

NO ON HB 1759

We the undersigned oppose HB 1759, which would significantly enhance criminal penalties for anyone entering or causing damage to a very widely defined group of “critical infrastructure facilities.” **HB 1759 is unnecessary and arbitrary, it would chill peaceful exercise of freedom of speech, and it threatens to disproportionately harm people of color.**

This bill is based on model legislation from the ultra-conservative American Legislative Exchange Council (“ALEC”), which has pushed [similar bills around the country](#). ALEC has also been [a key backer of so-called “voter ID” bills](#) designed to [suppress voting by people of color](#), and helped [proliferate the Florida “Stand Your Ground” law](#) cited to prevent the arrest of George Zimmerman after he killed Trayvon Martin.

HB 1759 IS UNNECESSARY AND ARBITRARY

HB 1759 invents new crimes with excessive penalties for activities that are already covered under Illinois law. It would make any amount of property damage or any “criminal trespass” at a “critical infrastructure facility” a felony.

For example, it appears that **under HB 1759, something as small as drawing on a building with a marker could result in felony charges punishable by up to 3 years in prison.** Someone could face *another* felony charge and up to *another* 3 years in jail if they were alleged to have “intent to damage, destroy, or tamper with equipment of the facility,” another vague and broadly applicable definition.

Bills like HB 1759 that enhance criminal penalties near “critical infrastructure” are sometimes called “pipeline protest” bills. This is because they were first adopted in states such as North and South Dakota where indigenous activists peacefully protested oil pipelines such as Keystone XL and Dakota Access. In their original context, they are generally understood to have been created for use against those protestors. These laws have faced lawsuits, including in [South Dakota](#) and [Louisiana](#).

But HB 1759 defines “critical infrastructure” broadly, and these enhanced criminal penalties would extend to many more people than just those protesting oil pipelines. Some of the places it defines as “critical infrastructure” include: power lines; chemical, polymer, steel, or rubber manufacturing facilities; telecommunications switching offices; cell towers, telephone poles and lines; railroad tracks; trucking terminals or other freight transportation facilities; or a “storage facility that is enclosed by a fence or other physical barrier.”

A normal person might not even be aware in some cases that they were near one of these facilities. It’s easy to imagine a group of teenagers scribbling their names near some railroad tracks, or a person who is homeless damaging a fence to sleep near a storage facility for lack of better options. Under HB 1759, they could be charged with felonies.

This bill would significantly and arbitrarily enhance criminal penalties in many locations, turning what would otherwise be low-level offenses into felonies. It violates the rule of law, which says that laws should be “equally enforced.” **Under HB 1759, the exact same act that is a misdemeanor on one side of a fence would be a felony on the other side.**

HB 1759 WILL LIKELY DISPROPORTIONATELY HARM PEOPLE OF COLOR

This bill has the potential to worsen the already excessive harshness with which our criminal justice system treats Black people and other people of color, who are disproportionately arrested for the type of low-level offenses that would have enhanced penalties under HB 1759. Black people are more than twice as likely to be arrested for vandalism and 70% more likely to be arrested for vagrancy, compared to white people¹. In some places, these disparities are even more acute. For example, a report by the ACLU of New Jersey² found that Black people in Jersey City were 7.7 times more likely than white people to be arrested for trespassing.

HB 1759 threatens to harm Black people (and other people of color) by enhancing criminal penalties on offenses for which they are already disproportionately arrested.

HB 1759 IS INTENDED TO STIFLE FREE SPEECH

The right to protest or peaceful assembly is critical to a functioning democracy and at the core of the First Amendment. Many of our most fundamental freedoms were won through mass protest, as exemplified by Women's Suffrage and the civil rights movement of the 1960s. At the time, these protests were often deeply unpopular, and opponents often found ways to criminalize them.

While supporters of this bill claim to be worried only property damage, the clear intent of HB 1759 is to instill fear in peaceful protestors, and to chill Illinoisans' exercise of their First Amendment right to free assembly and speech.

We the undersigned oppose HB 1759 and we urge its sponsor, Rep. Jay Hoffman, to table the bill and not introduce it in any future session.

Civil Rights signatories

ACLU of Illinois

Center for Protest Law and Litigation

Chicago Food Policy Action Council

Civil Liberties Defense Center

Defending Rights & Dissent

Labor signatories

Chicago Teachers' Union

Chicago Workers' Collaborative

National Nurses United

SEIU Illinois Council

United Electrical, Radio & Machine Workers of America (UE), Western Region

Railroad Workers United

Community, Democracy, and Faith signatories

Common Cause Illinois

Fox Valley Citizens for Peace & Justice

Illinois People's Action

ONE Northside

The People's Lobby

Southern IL Democratic Socialists of America

Unitarian Universalist Service Committee

¹ Data from FBI report "Crime in the U.S. 2018" and U.S. Census.

² ACLU of New Jersey, "Selective Policing: Racially Disparate Enforcement of Low-Level Offenses in New Jersey" https://www.aclu-nj.org/files/7214/5070/6701/2015_12_21_aclunj_select_enf.pdf

Environmental and Environmental Justice signatories

350 Chicago & 350 Kishwaukee

Center for Neighborhood Technology

Citizens' Greener Evanston

Clean Power Lake County

Climate Reality Project, Chicago Chapter

Elevate

Environmental Law and Policy Center

Extinction Rebellion

Food & Water Watch

Greenpeace

Institute for Policy Studies Climate Policy
Program

Illinois Environmental Council

Little Village Environmental Justice Organization

Natural Resources Defense Council

Openlands

Prairie Rivers Network

Save Our Illinois Land (SOIL)

Sierra Club Illinois Chapter

Southeast Environmental Task Force

Southeast Side Coalition to Ban Petcoke

Southern Illinoisans Against Fracturing Our
Environment (SAFE)

Union of Concerned Scientists

The DuPage County NAACP also opposes HB 1759, and wrote their own letter.