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Written Statement of the
Southern Poverty Law Center
Before U.S. House of Representatives
Committee on House Administration
Subcommittee on Elections
“Voting Rights and Election Administration in Florida”

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Introduction

Florida continues to showcase the ongoing impact of Jim Crow era voter suppression laws targeted at making sure former slaves, newly enfranchised through the Fourteenth and Fifteenth Amendments, were never able to enjoy full citizenship. Over one hundred years later, Florida still has some of the harshest voting restrictions in the country and disenfranchises more voters than any other state.¹ Prior to the November 2018 mid-term elections, almost 10% of the state's voting age population was permanently disenfranchised due to a felony conviction, and African-American/Black citizens represented a disproportionate number of those disparately impacted.² Moreover, despite litigation to curb the state's aggressive and unlawful approach to voter purging³, Florida nevertheless removes voters from the rolls at an alarming rate.⁴ In 2019, following a string of successful ballot initiatives over the years, including Amendment 4 which single-handedly restored the voting rights of over 1.4 million voters, the state legislature introduced an unprecedented number of bills attacking basic civil liberties, some of which are highlighted below.

Passage of Amendment 4 and Senate Bill 7066

For over the past 15 years, numerous bills have been introduced to automatically re-enfranchise voters with felony convictions, but the legislature has done nothing to advance, let alone pass, these measures. In November 2018, Florida citizens decided they had had enough with waiting on the legislature to enact a rights restoration law that reflected the values of most voters, Republicans and Democrats alike. National and state-based civil rights groups, working under the umbrella of the Florida Rights Restoration Coalition, launched a major multi-year campaign for a ballot initiative to amend Florida's constitution. The proposal allowed for the automatic restoration of voting rights to those with felony convictions who had completed their sentences, except for anyone convicted of murder or felony sexual assault. Otherwise, the only alternative remained an executive clemency process⁵ that a federal district court deemed to be "a fatally flawed scheme of unfettered discretion."⁶

Activists and volunteers gathered over 766,200 signatures for the petition and approval from the state supreme court to put the measure on the November 2018 ballot. In approving the language, the court held that:

the ballot title and summary clearly and unambiguously inform the voters of the chief purpose of the proposed amendment. Read together, the title and summary would reasonably lead voters to understand that the chief purpose of the amendment is to automatically restore voting rights to felony offenders,

¹ Erika L. Wood, *Florida: An Outlier in Denying Voting Rights*, Brennan Center for Justice, available at https://www.brennancenter.org/sites/default/files/publications/Florida_Voting_Rights_Outlier.pdf (last visited Apr 26, 2019).

² *Id.*

³ *Mi Familia Vota Educ. Fund v. Detzner*, 891 F.Supp.2d 1326 (M.D. Fla. 2012)

⁴ Kevin Morris & Myrna Perez, *Florida, Georgia, North Carolina Still Purging Voters at High Rates* (2018), available at https://www.brennancenter.org/sites/default/files/legacy/d/download_file_46932.pdf (last visited Apr 26, 2019).

⁵ Fla. Const., Art. IV, § 8(a).

⁶ *Hand v. Scott*, 315 F.Supp.3d 1244, 1248 (N.D. Fla. 2018), *stay granted*, 888 F.3d 1206 (11th Cir. 2018).

except those convicted of murder or felony sexual offenses, upon completion of all terms of their sentence.”⁷

After hosting numerous community town halls, tabling at every kind of public event, running multiple television advertisements and other public service announcements, and engaging in deep canvassing, almost 65% of Floridians voted “YES” on Amendment 4.⁸ Over a million formerly convicted individuals can now participate in our democracy. Unfortunately, in an undisguised, blatant attempt to undermine the will of the people, the state legislature passed SB 7066, which materially changed the meaning and enforcement of Amendment 4 in two key ways: first, by expanding the definition of murder and, second, by redefining “completion of sentence” to include the payment of almost any and all legal financial obligations (LFOs), even those converted to a civil lien.⁹

The legislature knew exactly what it was doing when it required the full satisfaction of all LFOs prior to someone being eligible to vote. SB 7066 imposes exorbitant financial barriers to the ballot box which many have decried as a modern-day poll tax. The average citizen who completes prison, parole and probation faces steep challenges in securing gainful employment, safe and secure housing, and financial assistance to attend school. If enforced, the likelihood that most people who were eligible to vote under Amendment 4 can satisfy those additional financial hurdles is much, much smaller. Therefore, SB 7066 completely runs afoul of the plain language and meaning of Amendment 4, now enshrined in the state constitution¹⁰, as recognized by the state supreme court and understood by the voters.

