

February 11, 2026

Submitted Electronically

Melissa Wells, Chair
Kenneth Kerr, Vice Chair
House Government, Labor, and Elections Committee
Room 142
House Office Building
Annapolis, Maryland 21401

***RE: House Bill 219 – The Maryland Voting Rights Act of 2026 – Voter
Intimidation and Suppression – Favorable***

Chair Wells and Vice Chair Kerr:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF),¹ we appreciate the opportunity to submit written testimony in strong support of H.B. 219, the Maryland Voting Rights Act of 2026 – Voter Intimidation and Suppression.² H.B. 219 provides key protections against discriminatory barriers to the ballot; provides a new civil protection against voter intimidation, obstruction, or deception; increases transparency through better public notice of election changes; and instructs judges to interpret the law in a pro-voter fashion whenever reasonably possible.³ Its enactment would help cement Maryland’s status as a national leader in protecting the right to vote, just as we are facing increasing threats at the federal level.

¹ Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in the areas of education, economic justice, political participation, and criminal justice. It has been a separate organization from the NAACP since 1957.

² H.B. 219, 2026 Leg., 449th Sess. (Md. 2026), <https://mgaleg.maryland.gov/2026RS/bills/hb/hb0219F.pdf>.

³ *Id.*

H.B. 219 is a key part of the Maryland Voting Rights Act (“MDVRA”) legislative package.⁴ The MDVRA builds upon the best parts of the landmark federal Voting Rights Act of 1965⁵ and recent efforts by states such as New York, Connecticut, Minnesota, Colorado and neighboring Virginia to provide much-needed protections against voting discrimination.⁶ Through this critical legislative package, Maryland would help set the standard for state-level protections for Black voters and other voters of color, and become a national leader in building an inclusive, multiracial democracy.

Marylanders agree with LDF that advancing the MDVRA should be a top affirmative voting rights priority. Eight-in-ten Maryland voters support passing a MDVRA (81%) and would like their state legislators to prioritize enacting such legislation (80%).⁷

I. The Legal Defense Fund’s Long History of Protecting and Advancing Voting Rights

Founded in 1940 under the leadership of Maryland native Thurgood Marshall, LDF is America’s premier law organization fighting for racial justice. Through litigation, advocacy, and public education, LDF seeks structural changes to build a more inclusive democracy, eliminate disparities, and achieve racial justice in a society that fulfils the promise of equality for all.

LDF has prioritized its work protecting the right of Black communities to vote for more than 85 years—representing Dr. Martin Luther King, Jr. and other marchers in Selma, Alabama in 1965; advancing the passage of the Voting Rights Act (VRA); litigating seminal cases interpreting the federal VRA’s scope;⁸ and working in communities across the South to strengthen and protect the ability of Black voters to participate in the political process free from discrimination.

⁴ In the 2026 legislative session, the MDVRA legislative package includes S.B. 255/H.B. 350 and H.B. 219. Last year, Maryland enacted HB 983/SB 685 “Election Law—Local Boards of Elections—Language-Related Assistance,” which was an important steppingstone towards the full language access protections envisioned through the MDVRA.

⁵ 52 U.S.C. §§ 10301–10314.

⁶ A.6678E / S.1046E, 2022 Reg. Sess. (N.Y. 2022), <https://www.nysenate.gov/legislation/bills/2021/A6678> (hereinafter “NYVRA”); H.B. 6941, 2023 Reg. Sess (Conn. 2023), <https://www.cga.ct.gov/2023/ACT/PA/PDF/2023PA-00204-R00HB-06941-PA.PDF> (hereinafter “CTVRA”); Minn. Stat. §§ 200.50–200.59 (hereinafter “MNVRA”); CO VRA, Co. Rev. Stat. §§ 1-47-101-302, https://leg.colorado.gov/bill_files/40976/download; S.B. 1395, 2022 Reg. Sess. (Va. 2021), <https://lis.virginia.gov/cgi-bin/legp604.exe?211+sum+SB1395>.

⁷ Mem. from LDF & Impact Rsch. to Interested Parties (Jan. 30, 2025), <https://www.naacpldf.org/wp-content/uploads/IMPACT-LDF-MDVRA-Key-Findings.pdf>.

⁸ See e.g. *Louisiana v. Callais*, 606 U.S. ___ (2025); *Allen v. Milligan*, 599 U.S. 1 (2023).

In the wake of recent Supreme Court cases that have undercut the federal VRA,⁹ as Congress struggles to respond with federal legislation,¹⁰ and as states across the country move to further restrict the franchise,¹¹ LDF has prioritized advancing State Voting Rights Acts (State VRAs) to meet the urgent need to protect Black voters from discrimination. LDF worked with partners to successfully advocate for the enactment of the John R. Lewis Voting Rights Act of New York (the New York Voting Rights Act or “NYVRA”) in 2022, the John R. Lewis Voting Rights Act of Connecticut (the Connecticut Voting Rights Act or “CTVRA”) in 2023, and the Minnesota Voting Rights Act (“MNVRA”) in 2024.¹²

This work has only become more urgent as we are now seeing attacks, not progress, on voting rights at the federal level. Through Executive Orders,¹³ anti-voter legislation in Congress,¹⁴ and a weaponized Department of Justice,¹⁵ the current Administration has turned the federal government from a bulwark against discrimination into a direct threat to voting rights for Black voters and other people of color. Attacks have also continued in the courts. Last year the U.S. Court of Appeals for the Eight Circuit ruled that voters cannot use the federal VRA directly to protect their rights, but rather they must depend upon the Department of Justice.¹⁶ And the Supreme Court will rule imminently in *Louisiana v. Callais*, the latest effort by states to undercut the VRA.¹⁷

These acute threats have driven substantial interest in State VRAs. Eight states have enacted their own State VRA; and at least ten other states have introduced legislation to date—a list we expect to expand as more legislative sessions get underway in 2026.¹⁸ This year LDF is working with robust coalitions of civil and voting rights advocates seeking to advance similar laws here in Maryland and in a number of other states.

