

Litigation Challenging New Anti-Protest Laws

U.S. Anti-Protest Laws Enacted Since 2017

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Since 2017, states across the U.S. have adopted over forty new laws that restrict the right to peaceful assembly. These laws can criminalize and deter constitutionally protected protest activity, undermining our First Amendment rights. Advocates have challenged many of the new laws, and in some cases, courts have found them to be unconstitutional. This page tracks such litigation and provides access to publicly available documents that may be helpful to lawyers, activists, and others seeking to protect assembly rights.

For more information about anti-protest laws and other threats to protest rights in the U.S., please visit our [Freedom of Assembly page](#).

FLORIDA

DREAM DEFENDERS V. DESANTIS

This case challenged Florida [House Bill 1](#), a 2021 law that broadly defines “riot” and creates new protest-related offenses and penalties. The District Court ruled that the law’s definition of “riot” was unconstitutionally overbroad and vague, and preliminarily enjoined those provisions. On appeal, the Eleventh Circuit extended the injunction and asked the Florida Supreme Court to interpret HB1’s definition of “riot” under Florida law.

FILED: May 2021

PLAINTIFFS: Dream Defenders, Black Collective, Chainless Change, Black Lives Matter Alliance Broward, Florida State Conference of the NAACP Branches and Youth Units, Northside Coalition of Jacksonville

BROUGHT BY: NAACP Legal Defense and Educational Fund, ACLU of Florida, the Community Justice Project, Akin Gump Strauss Hauer & Feld LLP

CASE DOCUMENTS & KEY DEVELOPMENTS

- **Complaint:** The federal lawsuit [challenges](#) numerous provisions of HB1 under the First and Fourteenth Amendments, including the law’s broad definitions

of “riot” and “incitement to riot;” provisions precluding bail for people arrested for “riot” and other protest-related offenses; and provisions eliminating civil liability for those who injure or kill someone who was acting “in furtherance of a riot.” Plaintiffs allege that HB1 is facially vague and overbroad, subjecting nonviolent protesters to criminal liability for exercising their First Amendment rights while creating an affirmative defense for individuals who kill or injure nonviolent protesters. They also allege that the law constitutes viewpoint discrimination by specifically criminalizing the perspective and speech of those who protest police misconduct.

- **Key Developments:**

- September 2021: The Federal District Court for the Northern District of Florida preliminarily [enjoined](#) provisions of HB1 that broadly redefined “riot,” as unconstitutionally vague and overbroad.
- January 2023: The Eleventh Circuit Court of Appeals [asked](#) the Florida Supreme Court to interpret HB1’s definition of “riot” under Florida law. The Eleventh Circuit left in place the District Court’s preliminary injunction, finding that the plaintiffs sufficiently showed that their members’ speech was being chilled by fear that the law would be enforced against them.

- **Other Documents:**

- [Amicus brief](#), United States Department of Justice
- [Amicus brief](#), Protect Democracy

LOUISIANA

WHITE HAT ET AL. V. LANDRY

This case challenged Louisiana’s [House Bill 727](#), a 2018 law that creates potential felony penalties for protesters near pipelines and other “critical infrastructure.” In June 2023, the District Court ruled against plaintiffs and granted summary judgement for the defendants.

FILED: May 2019

PLAINTIFFS: Anne White Hat, Ramon Mejía, Karen Savage, Sharon Lavigne, Harry Joseph, Katherine Aaslestad, Peter Aaslestad, Theda Larson Wright, Alberta Larson Stevens, Judith Larson Hernandez, Rise St. James, 350 New Orleans, the Louisiana Bucket Brigade

BROUGHT BY: Center for Constitutional Rights, the Law Office of William Quigley

CASE DOCUMENTS & KEY DEVELOPMENTS

- **Complaint:** The federal lawsuit [challenges](#) HB 727, both facially and as applied, as unconstitutionally vague, overbroad, and targeting speech with a particular viewpoint. Plaintiffs allege that the law, which makes it a felony to be anywhere on Louisiana's 125,000 miles of pipelines without permission, violates the First and Fourteenth Amendments. Plaintiffs allege that, as a result of the law and because the overwhelming majority of pipelines in Louisiana are not visible or clearly marked, people in the state cannot be sure of where they can legally be present or what conduct is prohibited that can subject them to up to five years in prison. Further, plaintiffs allege that the goal of the law is to chill and punish speech in opposition to pipeline projects. The plaintiffs include protesters and a journalist who were arrested on a pipeline construction site despite having the landowners' permission to be there, as well as the landowners and three environmental justice organizations.
- **Key Developments:**
 - May 2021: The District Court for the Western District of Louisiana [denied](#) the defendants' motion to dismiss with respect to the plaintiffs who were arrested, but granted the motion with respect to other plaintiffs for lack of standing.
 - June 2023: The District Court for the Western District of Louisiana [denied](#) plaintiffs' motion for summary judgment, and ordered plaintiffs to file a response as to why summary

MISSISSIPPI

NAACP V. REEVES

This case challenged Mississippi's [Senate Bill 2343](#), a 2023 law that requires written approval from state officials before a protest can be held outside the state capitol or other state-owned building. The District Court temporarily enjoined the law in June 2023.

FILED: April 2023

PLAINTIFFS: NAACP, Mississippi State Conference of the NAACP, Jackson City Branch of the NAACP, Derrick Johnson, Frank Figgers, Charles Taylor, Markyel Pittman, Charles Jones, Nsombi Lambright-Haynes

BROUGHT BY: Covington & Burling

CASE DOCUMENTS & KEY DEVELOPMENTS

- **Complaint:** The federal lawsuit [challenges](#) SB 2343 as unconstitutionally vague and an overbroad prior restraint on First Amendment activity. The complaint alleges that the law’s state-run permitting regime is overbroad as it applies to “any event” at an indeterminate number of locations, including “any building or property owned or occupied by any official.” The complaint claims that the law is impermissibly vague because it provides no standards or criteria to guide officials’ decisions, giving them unbounded discretion to grant or deny event permits, on a timeline of their choosing, and with no process for applicants to appeal a denial. According to the complaint, the permitting regime will suppress and chill First Amendment activity, as plaintiffs and others will decline to engage in organizing or attending protests out of fear of violating the law.
- **Key Developments:**
 - June 2023: The United States District Court for the Southern District of Mississippi temporarily enjoined SB 2343.
 - July 2023: The case was consolidated with *JXN Undivided Coalition v. Tindell*, a similar challenge to SB 2343 brought by the MacArthur Justice Center and Mississippi Center for Justice in June 2023 on behalf of plaintiffs JXN Undivided Coalition; Mississippi Votes, People’s Advocacy Institute Mississippi Poor People’s Campaign, Black Voters Matter, Rukia Lumumba, Danyelle Holmes, Arekia Bennett-Scott. ([Complaint in *JXN Undivided Coalition v. Tindell*](#))

NORTH CAROLINA

ACLU-NC V. STEIN

This case challenged House Bill 40, a 2023 law that includes enhanced penalties for “urging” another person to engage in a “riot.” Three months after the lawsuit was filed, North Carolina’s legislature passed a new law amending provisions of the law to remove the “urging” language.

FILED: April 2023

PLAINTIFFS: ACLU of North Carolina

BROUGHT BY: ACLU of North Carolina

CASE DOCUMENTS & KEY DEVELOPMENTS

- **Complaint:** The federal lawsuit [challenges](#) HB 40 as an unconstitutional restriction on First Amendment protected activity. Plaintiffs allege that

provisions of the law that proscribe “urg[ing] another to engage in a riot” target mere advocacy of unlawful conduct, in violation of the First Amendment as interpreted by the Supreme Court in *Brandenburg v. Ohio*. Plaintiffs also allege that North Carolina’s preexisting definition of “riot” is overbroad and allows individuals to be arrested and prosecuted even if their actions were entirely peaceful.

- **Key Developments:**
 - June 2023: The North Carolina legislature passed [Senate Bill 626](#), which amended the law including by removing all references to “urging”.

OKLAHOMA

OKLAHOMA NCAAP V. O’CONNOR

This case challenged [House Bill 1674](#), a 2021 law that creates new penalties for protesters who obstruct traffic while participating in a “riot,” as well as for organizations that “conspire” with individuals who participate in a “riot.” Following an order by the Tenth Circuit, Oklahoma’s Court of Appeals narrowed both provisions.

FILED: August 2021

PLAINTIFFS: Oklahoma Conference of NAACP

BROUGHT BY: Georgetown ICAP, Oklahoma Conference of NAACP, Melvin Hall

CASE DOCUMENTS & KEY DEVELOPMENTS

- **Complaint:** The federal lawsuit [challenges](#) parts of HB 1674 under the First and Fourteenth Amendment. Challenged provisions include those that create criminal penalties for organizations found to be “conspirators” with persons who are convicted of “riot,” “incitement to riot,” “unlawful assembly,” or other protest-related offenses; and those that criminalize interference with traffic. Plaintiffs argue that HB 1674’s conspiracy provisions are unconstitutionally vague and overbroad, and subject organizations to potentially devastating fines on the basis of third parties’ conduct. Plaintiffs also argue that the traffic interference provisions are unconstitutionally vague and overbroad restriction that can be applied to restrict First Amendment activity in a quintessential public forum—public streets.
- **Key Developments:**
 - October 2021: Federal District Court for the Western District of Oklahoma preliminarily [enjoined](#) the traffic interference and conspiracy provisions of HB 1674 as unconstitutionally vague and overbroad.

- August 2022: Following an order by the Tenth Circuit Court of Appeals to interpret the scope of the conspiracy and traffic-blocking offenses under Oklahoma law, the Oklahoma Court of Appeals narrowed those provisions. Accordingly, the traffic-blocking offense may only apply to individuals who are guilty of participating in a “riot,” and while doing so unlawfully obstruct traffic. The conspiracy provisions are likewise applicable only to organizations found guilty of conspiring with third parties to commit “riot,” “rout,” or “unlawful assembly,” where the third parties are found guilty of committing one of those offenses.
- **Other documents:**
 - Amicus brief, Cornell Law School First Amendment Clinic, ACLU of Oklahoma
 - Amicus brief, Protect Democracy, Niskanen Center, PEN America

SOUTH DAKOTA

DAKOTA RURAL ACTION V. NOEM

This case challenged Senate Bill 189, a 2019 law that creates sweeping new civil liability for “riot boosting,” which that law defines as “directing, advising, encouraging, or soliciting” participants in a “riot” to acts of force or violence. After the District Court enjoined key sections of the law, South Dakota’s Governor agreed in a settlement not to enforce those provisions.

FILED: March 2019

PLAINTIFFS: The Sierra Club, NDN Collective, Dakota Rural Action, the Indigenous Environmental Network, Nick Tilsen, Dallas Goldtooth

BROUGHT BY: ACLU National, ACLU of South Dakota

CASE DOCUMENTS & KEY DEVELOPMENTS

- **Complaint:** The federal lawsuit challenges SB 189 as unconstitutionally overbroad, vague, and targeting anti-pipeline protests and related speech. According to plaintiffs, the law—which creates civil and criminal liability for “riot-boosting” or “encouraging” a riot—violates the First and Fourteenth Amendments because it criminalizes protected speech and fails to adequately describe what speech or conduct could subject protesters and organizations to criminal and civil penalties. The complaint alleges that the law is an impermissible content-based regulation, which specifically targets protected speech opposing gas and oil pipelines. Plaintiffs allege that the law also chills associational rights, as it makes organizations liable for associating with

individuals who may later commit unlawful acts. According to the complaint, the law chills the free speech of plaintiffs and others who seek to train, fund, advise, and encourage others to express their opposition to pipelines through peaceful protests. [Link](#)

- **Key Developments:**
 - September 2019: The Federal District Court for the Western District of South Dakota temporarily [enjoined](#) sections of SB 189 most relevant to protesters and protest organizers. The court found that the law’s prohibitions on “advising, encouraging, or soliciting” another to engage in a “riot” to reach protected speech, and to be unconstitutionally vague. The law’s creation of civil liability for soliciting or compensating another person to commit an unlawful act or be arrested was also overbroad, according to the court, and infringed on protected speech and association.
 - October 2019: South Dakota Governor Kristi Noem and Attorney General Jason Ravnsborg—defendants in the lawsuit—[agreed](#) not to enforce provisions of SB 189 that the federal court had found unconstitutional.

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