



March 3, 2021

VIA EMAIL

Hon. Speaker Nancy Pelosi
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sf.nancy@mail.house.gov

Hon. Majority Leader Kevin McCarthy
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Washington, DC 20515
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Re: In support of purge and voting caging protections in H.R.1

Dear Speaker Pelosi and Leader McCarthy:

On behalf of the undersigned organizations and individuals, we write in strong support of H.R.1, the “For the People Act,” which we urge both chambers of Congress to pass swiftly.

This robust package of reforms, taken together, will [transform our democracy](#) and move us towards fair representation for the Black, indigenous, and brown people and voters with disabilities with whom we partner. H.R.1 contains many essential voting reforms. Today we write to highlight a few related provisions that protect voters from being wrongfully removed from the voter rolls—a tactic used disproportionately to silence voters of color. These provisions are all the more urgent after the U.S. Supreme Court’s 2018 decision in *Husted v. A. Philip Randolph Institute*, which opened the floodgates for abusive voter purges, and in light of the recent rash of anti-democratic activity in many states, including rolling back reforms that made voting by mail more accessible and new voter purge laws that would aggressively purge voters who do not or cannot get to the polls regularly.

Specifically, Subtitle C of Title I restricts voter challenges, and Subtitle F of Title II, known as the “Save Voters Act,” restores protections against voter purges. Put simply, voting is not a “use it or lose it” right and should not be jeopardized by overzealous challenges or purging.

Protecting Voters Against Caging and Sham Challenges

The For the People Act represents a critical step in addressing America’s long and often ugly history of abusing voter challenge laws that reduce turnout and undercut the representation of

Black, brown, Asian American & Pacific Islander, and indigenous voters, and other communities that have historically been shut out of the democratic process.

In recent years, voter challenges mounted in bad faith based on flimsy, if any, evidence have frequently been used in blatantly discriminatory ways to target Black and brown voters. For example, in 2015, in one of Georgia's poorest counties, a local election official and two private citizens challenged 174 of the City of Sparta's 988 registered voters. Almost all of the challenged voters were Black, and many of the challenges were sustained without any evidence. The next year, three counties in North Carolina initiated challenge proceedings on over 4,000 predominantly Black voters at the behest of self-styled "election integrity" activists who had identified the voters through the practice of "voter caging"—sending non-forwardable mail to registered voters and challenging those for whom the mail cannot be delivered. These so-called "ballot security" measures have a long, troubling history and have emerged as a preferred tactic to dampen participation in communities of color.

Sham challenges are not a problem only when they succeed in striking a voter off the rolls. The goal is often to prevent voters from voting by subjecting them to intimidating trial-like proceedings, or by frustrating them with delays in the voting process and long lines and wait times—such as when state laws require challenged voters to bring additional proof of identity or residence to the polls, for example, or to cast a provisional ballot.

These practices are not new. Voter caging was pioneered in the late 50s and early 60s, when political operatives in Arizona sent challengers into predominantly Black and brown precincts to challenge voters using lists generated through caging activities. Since that time, self-appointed "election integrity" vigilantes and political operatives, often in coordination with state or local election officials, have continued to use challenges and voter caging to gain political advantage by reducing participation in communities of color.

H.R.1 prohibits states from preventing citizens from voting based on voter caging activities, prohibits challenges on or close to Election Day, and imposes criminal penalties on sham and bad faith voter challenges. These protections against activities that serve no purpose other than to distort and manipulate our electoral process are critical to restoring faith in our democratic institutions, especially in the communities our organizations serve, which have all too often been the targets of these tactics.

Restoring Protections Against Voter Purges

The Save Voters Act, contained in H.R.1 restores the important protection against "use it or lose it" voter purges. Purging voters solely for not voting in two or more elections disproportionately targets and removes voters of color from registration rolls and aggravates the disenfranchising impact of other voting restrictions such voters face.

In 2018, the Supreme Court's *Husted* decision gutted the 1993 National Voter Registration Act's protections against purges for non-voting, opening the floodgates for harmful and discriminatory voter purges. As a result, in October 2020, Ohio published a list of over 100,000 individuals who

the state was poised to purge because they had not voted in the prior six years. Over 18,000 of these infrequent voters later proved to be eligible, and 10,000 of them ultimately turned out to vote in the 2020 election. Ohio's experience typifies the dangerous unreliability of using the choice not to vote as a proxy for ineligibility. Yet despite the troubling results of "use it or lose it" purges, other states are now moving to follow in Ohio's wake.

Whether or not an individual chooses to or can turn out and vote has nothing to do with that person's eligibility to vote in future elections. Many voters already face obstacles to voting, whether it be a lack of time off work, an inability to obtain the required identification, an unexpected illness, a lack of accessible voting options, or the impact of a worldwide pandemic. It is both unfair and counterproductive to use a voter's inability to overcome these obstacles as a reason for removing that voter from the rolls. As the 1993 Senate Rules Committee wrote in its report on the National Voter Registration Act, "the purpose of our election process is not to test the fortitude and determination of the voter, but to discern the will of the majority."

Correcting the Supreme Court's *Husted* decision, as the Save Voters Act does, and restoring and expanding the National Voter Registration Act's protections against harmful voter purges is essential to ensuring our elections truly reflect the will of the people. Voting should not be a "use it or lose it" right.