⁹ See, e.g., *Shelby Cnty. v. Holder*, 570 U.S. 529 (2013); *Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647 (2021).

¹⁰ Freedom to Vote: John R. Lewis Act, H.R. 5746, 117th Cong. (2021).

¹¹ *Voting Laws Roundup: September 2024*, Brennan Ctr. for Just., N.Y.U. L. (Sept. 26, 2024), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-september-2024>.

¹² NYVRA, N.Y. Elec. L. §§ 17-200–222; CTVRA, Conn. Gen. Stat. §§ 9-368i–q; MNVRA, Minn. Stat. §§ 200.50–200.59.

¹³ Exec. Order No. 14, 248 (2025) (mandating significant changes to elections, including proof of citizenship for voter registration and restrictions on ballot counting).

¹⁴ Safeguard American Voter Eligibility (SAVE) Act, H.R. 22, 119th Cong. (2025).

¹⁵ *Tracker of Justice Department Request for Voter Information*, Brennan Center (Aug. 28, 2025, updated Jan. 23, 2026), <https://www.brennancenter.org/our-work/research-reports/tracker-justice-department-requests-voter-information>.

¹⁶ *Turtle Mountain Band of Chippewa Indians v. Howe*, 137 F.4th 710 (8th Cir. 2025).

¹⁷ *Louisiana v. Callais*, 606 U.S. ____ (2025).

¹⁸ State Voting Rights Acts Map, Legal Defense Fund (Jan. 2026), <https://www.naacpldf.org/state-voting-rights-acts/>.

As a vibrantly diverse state¹⁹ with historic Black leadership, as a state with a longstanding history of racial discrimination that has made substantial strides in opening its democracy,²⁰ and as the birthplace of our founder Thurgood Marshall, we are excited to work with the General Assembly to ensure that Maryland protects Black voters with a state-level voting rights act.

II. Racial Discrimination in Voting in Maryland

Maryland has made significant progress in making voting more equitable and accessible, yet substantial racial disparities persist in both voter participation and local representation.

In spite of its name, the Free State has a troubling legacy of racial terror linked to voter suppression. Lynchings have been documented in 18 of the state’s 24 counties.²¹ As the Vice Chair of the Maryland Lynching Truth and Reconciliation Commission noted prior to the 2020 election, “[t]he legacy of lynching is directly connected to voter suppression and attempts to stoke fear in the hearts of Black and brown [people] and allies of every color . . . ”¹⁴ Three decades ago, a federal court detailed Maryland’s history of voting discrimination in a ruling striking down a state legislative redistricting plan as racially discriminatory, noting that this history is marked by a 1904 provision that disenfranchised Black voters through the mid-1980s and a dual registration system that kept many Black voters from the polls until 1988.²²

Unfortunately, voting discrimination is not just a relic of the past—it persists today. According to the U.S. Census Bureau, Maryland has seen substantial racial disparities in racial turnout in recent elections. For example, for the 2022 elections, turnout for white Marylanders was more than ten points higher than for Black

¹⁹ Marissa J. Lang & Ted Mellnik, *Census Data Shows Maryland Is Now the East Coast’s Most Diverse State, While D.C. Is Whiter*, Wash. Post (Aug. 12, 2021), <https://www.washingtonpost.com/dc-md-va/2021/08/12/dc-virginia-maryland-census-redistricting-2/>.

²⁰ Bennett Leckrone, *Election Reforms Will Make Voting More Accessible in Maryland, Advocates Say*, Md. Matters (June 16, 2021), <https://www.marylandmatters.org/2021/06/16/election-reforms-will-make-voting-more-accessible-in-maryland-advocates-say/>.

²¹ Jonathan M. Pitts, *Maryland conference on lynchings finds links to voter suppression, social inequality*, Balt. Sun (Oct. 19, 2020), <https://www.baltimoresun.com/maryland/bs-md-maryland-lynching-conference-20201019-wqdo2w6xor3vm73jzmtguisda-story.html>.

²² *Marylanders for Fair Representation v. Schaefer*, 849 F.Supp. 1022, 1061 (D.Md, Jan. 14, 1994) (finding that “all-white, but state-funded, volunteer fire departments on the Eastern Shore [that] functioned as a kind of unofficial slating organization for white candidates”).

residents, and 20 points higher than for Latine voters.²³ Research from the Brennan Center for Justice shows that Maryland ranked second in the nation in 2022 for the number of Black voters who did not vote but would have if turnout rates were equal between Black and white Marylanders.²⁴ In other words, due to Maryland’s significant Black population, its racial turnout disparities are distorting its electorate to sharply reduce Black political power.

In addition to disparities in *participation*, research suggests voters of color in Maryland experience significant disparities in *local representation*. The ACLU of Maryland has found that many racially diverse communities across the state do not appear to have any elected officials who are people of color.²⁵

Although such descriptive underrepresentation itself is not necessarily unlawful (the relevant metric is the ability of voters of color to elect candidates of choice, regardless of such candidates’ race), substantial racial disparities in political participation coupled with signs of systemic underrepresentation are concerning red flags of racial discrimination in voting, and are often associated with racially discriminatory barriers to the franchise, such as insufficient polling places in communities of color that suppress turnout among voters of color, or district maps that crack or pack voters of color to dilute their voting strength.

