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ACLU OF RI POSITION: OPPOSE

TESTIMONY ON 22-H 7515, RELATING TO THE REGISTRATION OF VOTERS March 24, 2022

While the ACLU of Rhode Island strongly supports the underlying goal of this bill – adding more eligible residents to the voting rolls – we are constrained to oppose the legislation’s method of promoting that goal.

Rhode Island, like most other states, has what is known as a front-end voter registration system for people applying for or renewing their drivers’ licenses. That is, at the time of your transaction at the DMV, you are asked whether you want to register to vote and are apprised of the qualifications necessary to do so. Under a back-end system, as this bill proposes, the individual doesn’t take any action; instead, if the DMV determines, based on the identifying documentation they’re provided from the patron, that the person is a U.S. citizen, their information is automatically shipped to the board of canvassers to register the person. The board then sends a mailer to the individual advising them they are being registered, and gives the person a period of time to opt-out.

Our concerns about this process are briefly summarized below:

* The need for the DMV to make determinations about a person’s citizenship may lead to fraught encounters between clerks and immigrants conducting business with the agency. It may also complicate the results of efforts to adopt “alternative drivers’ license” legislation designed to assist undocumented immigrants, since the alternative license will not rely one way or another on DMV determinations of citizenship or questions from DMV about a person’s citizenship status. There will thus be more individuals using the DMV’s services who may not be eligible to vote, but an opt-in system creates the opportunity for people to be unintentionally added to the voting rolls through no fault of their own.

* Just as there is a fundamental right to vote, we believe there is a corollary right not to vote (and, similarly, to not register to vote), and that registering should involve an affirmative decision by the person affected. In addition, we suspect that many people won’t bother reading the mailer they receive advising them of their ability to opt out of being registered. Ultimately, there is an element of deception in signing people up to register to vote at the time of the interaction without telling them so, much less offering them the opportunity to opt out at that time.

This dispute over an opt-in vs. opt-out system is something that the ACLU has dealt with in a variety of other contexts, and we generally favor the former in terms of ensuring informed consent. We believe opt-in should apply in this situation as well. For all these reasons, while we are very sympathetic to the objective of this legislation, we instead urge that stronger efforts be made, if needed, to make residents more aware of their ability to sign up to vote while conducting business at the DMV.