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Concerns for HB 479

The Missouri legislature is currently considering House Bill 479, a piece of legislation introduced by Representative McGaugh in the 103rd General Assembly. This bill aims to amend *section 115.635* of the Missouri Revised Statutes (RSMo), which outlines election offenses, by adding new provisions intended to protect election officials from harassment and threats. While the goal of safeguarding those who administer our elections is laudable, a closer examination reveals that the bill's broad language and severe penalties could significantly undermine free speech and the fundamental right of citizens to question election processes.

Overview of the Bill

House Bill 479 repeals the existing *section 115.635* and replaces it with a revised version that defines several new "*class three election offenses*." These are misdemeanors punishable by up to one year in prison, a fine of up to \$2,500, or both (PAGE 1, lines 3-5). If a violation results in death or bodily injury to an election official or their family member, the offense escalates to a class B felony (PAGE 3, lines 54-56). The bill targets a range of behaviors, but three specific provisions stand out as potential threats to free expression and civic engagement.

Key Provisions Impacting Free Speech

1. Threatening or Harassing Election Officials (*Subdivision (12)*)

Found on page 2, lines 39-42, this provision criminalizes "*threatening to harm or engaging in conduct reasonably calculated to harass or alarm, including stalking under section 565.227, an election judge, challenger, watcher, or employee or volunteer of an election authority, or a member of such person's family.*"

Concern: The terms "harass" and "alarm" are vague and subjective. *Could a passionate protest near an election office be deemed alarming? Might persistent demands for transparency from an official be interpreted as harassment?* By incorporating Missouri's stalking statute (*section 565.227*), which includes actions causing emotional distress, the law could encompass a wide range of expressive activities, from online criticism to public demonstrations.

2. Influencing or Pressuring Election Officials (*Subdivision (13)*)

Located on page 2, lines 43-44, this section prohibits "*attempting to induce, influence, deceive, or pressure an election official or member of an election official's family to violate any provision of this chapter.*"

Concern: The words "*influence*" and "*pressure*" are extraordinarily broad. Lobbying an official to improve election procedures or publishing an exposé that prompts public calls for accountability could be construed as violations. This provision risks criminalizing legitimate advocacy and journalism, especially in a climate where election integrity is a hot-button issue.

3. Disseminating Personal Information (*Subdivision (14)*)

Detailed on page 2, lines 45-51, this clause bans "*disseminating, through any means, including by posting on the internet,*" a long list of personal identifiers—such as home address, phone numbers, Social Security number, marital status, or even the "*identity of a child under eighteen years of age*"—of an election official or their family, if done "for the purposes listed in subdivisions (12) and (13)."

Concern: While aimed at preventing doxing, the inclusion of innocuous details like marital status or a child's identity is overly expansive. Moreover, linking this to the vague purposes of "*harassing*" or "*influencing*" means intent could be inferred from the act itself. For example, a journalist reporting on an official's conduct might include basic biographical details, only to face prosecution if authorities perceive it as pressure or harassment.

The Broad Definition of "*Election Official*"

The bill defines "*election official*" expansively to include not only election judges and challengers but also volunteers and employees of election authorities (PAGE 2, lines 52-53). This widens the pool of individuals protected under these provisions, amplifying the potential for the law to be applied to a vast array of interactions. Criticizing a temporary election volunteer could carry the same legal risk as targeting a high-ranking official, further chilling public discourse.

Penalties and Their Chilling Effect

The penalties outlined in the bill heighten its threat to free speech. A class three election offense carries significant consequences—up to a year in jail or a hefty fine (PAGE 1, lines 3-5). The escalation to a class B felony if harm occurs (PAGE 3, lines 54-56)—even without clear causation—introduces an element of unpredictability that could deter citizens from speaking out. Fear of prosecution, even if unfounded, might silence those who would otherwise question election processes or officials' actions.

Impact on Questioning Elections

While the bill does not explicitly ban questioning election results, its provisions indirectly restrict this democratic right by targeting interactions with election officials. In the wake of

the 2020 election, public scrutiny of electoral integrity has surged, with citizens demanding transparency and accountability. Yet, under HB 479:

- A protest outside an election office could be labeled as "*conduct reasonably calculated to alarm*" (Subdivision (12)).
- Repeated calls or emails to an official about perceived irregularities might be seen as "*attempting to pressure*" (Subdivision (13)).
- Reporting publicly available information about an official's background could violate the dissemination clause (Subdivision (14)).

These scenarios illustrate how the bill could stifle robust debate, protest, and investigation—cornerstones of a healthy democracy.

Potential for Abuse

The vagueness of terms like "*harass*," "*influence*," and "*pressure*," combined with the subjective nature of intent, opens the door to selective enforcement. Authorities could interpret criticism or activism as violations based on the perception of the official involved rather than the speaker's actual purpose. This risk is compounded by the bill's broad scope and the severe penalties attached, which could disproportionately affect activists, journalists, and concerned citizens.

Context and Broader Implications

HB 479 emerges amid a national push to address election security following reports of threats against election workers post-2020. Protecting these individuals is a valid concern, but the solution must not sacrifice free speech. The bill reflects a tension between safety and liberty, a balance it fails to strike due to its overreach. If passed, it could set a precedent for other states to adopt similar measures, potentially eroding the public's ability to engage with and oversee electoral processes nationwide.

Conclusion

Missouri's House Bill 479 purports to shield election officials from harm but casts a shadow over free speech and the right to question elections. Its vague language, expansive definitions, and harsh penalties threaten to criminalize dissent and deter civic participation. Lawmakers must reject this bill! Protecting election officials should not come at the expense of the very freedoms our elections are meant to uphold.

ACT4MO.ORG urges the Missouri House to Oppose this Bill!