Recent elections have demonstrated that efforts to intimidate voters or disrupt the election process present a significant problem in Maryland and throughout the country. For example, on November 8, 2024, as election workers were counting mail-in ballots, several offices for the Maryland Board of Elections had to be evacuated in response to bomb threats—part of a nationwide trend also seen in Georgia, Arizona, and Pennsylvania.²⁶ While no one was hurt, these

²³ Press Release, U.S. Census Bureau, Voting and Registration in the Election of November 2022: Table 4b (Reported Voting and Registration of the Total Voting-Age Population, by Sex, Race and Hispanic Origin, for States: November 2022 [<1.0 MB]) (Apr. 2023), <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-586.html> (last modified May 2, 2023).

²⁴ Kevin Morris & Coryn Grange, *Growing Racial Disparities in Voter Turnout, 2008–2022*, Brennan Ctr. for Just., N.Y.U. L. (Mar. 2, 2024), <https://www.brennancenter.org/our-work/research-reports/growing-racial-disparities-voter-turnout-2008-2022>.

²⁵ ACLU Md., *Why Maryland Needs Its Own Voting Rights Act*, https://www.aclu-md.org/sites/default/files/mdvra_need_public_onepager_mdga25_english.pdf (last visited Feb.21, 2025). The ACLU is in the process of updating this research, last conducted in 2024. Preliminary results suggest some improvements in descriptive representation but have still identified significant disparities.

²⁶ Pamela Wood, *Here’s what we know about bomb threats at Maryland Elections Offices*, Baltimore Banner (Nov. 11, 2024), <https://www.thebaltimorebanner.com/politics-power/state-government/maryland-election-bomb-threats-AAMRPBQ45CRZJSFH2UN5WVBLI/>; Hansi Lo Wang *et al.*, *Bomb threats disrupted what was otherwise relatively smooth voting on Election Day*, Nat’l Pub. Radio (Nov. 6, 2024), <https://www.npr.org/2024/11/06/nx-s1-5181834/election-day-voting-bomb-threats>

incidents disrupted election processes and threatened Maryland’s ability to provide fast, accurate election results.²⁷

With the increasingly tense climate in the U.S., and a federal administration willing to raid local election offices and deploy armed, masked agents at scale in Black and Brown communities, the risks will only increase going forward.²⁸ Additionally, the widespread use of Artificial Intelligence and the rollback of content moderation programs by social media platforms have increased the risk of efforts to deceive voters—efforts that are often targeted at voters of color.²⁹

Throughout Maryland’s history, local and state government have provided inadequate infrastructure to accommodate voters.³⁰ At polling sites, voters face long lines and slowdowns because of an insufficient number of voting machines and other equipment; in predominantly Black and Brown areas of the state, such as Prince George’s County, voters sometimes wait hours in line before casting a ballot.³¹ In addition to long lines, a severe shortage of election judges, who help assist voters and oversee election procedures at each polling place, undermine fair access to the polls. For example, in the 2022 general election, Anne Arundel County

²⁷ See also Brian Frosh, *Attorney General Frosh Issues Guidance to Remind Voters of Their Right to Vote Free of Harassment or Intimidation*, Maryland Attorney General (Oct. 14, 2020), <https://www.marylandattorneygeneral.gov/press/2020/101420a.pdf> (issued in response to election officials in Montgomery County expressing significant concerns over voter intimidation at the county’s in person polling places).

²⁸ Tim Darnell, *Fulton County Officials demand return of election documents after FBI raid*, ATLANTA NEWS FIRST (Feb. 2, 2026), <https://www.atlantaneWSfirst.com/2026/02/02/fulton-county-filing-lawsuit-over-fbi-raid-elections-hub/>; LDF Strongly Condemns Raid of Fulton County Elections Office Intended to Validate Debunked 2020 Election Claims, Legal Defense Fund (Jan. 29, 2026), <https://www.naacpldf.org/press-release/ldf-strongly-condemns-raid-of-fulton-county-elections-office-intended-to-validate-debunked-2020-election-claims/>; Billal Rahman, *Map Shows States Where ICE Arrests are Highest, Lowest*, NEWSWEEK (Aug. 1, 2025), <https://www.newsweek.com/map-shows-states-ice-arrest-immigration-2107629> (showing that ICE arrests nationwide increased significantly between 2024 and 2025 with roughly 109,000 arrests between January 20 and June 26, 2025).

²⁹ Ali Swenson & Kelvin Chan, *Election Disinformation Takes a Big Leap with AI Being Used to Deceive Worldwide*, AP News (Mar. 14, 2024), <https://apnews.com/article/artificial-intelligence-elections-disinformation-chatgpt-bc283e7426402f0b4baa7df280a4c3fd>.

³⁰ Ovetta Wiggins, Rebecca Tan, Rachel Chason, Erin Cox, *Citing a history of voter suppression, Black Marylanders turn out to vote in person*, WASHINGTON POST (Oct. 26, 2020), https://www.washingtonpost.com/local/md-politics/maryland-early-voting-prince-georges-trust/2020/10/25/847c5afc-1537-11eb-ad6f-36c93e6e94fb_story.html.

³¹ Bennet Leckrone, *Long Lines at Limited Polling Places Plus Mail-in Ballots Lead to Delays in Results*, MARYLAND MATTERS (Jun 2, 2020), <https://www.marylandmatters.org/2020/06/02/long-lines-at-limited-polling-places-plus-mail-in-ballots-lead-to-delays-in-results/>; see also Christopher Famighetti, *Long Voting Lines: Explained*, BRENNAN CENTER FOR JUSTICE, https://www.brennancenter.org/sites/default/files/analysis/Long_Voting_Lines_Explained.pdf.

was understaffed by 300 judges while Baltimore City was understaffed by 1,000 judges.³²

In the 2024 primaries, last-minute changes to polling locations and delayed openings were prevalent problems called into the ACLU of Maryland's voter protection hotline.³³ Likewise, voters faced unexpected closures, long lines, inadequate signage, and other issues during the 2024 general election.³⁴

III. Limitations of the Federal Voting Rights Act

Although the individual and collective provisions of the federal VRA have been effective at combatting a wide range of barriers and burdens,³⁵ federal courts have weakened some of the federal VRA's protections in recent years, making it increasingly complex and burdensome for litigants to vindicate their rights under the law. As a result, despite the federal VRA's importance, voters of color often face significant barriers to participate in the political process and elect candidates of their choice.

