

Testimony Submitted to the Joint Legislative Budget Hearing on Public Protection February 12, 2026

Common Cause New York submit this written testimony to the Joint Legislative Budget Hearing on Public Protection. Common Cause is a nonpartisan, nonprofit organization founded to serve as a vehicle for citizens to make their voices heard in the political process. We fight to strengthen public participation and faith in our institutions of self-government and lead the grassroots component of the nationwide Election Protection effort. Common Cause/NY is among the largest and most active state chapters, with thousands of activists throughout the state, and is a founder and leader of the statewide Let NY Vote coalition. As an organization that seeks to strengthen and protect democracy, we support measures which protect self-government at all levels. Additionally, the orderly administration of elections and ensuring that our elections are accessible and fair is part of our core mission to promote civic engagement and accountability in government.

Part L – Sensitive Location Protection Act

The territorial basis of state sovereignty in our federalist system has long been recognized in United States law. See, e.g. *Georgia v. Tennessee Copper Co.*, 206 U.S. 230, 237 (1907) (Holmes, J.) and subsequent cases citing it as authority. Common Cause NY believes that asserting the state’s interest and sovereignty over locations within its territory and recognizing the interest which private owners have in their real property is a well-founded basis for curtailing the excesses and extra-legal activities of federal immigration enforcement. Accordingly, we are strong supporters of legislation which protects specific locations from federal overreach and have included S4121 (Jackson)/A8139 (Lasher)(hereafter referred to as S4121) among our priority bills for this legislative session. However, our federalist system also recognizes areas beyond simple territorial control as falling within a state’s area of control and concern, often described as the police power or the ability of individual states to protect the health and welfare of its citizens.

Types of Sensitive Locations Covered

Both S4121 and Part L identify specific types of locations as “sensitive” or protected by the state’s interest. S4121 provides a more expansive definition of covered sensitive locations than Part L:

- Both measures include premises where health care is provided.
- In addition to protecting elementary, pre-school, and higher education premises, S4121 would protect vocational and trade schools and workforce training, as well as educational activities including field trips and sports events. Part L protects school, higher education and licensed childcare and youth program premises.
- Part L covers premises where religious services or instruction are held, while S4121 includes not only “places of worship” but also “sites of funerals, weddings or other religious ceremonies.”
- S4121 includes locations where emergency services, including provision of food and shelter, are provided. Part L does not.
- S4121 includes offices of any state or local elected official; Part L does not.

Common Cause NY supports including the more expansive listing of protected locations contained in S4121. The purpose of the proposed measures is to protect locations essential to the community’s well-being, health and

safety. The more expansive list recognizes the importance of the listed premises and related activities as essential to the well-being and civilized functioning of our communities and therefore more effectively advances the policies behind the proposed protections.

We note that S8596(Harckham)/A9345 (Dinowitz) prohibits civil arrests of anyone going to, remaining at, or returning from a polling place. We suggest that including polling places as protected sensitive locations be considered.

What Areas are Covered

The proposed Part L Sensitive Location Protection Act takes a different approach to protected sensitive locations than that taken by S4121. Part L does not protect the entire premises, as would S4121. S4121 would set up a protected zone around and including the sensitive location, similar to the legal concept of curtilage. Part L, on the other hand, seeks to protect the non-public areas of the sensitive location from federal access without a proper judicial warrant. The basis for asserting control over the listed locations is their sensitive nature – in other words, their importance to the health, safety and well-being of the community they serve. Even the threat of federal agents enforcing non-judicial warrants has created fear and significantly impacted community members’ willingness to access health care or attend school or worship. Setting up a surrounding protected area in addition to the sensitive location itself seeks to limit the disruption which the attempted arrest of individuals would have on the sensitive location’s functioning. Allowing entry into some, but not all, areas of a protected premises discourages community members from accessing the facility. Further, allowing attempted arrests in a portion of a facility is likely to create chaos and confusion in the facility. We strongly favor protecting the entire facility, due to its sensitive nature. We also support a reasonable protective area surrounding the sensitive location, which could very well be significantly less than 1000 feet. At a minimum, we believe that any facility which is owned by state or local government can be entirely closed to officials from other jurisdictions seeking to make civil non-judicial arrests.

