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HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 444
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO THE DELAWARE JOHN LEWIS VOTING RIGHTS ACT.

WHEREAS, there is a history in Delaware of public and private discrimination against individuals who are members of race, color, or language minority groups; and

WHEREAS, electoral systems that deny race, color, or language minority groups an equal opportunity to elect candidates of their choice are inconsistent with the right to free and equal elections and the promise that equality of rights under the law shall not be denied or abridged on account of race, color, national origin, or sex established under Article 1 Sections 3 and 21 of the Delaware Constitution; and

WHEREAS, there are significant racial disparities in political participation and voter registration in Delaware, which are an indication of barriers to the franchise. For example, according to data published by the United States Census Bureau, 80.2 percent of non-Hispanic white citizens in Delaware were registered to vote as of the November 2024 election, whereas only 65.7 percent of Black citizens in Delaware were registered to vote as of that election. According to the same Census Bureau data, 73.5 percent of non-Hispanic white citizens in Delaware voted in 2024 election, whereas 60.5 percent of Black citizens in Delaware voted in 2024 election; and

WHEREAS, in recognition of these findings and of the protections for the right to vote and equality of rights provided by the state constitution, and in conjunction with the federal constitutional guarantee of equal protection and constitutional prohibitions against the denial and abridgement of the right to vote, the General Assembly enacts the Delaware John Lewis Voting Rights Act and affirms that it is the public policy of this state to: 1) encourage participation in the elective franchise by all eligible voters to the maximum extent, and 2) ensure that all voters have an equal opportunity to participate in the political processes of this state.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 101, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 101. Definitions.

As used in this title:

(10) “Election policy or practice” means any qualification to be an elector, prerequisite to voting, method of election, or any other law, statute, ordinance, resolution, charter or code provision, regulation, rule, policy, practice, procedure, standard, or any other action with respect to voting, electoral or jurisdictional boundaries, or the administration or schedule of elections.

(14) “Limited English proficient individuals” or “LEP individuals” means individuals who speak, read, or understand the English language less than “very well,” according to the United States Census Bureau data or data of comparable quality collected by a governmental entity, including as self-reported by such persons to a governmental entity.

(16) “Method of election” means the manner or mechanism by which candidates are elected to a governmental body of a political subdivision, and includes any at-large, district-based, proportional, semi-proportional, or other method of election, as well as any districting or redistricting plan used to elect candidates to the governmental body.

(19) “Polarized voting” means voting in which there is a divergence in the candidate preferences, political preferences, or electoral choices, including any question submitted to the voters, of members of a protected class, including the combined preferences of a protected class comprised of 2 or more groups of voters, from the candidate preferences, political preferences, or electoral choices of members of another protected class or set of protected classes.

(20) “Political subdivision” refers to all political districts included in the definition of “local office” except state representative or state senatorial districts. “Political subdivision” also refers to all governmental entities that administer elections or any election officers of such entity. “Political subdivision” includes a reorganized school district.

(24) “Protected class” means any group of individuals who are members of any racial, color or language minority, including, but not limited to, a class of 2 or more such groups, and includes individuals who are members of a minimum reporting category that has been officially recognized by the United States Census Bureau.

Section 2. Amend § 101A, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 101A. Purpose.

(a) The purpose of this title is to assure the people's right to free and equal elections, as guaranteed by our state Constitution. To that end, and in furtherance of the protections for protected classes provided by Section 21 of Article 1 of the Delaware Constitution and of the power granted to the General Assembly in Section 1, Article 5 of the Delaware Constitution, it is the public policy of the State of Delaware to encourage participation in the elective franchise by all eligible voters to the maximum extent and ensure that eligible voters who are members of racial, color, and language-minority groups have an equal opportunity to participate in the political processes of the State of Delaware, and especially to exercise the elective franchise. ~~the~~The full exercise of that right demands that the people be afforded the means to form political parties, nominate ~~and~~candidates candidates, and cast ballots for whomever they choose. At the same time, however, lengthy ballots which list a profusion of political parties and unaffiliated candidates, many of which are not serious contenders and lack even a modicum of community support, tend to create voter confusion and to clog the election machinery.

