

## Enforcement of the Voting Rights Act in the State of Texas

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**Written Testimony of  
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To the House Judiciary Committee:

My name is Bobbie Cohen and I am a State Policy Advocate of Texas for the National Council of Jewish Women. The National Council of Jewish Women (NCJW) strives for social justice by improving the quality of life for women, children, and families and by safeguarding individual rights and freedoms. Throughout its history, NCJW has educated and engaged our members and supporters to drive voter turnout and expand voting rights, including advocating for women's suffrage and the historic Voting Rights Act of 1965 (VRA), in pursuit of the Jewish value of *tzedek*, or justice. Today, we work for election laws, policies, and practices that ensure easy and equitable access and eliminate obstacles to the electoral process so that every vote counts and can be verified.

Efforts across the country to suppress the vote have multiplied since the 2013 US Supreme Court decision in *Shelby County v. Holder* gutted a key provision of the VRA. Texas was one of the states required to obtain preclearance before implementing changes in voting laws and practices before *Shelby*. Texas has a long history of discriminatory voter suppression efforts, including a post-Reconstruction poll tax that remained in place until 1964, when the Supreme Court intervened to end the practice in the five remaining states where it was still imposed. In my testimony, I highlight voter suppression and recent election problems in Texas

### **Voter Suppression in Texas**

Texas has suppressed the vote in a variety of ways. In a recent effort, Acting Secretary of State David Whitley claimed to have identified almost 100,000 registered voters as "possible" non-citizens, and provided that list to county election officials with instructions to investigate them for possible removal from the rolls. These individuals had at sometime in the past 20 years self-identified as a non-citizen when obtaining a driver's license or state ID card and had since become naturalized citizens. After several civil rights organizations filed suit, a federal judge intervened to stop the practice in its tracks and ordered the state to pay \$450,000 in costs and attorney's fees. In his ruling, Judge Fred Biery wrote, "It appears this is a solution looking for a problem" and that the practice "exemplifies the power of government to strike fear and anxiety and to intimidate the least powerful among us."

The voter registration process itself is an impediment to some voters. Texas does not have online voter registration. Voters may register in-person at the county office responsible for voter registration. These offices are not always conveniently located and easily accessible to voters who depend on public transportation. Voters can also mail in a voter registration application; the

application can be picked up at designated locations depending on the county, or downloaded from the Secretary of State's office and mailed back. However, the website is confusing: it's titled Voter Registration Application, asks the user a few screening questions, loads an application to the screen for the user to complete, and finally has a submit button at the bottom. Many people complete the application, hit submit, and think that they have registered to vote. The information that the form must be printed, signed, and mailed back is in fine print at the bottom.

Texas also does not have same-day registration. Voters must submit their Voter Registration Application at least 30 days prior to an election to be eligible to vote in that election. Any minor mistake on a mailed in application can result in the application not be processed in time.

In 2011, Texas passed SB 14, a strict voter ID law requiring voters to show a government issued photo ID at the polls in order to vote. Experts estimated at least 600,000 eligible voters did not have the type of ID required in the new legislation. The law could not be implemented until 2013 when the Shelby decision took Texas out of federal preclearance. Now fully implemented with some modification, the law requires voters to produce a Texas driver's license or state ID card obtained from the Department of Public Safety (DPS). DPS offices are limited in number, and many are not easily accessible by public transportation. Other forms of acceptable ID include concealed handgun licenses, military ID, U.S. citizenship papers with photo and a U.S. passport. The most marginalized voters are the least likely to have access to these forms of ID. A voter who cannot obtain an acceptable ID may sign a "Reasonable Impediment Declaration" affidavit, checking which state identified acceptable reason prevents them from obtaining an ID and produce a copy or original of one of the following supporting forms of ID: government document that shows the voter's name and an address; voter registration certificate; current utility bill; bank statement; government check; paycheck; or (a) a certified domestic (from a U.S. state or territory) birth certificate or (b) a document confirming birth admissible in a court of law which establishes the voter's identity (which may include a foreign birth document). Many of these documents are difficult to obtain, particularly for those already marginalized as they only apply to the person whose name appears on the document, e.g. a utility bill must have the name of the voter and cannot be used by a spouse, adult child, or other member of the household. In the most recent election, low-income young voters from were most likely to experience an issue with voter ID. Many have only a student ID, which the state does not accept. Additionally, many voters find the Reasonable Impediment Declaration intimidating as it begins with a paragraph explaining in legal terms that the voter is subject to perjury charges if anything on the form is incorrect.

The Texas Legislature is currently in session and there is a no shortage of proposed legislation that would result in additional voter suppression. As I write this testimony, a bill is in play that would make it a crime to take more than three people who are not relatives to the polls without filling out a raft of paperwork, criminalize honest mistakes made on voter applications or through the voting process, and eliminate curbside voting for voters unable to enter the voting site (known as motor voter). This harmful bill passed the Senate and will likely receive a hearing in the House as early as Monday, May 6. A sampling of other bills would require proof of citizenship to register to vote, slash the number of early voting days to seven (including weekends), and further complicate the process for voters using alternate forms of ID. One bill would codify and implement processes for purging voter rolls, including the process applied to naturalized citizens that Judge Biery already ruled illegal.

How can Texas address voter suppression?

1. Texas should implement online voter registration, currently available in 37 other states.

2. Texas should implement same-day voter registration. States with this option experience higher voter turnout. Several counties currently use e-poll books, so the technology is available to eliminate duplication.
3. Texas should eliminate or greatly streamline its voter ID laws. These laws unfairly impose barriers most likely to affect youthful voters, the elderly, voters with disabilities, economically disadvantaged who are often unable to obtain the required or alternate forms of ID. Additionally, the State should also remove all “scary” or threatening language from all voting documents, including affidavits.

### **Conclusion**

Voter suppression most harms already marginalized communities. Laws and actions designed to make it harder to vote — including strict voter ID requirements, limits to early voting, and voter roll purges — disproportionately impact communities of color, minority-language speakers, low-income voters, elderly and young voters, women, and transgender individuals. But there are also activists across our state, mobilizing on the ground, taking action, and making major progress to strengthen and expand the right to vote. I am proud to be a part of these efforts, and thank the House Judiciary Committee for the opportunity to provide written testimony.