



Testimony on HB 6,

By: James Slattery, Senior Staff Attorney, Texas Civil Rights Project

Texas House Elections Committee, April 1, 2021

Chair Cain, Vice Chair González, and Members of the House Elections Committee,

I am here to testify in opposition to HB 6. According to a recent study, Texas in 2020 was the hardest place to vote in the entire country¹⁸: we have no online voter registration, only a few discrete groups of Texans can vote by mail, and 750 polling places were closed between 2013 and 2019, predominantly in communities of color.¹⁹ HB 6 would make it even harder to vote in Texas on a number of fronts, but I will focus on only two of them in this testimony.

First, Section 5.05's prohibition against "solicit[ing]" a vote by mail application would likely cover nearly any statement--whether verbal, written, or online--by a government employee about vote by mail. For instance, statements by public officials about the mere existence of vote by mail, or explanations about how to apply for and cast a mail ballot, could be interpreted as efforts to encourage (and therefore solicit) people to vote by mail. It absolutely would have led to more individuals infected with COVID in 2020 if election officials had not been able to promote voting by mail. Similarly, posting a vote by mail application on a county's website could also be considered "distribut[ing]" it to someone unsolicited.

This provision would create powerful incentives for counties to remove all outward facing messaging about vote by mail, and to refrain from oral communications with voters about vote by mail. Because the right to vote is only meaningful if voters have information on how to exercise it, these draconian restrictions threaten to make vote by mail a dead letter in Texas.

Separately, the provisions in Article 6 are impractical and possibly dangerous. It creates a new judicial process prioritizing certain election cases and risks serious unintended consequences. As currently written, Sections 6.01 through 6.04 would give priority treatment to certain election cases filed within 60 days of an election. This new fast track procedure comes with no explicit safety valve to give priority to cases that involve literal life and death during the pre-election period, such as family violence, the safety of children, or other threats to the physical and mental well being of Texans. Further, this process isn't limited

¹⁸ "Texas takes over the 50th spot, representing the state with the most restrictive electoral climate. In particular, Texas has an in-person voter registration deadline 30 days prior to Election Day, has reduced the number of polling stations in some parts of the state by more than 50 percent, and has the most restrictive pre-registration law in the country." See Scot Schraufnagel et al., *Cost of Voting in the American States: 2020*, 19 Election Law Journal 503, 508 (2020), <https://www.liebertpub.com/doi/pdf/10.1089/elj.2020.0666>; see also Ross Ramsey, *Analysis: It's harder to vote in Texas than in any other state*, Texas Tribune (Oct. 19, 2020), <https://www.texastribune.org/2020/10/19/texas-voting-elections/>.

¹⁹ Leadership Conference Education Fund, *Democracy Diverted: Polling Place Closures and the Right to Vote* at 17 (Sept. 2019), <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>.



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to just a November election, but applies whenever there is “a general or special election,” which is quite frequent in Texas.

We therefore urge the Committee to not vote HB 6 favorably out of Committee as currently drafted.