

Ohio Senate General Government Committee

Testimony of Richard D. Topper

Opponent on SB 153

April 27, 2025

Good morning, Chair Roegner, Vice Chair Gavarone, Ranking Member Blackshear, and members of the Senate General Government Committee. My name is Richard Topper and I am presenting testimony in opposition to Senate Bill 153.

I'm an attorney and have practiced law for 45 years. I am a member of the American Board of Trial Advocates and most of my work involved jury trials. Since 2004, I have volunteered, lectured and testified before the Ohio Senate and House on issues involving voting rights for Ohioans. I have registered voters, been a poll worker and a poll observer, and am very familiar with voting rights this legislation seeks to restrict. The three issues I will address today are restrictions on voter registration, drop boxes, and voter challenges.

Like many of you, I was born and raised in Ohio. I went to Ohio public schools through my graduation from high school, college and law school. I'm 71 and have lived in Ohio all my life. I've paid Ohio income taxes since the state income tax was adopted in 1971. Yet with this bill, you are telling Ohioans like me that I am a non-citizen unless proven otherwise.

How will this bill effect every Ohioan? Every person who wants to vote in Ohio for the first time, who moves back into Ohio, or who moves within the state must register to vote. Those needing to re-register include Ohioans with a young family who outgrow their home. People who downsize or move to a retirement community. Ohioans who only vote in presidential elections and find out they have been purged from the rolls. In 2023, over one million Ohioans moved to a different residence, and 185,000 people moved to Ohio from out of state. Under this bill, every one of those Ohio citizens would need to prove they are a US citizen in order to vote.

Under this bill, proving you are a US Citizen is not as easy as 1,2,3. First, you need to complete a registration form. If you have an Ohio drivers' license, you must put this on the registration form. If you do not have an Ohio drivers' license or State ID, you will be flagged and will need to provide proof of citizenship. Even if you provide your Ohio drivers' license, you may not survive the bureaucratic red tape within the BMV and Secretary of State's office and you will need to provide proof of citizenship.

The only way you will find out that you need to provide proof of citizenship is in a letter sent from your County Board of Elections. The letter tells you that you must provide proof of citizenship to vote. The bill does not indicate

whether you must drive to your County Board of Elections or provide a copy of citizenship papers by mail.

If you don't get the letter from your County Board, don't read the letter, or cannot get one of the requested documents within four days after the election, your vote as a longtime Ohio citizen vote will not count.

The proof that a Ohioan must use to show he/she is not a non-citizen is either 1) an Ohio DL or state ID; 2) Another state's ID or DL as long as it has citizenship on the license; 3) a US Passport; or 4) naturalization papers; or 5) a birth certificate. Not everyone has one of these or get these documents timely before an election. For example, think of all the birth certificates that were lost in natural disasters.

This bill effects married, divorced, and widowed Ohio women more than anyone. Providing evidence of not only birth certificates, but death certificates, divorce decrees, and name changes becomes very problematic. In talking with two women who just obtained their real ID for travel, it was an hours long process over days and weeks to get the documentation they would also need to vote in Ohio.

So why are we making it so difficult for Ohioans, especially Ohio women to vote? Good question. Neither the bill analysis or the sponsor testimony provides

any statistical data that the bill is necessary. Why? Because there are no statistics to support the necessity for this bill. In fact, statistics show the opposite.

Before the 2024 Presidential election, Secretary of State LaRose issued a directive which is codified in 2025-11, Chapter Nine, Section 9.07 regarding voter challenges. The directive demanded that precinct election officials challenge a voter based on US Citizenship, if their drivers' license showed they are a non-citizen.

On Election Day, 2024, the voter whose citizenship was challenged needed to vote a provisional ballot. 5,851,387 Ohioans voted in 2024. Of those, 139,400 Ohioans voted a provisional ballot. Do you know how many provisional ballots were rejected because proof of citizenship was not provided? Five! And we don't even know that any of those five was a non-citizen. That's one in a million.

