



Testimony for the Ways and Means Committee

HB 1104 Voting Rights Act of 2023 – Counties and Municipalities

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GREGORY BROWN
PUBLIC POLICY
COUNSEL

FAVORABLE

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

3600 CLIPPER MILL
ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
F/410-366-7838

WWW.ACLU-MD.ORG

OFFICERS AND
DIRECTORS
HOMAYRA ZIAD
PRESIDENT

DANA VICKERS
SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland urges a favorable report on HB1104, a historic bill that seeks to establish strong voting protections for Marylanders across the state. HB1104 would establish preclearance procedures for jurisdictions with a history of race discrimination, provide language assistance materials to communities that meet the threshold, prohibit vote denial and dilution, and prohibit voting intimidation, obstruction, and deception by providing a civil cause of action for Marylanders to bring suit when faced with these impediments to casting a ballot.

Voter intimidation has been a historic tool to effectively bar Black communities from participating at the polls. From the Reconstruction Era to the Civil Rights movement, voter intimidation took the form of overtly racist incidents of violence such as lynchings, police beatings, and harassment from white mobs, but even today, the need to protect all voters from any form of voter intimidation sadly remains.

It is important to mark on this day, the 58th Anniversary of Bloody Sunday, the amount of intimidation, violence, and hatred the advocates who came before us faced in order to secure the right to vote. Bloody Sunday put racist voter intimidation on display for the world to see, making clear the need for protections against these abuses. The actions of that day ultimately resulted in the passage of the most transformative civil rights law in our nation's history, the Voting Rights Act of 1965. Maryland now has the chance to take the framework of that iconic law and implement protections and legal remedies that would secure the right to be free from fear and intimidation while voting. HB 1104 does just that by allowing Marylanders to legally challenge those seeking to intimidate, obstruct, or deceive others trying to access the ballot. In addition to providing a civil cause of action against those who would use threats of violence or otherwise intimidating behavior, HB1104 also prohibits the use of deceptive devices or communications used to interfere with one's right to vote. Protecting Marylanders from bad actors

who seek to unduly influence our elections via deception and misinformation is critical to guaranteeing free and fair elections in our state.

The need for voter intimidation protections in Maryland

Although some may argue that Maryland does not experience instances of voter intimidation, obstruction, or deception, the need for protections and legal remedies remains due to the fact that there are indeed forms of voter intimidation that go unchecked in the state. Recent incidents include the following: In La Plata, Maryland, a man was reported to the Attorney General's office for "trying to intimidate people to vote for Trump."¹ In Montgomery County, flyers used to intimidate minority communities, warning non-U.S. citizens of the legal penalties of voting in a U.S. election, were posted at a high school.² In Cecil County, a man was addressed a letter that referenced the Proud Boys and contained the hashtag "#moregunsthanu" despite reporting there was no political signage in his yard.³ These forms of voter intimidation, obstruction, and deception are real and likely happen more often than are reported.



Images taken by ACLU of Maryland investigator following complaints of voter intimidation outside of Edgewood Elementary School in Harford County during the 2022 November elections.

The need for legal protections becomes event greater when it is candidates and their operatives engaging in intimidation and obstruction. A week before Maryland's 2022 midterm elections, a gubernatorial nominee put out a call

¹ <https://apnews.com/article/election-2020-technology-elections-maryland-email-b8f5045edd5c37b47e172011f6bb4263>

² *Id.*

³ *Id.*

for volunteers to “monitor” drop boxes.⁴ While the “monitoring” of drop boxes or polling stations themselves cannot inherently be categorized as intimidation, the history of these monitoring operations reveals the true intent of these endeavors. In 1981 the Republican National Committee (RNC) sent a “ballot security task force” into predominately Black and Latino neighborhoods where they posted “warning” signs and “monitored” polls wearing armbands and armed with guns.⁵ The resulting lawsuit found the RNC in violation of the law for intimidating voters, despite the task force committing no physical violence.⁶ Targeted “monitoring” operations, such as the one a recent gubernatorial candidate called for, have the sole goal of intimidation and obstruction, just as these kinds of operations had in 1981.

Maryland has a historic opportunity to secure voting rights for all and ensure every Marylander has legal recourse in the face of deception, obstruction, or intimidation when accessing the ballot.

For these reasons, we urge a favorable report on HB 1104.

⁴ <https://www.marylandmatters.org/2022/11/03/concerns-grow-that-voter-intimidation-could-disrupt-midterm-elections/>

⁵ <https://www.retroreport.org/video/poll-watchers-and-the-long-history-of-voter-intimidation/>

⁶ *Id.*

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