



December 6, 2018

The Honorable Roy Cooper  
Governor of the State of North Carolina  
20301 Mail Service Center  
Raleigh, NC 27699-0301

Re: SB 824 Veto Request

Dear Governor Cooper,

The American Civil Liberties Union of North Carolina and Equality North Carolina write to you today to urge you to veto SB 824, "Implementation of Voter ID Constitutional Amendment." As organizations deeply committed to equal rights for all, including robust access to the ballot for all eligible voters, we make this request on behalf of more than 30,000 ACLU members and supporters across the state, as well as North Carolina's transgender, lesbian, gay, bisexual, and queer voters, many of whom already face barriers to voting.

SB 824 was hastily enacted by a lame-duck legislature without sufficient funding, and will create harmful barriers that will make it more difficult for eligible voters across the state, especially people of color and transgender voters, to participate in our democracy.

**SB 824 was rushed through by a lame-duck legislature:** Although North Carolina voters approved a constitutional amendment requiring photo ID to vote, they also elected a new state legislature in the same election. Those newly-elected lawmakers should be responsible for drafting and debating the law that will implement the voter ID constitutional amendment, through a deliberate and thorough process. Lame-duck representatives should not be allowed to rush through such long-lasting, complicated, and fraught changes to our state's voting laws before newly-elected representatives take office.

**SB 824 will discriminate against and disenfranchise marginalized voters:** SB 824 is modeled on South Carolina's current voter ID law. In South Carolina, Black voters made up 27.6% of registered voters in 2016. However, Black voters made up 38.5% of those who voted using a provisional ballot either because they claimed a reasonable impediment to obtaining a photo ID or because they did not have their photo ID with them when they voted, according to the state's Election Commission. Thirty-five percent of voters who cited an impediment to getting an ID and had to vote provisionally were Black. Black voters also made up 42% of the voters who did not have their ID with them and thus had to cast a provisional ballot—the majority of

those ballots were not ultimately counted due to the requirement that those voters make a return trip to produce their ID in person before the election results were certified. Voter ID laws like SB 824 disenfranchise eligible voters of every race, but have a proven track record of disenfranchising Black voters.

Moreover, the short, two-week debate of SB 824 included no discussion of the specific needs of other voters, including transgender voters and voters who are detained in jail awaiting trial during an election. First, transgender voters face barriers under strict voter ID laws, both because of difficulties in obtaining an ID that is accepted under SB 824 and because they might encounter bias or misunderstanding of the law when it comes to their gender. The Williams Institute estimates that 57% of transgender people in the eight states with strict photo ID laws may face substantial barriers to voting because they lack identification or documentation that accurately reflects their gender.<sup>1</sup> In North Carolina, 77% of transgender people report that none of their current IDs have their correct name and gender identity.<sup>2</sup> Second, eligible voters in pretrial detention during the election face tremendous hurdles to voting while incarcerated and may be uniquely impacted by SB 824. Approximately 86% of people incarcerated in North Carolina jails are being held pretrial, the overwhelming majority of whom are in jail because they cannot afford the bond amount set on their case.<sup>3</sup> Many of these individuals are eligible to vote and prevented from voting only because they lack the ability to pay for their release from jail. SB 824 must ensure that no voter is disenfranchised, including transgender and detained individuals who are eligible to vote. Yet the unique needs and challenges of these voters have not been contemplated in the bill.

**SB 824 provides insufficient funding to implement the law:** Finally, the funding provided in this law is inadequate to implement it effectively, and places an underfunded mandate on the State and County Boards of Elections to do so on an unreasonably short timeline. The likely outcome is a decrease in early voting sites as counties attempt to cut costs in order to fund voter ID implementation out of their county budgets, resulting in fewer voting opportunities during the increasingly popular early voting period. Just this year, another underfunded election mandate caused counties to close early voting sites and reduce early voting opportunities on weekends, a situation that county election officials decried as complicating election administration and reducing access to the polls.<sup>4</sup> These changes bore particularly heavily on counties with small budgets and large populations of voters of color. Once again, the underfunded mandate in SB 824 will disproportionately impact voters of color, who are more likely than white voters to vote early.<sup>5</sup>

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<sup>1</sup> Herman, Jody L. and Taylor N.T. Brown (August 2018). *The Potential Impact of Voter Identification Laws on Transgender Voters in the 2018 General Election*. Los Angeles: The Williams Institute, available at <https://williamsinstitute.law.ucla.edu/research/voter-id-laws-2018/>.

<sup>2</sup> 2015 U.S. Transgender Survey: North Carolina State Report. (2017). Washington, DC: National Center for Transgender Equality, available <http://www.transequality.org/sites/default/files/docs/usts/USTSNCStateReport%281017%29.pdf>

<sup>3</sup> Pretrial Jail Population, Measures for Justice, <https://measuresforjustice.org/portal/exploration?!=NC&m=13&sl=NC&sm=108&fg=1&f=1&c=m&md=0> (last visited Dec. 6, 2018).

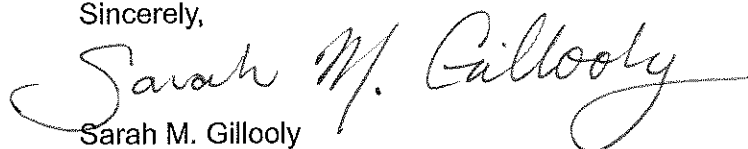
<sup>4</sup> Tyler Dukes, *Early Voting Changes Hit NC Rural Voters Hardest, Analysis Shows*, WRAL (Nov. 1, 2018), <https://www.wral.com/early-voting-changes-hit-nc-rural-voters-hardest-but-will-it-matter-in-2018-/17959224/>.

<sup>5</sup> League of Women Voters of North Carolina et al. v. North Carolina (4th Cir. 2016).

North Carolina's election laws are often too complicated and confusing, and this legislation will only add to that confusion. Voters should feel confident in their rights, and our state law and policy makers must do more to make voting an empowering experience rather than a frustrating one. Even one eligible voter being prevented from voting is too many.

For the reasons above, the ACLU of North Carolina and Equality North Carolina ask that you veto SB 824.

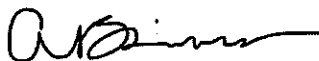
Sincerely,



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