



## Testimony for the House Ways and Means Committee

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### HB 1044 – Maryland Voting Rights Act of 2025 – Preclearance and Voter Intimidation and Obstruction

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The ACLU of Maryland supports HB 1044, which provides key protections against actions that discriminate against or harass voters as they exercise their right to the ballot. HB 1044 is a key part of the Maryland Voting Rights Act and passing it would establish Maryland as a leader in protecting the right to vote. Given increasing threats at the federal level, this action is timely and necessary.

While Maryland has made substantial progress towards making voting more equitable and accessible, substantial racial disparities persist in both voter participation and local representation. In the 2022 election, 57% of white Marylanders turned out to vote, while only 52.1% of Black Marylanders turned out to vote.<sup>1</sup> Asian Marylanders had the second lowest turnout rate, with only 29.8% turnout.<sup>2</sup> Hispanic Marylanders had the lowest turnout rate for 2022 with just 22.4% of the population voting.<sup>3</sup> These numbers result in dramatically different rates of representation, with voters of color having a significantly lower chance of being represented by a candidate of their choice. As of 2024, fifty four percent of Maryland municipalities have substantial POC populations and 23 percent of those municipalities have all-white governments, indicating a high risk that voters of color have not been able to elect candidates of their choice.<sup>4</sup>

At the same time, incidents harassment and intimidation of voters and election officials have increased, disrupting efforts to maintain safe and fair elections. In the

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<sup>1</sup> *Table 4b— Reported Voting and Registration of the Total Voting-Age Population, by Sex, Race, and Hispanic Origin, for States*, United States Census Bureau (Nov. 2022), [https://www2.census.gov/programs-surveys/cps/tables/p20/586/vote04b\\_2022.xlsx](https://www2.census.gov/programs-surveys/cps/tables/p20/586/vote04b_2022.xlsx) (the 2022 election is the most recent election that the US Census Bureau has data for.).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Why Maryland Needs Its Own Voting Rights Act*, ACLU of Maryland, (Feb. 20, 2024), [https://www.aclu-md.org/sites/default/files/mdvra\\_need\\_public\\_onepager\\_mdga24.pdf](https://www.aclu-md.org/sites/default/files/mdvra_need_public_onepager_mdga24.pdf).

November 2024 general election, voter intimidation incidents occurred across the state. In Frederick County, multiple electioneers campaigning against Question 1, the amendment to the Maryland Constitution protecting reproductive freedom, berated voters as they parked their cars and walked to the polls.<sup>5</sup> On November 8, 2024, as election workers were counting mail-in ballots, several Maryland Board of Elections offices had to be evacuated in response to bomb threats received by email.<sup>6</sup> While no one was hurt, these increasingly frequent incidents seen across the country—including in Georgia, Arizona, and Pennsylvania<sup>7</sup>—disrupt election processes and threaten Maryland’s ability to provide fast, accurate results. These incidents are nothing new but do seem to be escalating. In 2020, election officials in Montgomery County expressed significant concerns over voter intimidation at the county’s in-person polling places,<sup>8</sup> and the Maryland Attorney General issued a warning that voter harassment and intimidation are illegal and would not be tolerated.<sup>9</sup> This pattern indicates a need to act before further harm is done.

Additionally, the widespread use of artificial intelligence and the rollback of content moderation programs by social media platforms have made it easier to engage in targeted campaigns to deceive voters. Advocates across the nation have begun challenging “deepfake” campaigns and other deceptive campaigning strategies that obstruct an individual’s right to vote.<sup>10</sup> Maryland is not immune to these efforts. In 2012, the Office of the Attorney General won a judgment of over \$1 million after finding that a company had improperly placed deceptive robocalls

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<sup>5</sup> Frederick Democrats, *PUBLIC STATEMENT*, Facebook (Oct. 28, 2024), [https://www.facebook.com/FrederickDemocrats/photos/public-statementfrom-frederick-county-democratic-central-committee-fcdccdate-mon/950964990390344/?\\_rdr](https://www.facebook.com/FrederickDemocrats/photos/public-statementfrom-frederick-county-democratic-central-committee-fcdccdate-mon/950964990390344/?_rdr).

<sup>6</sup> Pamela Wood, *Here’s what we know about bomb threats at Maryland Elections Offices*, Baltimore Banner (Nov. 11, 2024), <https://www.thebaltimorebanner.com/politics-power/state-government/maryland-election-bomb-threats-AAMRPBQ45CRZJSFH2UN5WVBLI/>.

<sup>7</sup> Hansi Lo Wang *et al.*, *Bomb threats disrupted what was otherwise relatively smooth voting on Election Day*, Nat’l Pub. Radio (Nov. 6, 2024), <https://www.npr.org/2024/11/06/nx-s1-5181834/election-day-voting-bomb-threats>.