In addition to being unconstitutional, SB 7066 creates a world of confusion for impacted individuals and the agencies and grassroots organizations that serve them. Many people have registered to vote since Amendment 4 went into effect in January 2019, and now those voters face the loss *again* of their voting rights. Despite voters’ best intentions in passing Amendment 4, the legislature has again found a way to keep Florida’s disenfranchised population ever so high. Not only is this a huge setback, but it only further undermines the people’s faith in our democracy.

Restrictions on Petition Gathering (SB 7096)

Amendment 4 passed because Florida’s ballot initiative process allows citizens to bypass legislators who refuse to respect the demands of their constituents when it comes to adopting progressive social policies. In disappointing, yet true fashion, the Florida legislature’s response to Amendment 4’s passage was to rebuff rather than respect the will of the people by imposing nefarious and unnecessary restrictions on the constitutional right to place amendments on the ballot. Under SB 7096, petition gatherers could face second-degree misdemeanor charges for failing to register as an official petition circulator and can no longer receive compensation per signature collected.¹¹ This legislation is not only a mean-spirited response to Floridians’ dissatisfaction with the political status quo, but it is also an unconstitutional infringement on the

⁷ *In re Advisory Opinion to the Atty Gen. re: Voting Restoration Amendment*, 215 So.3d 1202, 1208 (Fla. 2017).

⁸ Florida Amendment 4, CNN, *available at* <https://www.cnn.com/election/2018/results/florida/ballot-measures/1> (last visited Apr 26, 2019).

⁹ CS/SB 7066, Reg. Sess. 2019 (Fl. 2019).

¹⁰ Fla. Const., Art. IV, § 4(a).

¹¹ SB 7096, Reg. Sess. of 2019 (Fl. 2019).

right to free speech and freedom of association in violation of the First Amendment.¹² Further, the Supreme Court has deemed the prohibition on payment to petition circulators as violating the First Amendment as well.¹³ If SB 7096 is enforced, grassroots advocacy groups would almost never have the resources they need to mount a successful ballot initiative. Moreover, this law would ensure that issue campaigns like ending Florida's lifetime felony disenfranchisement ban are never successful and would effectively leave the state legislature with unyielding power.

Increasing the Numerical Threshold for Passage of Citizen Initiatives (HJR 57/S 232)

Citizen initiatives are the bedrock of our democracy because they help ensure that, even when the legislature fails to act or passes a terrible law, voters have a direct say in state and local policies. The initiative process has resulted in several substantive legislative accomplishments.¹⁴ In early April, the House and Senate introduced similar versions of a bill that would have increased the threshold to approve constitutional amendments implemented through the initiative process from 60% to 66 & 2/3%.¹⁵ This increase is almost two percentage points higher than the 64.5% secured to pass Amendment 4. Thankfully, these measures died in committee, but if the 66 & 2/3 threshold existed in 2018, Amendment 4 either might not have passed, or supporters of the amendment would have had to spend more money and time to secure enough votes for passage. It seems obvious that the motivation behind, or at least the impact of, this law is to thwart any and all future ballot initiatives. HJR 57 and S 232 are another reminder that when we take one step forward, those opposed to fairness and transparency in government operations take us two steps backwards.

Conclusion

Although only five counties in Florida were subject to preclearance under Section 5 of the Voting Rights Act¹⁶, the bills discussed in this written statement are evidence as to why statewide federal oversight of Florida's elections, election laws, and other policies that impact a person's right to vote remains necessary. We urge this Committee and Congress to revive Section 5, amend the coverage formula to include the entire state of Florida, and protect the fundamental right to vote.

¹² *Buckley v. American Constitutional Law Found. Inc.*, 525 U.S. 182 (1999).

¹³ *Meyer v. Grant*, 486 U.S. 414 (1988).

¹⁴ See Summary of Florida ballot measures, available at <https://votesmart.org/elections/ballot-measures/FL#.XNwmdMhKg2w>, last visited May 15, 2019.

¹⁵ HJR 57, Reg. Sess. of 2019; S 232, Reg. Sess. Of 2019 (Fl. 2019).

¹⁶ DOJ list of previously covered Section 5 jurisdictions, available at <https://www.justice.gov/crt/jurisdictions-previously-covered-section-5> (last visited May 15, 2019).