(b) To secure the right to free and equal elections—elections, ensure that voters who are members of racial, color, and language-minority groups, as well as voters with disabilities, have an equal opportunity to participate, and to preserve the integrity of the democratic political process, it is essential that an orderly and equally open system be established:

(1) For the registration of voters and the preservation of voter registration records;

(2) To encourage public participation in political parties and to demonstrate sufficient community support of these parties by permitting voters to affiliate with the party of their choice, if they so desire, on their voter registration records;

(3) To provide a means by which political parties and unaffiliated candidates, which have demonstrated a meaningful level of community support, may qualify for listing on the general election ballot;

(4) For the orderly and fair selection of party nominees by primary election or political party convention, and for the filling of vacancies among such nominees;

(5) To provide for the free exercise of the write-in vote for both politically affiliated and unaffiliated candidates who may not qualify for listing on the general election ballot;

(6) For the conduct of primary and general elections;

(7) For the certification of election results and the resolution of election contests;

(8) To provide criminal penalties and civil liability for violation of the laws set forth in this title;

(9) To provide for all such other matters, related to the electoral process, as may be set forth herein.

Section 2. Amend Chapter 1, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 101B. Democracy Canon.

In furtherance of the purpose of this chapter, this title, and the protections for equal elections and for protected classes in the Delaware Constitution, all statutes, rules, and regulations and political subdivision charters, laws, ordinances, and rules related to the elective franchise must be construed liberally in favor of protecting and making accessible the right of people to register to vote and have their ballot cast and counted. To the extent courts are afforded discretion on any issue, including, questions concerning discovery, procedure, admissibility of evidence, or remedies, it is the policy of this State that courts must exercise that discretion, and weigh other equitable discretion, in favor of all of the following factors:

(1) Making the fundamental right to vote and ability to participate in the democratic process more accessible to eligible voters.

(2) Safeguarding and vindicating, to the fullest extent possible, the voting rights of protected class members, including equitable access to opportunities to register to vote, cast a vote, and the equal opportunity to elect candidates of choice.

(3) Ensuring protected class members have full access to relief from discrimination in voting.

Section 3. Amend Title 15 of the Delaware Code by creating a new Part VII and making deletions as shown by strike through and insertions as shown by underline as follows:

Part VII. Voting Rights

CHAPTER 81. Voting Rights Act

Subchapter I. Prohibition on Discrimination in Voting

§ 8101. Mechanisms to Challenge Voting Discrimination.

(a) Pursuant to the procedure set forth in § 8105 of this title, any election policy or practice that is contained in a charter provision approved by the General Assembly or any other enactment containing any election policy or practice for a specific political subdivision that is approved by the General Assembly may be invalidated if it violates the Delaware Constitution. This procedure does not preclude any other procedures that may be used to amend or invalidate charter provisions or other enactments approved by the General Assembly.

(b) Pursuant to the procedure outlined in § 8105 of this title, any provision, municipal ordinance, or other election policy or practice of a political subdivision that is enacted without approval by the General Assembly may be invalidated if it violates § 8102 or § 8103 of this title.

(c) Pursuant to the procedure outlined in § 8105 of this title, any action of the Department of Elections, election officers, or officials within a political subdivision with authority over elections, including a municipal Board of Elections,

acting within their discretionary authority without explicit legislative authorization, may be invalidated if it violates § 8102 of this title.

§ 8102. Prohibited voter suppression.

(a) A political subdivision, a state agency, or an official of a political subdivision or a state agency may not engage in voter suppression as set forth in this section.

(b) Prohibited voter suppression is the implementation, imposing, or enforcing of any election policy or practice that results in, is likely to result in, or is motivated in whole or in part by the intent to result in either of the following:

(1) A material disparity affecting protected class members in voter participation, access to voting opportunities, or the opportunity or ability to participate in any stage of the political process, as a result of the policy or practice.

(2) Based on the totality of circumstances, an impairment of the equal opportunity or ability of protected class members to participate in any stage of the political process.

(c) A violation of subsection (a) of this section must be attributable to an action of a political subdivision or the Department of Elections. A violation of subsection (a) of this section may include, but is not limited to, any of the following:

(1) Discriminatory designation and substitution of polling places and early voting locations, and the discriminatory assignment of voting machines therein.

(2) Discriminatory establishment, division, or combination of election districts and the discriminatory furnishing of necessary materials, voter information, and supplies therein.

(3) Discriminatory distribution of public notices pertaining to elections.

(4) Discriminatory instruction provided to election officers as well as any discriminatory discretionary use of authority by an election officer.

(5) Discriminatory handling of administrative complaints pertaining to elections.

(d) Prohibited voter suppression cannot be found under subsection (b) of this section if the political subdivision or the Department of Elections demonstrates by clear and convincing evidence that both of the following apply:

(1) The election policy or practice is necessary to significantly further an important and particularized governmental interest.

(2) There is no alternative election policy or practice that results in a smaller disparity between protected class members and other members of the electorate.

(e) Prohibited voter suppression may be established through direct or circumstantial evidence of intentional discrimination; however, evidence of intentional discrimination, including evidence concerning the intent of electors, elected officials, or public officials to discriminate against protected class members, is never required under this section.

§ 8103. Prohibited Vote Dilution.

(a) A political subdivision may not employ a method of election that has the effect, is likely to have the effect, or is motivated in whole or in part by an intent to dilute the vote of protected class members.

(b) Prohibited vote dilution is when both of the following are met:

(1) One of the following is found:

a. Elections in the political subdivision exhibit racially polarized voting resulting in an impairment of the equal opportunity or ability of protected class members to nominate or elect candidates of their choice.

b. Based on the totality of circumstances, the equal opportunity or ability of protected class members to nominate or elect candidates of their choice is impaired.

(2) Another method of election or change to the existing method of election exists, that could be constitutionally adopted or ordered under § 8106 of this title, which would likely mitigate the impairment.

(c) Prohibited vote dilution may also be established through direct or circumstantial evidence of intentional discrimination; however, evidence of intentional discrimination, including evidence concerning the intent of electors, elected officials, or public officials to discriminate against protected class members, is never required under this section.

§ 8104. Guidelines and relevant circumstances.

(a) Where a totality of the circumstances test applies under §§ 8102(b)(2) or 8103(b)(1)b. of this title, factors that may be considered include all of the following:

(1) The history of discrimination in or affecting protected class members within the political subdivision.

(2) The extent to which the protected class members have been elected to office.

(3) The use of any election policy or practice that may enhance the discriminatory or dilutive effects of a relevant election policy, practice, or method of election in the political subdivision.

(4) The extent to which protected class members vote or register to vote at lower rates than other voters.

(5) The extent to which protected class members are disadvantaged or otherwise bear the effects of public or private discrimination in areas that may hinder their ability to participate effectively in any stage of the political process, such as education, employment, health, criminal justice, housing, transportation, land use, or environmental protection.

(6) The use of overt or subtle racial appeals, whether in the course of political campaigns or by government officials, or in connection with the adoption or maintenance of the election policy or practice.

(7) The extent to which candidates who are protected class members face hostility or barriers with respect to campaigning, getting on the ballot, receiving financial support, or receiving any other support for an election due to their membership in a protected class.

(8) The lack of responsiveness by elected officials to the particular needs of protected class members or a community of protected class members.

(9) Whether the election policy or practice is necessary to significantly further a compelling and particularized governmental interest.

(10) The extent to which protected class members have historically made campaign contributions at lower rates.

(11) Any other relevant factor.

(b) No particular number or combination of factors under subsection (a) of this section are required to determine that a violation of §§ 8102 or 8103 of this title occurred. There is no requirement that evidence must affect all subgroups within a protected class to be relevant.

(c) For alleged violations pertaining to a political subdivision, evidence of the factors under subsection (a) of this section is most probative when it relates to the political subdivision in which the alleged violation occurred but is still probative if it relates to Delaware generally or to the geographic region in which that political subdivision is located.

(d) To determine whether elections in the political subdivision exhibit racially polarized voting under § 8103 of this title, the following may be considered:

(1) Elections for offices of the political subdivision; elections held in the political subdivision for other offices, such as state or federal offices; referenda; and other electoral choices that bear on the rights and privileges of the protected class.

(2) No set number or combination of elections are required to establish the existence of racially polarized voting.

(3) Evidence of non-polarized voting in elections for offices outside the political subdivision does not preclude a finding of racially polarized voting based on elections for offices within the political subdivision.

(4) Non-statistical or non-quantitative evidence does not preclude a finding of racially polarized voting based on statistical or quantitative evidence.

(5) Low turnout or registration rates among protected class members does not preclude a finding of racially polarized voting.

(6) When assessing the combined candidate preferences, political preferences, or electoral choices of a protected class comprised of 2 or more groups of voters, there is no requirement that the electoral preferences of each protected class or any subgroup within a protected class be separately polarized from those of other voters.

(7) The causes of or reasons for racially polarized voting, including partisan explanations or discriminatory intent, are not relevant.

(e) The following factors do not preclude a finding of a violation under §§ 8102(b)(2) or 8103(b)(1)b. of this title:

(1) The total number or share of protected class members on whom the election policy or practice does not impose a material burden.

(2) The degree to which the election policy or practice has a long pedigree or was in widespread use at some earlier date.

(3) The use of an identical or similar election policy or practice in other jurisdictions.

(4) The availability of forms of voting unimpacted by the election policy or practice.

(f) A state interest in preventing voter fraud or bolstering voter confidence in the integrity of elections is not relevant to a violation of §§ 8102 or 8103 of this title unless there is substantial evidence that criminal activity by individual electors has occurred in the political subdivision in substantial numbers and the connection between the election policy or practice and a state interest in preventing voter fraud or bolstering voter confidence in the integrity of elections is supported by substantial evidence.

(g) Evidence concerning the intent of electors, elected officials, or public officials to discriminate against protected class members is not required under §§ 8102 or 8103 of this title.

(h) Whether protected class members typically elect candidates of their choice to the governing body in approximate proportion to their total number or share of the population may be relevant under § 8103 of this title.

(i) For the purpose of satisfying § 8103 of this title, it is not necessary for the total number or share of protected class members to exceed any numerical threshold in any district or in the political subdivision as a whole.

(j) The General Assembly intends that the legal tests for voter suppression and vote dilution under § 8102 and § 8103 and the remedies provided in § 8106 provide a framework for identifying and remedying violations of Sections 3 or 21 of Article I of the Delaware Constitution, including facial constitutional challenges under § 8101(a) and as-applied challenges under § 8101(a) alleging that a statute enacted by the State has an unconstitutional impact in a particular political subdivision or electoral context.

§ 8105. Enforcement and pre-suit notice.

(a) An action to cure a violation of § 8102 or § 8103 of this title may be brought in a court of competent jurisdiction by an individual aggrieved by such violation, an organization aggrieved by such a violation, or the Attorney General. Members of 2 or more protected classes may jointly file an action. In furtherance of Section 9 of Article I of the Delaware Constitution, this section must be construed liberally to confer standing broadly.

(b) An organization aggrieved by a violation of the Delaware Constitution or § 8102 or § 8103 of this chapter includes an organization whose membership includes individuals aggrieved by a violation, an organization whose mission would be frustrated by a violation, an organization that would expend or divert resources to fulfill its mission as a result of a violation, or an organization that would expend greater resources or efforts to advocate before an elected body that is less responsive to the organization or its members due to a violation. An organization shall not be compelled to disclose the identity of any specific member to pursue a claim on behalf of its members, except, however, if an organization asserts standing on the basis that members of the organization are aggrieved, a court may compel the organization to provide affidavits from impacted members sufficient to satisfy these requirements if it is not satisfied with any initial organizational affidavit or other proof lacking identifying membership information. Such court order must allow for an organization to produce any necessary records or portions thereof under seal or in any like manner recognized by court rules in which confidential information is protected from public view so long as the organization demonstrates good cause by providing any credible statement that its members privacy or safety interests would be negatively impacted by public knowledge of their membership in the organization or involvement in the lawsuit. Such sealed or confidential records shall remain under seal indefinitely following final judgment.

(c) In an action involving a districting plan, an individual who is a protected class member or an organization with a protected class member who resides in the defendant jurisdiction, whether or not the individual resides in any particular district, may challenge the districting plan as a whole.

(d) Except as set forth in subsection (e) of this section, before filing an action under § 8101 of this title, a party described in § 8105(a) of this title, other than the Attorney General, must send a notice letter to the political subdivision or the Department of Elections identifying with specificity the potential violation of § 8102 or § 8103 of this title or the Delaware Constitution, the type of remedy the plaintiff believes may address the potential violation, and relevant facts and evidence that the prospective plaintiff relied upon when evaluating whether a potential violation is present. The party may not file an action within 50 days after sending the notice letter. The party may file an action if the constitutional or statutory deficiency persists 50 days following the sending of the notice letter.

(1) The political subdivision or the Department of Elections may work with the party that provided notice to implement a remedy that cures the potential violation. If the legislative body of the political subdivision adopts a resolution identifying a remedy, affirming its intent to enact and implement a remedy, and establishing a timeline and specific steps it will take to do so, the party may not file an action within 120 days after sending the notice letter.

(2) In response to a notice letter, the political subdivision may adopt a resolution denying that a violation exists, or otherwise formally deny a violation, which will abrogate the 50-day waiting period otherwise required and permit the party who sent a notice letter to file an action immediately.

(3) If, under the laws of this State, the legislative body of a political subdivision lacks authority to enact or implement a remedy identified in such a resolution, the political subdivision may nonetheless enact and implement a proposed remedy upon approval of a court of competent jurisdiction.

(4) Following the party's submission of a notice letter, the party may file an action if the political subdivision has not enacted or implemented a remedy within the time periods designated by this subsection or the political subdivision has enacted or implemented a remedy that does not remedy the violation identified in the party's notice letter.

(e) A party with standing under subsection (a) of this section may file an action against a political subdivision or the Department of Elections without first sending a notice letter under any of the following circumstances:

(1) The party is seeking preliminary relief with respect to an upcoming election.

(2) Another party has already submitted a notice letter alleging a substantially similar violation and that party is eligible to file an action.

(3) The prospect of obtaining relief under subsection (d) of this section would be futile.

(4) The party has received an initial written decision regarding the alleged violation of § 8102 or § 8103 from either a municipal Board of Elections or the State Election Commissioner pursuant to § 7552(a) and § 7552(b) of this Title.

(f) In any action alleging a violation of § 8102 or § 8103 of this title, in which a party seeks preliminary relief with respect to an upcoming election, a court must grant relief if it determines both of the following:

(1) Plaintiffs are more likely than not to succeed on the merits.

(2) It is possible to implement an appropriate remedy that would resolve the alleged violation in the upcoming election and such remedy would not substantially increase the risk that eligible voters will be prevented from voting or having their ballots counted.

§ 8106. Remedies.

(a) Upon finding a violation of the Delaware Constitution or § 8102 or § 8103 of this title, a court of competent jurisdiction may order 1 or more appropriate remedies that are tailored to address the violation and ensure protected class members have equitable opportunities to fully participate in the political process notwithstanding any other law. Appropriate remedies may include any of the following:

- (1) Changes to the method of election.
- (2) Changes to any election policy or practice.
- (3) New or revised redistricting plans.
- (4) Elimination of staggered elections.
- (5) Reasonably increasing the size of the elected body.
- (6) Additional voting days or hours.
- (7) Additional polling places.
- (8) Holding of special elections.
- (9) Additional voter education.
- (10) The restoration or addition of individuals to registry lists.
- (11) Retaining jurisdiction for such period of time as the court may deem appropriate.