<sup>8</sup> Bennett Leckrone, *Montgomery Election Officials Plan Patrols to Prevent, Stop Voter Intimidation*, MARYLAND MATTERS (October 1, 2020), <https://www.marylandmatters.org/2020/10/01/montgomery-election-officials-plan-patrols-to-prevent-stop-voter-intimidation/>.

<sup>9</sup> Brian Frosh, *Attorney General Frosh Issues Guidance to Remind Voters of Their Right to Vote Free of Harassment or Intimidation*, Maryland Attorney General (Oct. 14, 2020), <https://www.marylandattorneygeneral.gov/press/2020/101420a.pdf>.

<sup>10</sup> *League of Women Voters of New Hampshire v. Kramer*, No. 1:24-cv-73 (D.N.H. Mar. 14, 2024); *National Coalition on Black Civic Participation v. Wohl*, No. 1:20-cv-8668 (S.D.N.Y. May 19, 2021).

to 112,000 Maryland voters urging them not to vote.<sup>11</sup> Recent deceptive activities have prompted the Attorney General to issue updated guidance alerting voters of scam election calls and what to do if they receive such a call.<sup>12</sup>

HB 1044 addresses these problems in two key ways.

**First**, HB 1044 would stop voting discrimination before it occurs through a “preclearance” program. Modeled after Section 5 of the federal Voting Rights Act,<sup>13</sup> this preclearance program would require local governments in high-risk places to have any changes to key voting rules pre-approved by the Attorney General or by a court before they can go into effect. Rather than putting the burden on voters and advocates to file a lawsuit and prove that a law is discriminatory, jurisdictions would be required to show that their proposed changes do not discriminate on the basis of race before they are implemented.

To determine which areas would be subject to preclearance, HB 1044 lays out a framework that weighs past voting or civil rights violations, voter participation disparities, and discrimination in the criminal legal system. HB 1044 then provides a streamlined process to ensure fair review of whether a proposed change would result in discrimination against voters on the basis of their race. This would prevent voting discrimination before it occurs, avoiding costly litigation or protracted deprivation of rights. In this way, preclearance functions similarly to alternative dispute resolution, moving disputes over racial discrimination in voting away from courts and providing expedited forms of review without significant expense to taxpayers. These benefits have made preclearance extremely popular: 81% of Marylanders support this policy.

Providing this legal guidance is critical for ensuring that communities uphold their obligations to their voters before they make changes to their election systems. For example, had Baltimore County first submitted their 2021 redistricting plans to the Attorney General under a preclearance program, the County could have received guidance as to the dilutive effect of their plan and made changes to ensure voters of color had adequate representation opportunities. Instead, the County faced a complex Section 2 challenge that cost them hundreds of thousands of dollars and significant attorney time while creating uncertainty for voters and candidates.

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<sup>11</sup> *Maryland v. Universal Elections*, 862 F. Supp. 2d 457 (D. Md. 2012), *affirmed*, 729 F.3d 379 (4th Cir. 2013).

<sup>12</sup> *Alert Issued to Consumers to Beware of Scam Election Calls*, OFFICE OF THE ATTORNEY GENERAL (Mar. 5, 2024), <https://www.marylandattorneygeneral.gov/press/2024/030524CA.pdf>.

<sup>13</sup> While Section 5 was extremely effective at protecting minority voters from discriminatory voting changes, the Supreme Court invalidated the coverage formula as outdated in *Shelby County v. Holder*. Crucially, that decision was limited to that particular coverage formula: states remain free to pursue their own preclearance programs that are well-targeted to address past and ongoing discrimination.

**Second**, HB 1044 provides robust civil protections against voter intimidation, deception, and obstruction. Some examples of voter intimidation include violent behavior inside or outside a polling place; following voters to, from, or within the polling place; and harassing voters or aggressively questioning them about their qualifications to vote. Relatedly, vote obstruction occurs when someone prevents or makes it more difficult for someone to vote. Finally, deceptive behavior like spreading lies about election details or misinformation about who is eligible, when polls are open, or where to vote would also be prohibited. These protections complement existing criminal prohibitions and ensure that all Marylanders can exercise their right to vote free of fear of reprisal.

These protections also empower voters and election officials to protect themselves against threats and abuse, rather than depending on state officials. Building on Section 11(b) of the federal VRA, HB 1044 directly addresses the increasing problem of voter deception and allows voters to recover financial compensation from those who harm them. This ensures that there are adequate incentives for individuals and organizations to protect voting rights in Maryland communities. These reforms are also extremely popular, with 91% of Maryland voters supporting increased protections against harassment and intimidation.

As we celebrate the 60<sup>th</sup> anniversary of the federal VRA, we are also mindful of continued attacks on the right to vote at the federal level. To combat the increasing risk that courts and the federal government will fail to protect voters, Maryland can and must step up to protect its voters from discrimination and intimidation. HB 1044 is a critical part of these efforts.

For these reasons, we urge a favorable report on HB 1044.