recent signature rule for these very reasons. In a statement issued by the Florida Supervisors of Elections, which represent supervisors of elections from all 67 of Florida’s counties, the supervisors spoke out against the most recent signature rule currently in House Bill 7041, which mirrors the rule in Senate Bill 90—calling it a “disservice to the voter.”¹⁰ In fact, the Florida Supervisors of Elections listed the most recent signature rule as their *number one* concern (among many) with the proposed changes to Florida’s election laws. Specifically, they stated:

1. Restricting signature verification to the most recent signature on file is a disservice to the voter, whose most recent signature may be an electronic signature issued during in-person voting or at DHSMV. Retaining the authority to review multiple signatures on file, including those that were signed on paper, provides for a more accurate signature verification process.¹¹

In this way, deliberately choosing to limit the number of legitimate signatures that an election official may consult to just *two* not only goes against the consensus of forensic experts and Florida officials; it defies common sense. Unless the goal is to increase the number of erroneous ballot rejections for eligible voters, there is no reason to prohibit officials from consulting other legitimate signatures of the voter on file.

II. Senate Bill 90’s most recent signature rule will increase erroneous ballot rejections and unjustly disenfranchise eligible voters.

There is a reason that Florida supervisors of elections unanimously oppose the most recent signature rule: enacting such a rule would unjustly disenfranchise eligible voters across Florida.

⁹ *Id.* at 11.

¹⁰ March 22, 2021 Statement of Florida Supervisors of Elections, *supra* note 2, at 1.

¹¹ *Id.*

As a threshold matter, it is important to recognize that the officials tasked with conducting signature matching in Florida are laypeople. They do not have expert training in forensic document examination; nor do they have prior experience with handwriting analysis in nearly all cases. Moreover, the Florida Department of State only offers cursory state-wide training on signature matching. In the lead up to the November 2020 election, for instance, this training lasted for less than 2 hours and did not test the officials on their retention of what they had learned, or their ability to differentiate legitimate and illegitimate signatures correctly.¹² County supervisors of elections can arrange for supplemental training, but they are not required to do so.¹³

As studies have shown, laypeople already have much higher rates of erroneous rejections than forensic document experts, even when they are permitted to review multiple signatures.¹⁴ Restricting Florida layperson canvassers to *one* signature for comparison will only increase the number of erroneous rejections, as experts and Florida election officials have warned.¹⁵

Put simply, enacting Senate Bill 90 will deny more eligible voters the fundamental right to vote, without improving the accuracy of signature matching. To the contrary, limiting canvassers to the most recent signature will severely undermine the accuracy of signature verification. Deliberately choosing to enact such a system violates democratic principles and common sense.

III. These provisions will disproportionately disenfranchise senior voters, young voters, voters of color, voters with disabilities, and voters who learned English as a second language.

Senate Bill 90's most recent signature rule will disproportionately affect certain voters in Florida who already face barriers to voting—namely, senior voters, young voters, voters of color, voters with disabilities, and voters who learned English as a second language. Studies have shown that “elderly writers, disabled writers, and writers with health conditions tend to have less pen control than most other writers.”¹⁶ As a result they have “greater range of variation in their signatures,” which “only compounds laypersons’ tendencies to err on the side of incorrectly finding authentic signatures to be non-genuine.”¹⁷ Similarly, “young voters (ages 18 to 25) are not likely to have fully developed signatures.”¹⁸ These groups are therefore significantly more likely to experience erroneous ballot rejections due to a most recent signature rule.¹⁹

¹² See Adam Walser, Florida Election Officials Receive little Training and Are Not Tested in Signature Matching, ABC Action News (Oct. 5, 2020), <https://www.abcactionnews.com/news/local-news/i-team-investigates/florida-election-officials-receive-little-training-and-are-not-tested-in-signature-matching>.

¹³ *Id.*; see also Fl. Stat. § 97.012(17) (requiring the Secretary of State to “[p]rovide formal signature matching training to supervisors of elections and county canvassing board members”).

¹⁴ See *League of Women Voters of New Jersey v. Way*, Expert Report from Dr. Mohammed, *supra* note 3, at 9-10 (citing M. Kam et al., *Signature Authentication by Forensic Document Examiners*, 46 J. FORENSIC SCI. 884, 884-88 (2001)). One study found that laypersons are more than 3.5 times more likely to declare an authentic signature non-genuine (i.e., erroneously reject a legitimate signature). See *id.*

¹⁵ *Id.* at 7, 10; March 22, 2021 Statement of Florida Supervisors of Elections, *supra* note 2, at 1.

¹⁶ See *League of Women Voters of New Jersey v. Way*, Expert Report from Dr. Mohammed, *supra* note 3, at 14-15 (citing Ordway Hilton,

¹⁷ *Id.*

¹⁸ *League of Women Voters of New Jersey v. Way*, Expert Report from Dr. Mohammed, *supra* note 3, at 16 (citing R.A. HUBER & A.M. HEADRICK, *HANDWRITING IDENTIFICATION: FACTS AND FUNDAMENTALS* (1999)).

¹⁹ *Id.*

Voters of color in Florida also face a greater risk of wrongful disenfranchisement from Senate Bill 90's most recent signature rule. In the 2020 general election, "Black voters, Hispanic voters, and other racial and ethnic voters . . . were at least 60 percent more likely to have their VBM ballots initially rejected compared to white voters."²⁰ Enacting a rule that is known to decrease the accuracy of signature matching and increase erroneous ballot rejections will only exacerbate the disproportionate and unjust burden imposed on Floridian voters of color.

Senate Bill 90's most recent signature rule will likewise disproportionately disenfranchise voters who learned English as a second language. "Since signatures are developed as a motor program in the brain, the signatures of writers for whom English is a second language are more likely to exhibit wide ranges of variation, as these writers will have to discard their former learned motor program and develop a new one for their new signature style."²¹ Due to these higher rates of variation, forcing election officials to consult only one other signature on file while conducting signature verification will significantly increase the risk of erroneous ballot rejections for communities that learned English as a second language.

According to the Census Bureau, nearly one out of every three residents in Florida speak a language other than English at home.²² That number is even higher for certain counties. For instance, in Broward County, 41% of residents speak a language other than English at home.²³ And, in Miami-Dade County, which is home to over 2.7 million Floridians, a staggering 75% of all residents speak a language other than English at home.²⁴ Other counties where more than one-third of residents speak a language other than English at home include: Collier,²⁵ Hendry,²⁶ and Orange County.²⁷

This Committee should not support a bill that would needlessly disenfranchise these communities across Florida. For these reasons, we urge the Committee to reject Senate Bill 90.

Sincerely,

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²⁰ Daniel A. Smith, *Casting Rejecting, and Curing Vote-by-Mail Ballots in Florida's 2020 General Election*, All Voting is Local 11 (Feb. 16, 2021), https://225egw40g2k99t0ud3pbf2ct-wpengine.netdna-ssl.com/wpcontent/uploads/2021/03/031121_FL_VBM-Report_final.pdf.

²¹ *League of Women Voters of New Jersey v. Way*, Expert Report from Dr. Mohammed, *supra* note 3, at 16.

²² According to the U.S. Census Bureau American Community Survey for 2015-2019, 29.4% of residents in Florida over the age of 5 speak a language other than English at home. U.S. Census Bureau, *Quick Facts: Florida* (last viewed Apr. 2, 2021), <https://www.census.gov/quickfacts/FL>.

²³ U.S. Census Bureau, *Quick Facts: Broward County* (last viewed Apr. 2, 2021) (41.3% of residents over the age of 5 speak a language other than English at home), <https://www.census.gov/quickfacts/browardcountyflorida>.

²⁴ U.S. Census Bureau, *Quick Facts: Miami-Dade County*, Florida (last viewed Apr. 2, 2021) (79.4% of residents over the age of 5 speak a language other than English at home), <https://www.census.gov/quickfacts/fact/table/miamidadecountyflorida/POP060210>.

²⁵ U.S. Census Bureau, *Quick Facts: Collier County* (last viewed Apr. 2, 2021) (33.7% of residents over the age of 5 speak a language other than English at home) <https://www.census.gov/quickfacts/fact/table/colliercountyflorida/PST045219>.

²⁶ U.S. Census Bureau, *Quick Facts: Hendry County* (last viewed Apr. 2, 2021) (48.8% of residents over the age of 5 speak a language other than English at home) <https://www.census.gov/quickfacts/hendrycountyflorida>.

²⁷ U.S. Census Bureau, *Quick Facts: Hendry County* (last viewed Apr. 2, 2021) (36.9% of residents over the age of 5 speak a language other than English at home), <https://www.census.gov/quickfacts/orangecountyflorida>.

ACLU of Florida

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