Empowering and Protecting Private Owners

Common Cause NY believes that it is the state’s obligation to assert the maximum level of protection over these locations, due to their sensitive nature and the importance which they have in a civilized society which provides for the health, safety and well-being of its residents. We applaud Part L’s recognition of the importance of privately owned sensitive locations and support its measures to empower and protect private owners who seek to control their sensitive premises from unlawful activities by government agents.

Part M – New York State Bivens Act

Common Cause New York strongly supports the right of any individual to sue for violation of their constitutional rights. Federal officials should not be able to evade their obligations to protect the constitutional rights of individuals in their official or unofficial capacities and should be held accountable. Providing for a private right of action furthers that accountability. Common Cause New York has included S8500(Myrie)/A9076 (Romero) among its priority bills for this legislative session. We are, therefore, most supportive of the impetus behind Part M. However, the current proposal undermines its own stated purpose. By incorporating qualified immunity into New York State law for the first time, this proposal gives New Yorkers a day in court — and makes it all too likely they will lose. We strongly urge that Part M be amended to remove any mention of qualified immunity.

We share the concern of many other groups that the proposed language of Part M runs the risk of codifying judicially created §1983 defenses, including qualified immunity, not only for federal officials who violate New Yorkers’ civil rights, but also state and local law enforcement officials. The proposals’ language could extend



these protections to state and local officials who violate rights while colluding with federal immigration agents, as well as officers who crack down on New Yorkers exercising their First Amendment right to protest ICE and federal overreach. This would undermine years of advocacy to create meaningful accountability for all public officials who abuse their power. New York State cannot fight federal overreach by handing ICE a legal shield. Common Cause NY recommends that Part M be amended to remove any mention of immunity defenses. It funding of immigration legal defense to strengthen and expand emergency deportation defense to allow t

Part S – AI in Political Ads

Common Cause NY strongly supported the bill signed into law in 2024 which added required disclosure on all political ads that contain content created by Artificial Intelligence or some form of digital manipulation to Election Law section 17-212. Voters need to know whether the images and/or sound in a political ad are real or not. New York law now protects the voters' interest through the required disclosure of data manipulation. Part S amends that existing law to add two additional elements: requiring the addition of provenance data that assists in determining the source of the digital content and prohibiting deceptively manipulated political ads within 90 days of an election without the written consent of the depicted individual.

We continue to believe that all digitally manipulated political ads, irrespective of content or proximity to an election, should carry the required disclosure and we are relieved to see that aspect of the law unchanged.

We support the requirement that the provenance of the digital content be included in the ad itself. According to IBM¹,

“Data provenance is the historical record of data that details data’s origins by capturing its metadata as it moves through various processes and transformations. Data provenance is primarily concerned with authenticity, providing details such as who created the data, the history of modifications and who made those changes. We question why requiring the inclusion of the generally easily accessible provenance data should be limited by the vague requirement that providing the data be “technically feasible and reasonable.”

Including provenance data in or accompanying the required disclosure has obvious relevance. We support amending the law to require that provenance be provided. We would prefer to see a blanket requirement that the data be provided and, if it is deemed necessary, allowing for a procedure to request a waiver of that requirement based on a factual showing of technical infeasibility.

We recognize the policy considerations and desire to protect voters (and candidates) which support adding the new paragraph (c) to the law. However, we are concerned that requiring the written consent of the depicted individual as a condition to distribution of the ad places a constitutionally suspect limitation on the speech of the person or entity speaking through the ad. The required blanket disclosure that the ad contains manipulated content does not engender constitutional challenge.

Thank you for the opportunity to submit this written testimony.

¹ <https://www.ibm.com/think/topics/data-provenance> , accessed 2/12/2026.

