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Government, Labor, and Elections Committee
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Testimony of Campaign Legal Center in Support of House Bill 219 with Sponsor Amendments

I. INTRODUCTION

Campaign Legal Center ("CLC") is pleased to offer this testimony in support of House Bill 219 ("H.B. 219"). H.B. 219 codifies essential protections against voter intimidation and voter suppression in local election systems and, in doing so, enacts core components of a state-level voting rights act.

CLC is a nonpartisan, nonprofit organization dedicated to advancing democracy through law. Through its extensive work on redistricting and voting rights, CLC seeks to ensure that every United States resident receives fair representation at the federal, state, and local levels. CLC supported the enactment of state voting rights acts in Washington, Oregon, Virginia, New York, Connecticut, Minnesota, and Colorado. It also brought the first-ever lawsuits under the Washington Voting Rights Act in Yakima County, Washington, and under the Virginia Voting Rights Act in Virginia Beach, Virginia.

CLC strongly supports H.B. 219 because it will enable historically disenfranchised communities across Maryland to protect their right to participate equally in the election of their representatives. The bill will fill critical gaps in Maryland law, which currently does not contain a civil cause of action for victims of voter intimidation, or any statutory protection against voter suppression in local election systems. CLC's testimony will highlight how H.B. 219 offers greater protections against voter intimidation and suppression than the current federal framework under the Voting Rights Act of 1965.

II. BACKGROUND

States can offer new hope for voters by adopting state voting rights acts that improve upon their federal counterpart. By passing H.B. 219, Maryland can craft more effective voting rights protections and empower historically disenfranchised communities to enforce their rights in state courts.

The federal VRA was one of the most transformative pieces of civil rights legislation ever passed. Section 2 of the federal VRA prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in a language minority group. The 1982 amendments to Section 2, which allowed litigants to establish a violation of the VRA without first proving discriminatory intent, created a "sea-change in descriptive representation" across the country.[1] Likewise, Section 11(b) of the Voting Rights Act of 1965 codified strong protections against voter intimidation, broadening laws enacted after the Civil War to address the scourge of racial and political violence.[2]

Despite its potential, litigating federal VRA cases, especially under Section 2, is still "expensive and unpredictable."[3] Plaintiffs must collect vast amounts of extraneous evidence as part of Section 2's totality-of-the-circumstances analysis, and litigation often devolves into protracted disputes about what the law requires in the first place, given Section 2's sparse text and sometimes contradictory case law. As a result, these cases require extended discovery, lengthy trials, and exorbitant costs for litigants and taxpayers alike. Given the heavy burden of litigating claims under Section 2, many vote dilution violations go unaddressed. States can address this problem by codifying parallel protections in state law that are clearer and more workable to enforce.

The steady erosion of voting rights guarantees at the federal level also underscores the need for state-level protections. Since the U.S. Supreme Court's 2013 decision in *Shelby County v. Holder*,[4] jurisdictions with histories of discrimination have been able to implement restrictive voting policies, including suppressive election systems, without federal oversight. In *Brnovich v. Democratic National Committee*, the Court further weakened Section 2 of the federal VRA by several new burdensome requirements to prove vote denial, making it even harder for voters to challenge

[1] Michael J. Pitts, *The Voting Rights Act and the Era of Maintenance*, 59 Ala. L. Rev. 903, 920-22 (2008).
[2] Ben Cady & Tom Glazer, *Voters Strike Back: Litigating Against Modern Voter Intimidation*, 39 N.Y.U. Rev. of L. & Soc. Change 173, 190 (2015).
[3] Christopher S. Elmendorf & Douglas M. Spencer, *Administering Section 2 of the Voting Rights Act After* Shelby County, 115 Colum. L. Rev. 2143, 2157 (2015).
[4] 570 U.S. 529 (2013).

suppressive and discriminatory laws in court.[5] As a result, not one Section 2 challenge since *Brnovich* has succeeded to a final judgment. And in *Turtle Mountain Band of Chippewa Indians et al., v. Howe* and other cases, voting rights opponents are now asking the Court to find that private individuals cannot file suit at all under Section 2, leaving them without the ability to enforce their own voting rights.

At the same time, Congress has not acted to restore or strengthen the federal VRA, failing repeatedly to pass the much-needed John R. Lewis Voting Rights Advancement Act. And the current presidential administration has dismantled the voting rights enforcement arm of the Civil Rights Division of the U.S. Department of Justice.[6] These developments have left millions of voters vulnerable to vote suppression and intimidation.[7] In response to this national landscape, states must step in and ensure their voters have the legal tools necessary to defend their freedom to vote.

Momentum for state VRAs is growing. California (2002), Washington (2018), Oregon (2019), Virginia (2021), New York (2022), Connecticut (2023), Minnesota (2024), and Colorado (2025) have already enacted such protections, while states like New Jersey, Florida, Michigan, and Alabama are working to follow suit. Maryland should take advantage of this opportunity and join these other states in ensuring all of its voters have equal access to the democratic process.

