



Testimony on HB 2339

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

Texas House Elections Committee, April 21, 2021

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

I wish to express great concern about several aspects of the current version of this bill.

Sections 2 and 3 would require county clerks to send a list of those who have been excused from jury service for lack of citizenship or lack of county residence to “the attorney general for an investigation” without any evidence at that point to suggest that these individuals have actually committed a crime. It is not a crime merely to be on the voter rolls with an out of date address. Because voters sometimes forget to cancel their old voter registration until an imminent election prompts them to do so, the overwhelming likelihood is that most individuals referred for a criminal investigation will have simply just not yet updated their registration.

Further, there are important safeguards missing in the bill. For instance, the bill does not require the clerk or the Attorney General to check whether the individuals being referred for investigation registered to vote after obtaining residence or citizenship, which would make them eligible voters despite the jury excusal. Further the information forwarded to the Attorney General (name and address) is less than what is necessary to establish even a so-called “weak” match to a specific voter registered in the county, which requires an additional piece of information unique to the voter (like date of birth or Social Security number).

Similar efforts to match voters on the rolls to lists developed by non-election agencies have often led to disaster in Texas. In 2012, an effort to match voters on the rolls with dead individuals in the Social Security system flagged many voters who were very much alive. In 2019, the State of Texas used flawed data from DPS to investigate people for potential election offenses if they had indicated at one moment in time that they were not citizens, without taking into account whether their citizenship status had changed thereafter. That effort collapsed after a judge ruled that the effort “exemplifies the power of government to strike fear and anxiety and to intimidate the least powerful among us,” and after the State of Texas incurred \$450,000 in costs and attorneys’ fees.⁵ Both of these efforts also disproportionately affected voters of color. Without more stringent protections, this bill risks another costly debacle for the people and government of the State of Texas.

⁵ Lise Olsen, *Texas' voter purge made repeated errors*, Houston Chronicle (Nov. 2, 2012), <https://www.chron.com/news/politics/article/Texas-voter-purge-made-repeated-errors-4001767.php>; Alexa Ura, *Texas will end its botched voter citizenship review and rescind its list of flagged voters*, Texas Tribune (Apr. 26, 2019), <https://www.texastribune.org/2019/04/26/texas-voting-rights-groups-win-settlement-secretary-of-state/>.