(b) The court must consider remedies proposed by any parties to an action filed under § 8102 of this title and by other interested persons who are not parties to the action. The court may not give deference or priority to a remedy proposed by a political subdivision or the Department of Elections simply because it has been proposed by a defendant political subdivision or the Department of Elections.

(c) Where a constitutional violation is found, the court has authority to order that a political subdivision implement 1 or more remedies that may be inconsistent with the provisions of any municipal charter or a legislative enactment containing an election policy or practice for a political subdivision where the inconsistent provisions would otherwise preclude the court from ordering an appropriate remedy.

(d) Upon a court order of any remedy under this section, a prevailing plaintiff party is entitled to reimbursement of attorneys' fees and for the costs associated with bringing the case. A party must submit a claim in writing and substantiate the claim with financial documentation, including a detailed invoice for any demography services or analysis of voting patterns. A defendant must reimburse such party for reasonable costs claimed or for an amount to which the parties agree.

(e) When a political subdivision plans to voluntarily adopt a new election policy or practice after receiving a notice letter, a complaint under this subchapter, or the filing of a lawsuit, the political subdivision must hold at least 1 public hearing at which members of the public may provide input regarding the proposed new election policy or practice. Notice

of the public hearing must be published at least 3 weeks prior to the date of the public hearing. In advance of each public hearing, the political subdivision must conduct outreach to members of the public, including to language minority groups, to explain the method of election or districting process and to encourage input.

(f) When voluntary adoption of a new election policy of practice occurs following a political subdivision's receipt of one or more notice letters sent in accordance with the requirements of § 8105 of this title, a party who sent a notification letter may submit a claim for reimbursement from the political subdivision for reasonable costs associated with producing and sending the notification letter. A party must submit a claim in writing and substantiate the claim with financial documentation, including a detailed invoice for any demography services or analysis of voting patterns. Reimbursement amounts for attorney fees are limited to amounts calculated using a lodestar methodology. Any such claim made for reimbursement is capped at \$60,000, adjusted in accordance with any change in the consumer price index for all urban consumers as published by the United States Department of Labor, Bureau of Labor Statistics. Upon receipt of any claim, the political subdivision may request additional financial documentation if the information provided by a party is insufficient to substantiate the costs. If the parties fail to agree to a reimbursement amount, either party may file an action for a declaratory judgment with a court of competent jurisdiction for a clarification of rights.

(g) After the adoption of any remedy, the political subdivision must hold at least 1 public education event during which the political subdivision explains changes to elections resulting from the remedy. Notice of the public education event must be published online on the Board of Elections webpage and social media pages at least three weeks prior to the date of the public education event.

(h) A remedy ordered under this section must be implemented in the next relevant election, scheduled or ordered, wherever possible.

Subchapter II. Language Assistance

§ 8107. Language access.

(a) The Department of Elections must designate 1 or more languages, other than English, for which local offices will be required to implement language assistance programs if the Department of Elections finds that a significant and substantial need exists for such assistance in the local office.

(b) Significant and substantial need is determined through examination of the best available data, which may include information from the United States Census Bureau's American Community Survey or data of comparable quality collected by a governmental entity.

(c) Either of the following criteria are sufficient for the finding of significant and substantial need requiring the Department of Elections to designate language assistance:

(1) More than 2% of the citizens, but in no instance fewer than 100 individuals, of voting age in a local office speak a particular shared language other than English and are LEP individuals.

(2) More than 1,000 of the citizens of voting age in a local office speak a particular shared language other than English and are LEP individuals.

