

August 10, 2021

RE: Opposition to House Bill 805 (Prevent Rioting and Civil Disorder)

Dear Members of the North Carolina General Assembly,

On behalf of the undersigned organizations, we request that you oppose N.C. House Bill 805 (Prevent Rioting and Civil Disorder).

We, the undersigned civil society organizations, write to express our opposition to House Bill 805. While HB 805 purports to be about preventing riot and disorder, it is an unnecessary and excessive measure that will suppress free speech and further criminalize Black and Brown communities. It is retaliatory--rooted in a false narrative that protests are dangerous and reflect animus towards political expression disfavored by its proponents. If enacted, HB 805 would have a chilling effect on constitutionally protected speech and assembly, and we urge you to oppose this legislation.

This bill is part of a national wave of legislation in response to popular protests for racial justice and police accountability that have swept across the country.

HB 805, if passed, will have a chilling effect on the right to protest. Under North Carolina law, "riot" is already defined too broadly, and 805 would increase penalties for riot-related bodily injury or property damage. The penalties for inciting a riot also increase greatly.

There are already laws covering property destruction or actual acts of violence. This bill suffers from both overbreadth and vagueness. The language pertaining to "incitement" to rioting is similar to language in the federal anti-riot statute. Both the 9th Circuit and 4th Circuit Court of Appeals have ruled those provisions to be unconstitutional. Not only are overbroad and vague laws unconstitutional, but they open the way to selective enforcement from the very institutions being criticized in protests.

What's more, HB 805 would require a judge, rather than a magistrate, to set bail for a person charged with rioting or looting. Since most protests occur in the evenings or on weekends, when judges aren't available, this provision almost guarantees that protestors will spend a night or longer in jail, heightening the cost of exercising one's fundamental rights.

HB 805 would also allow a person whose property is damaged by a riot to sue for damages up to three times the value of the property, creating an excessive punishment that would disproportionately burden low-income North Carolinians. Legislative efforts would be better spent on providing equitable compensation to small business owners from communities of color who have been disproportionately affected by the COVID-19 pandemic.

Statements referring to protestors as “rioters” and “looters” further a divisive and racially biased narrative against Black, Indigenous, People of Color (BIPOC) protestors. No one, whether they are Black, Brown or White, should have to fear the government imposing harsh penalties for exercising their right to protest.

The right to protest is one of our country’s founding principles, enshrined in the First Amendment. Protests founded this country. Protests have paved the way for ending segregation, for bringing troops home from war, for universal suffrage and equal rights for every American. Protest holds elected officials accountable and uplifts the voices of the most marginalized groups in our country.

We urge you to oppose HB 805.

Respectfully,

Action NC
Advance Carolina
American Civil Liberties Union of North Carolina
Care in Action- National Domestic Workers Alliance
Carolina Jews for Justice
Communications Workers of America, NC
CWS NC
Democracy North Carolina
Down Home NC
El Pueblo
Emancipate NC
Equality NC
Fayetteville PACT
Fortaleza
League of Women Voters of North Carolina
National Coalition of Black Women Rising (NC)
NC NAACP
NCAAT in Action
North Carolina A. Philip Randolph Educational Fund
North Carolina Asian Americans Together
North Carolina Justice Center
North Carolina Voters for Clean Elections
Southern Coalition for Social Justice
The Sankofa Tree
Wake County Housing Justice Coalition