H.B. 219 will provide Marylanders with more reliable, effective, and efficient mechanisms to enforce their voting rights, saving the state time and money while ensuring equal access to the democratic process.

III. REASONS TO SUPPORT H.B. 219

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[5] 594 U.S. 647 (2021).

[6] Gina Feliz, *The Justice Department is Shirking Its Responsibility to Voters*, Brennan Ctr. for Justice (June 10, 2025), https://www.brennancenter.org/our-work/analysis-opinion/justice-department-shirking-its-responsibility-voters.

[7] These protections are especially critical at a time when political intimidation is on the rise, nationally and in Maryland. *See* Pamela Wood, *Here's what we know about bomb threats at Maryland elections offices*, Baltimore Banner (Nov. 11, 2024), https://www.thebanner.com/politics-power/state-government/maryland-election-bomb-threats-AAMRPBPQ45CRZJSFH2UN5WVBLI/; Bennett Leckrone, *Montgomery Election Officials Plan Patrols to Prevent, Stop Voter Intimidation*, Maryland Matters (Oct.1, 2020), https://www.marylandmatters.org/2020/10/01/montgomery-election-officials-plan-patrols-to-prevent-stop-voter-intimidation/; *Frederick man charged with voter intimidation*, WDVM (Feb. 24, 2021), https://www.localdvm.com/news/maryland/frederick-man-charged-for-voter-intimidation/; *How the MDVRA Fights Voter Intimidation, Deception & Obstruction*, https://static1.squarespace.com/static/6782c6faafa23d688ee28283/t/697d27f73c3eba5496196c59/1769809911935/2025+12+05+MD+VRA+Voter+Intimidation.pdf (last visited Feb. 9, 2026).

H.B. 219 innovates on the federal VRA, as well as other state VRAs, by providing voters with better tools to challenge intimidating acts and discriminatory policies. First, it provides voters with clear and robust civil protections against voter intimidation, deception, and obstruction, including contemporary forms of intimidation driven by new technologies. Second, it establishes an effective framework for identifying and remedying vote suppression, giving courts, voters, and local governments predictable standards grounded in anti-discrimination law. Third, it reduces the need for costly and protracted litigation by allowing jurisdictions to proactively remedy violations through notice and safe-harbor provisions. And finally, it provides guidance to Maryland courts to ensure laws and procedures governing elections are interpreted consistent with the fundamental right to vote under the state constitution.

A. H.B. 219 provides voters civil protection against voter intimidation, deception, and election obstruction.

H.B. 219 enables voters who are victims of voter intimidation, deception, or obstruction to file a civil lawsuit to obtain ongoing relief and monetary damages for interference with their right to vote. §§ 15.3-201, 15.3-202, and 15.3-203.

These provisions supplement the protections of Section 11(b) of the federal VRA by establishing clear, detailed, and enforceable civil prohibitions against voter intimidation, deception, and obstruction under state law, ensuring that these protections remain durable and available to Maryland voters regardless of changes in federal law. H.B. 219, by its terms, also builds on the federal VRA by addressing contemporary forms of voter intimidation and deception that have emerged with new technologies, including the rapid rise of mis- and disinformation through the internet and artificial intelligence.

H.B. 219 likewise complements Maryland's existing criminal prohibition on voter intimidation. Current Maryland law makes it a crime to use "force, threat, menace, [or] intimidation" to interfere with an individual's right to vote or register to vote. Md. Ann. Code, Elec. Law, §§ 16-101, 16-201. But criminal enforcement depends entirely on prosecutorial discretion and limited public resources, and it provides no direct avenue for voters themselves to seek relief. H.B. 219 provides a civil option that allows victims of voter intimidation, deception, and obstruction to enforce their own rights, seek timely injunctive relief, and recover damages to compensate for the harm already suffered.

With the anticipated sponsor's amendments, H.B. 219 provides additional guidance to courts by illustrating the types of conduct that could violate § 15.3-201's

general prohibition on voter intimidation. § 15.3-202. CLC supports the sponsor's amendment to clarify that the list in § 15.3-202 is illustrative, not exhaustive.

B. H.B. 219 provides a framework for determining vote suppression violations that is clear for courts and voters alike.

H.B. 219 provides a stronger standard for proving that a challenged practice denies or impairs a protected class's access to the ballot. Every enacted state VRA affirms the right to vote without facing discriminatory election rules and practices, often referred to as "vote denial" or "voter suppression." While the federal VRA once provided strong protections against these tactics, the U.S. Supreme Court has significantly weakened its enforcement, making it increasingly difficult to challenge more sophisticated forms of voter suppression. H.B. 219 fills this gap.