(d) On January 1 of each year, the Department of Elections must publish on its website a list of each local office in which assistance in voting and elections in a language other than English must be provided. The Department's determinations under this section are effective upon publication. The Department must distribute to each affected local office the information contained in its list and each local office must provide the assistance determined by the list.

(e) A jurisdiction described in subsection (d) of this section must provide assistance in voting and elections, including related materials, in any language designated by the Department of Elections under subsection (a) of this section to electors in that jurisdiction who are limited English proficient individuals.

(f) Whenever the Department of Elections determines, under this section, that language assistance must be provided in a local office, the local office must provide competent assistance in each designated language and must provide related materials in English and in each designated language. "Related materials" includes registration or voting notices, forms, instructions, notices of available assistance, information pamphlets, sample ballots, candidate qualification information, ballots, and other materials or information relating to the electoral process, whether the related materials are physical materials or hosted on the local office's website. In the case of a language that is oral or unwritten, including historically unwritten as may be the case for some Native Americans, a local office may provide only oral instructions, assistance, or other information relating to the electoral process in such language. All materials provided in a designated language must be of an equal quality to the corresponding English materials. All provided translations must convey the intent and essential meaning of the original text or communication and shall not rely solely on any automatic translation service. Whenever available, language assistance must include live translation.

(g) The Department of Elections shall adopt regulations to establish a review process under which the Department shall determine, upon receipt of a request submitted under this subsection, whether a significant and substantial need exists in a local office for a language to be designated for the provision of assistance in voting and elections whenever such a need has not been found under subsection (c) of this section. The process must include all of the following:

(1) An opportunity for any elector, organization whose membership includes or is likely to include electors, organization whose mission would be frustrated by a jurisdiction's failure to provide language assistance, or organization that would expend resources in order to fulfill such organization's mission as a result of the failure, to submit a request for the Department of Elections to consider so designating a language in a local office.

(2) A timeline specifying when requests to determine whether a significant and substantial need exists in a local office may be submitted to be considered timely for the next election, and a time period by which the Department of Elections must provide a written determination, which shall be published on its website.

(3) An opportunity for public comment, testimony, or affidavits from individuals or entities representing or serving the language minority community, including impacted voters.

(4) That, upon receipt of any request and consideration of any public comment, the Department of Elections may, in accordance with the process of making a determination, so designate any language in a local office.

(h) Section 4943(a) of this title shall be construed to include LEP individuals who speak a language other than English.

§ 8108. Enforcement.

(a) An action to cure a violation of this subchapter may be brought in a court of competent jurisdiction by an individual aggrieved by such violation, or an organization aggrieved by such a violation, or the Attorney General. Members of two or more protected classes may jointly file an action. In furtherance of Section 9 of Article I of the Delaware Constitution, this section must be construed liberally to confer standing broadly, except that no determination of the Department of Elections under this section to designate a local office or a language for the provision of assistance constitutes a violation of this section.

(b) An organization aggrieved by a violation of this subchapter includes an organization whose membership includes individuals aggrieved by a violation, an organization whose mission would be frustrated by a violation, an organization that would expend or divert resources to fulfill its mission as a result of a violation, or an organization that would expend greater resources or efforts to advocate before an elected body that is less responsive to the organization or its members due to a violation. An organization shall not be compelled to disclose the identity of any specific member to pursue a claim on behalf of its members, except, however, if an organization asserts standing on the basis that members of the organization are aggrieved, a court may compel the organization to provide affidavits from impacted members sufficient to satisfy these requirements if it is not satisfied with any initial organizational affidavit or other proof lacking identifying membership information. Such court order must allow for an organization to produce any necessary records or portions thereof under seal or in any like manner recognized by court rules in which confidential information is protected from public view so long as the organization demonstrates good cause by providing any credible statement that its members privacy or safety interests would be negatively impacted by public knowledge of their membership in the organization or involvement in the lawsuit. Such sealed or confidential records shall remain under seal indefinitely following final judgment.

(c) Attorneys' fees are available to a prevailing plaintiff party in any action pertaining to language assistance. Fees are also available when a local office voluntarily adopts language assistance after a party files suit under this section.