In her sponsor testimony, Senator Gavarone cited a Pew Research study which showed 90% of those polled support a citizenship requirement to vote. I think everyone who will testify in opposition would agree with that. But if you add a survey question that states, "Would you agree to a law that prevents multiple US Citizens from voting in order to prevent five non-citizens from voting in a state which voted almost 6 million people," you would definitely get a different response.

Regarding drop boxes, you should know that they are very popular in your district and in Ohio. According to the Secretary of State's data from the 2024 presidential election, 181,000 Ohio voters returned their absentee ballots in a drop box. That includes 2230 voters in Wood County, 3700 voters in Portage County, 6,400 in Summit County and 20,000 in Franklin County. If you remove or restrict drop boxes, you will have some very unhappy constituents.

People use drop boxes for many reasons. One, they feel safe and secure dropping their ballot in an official County Board of Elections drop box, regardless of what happened 3500 miles away in Oregon and Washington. Two, many hold onto their mail ballot, because they want to see what happens in campaigns up until the election. However, they do not trust that the US Post Office will deliver their ballot in time. Rather than take a chance their ballot won't be received on time, the voter will use the drop box. Three, and this goes to the section of the bill which restricts their own, or family members from dropping their ballot, or their parents', grandparents', or child's ballot in a drop box; many of these folks need to use the secure drop box after hours

The argument that we should restrict drop boxes, because of what happened in Oregon is absurd. We have never had an incident like that in Ohio. Furthermore, we are more likely to lose votes in close elections due to untimely mail delivery. In Franklin County alone, twenty-six mail-in ballot votes did not count even though

they were postmarked timely. Why? The ballots did not arrive at the BOE within the prescribed four days after the elections. Take that figure statewide, and you're talking 250 votes. Had those ballots been dropped off at a drop box, they would have counted. Furthermore, 264 ballots were not counted even though they were received timely, because the ballots were not postmarked timely. Many people believe if they drop a ballot in a mail box, it will get postmarked timely. They are wrong, and this is born out in the Franklin County stats.

The last issue I want to address regards voter challenges. Under the bill, a person who is voting can be asked by any precinct official for proof of citizenship. And an Ohio drivers' license or state ID is not sufficient. There are no criteria set forth for the challenge. Furthermore, there is no requirement for a bipartisan decision on the challenge, or for the voting location manager to get involved.

My question to you is by what criteria may a Precinct Election Official ask for proof of citizenship? If they do not speak English? Based on Appearance? Any one of us in this room could be challenged by a PEO. And we would need to provide proof of citizenship.

The LSC provided you with an analysis of this part of the bill. It is of questionable constitutionality. I will quote their analysis, but I will not repeat it:

In 2006, a federal court permanently enjoined the state from enforcing the statute on the ground that it violates naturalized citizens' 14th Amendment right to

equal protection and constitutes a poll tax under the 24th Amendment. The injunction prohibits the election officials from requiring a challenged voter to produce a certificate of naturalization.

Equal Protection *In 2020, a federal appeals court held that a Kansas law requiring proof of citizenship for voter registration violated the Equal Protection Clause of the 14th Amendment by placing an unjustified burden on voting rights. The U.S. Supreme Court declined to hear an appeal of that decision.*

Later, a federal district court reviewing an Arizona DPOC law ruled that the law was less burdensome to voters, and therefore did not violate the Equal Protection Clause, because unlike the Kansas law, it allowed voters with a driver's license or state ID card to have their citizenship confirmed via a database check instead of requiring them to submit additional documentation. The bill similarly allows the use of BMV records for that purpose. But, if an Ohio court heard the issue, the court would not be required to follow the Arizona decision. As is mentioned above regarding challenges at the polls, a federal court with jurisdiction over Ohio has ruled in at least one instance that the state could not require an elector to produce a certificate of naturalization.

So, I ask the members of this committee. Do you want to be known as the legislators that preserved the rights of Ohioans to vote? Or do you want to be the legislators that pushed fear as a reason to restrict Ohio citizens constitutional right to vote?

Thank you for your time and I'd be happy to answer any questions.