



Georgia

3/24/2022

Dear Judiciary Non-Civil Subcommittee Members:

My name is Aunna Dennis, and I am the executive director of Common Cause Georgia. Common Cause is a nonpartisan, grassroots organization dedicated to upholding the core values of American democracy. We work to create open, honest, and accountable government that serves the public interest; promote equal rights, opportunity, and representation for all; and empower all people to make their voices heard in the political process.

Common Cause Georgia opposes Senate Bill 171. In addition to First Amendment concerns over this potential legislation, we also have concerns about the added exposure to cities and counties and the resulting costs. This bill opens up counties and municipalities to civil liability for damages for the commission of “violence against persons and property during an assembly of two or more persons.” This could lead to a high number of lawsuits and resulting legal fees and damages, but also could significantly raise municipal insurance rates associated with the anticipation of such expenses. The bill also creates liability for the cities and counties who defend lawful speech or who don’t, by the measure of the state, sufficiently prioritize police as the means to handle protest activity. Additionally, language around the waiver sovereign immunity is too vague; this is a significant measure and at minimum needs to be more specific about who sovereign immunity is waived for and under what specific circumstances. More consideration should be given to the very real impact this legislation would have on Georgia’s city and county governments.

The bill also creates over proportional and unlawful criminalization of Georgia’s citizens when they engage in the constitutionally protected activity of protest. There is no need for the new offenses created in this bill. Acts that compromise public safety, such as rioting, violence, or obstructing a highway, are already criminalized by other provisions of Georgia law. S.B. 171 would criminalize benign actions and bystanders.

Section(b)(3) proposes to make the “assembly of **two or more persons** who convey any threat that is severe, pervasive, and objectively offensive, and specifically directed to inciting or producing imminent lawless action within a **public convenience**” a misdemeanor offense. The definition of “public convenience” is so broad so as to encompass virtually every public space and the provision would open people up to criminal prosecution for a wide range of activities that may occur in those public locations, potentially just being there. This bill runs counter to the Georgia standard of law that mere presence at the scene of the crime is not sufficient evidence to convict someone of being a party to a crime. *See Hicks v. State*, 211 Ga. App. 370, (1993).

The real intent of S.B. 171 is to chill the freedom of speech in our state. We have seen similar bills in others states and the resulting challenges. We urge this body against passing legislation that runs such a great chance of being struck down by the courts and to reconsider the extreme measures of this bill.

Thank you,

Aunna Dennis