

March 4, 2019

The Hon. Ralph Northam
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Governor Northam:



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I write on behalf of the more than 24,000 ACLU of Virginia members and supporters who are your constituents as Governor of the Commonwealth. In addition to choosing to accept our invitation to become a leading voice in the campaign to pass a constitutional amendment that guarantees every Virginian over 18 a right to vote that cannot be abridged, you can take action on legislation now pending before you that would protect or expand voting rights in Virginia today.

You can protect the right to vote of Virginians by vetoing SB 1038 (Peake) that seeks to require general registrars to verify that the name, date of birth, and social security number provided by an applicant on the voter registration application match the information on file in the Social Security Administration database. And, you can expand the right to vote in Virginia by recommending amendments in the nature of a substitute to both HB 2790 (Rush) and SB 1026 (Spruill) that would mirror the language of HB 1641 (Herring) and SB 1026 (Spruill) as introduced which were a part of your legislative package and endorsed by the Virginia Legislative Black Caucus.

SB 1038 (Peake) – Requiring Local Election Officials to Conduct Unnecessary and Error-Prone Data Matching Practices

This bill has the potential to disenfranchise Virginia voters on the basis of typos or other minor discrepancies between information on their voter registration form and information about them in government databases. The Virginia Department of Elections already conducts voter list maintenance, including by matching voters to the list of deceased voters in the Social Security database and a variety of government databases, including the United States Postal Service's National Change of Address



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registry. This bill would require 133 individual general registrars to conduct additional, duplicative and error-prone matching procedures of their own, on an annual basis, and shuttle any voters whose information does not match to the onerous provisional balloting process, which could lead to longer lines, require additional trips to the local electoral board, and result in fewer ballots being counted. Governor Terry McAuliffe cited many of these reasons in vetoing a bill (SB 1581) that was substantially similar to SB 1038 in 2017. He also pointed out that the bill would be an “unfunded mandate” on local governments. We urge you to protect the right to vote by taking the same action to veto SB 1038 this year.

HB 2970 (Rush) and SB 1026 (Spruill) – Privileged Absentee Voting

As introduced, HB 1641 and SB 1026 would have ended Virginia’s excuse-based absentee voting system that privileges some voters over others and ensured that any voter could vote absentee in person or by mail for any reason, as currently permitted in the majority of other states. HB 1641 failed to be reported out of committee, and the House chose instead to advance HB 2970 (Rush) which continues the practice of privileging some voters over others by making it easier for only some voters to vote absentee without an excuse. The Senate then amended SB 1026 (Spruill) to mirror the House bill.

As passed, SB 1026 and HB 2970 grant a seven-day voting privilege ticket only to those voters who jobs, locations and circumstances permit them to appear at a registrar’s office in person to vote in the last week before an election. These privileged voters, but not those who can’t arrange to vote in person in the last week before the election or who must vote absentee by mail, may vote absentee without having to give an excuse. Voters who have to vote absentee in person outside the seven-day privilege ticket window or who must vote by mail continue to be required to give an excuse, to divulge private information to the registrar that is made a public record, and to do so under penalty as a felon if they are not truthful about the excuse they give.

If Virginia law is amended to grant these seven-day privilege tickets only for in- person voting, other qualified voters will still



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have to have an excuse to vote because of lack of readily accessible transportation, geography, income status, physical disabilities, and the constraints of modern-day individuals and families. There are localities in Virginia where voters do not have ready access to transportation that permits them to travel to designated locations to vote by absentee ballot in person. In rural jurisdictions, some voters are not able to access the registrar's office, which may be on the opposite side of the county. In urban locations, voters without vehicles may not have ready access to public transportation to travel to a distant absentee voting site. This legislation offering the seven-day window of opportunity for no-excuse in-person voting would not alleviate these burdens, as the legislation does not require local election officials to establish satellite in-person absentee voting locations or to distribute such locations in a manner that is accessible and equitable, taking into consideration population density, public transit, and travel time.

Additionally, there are voters whose work or childcare schedules simply cannot accommodate the registrar's limited office hours so that they could cast in-person absentee ballots. We are also concerned that limiting no-excuse absentee voting to in-person may disproportionately impact minority and rural communities and persons with disabilities.

Recommending amendments to substitute the true no-excuse-for-all language of Delegate Herring's and Senator Spruill's bills as introduced would alleviate concerns about fairness and public disclosure of confidential information and promote elections equally accessible to all qualified voters. We urge you to recommend such amendments for consideration during the reconvened session and, by doing so, offer the General Assembly another opportunity to expand the right to vote by passing true no-excuse absentee voting for all voters. As passed, this watered-down legislation is not a step forward but only a continued exercise in privileging some voters over others when it comes to making it easier to vote. If the General Assembly doesn't take this opportunity to amend the bills to treat all voters alike and ensure fairness, we urge you to veto both bills.

Even if you choose not to recommend amendments that would extend no-excuse voting to all voters, at a minimum we urge you to recommend that this legislation be amended to ensure that the

seven-day privilege of in-person voting is offered at locations that are accessible and equally available to all residents in a locality.

If you choose to sign the bills without seeking to amend them, or you choose not to veto the bills if the amendments recommended by you are rejected by the legislature, we ask that you take a stand for fairness and equity by stating publicly at the time you sign the legislation that you are doing so only because the delayed effective date allows you and the legislature to come back in 2020 and do the right thing – pass a true no-excuse absentee voting law that accords equal rights and privileges to all voters without regard to whether they vote in person or by mail or whether they vote during the last week before an election.



AMERICAN CIVIL LIBERTIES UNION

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Very truly yours,

A handwritten signature in blue ink, which appears to read "Claire Guthrie Gastañaga". The signature is fluid and cursive.

Claire Guthrie Gastañaga
Executive Director