



October 18, 2021

## Protecting Demonstrator's Rights in Wisconsin

Over the last few months, two bills have been working their way through the Wisconsin legislature that if passed into law would violate the basic principles of American law and undoubtedly have a chilling impact on the participation of Wisconsinites in protest protected by the First Amendment. These bills are Assembly Bill 279 and Senate Bill 296.

These bills violate the basic principles of American law, deterring participation in a protest, which the First Amendment protects. Under existing law, law enforcement may only arrest and punish wrongdoers, not bystanders participating in the protest. By defining "riot" based on the violent actions or threats of one or more people who are part of the larger protesting group, and then making it a crime for everyone participating in that protest to merely be present at that protest, the current bills effectively outlaw otherwise protected protest. We do not allow guilt by association or group punishment, but this is what these bills attempt to do. Furthermore, these bills give the authority to police to make arrests before issuing a warning and an order to disperse, providing no notice and opportunity to leave before an arrest takes place.

These bills also violate laws that say that you must make clear to people what is and is not illegal, using vague language which makes it impossible for a person to know whether a protest has crossed the line into a so-called "riot." For instance, the bills define a riot as a "disturbance that *involves* an unlawful assembly." Does that mean that a riot must first *be* an unlawful assembly? Does it mean it must

be *declared* an unlawful assembly? Can a largely peaceful protest become a "riot" because it "involves" a smaller group of people engaged in an illegal assembly? Moreover, one definition of "riot" under the bills is an unlawful assembly in which someone uses violence to "obstruct law enforcement or another government function." Almost anything a government official does could be called a "government function." Almost any protest activity could "obstruct" smooth functioning by drawing attention from the function to the protest. In reality, the point of a protest is to get the government's attention. Finally, the bills penalize attending a riot in one provision and participating in certain behaviors at a riot in other places. Is there a difference between the two? This contradictory and unclear language is too vague to show what criteria would be used to discern what is legal versus illegal and leaves too much up to interpretation by police.

Finally, these bills are a part of a larger trend that makes people afraid to be arrested and severely punished for participating in otherwise peaceful protests. Some examples include the enhanced penalties for students who protest on-campus speakers and the "critical infrastructure" law that increases penalties for trespassing on powerline and pipeline rights of way during protests.

Assembly Bill 279 and Senate Bill 296 should not become law. We call on our legislators to not move forward with these bills and for the Governor to veto them if they make it to his desk.

**Signed:**

ACLU of Wisconsin  
African American Roundtable  
Amalgamated Transit Union  
Black Leaders Organizing for  
Communities  
Citizen Action of Wisconsin  
Clean Wisconsin  
The Coalition for Justice MKE  
Common Cause Wisconsin  
Law Office of Dennis M. Grzezinski  
League of Women Voters of WI  
Madison Socialist Alternative  
Main Street Alliance of Wisconsin  
MICAH  
Midwest Environmental Advocates  
Milwaukee Environmental Consortium  
Milwaukee Water Commons  
National Lawyers Guild - Milwaukee  
Chapter

Our Wisconsin Revolution  
Peace Action of Wisconsin  
Protect Democracy  
Rid Racism Milwaukee  
Sierra Club - Wisconsin Chapter  
UW Young Progressives  
WAVE Educational Fund  
We Own It!  
Wisconsin Conservation Voters  
Wisconsin Council of Churches  
Wisconsin Democracy Campaign  
Wisconsin Faith Voices for Justice  
Wisconsin Resources Protection Council  
Wisconsin Safe Energy Alliance  
Wisconsin Working Families Party  
350 Madison  
80 Feet is Enough!  
9 to 5 Wisconsin