



MEMORANDUM

TO: The Pennsylvania House State Government Committee

FROM: Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

DATE: June 20, 2022

RE: OPPOSITION TO SB 573 P.N. 1712 (Mastriano)

Bill summary: [SB 573](#) (PN 1712) would permit any registered voter in Pennsylvania to be appointed as a poll watcher in any precinct in the commonwealth. Poll watchers are currently required to be a resident of the county, municipality, or precinct to which they are appointed. Political parties and candidates for office would be allowed to appoint three poll watchers per precinct in primary, general, municipal or special elections. SB 573 would require that poll watchers have a “clear line of sight” to view and hear pre-canvassing and canvassing proceedings at a distance of six feet or less.

SB 573 would also increase criminal penalties for certain offenses:

- Increases the grading for a violation of § 1806 (refusal to permit overseers, watchers, attorneys, or candidates to act) from an ungraded misdemeanor (M3) to a second-degree misdemeanor. This would increase the maximum term of imprisonment from 1 year to 2 years and maximum fines from \$1,000 to \$5,000.
- Increases the grading for a violation of § 1847 (voter intimidation and election interference) from a second-degree misdemeanor to a first-degree misdemeanor. This would increase the maximum term of imprisonment from 2 years to 3 years and maximum fines from \$5,000 to \$10,000.
- Increases the grading for a violation of § 1849 (hindering or delaying performance of duty) from an ungraded misdemeanor (M3) to a second-degree misdemeanor. This would increase the maximum term of imprisonment from 1 year to 2 years and maximum fines from \$500 to \$2,500.

On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, I respectfully urge you to oppose Senate Bill 573.

SB 573 would eliminate the long-standing tradition of local control over poll watchers, needlessly increasing the chances of confrontation, unfounded challenges, and voter intimidation.

Under [25 PS § 2687](#), Pennsylvania allows partisan political observers (representatives of a political party or candidate) to observe and look for indicators of bias or interference in elections, e.g., a poll worker providing too much guidance on a candidate; a machine acting erratically; the presence of any campaign materials within voting locations. Poll watchers may also make good faith challenges to an elector’s identity, continued residence in the election district, or qualifications as an eligible voter.¹

Although watching for irregularities, bias, or interference is a critical role for poll watchers, the ability to challenge voters is why Pennsylvania requires poll watchers to live in the county in which they’re appointed as watchers. The county residency requirement has long-served as a mechanism to allow people to observe the election process in their own communities, among community members they are more likely to know.

¹ Pennsylvania Department of State, [Guidance Concerning Poll Watchers and Authorized Representatives](#), October 28, 2020.

SB 573 would break this tradition by allowing out-of-county voters to serve as poll watchers, thereby permitting any qualified elector in the state to challenge the eligibility of any voter to vote in any precinct in the commonwealth. While many voter challenges are made in good faith, some are not. When challenges are used in a discriminatory manner or used to intimidate voters, they risk violating state and federal laws² prohibiting voter intimidation. Intimidation can include tactics such as: photographing or videotaping voters; disseminating false or misleading election information to voters; blocking the entrance to a polling place; directly confronting voters; asking voters for documentation.

Permitting Pennsylvania electors to serve as watchers in any precinct in the commonwealth invites people from outside county communities inside local polling locations. This change needlessly invites opportunities for confrontation, unfounded challenges to voters' eligibility by out-of-county watchers, and, in some cases, an increased risk of voter intimidation.

For these reasons, we urge you to oppose Senate Bill 573.

² U.S. CONST. amend. XIV & XV, 42 U.S.C. § 1983 (prohibits anyone acting under color of law from depriving any individual of his or her constitutional rights, including his or her rights to vote and to equal protection of the laws); 42 U.S.C. § 1971(a)(2)(A) ("No person acting under color of law shall—(A) in determining whether any individual is qualified under State law or laws to vote in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote."); 42 U.S.C. § 1985(3) (providing cause of action if "two or more persons.. conspire...for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws").