

Loree Stark, Legal Director
4615 Public Hearing Remarks

Good morning. My name is Loree Stark, and I am the legal director at the ACLU of West Virginia. I'm here this morning because this bill raises significant constitutional concerns. Freedom of speech and the freedom to associate are vital rights protected by both the First Amendment and the West Virginia constitution. Although proponents of this bill would like us to believe otherwise, this bill threatens both of those rights.

Critical infrastructure laws have a chilling effect on the legitimate exercise of free speech. By design, these laws are crafted in a way where they could be applied to activity on large swaths of both public and private property, implicating more protected speech than is implicated by typical trespass statutes. The vagueness and overbreadth of the language in this bill will make it difficult to impossible in some situations for protestors to determine when and where the law is triggered and whether or not they will be subjected to the law's harsh penalties.

Further, creating an avenue for organizations to be held liable for the actions of individuals implicates the right to freely associate. The word "conspire" can be read broadly and will give prosecutors concerningly wide latitude to prosecute demonstrators. An organization could face drastic consequences, for example, if someone associated with the organization is on site simply to provide support to active demonstrators.

These concerns are not hypothetical. Right now, a suit mounting constitutional challenges to a critical infrastructure law is winding its way through Louisiana. Another lawsuit recently settled in South Dakota. I urge the legislature will take these constitutional concerns under advisement as it continues to consider this bill.