Maryland voters, supported by organizations such as the ACLU of Maryland, have used the federal VRA to achieve important voting rights victories in recent years.³⁶ Yet, existing federal law does not fully address the need for voting rights protections in Maryland and other states. For nearly 50 years, Section 5 of the federal VRA, the heart of the legislation, protected millions of voters of color from

³² *Maryland boards of elections again need to fill many election judge openings*, WBAL TV (Oct. 18, 2022), <https://www.wbal.com/article/maryland-election-judge-openings-poll-worker-shortage/41694906#>; Joel McCord, *Maryland desperately needs election judges for the midterm election*, WYPR NEWS (Oct. 27, 2022); Tim Gaydos, *Stipend is an insult to election judges*, FREDERICK NEWS POST (Mar 15 2018), https://www.fredericknews.com/opinion/letter_to_editor/stipend-is-an-insult-to-election-judges/article_2f9d6334-7571-5e8a-9b5c-a630ac6f251b.html.

³³ Jessica Babb & Megan Rodgers, *Problems at polling locations, some voters turned away after location not set up*, Fox Baltimore (May 14, 2024), <https://foxbaltimore.com/news/local/problems-at-polling-locations-some-voters-turned-away-after-location-not-set-up>.

³⁴ CBS Baltimore Staff, *Maryland election results delayed with voters still in line*, CBS News (Nov. 5, 2024), <https://www.cbsnews.com/baltimore/news/maryland-election-results-delayed-2024-prince-georges-voter-turnout-montgomery/>.

³⁵ Myrna Pérez, *Voting Rights Act: The Legacy of the 15th Amendment*, Brennan Ctr. for Just., N.Y.U. L. (June 30, 2009), <https://www.brennancenter.org/our-work/analysis-opinion/voting-rights-act-legacy-15th-amendment>.

³⁶ Settlement Order, *Caroline Cnty. NAACP v. Federalsburg*, No. 1:23-CV-00484, ECF No. 56; *Baltimore County NAACP et al v. Baltimore County et al*, ACLU Md. (Aug. 20, 2024), <https://www.aclu-md.org/en/cases/baltimore-county-naacp-et-al-v-baltimore-county-et-al>; Press Release, ACLU Md., VICTORY: Federal Judge Orders Baltimore County to Submit Redistricting Plan that Complies with Voting Rights Act (Feb. 22, 2022), <https://www.aclu-md.org/en/press-releases/victory-federal-judge-orders-baltimore-county-submit-redistricting-plan-complies>; Press Release, ACLU Md., Landmark Settlement, with Sweeping Array of Restorative Measures, Unveiled in Historic Federalsburg Voting Rights Case (Apr. 3, 2024) <https://www.aclu-md.org/en/press-releases/landmark-settlement-sweeping-array-restorative-measures-unveiled-historic>.

racial discrimination in voting by requiring certain political subdivisions to obtain approval from the federal government *before* implementing a voting change.³⁷ However, in *Shelby County, Alabama v. Holder*, the United States Supreme Court rendered Section 5’s “preclearance” process inoperable by striking down Section 4(b) of the federal VRA, which identified the places where Section 5 applied.³⁸

Predictably, the *Shelby County* decision unleashed a wave of voter suppression in states that were previously covered under Section 4(b).³⁹ This onslaught accelerated after the 2020 election, which saw historic levels of participation by voters of color (albeit with persistent racial turnout gaps).⁴⁰ Following that election, in 2021, state lawmakers introduced more than 440 bills with provisions that restrict voting access in 49 states, and 34 such laws were enacted.⁴¹ This wave of harmful legislation shows no signs of abating: In 2025, state legislatures enacted at least 31 restrictive voting laws, the second highest total since 2011.⁴²

Section 2 of the federal VRA protects against discriminatory voter suppression across the nation, with its importance increasing after the gutting of federal preclearance and the onslaught of voter suppression laws across the country.⁴³ However, in its 2021 decision *Brnovich v. Democratic National Committee*, the Supreme Court added new and additional burdens to challenges to voter suppression laws brought under Section 2.⁴⁴ The *Brnovich* decision improperly departs from the plain text of Section 2 to severely curtail the broad application of Section 2 Congress intended. The new and additional burdens, or “guideposts,” are factors that have never been considered before in Section 2 lawsuits, such as how long a challenged policy has been in place or whether a state provides more opportunities to vote now than most states did when Section 2 was

³⁷ See 52 U.S.C. § 10304.

³⁸ See *Shelby Cnty.*, 570 U.S. at 557.

³⁹ See LDF, *Democracy Defended* (Sept. 2, 2021), https://www.naacpldf.org/wp-content/uploads/LDF_2020_DemocracyDefended-1-3.pdf; see also LDF, *A Primer on Sections 2 and 3(c) of the Voting Rights Act 1* (Jan. 5, 2021), <https://www.naacpldf.org/wp-content/uploads/LDF-Sections-2-and-3c-VRA-primer-1.5.21.pdf>.

⁴⁰ Kevin Morris & Coryn Grange, *Large Racial Turnout Gap Persisted in 2020 Election*, Brennan Ctr. for Just., N.Y.U. L. (Aug. 6, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/large-racial-turnout-gap-persisted-2020-election>.

⁴¹ *Voting Laws Roundup: December 2021*, Brennan Ctr. for Just., N.Y.U. L. (Jan. 12, 2022), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>.

⁴² *State Voting Laws Roundup: 2025 in Review*, Brennan Ctr. for Just., N.Y.U. L. (Jan. 21, 2026), <https://www.brennancenter.org/our-work/research-reports/state-voting-laws-roundup-2025-review>.

