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Re: Displaced Citizens Voter Protection Act, H.R. 3734; S. 1867

Dear Senators and Representatives:

I write on behalf of the New York City Bar Association. The Association is a professional association of over 22,000 attorneys. Founded in 1870, the Association has long been committed to promoting, preserving and protecting constitutional and political liberties. The work of its standing Committee on Civil Rights demonstrates the Association's interest in the use of the law to protect the franchise, which ensures many of those rights.

The Association strongly urges you to support H.R. 3734, S. 1867, the Displaced Citizens Voter Protection Act of 2005. If enacted, this bill would permit citizens displaced by Hurricane Katrina to register and vote by absentee ballot pursuant to the efficient and reliable procedures already established under the Uniformed and Overseas Absentee Voting Act, 42 U.S.C. §§ 1973ff *et seq.* ("UOCAVA") Because currently applicable state procedures require certain evacuees to vote in person and are otherwise

too cumbersome to permit timely processing of the anticipated high number of absentee ballots, this legislation is essential to ensure that there is not significant disenfranchisement as a result of Hurricane Katrina. H.R. 3734 would also allow evacuees to vote by absentee ballot pursuant to the National Voter Registration Act of 1993, 42 U.S.C. §§ 1973gg *et seq.* (the “Motor Voter Law”), and to register to vote at motor vehicle licensing bureaus and other government offices pursuant to that law.¹

The provision of Louisiana law that has caused the most concern and threatened the disenfranchisement of as many as 10,000 evacuees,² is the requirement that a first-time voter who has registered by mail cast his or her ballot in person.³ Because of the disproportionate number of evacuees who are African-American and poor, the failure to undo this provision would have a significant discriminatory impact and further underscore the perception that the nation’s response to Hurricane Katrina has been one that has disregarded the rights of people of color.

Louisiana law also requires that an extensive amount of information be submitted and verified for a voter to secure an absentee ballot. Using the request form available online or applying to the Registrar of Voters in the relevant parish by letter, the voter must set forth the reasons why he is qualified to vote by absentee ballot, why he is not able to vote in person, the elections for which he is requesting an absentee ballot, the address where the absentee ballot may be sent, the ward or precinct in which he is qualified to vote, his date of birth, the maiden name of his mother or other identifying information, and the street address in the parish where he resides. After the Registrar receives the application, he verifies the voter’s qualifications—including comparing the signature on the request form to the signature on the voter’s registration card.⁴

UOCAVA, in contrast, provides for a greatly simplified procedure by which an individual can both register to vote and request an absentee ballot by using the same official post card form.⁵ Nevertheless, to the extent any state law required an oath for such documents, 42 U.S.C. § 1973ff-1(a)(5) prescribes a standard oath such that any evacuee securing a ballot by misrepresentation or fraud could be subject to prosecution. With respect to concerns about the reliability of the procedures under H.R. 3734, there is nothing peculiar about voters displaced by Katrina in this regard. Just as states must currently monitor and prevent voting fraud, for example by ensuring that individuals with

¹ 42 U.S.C. § 1973gg-3.

² Ed Anderson, *Ater wants to ease mail-voting rules; La. Special session may take up issue*, The Times-Picayune, Jan. 10, 2006, available at <http://www.nola.com/news/t-p/capital/index.ssf?/base/news-3/113687665025370.xml>.

³ La. Rev. Stat. 18:115(F)(1)(b).

⁴ La. Rev. Stat. 18:1303,1307; Louisiana Secretary of State, Elections Division, available at <http://www.sos.louisiana.gov/elections/elect-absentee.htm#mail>.

⁵ 42 U.S.C. §1973ff-1(a)(4).

homes in two states do not vote twice, states will have to similarly monitor these issues for displaced voters.

Under H.R. 3734, the provisions of UOCAVA and the Motor Voter Law would apply to the federal elections in 2006 and 2008, a limitation that gives due consideration to state interests while protecting the constitutional rights of the evacuees. Because of the expected high volume of first-time voters and absentee ballot requests, however, the passage of this legislation, without more, will be insufficient to secure those rights. It will also be necessary for Congress to appropriate additional funding to ensure sufficient personnel to process requests to register and for absentee ballots, and so that local governments, already strained beyond capacity by hurricane recovery needs, do not fail to respond to this critical need of their citizens.

Sincerely,



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