Addressing harmful voter purges and discriminatory caging is critical. In addition, H.R.1's related voter protections are essential to ensuring that protections against improper purges and voter caging are effective and—now more than ever—to fully living up to the fundamental principle of "one person, one vote" across the nation. For example, allowing voters to register and vote on the same day mitigates the harm of voter purges and challenges. Likewise, restoring the right to vote in Federal elections to formerly incarcerated and justice impacted individuals, which is addressed by H.R.1's Democracy Restoration provision, would address one of the most severe and discriminatory obstacles to voting in America. Given the reality of the U.S. criminal legal system, felony disenfranchisement laws disproportionately impact Black and brown voters, which, in turn, contributes to the discriminatory effect of purging voters who vote infrequently.

H.R.1 expands and protects the right to vote in many important ways, and we urge Congress and the Biden-Harris administration to work together to secure passage of all of its provisions. We highlight the components concerning caging, sham challenges, and voter purges because their troubling history tracks the history of discriminatory voting laws in our country and because of the importance to our communities of eliminating these damaging practices. The time has come to address this history and build a more inclusive democracy for all Americans.

Should you have any questions or wish to discuss these issues further please contact Stuart Naifeh of Demos at snaifeh@demos.org or Breon Wells of The Daniel Initiative at Breon.Wells@thedanielinitiative.com.

Sincerely,

Organizations

Demos
The Daniel Initiative
ACLU of Ohio
Anti-Defamation League
Creative Thought Media
CURE (Citizens United for Rehabilitation of Errants)
Incarcerated Nation Network
King Bishop's Entertainment LLC
NAACP Legal Defense and Educational Fund, Inc. (LDF)
New Athens Creative, Inc.
Ohio Voter Rights Coalition
Operation Restoration
Represent Justice
San Francisco Black - Jewish (&Allies) Unity Group
Spelman College
SPLC Action Fund
Texas Civil Rights Project
The Daniel Initiative SET Project
Wisconsin Faith Voices for Justice

Individuals

Adwoa Rey, Women of Praize
Amy Mercieca
Anita Kennedy
Ann Dubin
Anthony Thompson, Atlantic Records (Atlantic Black Coalition)
Avonlea Fisher
Barbara J. Rolph
Bob LaRocca, Executive Director, Voter Protection Corps Education and Advocacy Fund, Inc.
Bonnie Lindauer
Breon Wells
Brian Scoon
Celine Szoges
Crystallee Crain, Ph.D., Prevention at the Intersections
Curtis

Danny Murillo
Deborah Gavrin Frangquist, Chosen Futures Career Consulting
Deborah L Garvey, PhD
Dee Seligman, Ph. D., San Francisco Black - Jewish (&Allies) Unity Group
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Dionnee Harper
Ellen Cohen
Elliot Helman, San Francisco Black - Jewish (&Allies) Unity Group
Elyse Blatt
Emma Steelman, Vote Huntsville
Evelyn Manies
Gina Belafonte
Jesse Raskin
Jessica Fortune Barker, AL Association for the Arts, Inc.
Jodie Lambert
John Ducksworth, National Multi faith Campaign Ending Mass Incarceration
Joi Brown
Judith Clark, Hour Children
Julia Rieger, San Francisco Black - Jewish (&Allies) Unity Group
Julia Vetromile
Kara Nelson
Karen Kronick
Kim-Shree Maufas
Kimberley Jebeles Rodler
LaVell Baylor, Freedom 4 Youth
Leah Faria, A Little Piece Of Light
Lena Robinson
Leon T Phillips, Jr.
Leon T Phillips, Jr.
Lorri Rosenberg Arazi
Majeid Crawford, New Community Leadership Foundation
Margo Freistadt
Matt Elkins
Mauri Schwartz
Meg Holmberg
Mehrddad Dariush
Mel Kronick
Michael C Mendoza
Michael Colvin
Miriam Shipp, Kehilla Synagogue
Nancy Wecker, PhD
Norris Henderson, VOTE
Pamela Wellner, Amplify Eco
Phillip Webber , Grace Tabernacle Community Church SF
Piper Kerman

Rev. John H. Vaughn, Ebenezer Baptist Church
Robert Croonquist
Sally Durgan
Stacey Hollingsworth, A Little Piece of Light
Stephanie Bazell, College and Community Fellowship
Susan Desmond, San Francisco Black - Jewish (&Allies) Unity Group
Susan Evans, San Francisco Black - Jewish (&Allies) Unity Group
Susan Jane Moldaw
Susan K. Alexander, San Francisco Black - Jewish (&Allies) Unity Group
Suzanne Sande Mrlik, San Francisco Black - Jewish (&Allies) Unity Group
Syrta Steib, Operation Restoration
Tia Turner
Tiawana Brown, BATB-Beauty after the bars
Trish Elliott
Tyrrell Muhammad
Yehudit Lieberman

CC: Zoe Lofgren, Chairperson, Committee on House Administration
Rodney Davis, Ranking Member, Committee on House Administration
Jerrod Nadler, Chairperson, House Committee on the Judiciary
Jim Jordan, Ranking Member, House Committee on the Judiciary