⁴³ See U.S. Commission on Civil Rights, *An Assessment of Minority Voting Rights Access in the United States*, pg. 10 (Sept. 12, 2018), https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf. In the first five years following *Shelby County v. Holder*, an unprecedented 61 lawsuits were filed under Section 2.

⁴⁴ See *Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647 (2021); *Statement on Brnovich v. Democratic National Committee*, NAACP Legal Defense & Educational Fund, Inc. (July 1, 2021), <https://bit.ly/3zbBxws>.

last amended in 1982.⁴⁵ It is now more difficult to challenge discriminatory voting laws, specifically those that encourage voter suppression.

Section 2 of the federal VRA offers a private right of action to challenge any voting practice or procedure that “results in a denial or abridg[ment] of the right of any citizen of the United States to vote on account of race.”⁴⁶ But, as noted above, this private right of action is being contested and Section 2 litigation imposes a high bar for plaintiffs. In addition, such cases are expensive and can take years to reach resolution.⁴⁷ Section 2 lawsuits generally require multiple expert witnesses for both plaintiffs and defendants.⁴⁸ Plaintiffs and their lawyers risk at least six- or seven-figure expenditures in Section 2 lawsuits.⁴⁹ Individual plaintiffs, even when supported by civil rights organizations or private lawyers, often lack the resources and specialized legal expertise to effectively prosecute Section 2 claims.⁵⁰ Moreover, even when voters ultimately prevail in the lawsuits, several unfair elections may be held while the litigation is pending, subjecting voters to irreparable harm.⁵¹ Due to these challenges, some potential Section 2 violations are never identified, addressed, or litigated in court.⁵²

Section 2 claims are also expensive for jurisdictions to defend, regularly costing political subdivisions considerable amounts of taxpayer money. For example, the East Ramapo Central School District in New York State paid its lawyers more than \$7 million for unsuccessfully defending a Section 2 lawsuit brought by the local NAACP branch—and, after the NAACP branch prevailed, was ordered to pay over \$4 million in plaintiffs’ attorneys’ fees and costs as well.⁵³ In *Veasey v. Abbott*, the federal lawsuit in which LDF challenged the State of Texas’s

⁴⁵ See *Brnovich*, 594 U.S. at 669-672.

⁴⁶ 52 U.S.C. § 10301(a).

⁴⁷ *Voting Rights Act: Section 5 of the Act – History, Scope, and Purpose: Hr’g Before the Subcomm. on the Const. of the H. Comm. on the Judiciary*, 109th Cong. 92 (2005) (“Two to five years is a rough average” for the length of Section 2 lawsuits).

⁴⁸ LDF, *The Cost (in Time, Money, and Burden) of Section 2 of the Voting Rights Act Litigation 2* (Feb. 2021), <https://www.naacpldf.org/wp-content/uploads/Section-2-costs-2.19.21.pdf>; see also, e.g., Mike Faulk, *Big Costs, Heavy Hitters in ACLU Suit Against Yakima*, *Yakima Herald* (Aug. 10, 2014), https://www.yakimaherald.com/special_projects/aclu/big-costs-heavy-hitters-in-aclu-suit-against-yakima/article_3cbcce20-ee9d-11e4-bfba-f3e05bd949ca.html.

⁴⁹ LDF, *supra* note 19, at 2.

⁵⁰ *Voting Rights and Election Administration in the Dakotas: Hr’g Before the Subcomm. on Elections*, 116th Cong. 64 (2019).

⁵¹ *Shelby Cnty.*, 570 U.S. at 572 (Ginsburg, J., dissenting) (“An illegal scheme might be in place for several election cycles before a [Section] 2 plaintiff can gather sufficient evidence to challenge it.”).

⁵² *Congressional Authority to Protect Voting Rights After Shelby County v. Holder: Hr’g Before the Subcomm. on the Const., C.R. & C.L. of the H. Comm. on Judiciary*, 116th Cong. 14 (Sept. 24, 2019) (Written Test. of Professor Justin Levitt).

⁵³ Jennifer Korn, *ERCSD Threatens to Fire Teachers if Legal Fees Not Cut to \$1: NAACP Leaders Respond*, *Rockland County Times* (Jan. 21, 2020), <https://www.rocklandtimes.com/2021/01/21/ercsd-threatens-to-fire-teachers-if-legal-fees-not-cut-to-1-naacp-leaders-respond/>; Report and Recommendation, *NAACP, Spring Valley Branch v. East Ramapo Central Sch. Dist.*, No. 7:17-08943-CS-JCM (S.D.N.Y. Dec. 29, 2020).

Voter ID law with other civil rights groups and the U.S. Department of Justice (DOJ), the district court and the Fifth Circuit Court of Appeals required Texas to pay more than \$6.7 million toward the non-DOJ plaintiffs' documented litigation costs.⁵⁴ Recent voting rights litigation in Baltimore County has left taxpayers on the hook for more than \$800,000 to pay County lawyers seeking to defend its unlawful district map, in addition to attorneys fees they will owe Black voters who succeeded in establishing a violation of the VRA.⁵⁵

Above and beyond its complexity and cost, litigation under Section 2 of the federal VRA simply cannot keep up with the urgency of the political process. Because elections occur frequently, discriminatory electoral maps or practices can harm voters almost immediately after rules are changed. However, on average, Section 2 cases can last two to five years, and unlawful elections often take place before a case can be resolved.⁵⁶

To be clear, Section 2 litigation can be life changing for Black voters. This is evident in *Allen v. Milligan*,⁵⁷ where LDF's clients secured a second district where Black voters have an opportunity to elect their candidates of choice. In November 2024, Black voters showed up to the polls and elected a Black candidate to Congress.⁵⁸ *Allen v. Milligan* upheld decades of precedent under Section 2 and recognized that attacks on Black voters' rights continue today. As of January 2026, in *Louisiana v. Callais*, however, the Supreme Court is now reconsidering whether communities of color can have meaningful representation through maps redrawn to comply with Section 2 of the federal Voting Rights Act.⁵⁹ Just three years after *Milligan*, *Callais* now threatens to undercut voters' federal protections against racial vote dilution.

