



The Legislative Advocacy Committee is actively working to support the bills below.

Voting Rights

There are four constitutional amendments in the legislature this year that expand voter accessibility to the ballot box.

SB2 would put early voting into the Constitution. Right now, legislation that passed two years ago is on the books, but its constitutionality was challenged in a lawsuit that was dismissed only because of a standing issue – the parties who brought the suit didn't have a sufficient stake in the outcome for the courts to rule. Another suit could be brought and, if successful, we could lose the right (and convenience!) of early voting, **unless** that right becomes part of our Constitution.

SB3 permits absentee voting without an excuse. Currently, the Constitution outlines permissible reasons for absentee voting, such as vacation or military service. Other states permit this with no excuse. It is more commonly known as vote by mail. We used it during the pandemic and it increased voter turnout.

HB88 authorizes the Legislature to prescribe rules for voter registration. A statute permitting same day registration passed two years ago but was ruled unconstitutional.

SB2 and 3 passed the Senate and were assigned to committee in the House. Since they are constitutional amendments they require a 2/3 vote to pass and must be passed again in the next legislative session. We put out on the website a letter of support and links to ACLU activities that support expansion of voter rights this week. We attended a Lobby Day for these bills and HB180 (see below) on May 14. We lobbied House Republicans to get these bills out of committee. They eventually were voted out of committee that day, although



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the Republicans we lobbied voted against SB3 (vote by mail). It is questionable when these bills will get to the House floor. Two Republican votes are needed for the 2/3 majority **assuming** Rep. Stell Parker Selby (absent from the legislature due to a stroke) returns to vote in favor. If she does not, the bills will need three Republican votes. There is talk of leadership not bringing the bills to the House floor if Rep. Parker Selby does not return.

HB88 was voted out of the House Administration Committee.

HB65 changes the primary day from September to the fourth Tuesday in April, when the presidential primary is held. There are pros and cons to support this, but the committee voted to support it and signed on to an ACLU letter of support. It passed the House and is in the Senate Elections & Governmental Affairs Committee.

HB180 removes felony disenfranchisement from the Constitution and cleans up outdated language such as literacy and durational residency requirements. This bill pass out of the House Administration Committee.

HB112 would require presentation of photo ID in order to be able to vote. No Democrats have signed on to this bill. We have begun to review it and have concerns. First, it restricts the ability to vote only to those able to present the documents stated in the Bill, which seems designed to prevent immigrants and other minorities from voting. Second, the Bill fails to state what documents will have to be presented to the DMV in order for someone to receive a Nondriver Identification Card. Third, it eliminates the sentence in the original that provides: "In the event the voter does not have proof of identity with them, the voter shall sign an affidavit of affirmation that the voter is the person listed on the election district record." It is in the House Elections & Governmental Affairs Committee.

SB126 give the Election Commission authority to consolidate polling places. Again, no Democrats have signed on. We also have concerns on this bill. First, it gives the Election Commission authority to consolidate polling places at a time when polling places should be expanded to encourage and enable more



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people to vote. Second, the only restriction on the Commission's authority to consolidate polling places into a "centrally located center" is that the consolidation "does not result in an undue burden on voters' access to polling places." However, the Bill does not define "centrally located" or "undue burden on voters' access." Does the Bill meet the alleged goal of "giving voters the ability to vote at the polling place . . . most convenient to them" when it provides for the Commission to close and consolidate polling places? This bill is in the Senate Elections & Governmental Affairs Committee.

The committee has not officially discussed HB112 and SB126, but we have provided feedback to the Delaware Voting Rights Commission and it is likely we will oppose it.

Delaware is drafting its own version of the Federal Voting Rights Act and we are monitoring that to see when it is filed.

We also are monitoring the SAVE Act, a federal bill passed by the house that would require proof of citizenship to be able to vote. This would implicate the same concerns as HB112. It has been in the U.S. Senate for a while and has not advanced out of committee.

Immigration/Education

HB93, 94, 95 would restrict school districts ability to cooperate with immigration officials or to use school constables or SRO's to enforce immigration laws against students and would restrict disclosure of student records to immigration authorities without the consent of the Attorney General. The committee voted to support these bills. HB95 (student records) was voted out of the House Education Committee. HB93 and 94 are still in the Judiciary and Homeland Security Committees, respectively. The committee voted to support these bills. SDARJ also signed on to an ACLU letter to public officials calling on them to resist cooperation with immigration officials and act proactively to protect immigrants in this state.

HB95 was voted out of committee; HB93 is in the House Judiciary Committee; HB94 is in the House Public Safety & Homeland Security Committee.



Reproductive Rights

SB5 is a constitutional amendment guaranteeing reproductive freedom in Delaware. It passed the Senate and is in the House Administration Committee. HB14 is a constitutional amendment guaranteeing the right of privacy in Delaware. It passed the House Administration Committee, no word on the Senate committee assignment yet. The Legislative Advocacy Committee supports these bills.

Criminal Justice¹

Discussions for the language of the **Probation Reform Bill** have been taking place since January and SDARJ has had a seat at the table for the policy group and stakeholder planning meetings. Discussions have centered around whether standard and special conditions should be codified.

Two bills were finally filed, SB7 and 8. SB7 codified standard conditions and eliminated such conditions as automatic substance abuse testing and treatment, curfews, and permission to marry. SB8 obligated the court, DOC and the probation officer to tailor special conditions to the criminogenic needs of the probationer. This means substance abuse testing could be ordered, but only if relating to the underlying offense or if there is evidence the probationer is using.

The bills were in Senate Executive Committee on May 21. We attended a Lobbying event on that day sponsored by ACLU and advocated for the bills. We were assigned a Republican Senator on the committee who was opposed to eliminating substance abuse testing as a standard condition. Thanks to our advocacy and a poor performance by DOC before the committee, he voted to release the bills from committee.

SB7 is now in the Senate Finance Committee because there is a \$245,000 fiscal note for a one-time change to the computer interface for enhancements

¹ I am including Criminal Justice because there obviously are women offenders and these are related to economic freedom. It is not really related to the other three, but there is an overall freedom to be a productive member of society that I think the Probation bills are related to. We can discuss whether we should include these.



and modifications to evolve from a static data repository into a dynamic, compliance-driven supervision management platform. The required system modifications involve various system architecture enhancements, additional data fields, and user interface changes. This was not really discussed in ACLU meetings and we have inquired as to whether the bill can pass without the computer changes.

Two bills concerning **Fines and Fees** have been filed, HB132 and 133. HB133 permits a judge to waive fines and fees at sentencing and conviction if the defendant qualifies for a hardship waiver. HB132 eliminates certain fees such as a court security fee, videophone fee and fines for seat belt and child seat violations, which paid for court bailiffs, courts' zoom, and notification fees, and calls for paying for these out of the general budget. Both bills passed out of the House Administration Committee. We will be working toward supporting these bills in committee and on the floor.

HB132 was assigned to the House Appropriations Committee. There is a fiscal note attached to that because the revenue from waived fines and fees will need to be replaced in the general budget. The replacement costs are estimated to be between \$2 and \$3 million. HB133 also has a fiscal note, but the replacements costs are "indeterminable".