Subchapter III. Prohibitions Against Intimidation, Deception, or Obstruction

§ 8109. Prohibited interference with the right to vote.

(a) In addition to the criminal and civil offenses in Chapter 51 and Chapter 53 of this title, a person, whether acting under color of state law or otherwise, may not engage in acts of intimidation, deception, or obstruction that interfere with any elector's right to vote.

(b) A violation of subsection (a) of this section includes any of the following:

(1) The use or threat to use any force, violence, restraint, abduction, or duress, by any person who inflicts or threatens to inflict any injury, damage, harm, or loss or who by any other conduct practices intimidation that causes or will reasonably have the effect of causing interference with any elector's right to vote.

(2) The reckless use by any person of any deceptive or fraudulent device, contrivance, or communication pertaining to the time, place, or manner of an election; the qualifications or restrictions on voter eligibility for such election; a particular elector's eligibility to vote in such election; the consequence of voting or abstaining from voting in any election; or a statement of endorsement by any specifically named person, political party, or organization if such deceptive or fraudulent device, contrivance, or communication causes or will reasonably have the effect of causing interference with any elector's right to vote.

(3) Obstructing, impeding, or otherwise interfering with access to any polling place or elections office, or obstructing, impeding, or otherwise interfering with any voter in any manner that causes or will reasonably have the effect of causing interference with any elector's right to vote.

(c) In accordance with the purpose of this chapter, an elector's right to vote shall be construed broadly and includes an elector's right to cast a ballot for the candidate of their choice, to register to vote, and to vote by any method of voting established by the General Assembly.

§ 8110. Standing and remedies.

(a) An action to cure a violation of this subchapter may be brought in a court of competent jurisdiction by an individual aggrieved by such violation, or an organization aggrieved by such a violation, or the Attorney General. Members of two or more protected classes may jointly file an action. In furtherance of Section 9 of Article I of the Delaware Constitution, this section must be construed liberally to confer standing broadly.

(b) An organization aggrieved by a violation of this subchapter includes an organization whose membership includes individuals aggrieved by a violation, an organization whose mission would be frustrated by a violation, an

organization that would expend or divert resources to fulfill its mission as a result of a violation, or an organization that would expend greater resources or efforts to advocate before an elected body that is less responsive to the organization or its members due to a violation. An organization shall not be compelled to disclose the identity of any specific member to pursue a claim on behalf of its members, except, however, if an organization asserts standing on the basis that members of the organization are aggrieved, a court may compel the organization to provide affidavits from impacted members sufficient to satisfy these requirements if it is not satisfied with any initial organizational affidavit or other proof lacking identifying membership information. Such court order must allow for an organization to produce any necessary records or portions thereof under seal or in any like manner recognized by court rules in which confidential information is protected from public view so long as the organization demonstrates good cause by providing any credible statement that its members privacy or safety interests would be negatively impacted by public knowledge of their membership in the organization or involvement in the lawsuit. Such sealed or confidential records shall remain under seal indefinitely following final judgment.

(c) The action may be filed irrespective of any action, criminal or civil, that has been or may be filed under Chapter 51 of this title.

(d) Upon a finding of a violation of any provision of this subchapter, a court of competent jurisdiction shall implement appropriate remedies that are tailored to remedy the violation, which includes providing for additional time to cast a ballot that may be counted in the election at issue. Any party who violates any of the provisions of this subchapter or who aids the violation of any of said provisions is liable to any prevailing plaintiff party for attorneys' fees, damages, including nominal damages for any violation, and compensatory or punitive damages for any intentional violation.

Section 4. This Act is severable. If a provision of this Act or its application to a person or circumstance is held invalid, such invalidity does not affect the provisions of the applications of this Act that can be given effect without the invalid provision or application.

Section 5. This Act shall be known and may be cited as the "Delaware John Lewis Voting Rights Act."

Section 6. This Act takes effect on July 1, 2027.