In addition to prohibitions against voter suppression and dilution, Section 11(b) of the federal VRA prohibits actual or attempted intimidation, threats or coercion against a person "for voting or attempting to vote" or "for urging or aiding any person to vote or attempt to vote."⁶⁰ There is no showing of intent required so

⁵⁴ See Mike Scarcella, *5th Circuit upholds \$6.7 mln in fees for plaintiffs in voting rights case*, Reuters (Sept. 4, 2021), <https://reut.rs/3tN14L7>.

⁵⁵ *Baltimore County Branch of the National Association for the Advancement of Colored People v. Baltimore County, Maryland*, No. 21-cv-3232-LKG, ECF No. 105-4 (D. Md. Feb. 5, 2024) (attaching Defendants' counsel's invoices for the duration of litigation to Plaintiffs' fee petition).

⁵⁶ *Shelby Cnty.*, 570 U.S. at 572 (Ginsburg, J., concurring) ("An illegal scheme might be in place for several election cycles before a [Section] 2 plaintiff can gather sufficient evidence to challenge it.").

⁵⁷ *Allen v. Milligan*, 599 U.S. 1 (2023).

⁵⁸ Kim Chandler, *Figures wins Alabama's redrawn 2nd Congressional District*, AP News (Nov. 6, 2024), <https://apnews.com/article/alabama-house-shomari-figures-caroleene-dobson-a538c479e7cc06fb43adc4094bd84ee7>.

⁵⁹ *Louisiana v. Callais* FAQ, NAACP LDF, <https://www.naacpldf.org/case-issue/louisiana-v-callais-faq/>.

⁶⁰ 52 U.S.C. § 10307(b).

long as the behavior has the effect of intimidating voters.⁶¹ This broad language makes the federal VRA a more useful legal tool than similar protections in the 1871 Ku Klux Klan Act and the 1957 Civil Rights Act.⁶² However, Section 11(b) still has limitations: there are no civil damages available under Section 11(b) and it has not been applied to the widening range of modern day deceptive election practices.⁶³ Due to these limitations, Section 11(b) lawsuits have been brought sparingly since the VRA's enactment.⁶⁴

IV. H.B. 219's Protections Against Voter Suppression

H.B. 219 will clarify and simplify the protections against voter suppression in Section 2 of the federal Voting Rights Act and codify them in Maryland law, and add complementary provisions not featured in the federal VRA. It will provide efficient, practical ways to identify and resolve barriers to equal participation in local democracy, including both voter suppression and voter intimidation, deception, and obstruction. And it incentivizes out-of-court resolution by providing a safe harbor for political subdivisions to voluntarily remedy violations without the risk and expense of litigation. To this end, it adds reciprocal notice requirements for local governments and prospective MDVRA plaintiffs and a “democracy canon” that gives guidance to judges interpreting election laws. This will ensure that, regardless of how the federal courts construe the federal VRA, Marylanders will have strong tools to protect themselves from voting discrimination. This section focuses on voter suppression and related provisions; voter intimidation and the democracy canon are discussed in subsequent sections.

A. Cause of Action to Address Voter Suppression

H.B. 219 provide voters and organizations that represent or serve voters with a private right of action to challenge policies or practices that result in racial disparities in voter participation.⁶⁵ It also empowers the Attorney General to bring cases to protect Maryland voters.⁶⁶ The bill codifies into Maryland law the same protections against voter suppression that have long been covered by Section 2 of

⁶¹ *Contra* Pub. L. No. 86-315 § 131(b).

⁶² 1871 Ku Klux Klan Act, 17 U.S.C. § 13 (1871), 1957 Civil Rights Act, Pub. L. No. 85-315 (1957).

⁶³ Ben Cady and Tom Glazer, Article, *Voters Strike Back: Litigating Against Modern Voter Intimidation*, 39 N.Y.U Rev. L. & Soc. 173 (2015).

⁶⁴ *Id.* at 238 (From 1965 to 2010, there were only 13 voter intimidation cases that included Section 11(b) claims. There was a resurgence in Section 11(b) cases in response to the unprecedented levels of voter intimidation in the 2020 and 2022 elections.).

⁶⁵ H.B. 219 §§ 15.5-301; 15.5-302.

⁶⁶ *Id.*

the federal Voting Rights Act,⁶⁷ but adopts a clarified and streamlined legal standard for these claims.⁶⁸ The legal standard for H.B. 219’s private right of action against voter suppression is based on similar protections against voter suppression that have been adopted in recent years in states including New York,⁶⁹ Connecticut,⁷⁰ Minnesota⁷¹, and Colorado.⁷²

The MDVRA’s protections against voter suppression will enable voters to address practices that create barriers to the ballot based on race, including, among other things, inaccessible or insufficient polling locations in communities of color, wrongful voter purges that disproportionately harm voters of color without justification, local elections held on unusual off-cycle dates that disproportionately suppress turnout among voters of color when compared to on-cycle elections, or improper election administration decisions or equipment allocations that lead to longer lines.⁷³

More than eight-in-ten (81%) Maryland voters support “[p]reventing voter suppression that denies voters equal and fair voting opportunities, such as closing polling places in communities of color or aggressively removing people from the voting rolls.”⁷⁴

B. Pre-suit Notice and Safe Harbor for Political Subdivisions

Section 15.3-303(B) contains important “safe harbor” protections for political subdivisions that wish to voluntarily remedy potential violations without litigation.⁷⁵ Prospective MDVRA plaintiffs are required to notify political subdivisions in writing of any alleged violation before they can commence any action in court (subject to a few limited exceptions).⁷⁶ Political subdivisions are

⁶⁷ Section 2 of the federal VRA prohibits political subdivisions from taking action with “the purpose or with the effect of denying or abridging the right to vote on account of race or color.” 52 U.S.C. § 10303.

