



**Testimony for the House Ways and Means Committee
March 9, 2021**

HB 1020 – “Election Law – Curbside Voting – Establishment”

Good afternoon. My name is Hayden Johnson, and I am testifying today in support of HB 1020.

I am a voting rights lawyer at Campaign Legal Center (“CLC”), a nonprofit organization dedicated to protecting and strengthening the democratic process across all levels of government. Since the organization’s founding in 2002, CLC has participated in major voting rights, redistricting, and campaign finance cases before the U.S. Supreme Court as well as federal and state courts across the country. CLC complements these efforts by working with lawmakers to promote federal, state, and local policy that advances democratic reform and improves access for voters. The curbside voting reforms in HB 1020 would make the voting process easier for Marylanders who may have more difficulty accessing their polling location. Curbside voting provides a safe and convenient method for casting a ballot, and would not impose significant administrative burdens on election officials.

First, as a lawyer, I’ll start with the legal framework. Our federal law favors making democracy accessible. Under the U.S. Supreme Court’s 1983 decision in *Anderson v. Celebrezze*, the First and Fourteenth Amendments of the U.S. Constitution prohibit states from unreasonably burdening their citizens’ fundamental right to vote. Courts have strongly applied the Constitution’s guarantees to enforce equal access for voters who face greater difficulty participating in the political process. Title II of the Americans with Disabilities Act (“ADA”) also requires state and local governments to ensure that voters with disabilities have a full and equal opportunity to vote. The ADA’s provisions apply to all aspects of voting, including registration, site selection, and the casting of ballots, whether on Election Day or during the early voting period. Likewise, the Voting Accessibility for the Elderly and Handicapped Act of 1984 (“VAEHA”) requires accessible polling places in federal elections for elderly individuals and people with disabilities. In circumstances where there are no accessible locations to serve as a polling place, voters must be provided an alternate means of voting on Election Day. Finally, the Help America Vote Act of 2002 (“HAVA”) also requires jurisdictions conducting federal elections to provide at least one accessible method of voting for persons with disabilities at each polling location.

The curbside voting provisions in HB 1020 are in keeping with these objectives in federal law, and the U.S. Department of Justice recommends curbside voting as an accommodation for voters with disabilities.¹ Establishing curbside voting helps to promote fair and equal participation in the political process for voters who may have more difficulty accessing polling places.

¹ See *Solutions for Five Common ADA Access Problems at Polling Places*, U.S. DEPARTMENT OF JUSTICE, available at https://www.ada.gov/ada_voting/voting_solutions_ta/polling_place_solutions.htm (last visited March 5, 2021); *Project Civic Access Fact Sheet*, U.S. DEPARTMENT OF JUSTICE, available at <https://www.ada.gov/civifac.htm> (last visited March 5, 2021).

For many of the same reasons, curbside voting is also good policy. Curbside voting would increase participation in Maryland’s vibrant democracy and accommodate voters who experience additional hardship waiting in lines and navigating certain polling locations.

Curbside voting is also feasible. Over half of states permit curbside voting on a regular basis and have been able to do so with the efficient use of government resources.² That includes Maryland’s neighbors in Virginia and the District of Columbia; both jurisdictions have used curbside voting options to ease the burdens on voters who may have trouble accessing polling sites.³ Even more states and localities have successfully used curbside voting for elections occurring during the COVID-19 pandemic, further proving that it is a safe and administrable option for expanding access to the franchise. For example, Harris County, Texas implemented a drive-through voting program during the early voting period last year that enabled over 127,000 Texans—about 10% of all in-person ballots cast in the county—to safely and efficiently exercise their right to vote.

HB 1020 would accomplish these substantial policy benefits of curbside voting. The bill provides a framework for establishing curbside options in a way that accounts for the realities of different polling places. It also gives election officials flexibility to locate, implement, and advertise individual curbside voting processes based on the needs at a particular voting site. At the same time, HB 1020 ensures that curbside voters are able to cast their ballots in a safe and protected manner.

Curbside voting is not a replacement for absentee or traditional in-person polling place voting, both on Election Day and during the early voting period. No-excuse mail-in voting remains a key component for ensuring that all Marylanders can equally participate in the political process. But curbside voting makes in-person voting possible for voters who live with conditions that make walking into a polling place difficult or impossible and who may rely on mail-in voting only by necessity.⁴ Curbside voting is a safe, secure, and convenient option, and will help guarantee that all Maryland voters, regardless of age or disability/ability statuses, can vote on an equal basis.

² See Rabia Belt, *Contemporary Voting Rights Controversies Through the Lens of Disability*, 68 STAN. L. REV. 1491 (2016) (listing jurisdictions in appendix).

³ See *Accessible Voting*, VIRGINIA DEPARTMENT OF ELECTIONS, <https://www.elections.virginia.gov/casting-a-ballot/accessible-voting/> (last visited March 5, 2021); *Voter Assistance*, DISTRICT OF COLUMBIA BOARD OF ELECTIONS, <https://www.dcboe.org/Voters/How-to-Vote/Voter-Assistance> (last visited March 5, 2021).

⁴ See U.S. Dep’t of Justice, *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities* 3 (Sept. 2014), <https://www.justice.gov/file/69411/download> (“While absentee balloting can be offered to voters with disabilities, it cannot take the place of in-person voting for those who prefer to vote at the polls on Election Day.”); *Veasey v. Abbott*, 830 F.3d 216, 255 (5th Cir. 2016) (*en banc*) (Mail-in voting “is not the equivalent of in-person voting for those who are able and want to vote in person.”).