



Legislative Testimony
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Written Testimony Opposing House Bill 6325, An Act Concerning the Secretary of the State, Absentee Ballots and Election Audits

Senator Flexer, Representative Fox, Ranking Members Sampson and Mastrofrancesco, and distinguished members of the Government Administration and Elections Committee:

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am testifying in opposition to House Bill 6235, An Act Concerning the Secretary of the State, Absentee Ballots and Election Audits.

The ACLU of Connecticut strongly supports measures to ensure equal access to the ballot box. Improving voting rights and voting access strengthen democracy, since voting is the foundation of democracy itself. On the flip side, we generally oppose measures that make it more difficult to vote, that narrow the ways in which eligible voters can cast their votes, or that increase the risk that valid votes will be rejected. Not only are such measures undemocratic, but they are also likely to disproportionately disenfranchise voters of color, voters who lack transportation, voters who lack language access to voting, and other groups whose right to vote has historically been suppressed.

Particularly troublesome are four policies included in House Bill 6235. The first, found in Section 5, would prevent the Secretary of the State and local elections officials from mailing unsolicited applications for absentee ballots. This appears to be in response to mailings of this type that went out prior to the 2020 general and primary elections. Because of COVID-19, Connecticut had unprecedented levels of absentee voting in 2020, with no corresponding uptick in absentee ballot rejection

(in fact, there was a decrease in rejection rates)¹ and no evidence of fraud whatsoever.² Not only was absentee voting up, but so was overall voter participation. While the reasons for these increases are likely varied, mailing absentee ballot applications was likely a contributing factor to greater democratic participation in 2020. In a normal election, absentee voting is difficult in Connecticut, with a multistep process to receive and return a ballot and limited opportunities to vote absentee. Mailing absentee ballot applications removed one step from the process and probably made voting easier for people in Connecticut. While opponents of widespread voting access complained about these mailings, no one uncovered evidence that votes were wrongfully cast or counted because of these mailings.³ There is absolutely no reason to make voting harder for people in the absence of any indications that the proposed measure will increase voting security.

Another troubling provision in House Bill 6325 is the explicit prohibition on any efforts to alert voters that their ballots are being rejected due to a lack of signature. Section 6 creates a new statutory prohibition that has confusing language and anti-voter content. Though it discusses absentee ballot applicants, Section 6(2)(A) appears directed at absentee voters. The language, though, is not the real problem. A person who has gotten to the point of returning an absentee ballot in Connecticut has, under current law, affirmatively requested an application for an absentee ballot, sent in the application, received an absentee ballot, qualified to vote absentee, completed the absentee ballot, and returned it through the mail. After going through all those steps, Section 6 would then reject that voter's ballot and forbid any local elections officials from notifying the voter that their ballot was not counted. This is clear voter suppression – denying a vote to people who have jumped through far too many hoops to exercise their franchise. Connecticut lacks clear cure

¹ Emilia Otte, "Data suggests few absentee ballots late or rejected in 2020." CT Examiner, Nov. 17, 2020, available at <https://ctexaminer.com/2020/11/17/data-suggests-few-absentee-ballots-late-or-rejected-in-2020/>.

² The State Elections Enforcement Commission received no complaints of voter fraud from anywhere in Connecticut in 2020. Mark Pazniokas, "Senator alleges voter fraud but no complaint was filed." CT Mirror, Feb. 22, 2021, available at <https://ctmirror.org/2021/02/22/senator-alleges-voter-fraud-but-no-complaint-was-filed/>.

³ See *id.*

provisions in its voting statutes, but this explicit rejection is a much harsher step. In states with robust cure processes, voters whose absentee ballot are rejected are notified and given an opportunity to certify the ballot is theirs or to vote a new ballot.⁴ This ensures that absentee voting is aligned with in-person voting, where a voter knows immediately if their ballot is rejected and given a chance to vote again. Providing cure provisions for absentee voters ensures that the people who most need to use absentee ballots – older people, people with disabilities, people who lack transportation or childcare, and people with inflexible work schedules, who are often low-income, are not disproportionately disenfranchised relative to in-person voters. It also preserves the clear intent of the voter to cast a valid ballot. There is absolutely no reason not to inform an eligible voter who clearly manifested their intent to vote that there is a technical problem with their ballot, and it has been rejected, unless the goal is to make it more difficult to vote.

Another provision we especially oppose is the signature verification pilot program. Signature verification is notoriously unreliable.⁵ It is important to note that requiring signature matching on absentee ballots would prevent only one kind of alleged voter fraud – where a person impersonates a voter to illegitimately cast the voter’s ballot without the voter’s knowledge or agreement.⁶ This is the rarest kind of voter fraud, which has happened 31 times out of over one billion votes cast in one fourteen-year time span,⁷ making the odds of voter impersonation less than one in 32 million. The cost of weeding out these impossibly rare instances of voter fraud could mean rejecting many thousands of votes cast by eligible voters whose signatures are deemed too different from their recorded signatures. This is far, far

⁴ “Explainer: What is a ‘cured’ ballot” Associated Press, Nov. 6, 2020, *available at* [018369d11ec349472e95ee5b4053df27](https://www.washingtonpost.com/news/energy-environment/wp/2020/11/06/explainer-what-is-a-cured-ballot/).

⁵ David A. Graham, “Signed, sealed, delivered – then discarded.” *The Atlantic*, Oct. 21, 2020, *available at* <https://www.theatlantic.com/ideas/archive/2020/10/signature-matching-is-the-phrenology-of-elections/616790/>.

⁶ Justin Levitt, “A comprehensive investigation of voter impersonation finds 31 credible incidents out of one billion ballots cast.” *Washington Post*, Aug. 6, 2014, *available at* <https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/?arc404=true>.

⁷ *Id.*

too high a price to pay to avoid a type of voter fraud that is less likely than achieving sainthood.⁸

Finally, Section 8, which would require a “conspicuously placed statement” on absentee ballot applications listing the penalties for violating the rules around voting absentee is a naked attempt to chill people’s exercise of absentee ballots. The implicit threat that they could face serious penalties for even innocent mistakes will make people think twice about voting absentee. When there have been no widespread problems with absentee voting in Connecticut, this kind of vague threat directed at Connecticut voters is unnecessary and undemocratic.

Voting in Connecticut and across the U.S. is secure and absent of fraud. Imposing draconian restrictions that would result in voters being dissuaded from or unnecessarily impeded in voting because of unfounded claims of fraud is a recipe for terrible policy, as House Bill 6325 shows. We oppose this bill and its undemocratic stance, and we encourage the Committee to reject it.

⁸ See “These extremely rare things are more likely to happen to you than winning the Powerball jackpot.” Boston Globe, Aug. 24, 2017, *available at* <https://www.bostonglobe.com/metro/2017/08/24/these-extremely-rare-things-are-more-likely-happen-you-than-winning-powerball-jackpot/pq0VeHn5PpAWkJhRP310nK/story.html>.