⁶⁸ H.B. 219 § 15.5–301, 2026 Leg., 449th Sess. (Md. 2026), <https://mgaleg.maryland.gov/2026RS/bills/hb/hb0219F.pdf>. The MDVRA’s legal standard for voter suppression claims rejects recent federal cases interpreting Section 2 that impose severe barriers to plaintiffs seeking to assert voter suppression claims in federal court. *See, e.g., Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647 (2021).

⁶⁹ NYVRA, N.Y. Elec. L. § 17-206(b).

⁷⁰ CTVRA, Conn. Gen. Stat. § 9-368j(a)(2)(A).

⁷¹ MNVRA, Minn. Stat. § 200.57.

⁷² CO VRA, Co. Rev. Stat. §§ 1-47-105, 204, https://leg.colorado.gov/bill_files/40976/download.

⁷³ H.B. 219, § 15.3-301.

⁷⁴ LDF / Impact Rsch, *supra* note 7, at 1.

⁷⁵ H.B. 219 § 15.3–303(B).

⁷⁶ *Id.*

afforded a “safe harbor” period during which they can adopt a resolution committing to voluntarily remedy the alleged violation.⁷⁷

This provision incentivizes political subdivisions to resolve violations amicably, collaboratively, and outside of court. Similar notification and safe harbor procedures in other State VRAs have proven highly effective at incentivizing voluntary resolution of potential violations outside of court.⁷⁸

C. Increased Transparency Through Better Public Notice of Election Changes

Sections 1-305 and 15.3-303 build upon existing Maryland law to ensure voters have proper notification of any changes to election rules or procedures. In addition to ensuring voters have at least 15 days of notice before non-emergency changes,⁷⁹ these sections require the State Board of Elections to maintain an aggregate list of such changes so voters and organizations that represent them can get an accurate statewide picture of election changes in real time and assess any patterns or potential for discrimination.⁸⁰

This revives and expands one of the benefits of Section 5 of the VRA that was lost when the Supreme Court gutted the provision—that jurisdictions covered by the preclearance protection needed to notify the Attorney General or a federal court (and therefore the public) about election changes.⁸¹ Paired with the pre-suit notice provision described above, this prescribes reciprocal notice obligations for local governments looking to change their election procedures and voters who may want to hold them accountable for possible discrimination.

More than nine-in-ten Maryland voters (95%) support “[r]equiring cities or counties to notify voters of important voting changes, like different rules or shifts to polling locations.”⁸²

⁷⁷ See *id.* The political subdivision is afforded 60 days to adopt a resolution affirming its intent to enact a remedy. *Id.* § 15.5–303(B)(4)(III). If the political subdivision adopts such a resolution, it is afforded 150 days to enact and implement the remedy. *Id.* § 15.5–303(B)(4)(III)(1)–(2).

⁷⁸ Rachel Evans & Joanna E. Cuevas Ingram, *Voting Rights Barriers & Discrimination In Twenty-First Century California: 2000-2013*, Law. Comm. for C.R. of the S.F. Bay Area 7 (2014), <https://www.reimaginerpe.org/files/Voting-Rights-Barriers-In-21st-Century-Cal-Update.pdf>.

⁷⁹ H.B. 219 § 15.3-303(A)(1).

⁸⁰ See *id.* §§ 1-305(2)(c), 15.5-303(A)(4).

⁸¹ Cf. 52 U.S.C. § 10304.

⁸² LDF / Impact Rsch., *supra* note 7, at 1.

V. Protections Against Voter Intimidation, Deception, and Obstruction

H.B. 219 provides robust civil protections against voter intimidation, deception, and obstruction to complement existing criminal prohibitions.⁸³ The legislation provides the Attorney General with a new, civil cause of action to protect the state’s voters and election officials.⁸⁴ Critically, it also empowers voters or election officials to protect themselves against threats and abuse rather than depend upon state officials.⁸⁵

H.B. 219’s protections build upon Section 11(b) of the federal Voting Rights Act,⁸⁶ but are more expansive in two key ways. First, the legislation directly addresses the increasing problem of voter deception.⁸⁷ Second, it allows voters to receive financial compensation from those who harm them.⁸⁸ This provision for money damages can both deter bad conduct and also make enforcement more feasible by providing a way to hold bad actors accountable after the fact rather than needing to secure a court order to prevent the harmful conduct in real time.

More than nine-in-ten (91%) Maryland voters support protections against voter intimidation.⁸⁹

VI. Democracy Canon

H.B. 219 enshrines a “democracy canon” into state law by instructing judges to interpret laws and rules in a pro-voter, pro-democracy way whenever reasonably possible.⁹⁰ Because broad voter-protective language reaches only as far as courts are willing to enforce it, the MDVRA’s democracy canon transforms this discretionary, judge-made tool into a pro-voter legislative mandate. This ensures that courts will construe election and voting laws—including the MDVRA—in favor of protecting the rights of voters, ensuring voters of color have equitable access to fully participate in the electoral process.

⁸³ H.B. 219 § 15.5-201; *see also* Md. Att’y Gen., Guidance on Voter Intimidation (Apr. 2024), https://www.marylandattorneygeneral.gov/Reports/GUIDANCE_ON_VOTER_INTIMIDATION.pdf.

⁸⁴ H.B. 219 § 15.5-202.

⁸⁵ *Id.*

⁸⁶ 52 U.S.C. § 10307(b).

