



NEUTRAL TESTIMONY RE SB 454 – Creating exemptions in the open records act for election security records and cyber security records.

Testimony of Nadine Johnson

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Committee on Ethics, Elections & Local Govt. – March 11, 2020

Chairwoman Bowers and Members of this Committee,

Thank you for the opportunity to present testimony today. My name is Nadine Johnson. I am the Executive Director of the ACLU of Kansas. We are a nonpartisan, non-profit organization that works to preserve and strengthen the constitutional liberties of every person in Kansas.

The ACLU of Kansas understands the desire to limit dissemination of sensitive cybersecurity-related information that could be misused by bad actors. For this reason, we would accept SB 454 if it were to be amended and narrowed to address discrete issues of cybersecurity, without undermining voters' confidence in and access to the electoral system. With public trust in elections hovering at a dismal 40%¹, now is not the time to obscure matters of the election process from public record.

Kansans have a right to understand how their elections work. They also have a right to understand the electronic voting system in its entirety, including where their votes and voter registrations go, who checks them, whether there are weaknesses in the system, and how those weaknesses are being addressed.²

As drafted, these provisions are overly broad, and could be used to exempt information about measures taken that inadvertently depress voter participation. Terms such as "measures" and "assessments" should be narrowly defined to address the specific cybersecurity-related issue at hand (i.e., encryption technology). Records concerning "voter registration databases" should not be exempt. Kansans have a right to know if they voted or attempted to vote in a county where there were attacks on the poll books, and they need to have faith that their vote counted.³

The ACLU of Kansas urges this Committee to amend SB 454 to preserve transparency in the election process. Thank you again for the opportunity to present testimony. I would be happy to answer questions from this Committee at the appropriate time.

¹ <https://news.gallup.com/poll/285608/faith-elections-relatively-short-supply.aspx>

² For more information delineating the importance of transparency, please see <https://www.aclu.org/blog/privacy-technology/transparency-solution-shameful-lack-security-us-voting-systems-revealed-nsa>

³ Floridians are also challenging similar restrictions on open records. See *Will Your Vote Count? Florida's Secrecy About Election Security Makes It Nearly Impossible To Know*, available at <https://www.tallahassee.com/in-depth/news/local/state/2020/02/25/florida-the-most-secretive-state-election-security/4529691002/>