Under the federal VRA, voters may challenge practices that "result in a denial or abridgement" of the right to vote because of race or color. 52 U.S.C. § 10301. The Supreme Court, however, greatly limited the kinds of claims that voters could make in *Brnovich*. Specifically, the Supreme Court set forth additional "guideposts" for proving vote denials that will make Section 2 claims even more costly and time-consuming to litigate. *Brnovich*, 594 U.S. at 666. Furthermore, the lack of clarity provided in *Brnovich* leaves federal courts in the lurch about the appropriate way to interpret vote denial claims under Section 2.

H.B. 219, however, establishes a clear, consistent standard that benefits voters, local governments, and courts. To establish a vote suppression violation, plaintiffs must show that the challenged actions result, are likely to result in, or are intended to result in a material disparity between members of a protected class and other eligible electors with respect to voter participation, voting opportunities, or the opportunity or ability to participate in the political process. § 15.3–301(A). After that showing has been made, the burden then shifts to the political subdivision to demonstrate by clear and convincing evidence that the challenged action is necessary to further a compelling government interest. § 15.3–301(B)(1). Even where the burden has been met, the challenged action may still be invalid if the government fails to show there is no alternative that results in a smaller disparity between members of a protected class (or classes) and other members of the electorate, sometimes referred to as the least restrictive means of achieving the identified interest. § 15.3–301(B)(2).

The bill makes clear that the above analysis should take into account relevant local context, including whether the protected class at issue is vulnerable to a risk of voting discrimination in light of the history of discrimination against members of that group and the extent to which the group continues to face barriers, disparities, or hostility in political life. § 15.3–301(C). The bill also expressly undoes the damaging

effects of the Supreme Court's *Brnovich* decision by prohibiting consideration of its irrelevant, claim-preclusive "guideposts." § 15.3–301(D).

This burden-shifting framework for assessing vote suppression is similar to the framework used in nearly all anti-discrimination statutes, as well as other state VRAs (e.g., the Colorado VRA). This standard is an important way that H.B. 219 demonstrates respect for local control of elections. Unlike the Supreme Court's decision in *Brnovich* interpreting the federal VRA, this standard gives a political subdivision an opportunity to justify the change and to respond to plaintiffs' claims. Political subdivisions maintain local control, so long as any action that results in a material disparity furthers a compelling governmental interest and is the least restrictive means of doing so.

C. H.B. 219 avoids lengthy litigation by allowing jurisdictions to proactively remedy potential vote suppression violations.

Under H.B. 219, a prospective plaintiff must send a jurisdiction written notice of a violation and wait 60 days before bringing a voter suppression lawsuit. § 15.3-303(B). During that time or before receiving any notice, the jurisdiction may remedy a potential violation on its own initiative and gain safe harbor from litigation for at least 150 days. § 15.3-303(B)(4)(III). H.B. 219 recognizes that many jurisdictions will seek to enfranchise historically disenfranchised voters by remedying potential violations. In doing so, these notice and safe-harbor provisions allow jurisdictions to avoid the costs and delay of lengthy litigation.

H.B. 219 also provides for limited cost reimbursement for pre-suit notices, in recognition of the fact that notice letters often require community members to hire experts to perform statistical analysis, and to ensure that such expenses do not prevent people from enforcing their civil rights. § 15.3-304. Similar provisions are already part of voting rights acts in California, Oregon, New York, Connecticut, Minnesota, and Colorado.

In contrast, the federal VRA does not include any such pre-suit notice requirement. As a result, violations can only be resolved through time- and resource-intensive litigation, the cost of which is often later borne by Maryland taxpayers. This innovation on the federal VRA will encourage local governments to work with voters to remedy violations proactively, thus bypassing lengthy and costly litigation.

D. H.B. 219 provides guidance to Maryland courts as they exercise discretion and interpret laws, policies, procedures, or practices that govern or affect voting.

H.B. 219 specifies that judges should exercise discretion and liberally construe voting laws in favor of protecting the right to vote. § 15.3-102, 15.3–103. This language fulfills the Maryland Constitution's promise "[t]hat the right of the People to participate in the Legislature is the best security of liberty and the foundation of all free Government; for this purpose, elections ought to be free and frequent; and every citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage." Md. Const., Declaration of Rights, Art. 7.

H.B. 219's instruction to courts to exercise discretion and construe laws in favor of the right to vote is in line with the spirit of the Maryland Constitution. This clarification provides a default pro-voter rule for judges exercising procedural discretion and interpreting statutes, rules, and regulations that govern or affect voting, which will reduce litigation costs by avoiding unnecessary arguments over statutory interpretation. State VRAs in Washington, New York, Connecticut, Minnesota, and Colorado contain a similar instruction.

IV. CONCLUSION

Every Maryland voter deserves the right to an equal and uninhibited vote. H.B. 219 is an opportunity for Maryland to lead the nation in strengthening voting rights and protections at the local level. We strongly urge this committee to issue a favorable report for H.B. 219 with the sponsor's amendments.

Respectfully submitted,

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