⁸⁷ H.B. 219 § 15.3-202(2).

⁸⁸ H.B. 219 § 15.5-501(D).

⁸⁹ Poll, *supra* note 7.

⁹⁰ H.B. 219 § 15.3-102. For more information on the Democracy Canon, *see* Rick Hasen, *The Democracy Canon*, 62 *Stanford L. Rev.* 69 (2009), <http://www.stanfordlawreview.org/wp-content/uploads/sites/3/2010/03/Hasen.pdf>.

VII. Equitable Voting Rights Protections Have Concrete Benefits

Robust voting rights protections, like those in the federal VRA and state-level voting rights acts, can have powerful effects in making the democratic process more fair, equal, and inclusive. These effects include reducing racial turnout disparities,⁹¹ making government more responsive to the needs and legislative priorities of communities of color,⁹² and increasing diversity in government office,⁹³ so that elected representatives more fully reflect the communities they serve.

There is evidence that measures like the MDVRA can have powerful, downstream benefits in health and economic equality as well. Professor Thomas A. LaVeist of Tulane University, in a landmark study, identified the federal VRA as a causal factor in reducing infant mortality in Black communities where the law's protections had led to fairer representation.⁹⁴ Recent analyses show that incremental improvements in diversity in local representation translate into more equitable educational and policy outcomes.⁹⁵ For these reasons, the American Medical Association has recognized voting rights as a social determinant of health and declared support for “measures to facilitate safe and equitable access to voting as a harm-reduction strategy to safeguard public health.”⁹⁶ In short, the MDVRA can have significant, potentially transformative benefits for democracy and society in this state.

⁹¹ Zachary L. Hertz, *Analyzing the Effects of a Switch to By-District Elections in California*, MIT Election Lab (July 19, 2021), https://electionlab.mit.edu/sites/default/files/2021-07/hertz_2020.pdf.

⁹² Sophie Schllit & Jon C. Rogowski, *Race, Representation, and the Voting Rights Act*, 61 Am. J. Pol. Sci. 513 (July 2017), <https://www.jstor.org/stable/26379507>.

⁹³ Loren Collingwood & Sean Long, *Can States Promote Minority Representation? Assessing the Effects of the California Voting Rights Act*, 57 Urb. Aff. Rev. 731, 757 (2021), https://www.collingwoodresearch.com/uploads/8/3/6/0/8360930/cvra_project.pdf; see Pei-te Lien et al., *The Voting Rights Act and the Election of Nonwhite Officials*, 40 Pol. Sci. & Pol. 489 (July 2007), <https://www.jstor.org/stable/20452002>; Paru R. Shah, Melissa J. Marschall, & Anirudh V. S. Ruhil, *Are We There Yet? The Voting Rights Act and Black Representation on City Councils, 1981-2006*, 75 J. Pol. 993 (Aug. 20, 2013), <https://www.jstor.org/stable/10.1017/s0022381613000972>.

⁹⁴ Thomas A. LaVeist, *The Political Empowerment and Health Status of African-Americans: Mapping a New Territory*, 97 Am. J. Socio. 1080 (1992), <https://www.jstor.org/stable/2781507>.

⁹⁵ See, e.g., Vladimir Kogan, Stephane Lavertu, & Zachary Peskowitz, *How Does Minority Political Representation Affect School District Administration and Student Outcomes?*, 65 Am. J. Pol. Sci. 699 (July 2021), <https://www.jstor.org/stable/45415637> (discussing “evidence that increases in minority representation lead to cumulative achievement gains . . . among minority students”); Brett Fischer, *No Spending Without Representation: School Boards and the Racial Gap in Education Finance*, 15 Am. Econ. J. Econ. Pol’y 198 (May 2023), <https://www.aeaweb.org/articles?id=10.1257/pol.20200475> (presenting “causal evidence that greater minority representation on school boards translates into greater investment in minority students”).

⁹⁶ *Support for Safe and Equitable Access to Voting H-440.805*, [J]AMA | PolicyFinder, <https://policysearch.ama-assn.org/policyfinder/detail/voting?uri=%2FAMADoc%2FHOD.xml-h-440.805.xml> (last modified 2022); see also Anna K. Hing, *The Right to Vote, The Right to Health: Voter Suppression as a Determinant of Racial Health Disparities*, 12 J. Health Disparities Rsch. & Prac. 48 (2019), <https://digitalscholarship.unlv.edu/jhdrp/vol12/iss6/5>.

VIII. Conclusion

This Committee hearing takes place as we await a decision by the Supreme Court in *Louisiana v. Callais*, a case in which both the State of Louisiana and the United States are urging the Court to severely limit how Black voters and voters of color can remedy racial vote dilution, participate in fair elections, and gain effective representation across the country. Maryland now has a unique opportunity to stand up for all Marylanders by enacting its own VRA.

We urge this Committee to safeguard Maryland voters by prioritizing moving H.B. 219 forward to the House floor; and we stand ready to work with you to protect Black voters, and other voters of color, in the Free State.

Please feel free to contact Adam Lioz at (917) 494-2617 or alioz@naacpldf.org with any questions or to discuss H.B. 219 in more detail.

Sincerely,

/s/ Adam Lioz

Adam Lioz

Senior Policy Counsel

NAACP Legal Defense & Educational Fund, Inc.

700 14th Street N.W., Ste. 600

Washington, DC 20005

/s/ Imani Brooks

Imani Brooks

Policy Counsel

NAACP Legal Defense & Educational Fund, Inc.

700 14th Street N.W., Ste. 600

Washington, DC 20005

NAACP Legal Defense and Educational Fund, Inc.

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voting discrimination, intimidation, and suppression. LDF has been fully separate from the National Association for the Advancement of Colored People (“NAACP”) since 1957, though

LDF was originally founded by the NAACP and shares its commitment to equal rights.