

NINETEENTH JUDICIAL DISTRICT COURT FOR
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NO.744411

DIVISION "22"

NORRIS HENDERSON, RONALD MARSHALL, and ERICA NAVALANCE

VERSUS

PHILLIP DEVILLIER and DEBBIE VILLIO

FILED: _____

DEPUTY CLERK

**MOTION FOR ENTRY OF TEMPORARY RESTRAINING ORDER AND
PRELIMINARY MANDATORY INJUNCTION**

NOW INTO COURT, through undersigned counsel, comes NORRIS HENDERSON, RONALD MARSHALL, and ERICA NAVALANCE ("Petitioners"), who respectfully move this Honorable Court to enter a temporary restraining order, and thereafter, a preliminary injunction against Defendants Phillip DeVillier and Debbie Villio, in their official capacities as the Speaker of the Louisiana House of Representatives (DeVillier) and as the Chair of the Administration of Criminal Justice ("ACJ"). Petitioners are both Louisiana citizens who are domiciled in Orleans Parish, State of Louisiana.

The basis for granting this TRO and Preliminary Injunction is set forth more fully in the accompanying memorandum in support, the attached affidavits from Norris Henderson and Ronald Marshall, and the petition for injunction relief filed contemporaneously with this motion.

PRAYER FOR RELIEF

Upon the respective exhibits provided therewith, and the accompanying memorandum of law, Petitioners respectfully move this Court for:

1. the entry of a temporary restraining order and preliminary injunction against Defendants Phillip DeVillier and Debbie Villio, in their official capacities as Speaker of the Louisiana House of Representatives and Chair of the ACJ Committee, that enjoins them as representatives of the Louisiana Legislature from advancing HB 6 through the House of Representatives until a constitutionally sufficient public hearing has been held on HB 6 in the ACJ Committee;
2. The entry of a declaration that on February 20, 2024 hearing in the ACJ Committee does not comply with the constitutional requirements of La. Const. Article III §15(D);
3. any such other relief as this Court deems just and proper.

WHEREFORE, it is respectfully requested that this Court grant this motion for temporary restraining order and preliminary injunction.

Respectfully submitted,

/s/ Emily H. Posner

Emily Posner (La. Bar No. 35284)

General Counsel

Voice of the Experienced

4930 Washington Avenue

Suite D

New Orleans, Louisiana 70125

Phone: 225-746-8820

Email: emily@voiceoftheexperienced.org

Attorney for Petitioners

NINETEENTH JUDICIAL DISTRICT COURT FOR
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STATE OF LOUISIANA

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PHILLIP DEVILLIER and DEBBIE VILLIO

FILED: _____

DEPUTY CLERK

AFFIDAVIT OF NORRIS HENDERSON

STATE OF LOUISIANA
PARISH OF ORLEANS

BEFORE ME, the undersigned Notary Public, personally came and appeared:

NORRIS HENDERSON

who after being duly sworn, did depose and state the following:

1. My name is Norris Henderson and I am a person of full age and majority.
2. I am the Executive Director of Voice of the Experienced (“VOTE”), a Louisiana non-profit organization that is registered in the State of Louisiana.
3. VOTE’s principal place of business and domicile is in Orleans Parish, Louisiana, and has a mailing address of 4930 Washington Avenue, Suite D; New Orleans, Louisiana 70125.
4. I am also a New Orleans resident, whose domicile is in Orleans Parish.
5. I am a Petitioner in the Motion for Temporary Restraining Order (“TRO”) and Preliminary Injunction filed in the above referenced matter.
6. I am providing the foregoing Affidavit in support of my TRO, Motion for Preliminary Injunction and Petition Permanent Injunction.
7. On February 20, 2024, I traveled from New Orleans to the Louisiana State Capitol in Baton Rouge.
8. I went to Baton Rouge to observe, participate and testify at the scheduled public hearings for several proposed bills being heard in the House Committee for the Administration of Criminal Justice (ACJ).

9. For the last two decades, I have regularly testified at Louisiana Legislative Committee hearings regarding proposed legislation that affects those impacted by the criminal justice system.

10. As someone with lived experiences with nearly all aspects of Louisiana's criminal justice, I choose to exercise my constitutional right to participate in public hearings about legislation that concerns these matters. This experience includes being the victim of violent crime, as I have lost family members and friends to violence, including my son and my brother.

11. As required by the Rules of the ACJ committee, on February 21, 2024, I filled out a red card indicating that I wished to testify in opposition to the proposed House Bill (HB)-4.

10. At the beginning of the public hearing, Representative Byran Fontenot committee departed from normal committee procedures by arbitrarily limiting testimony at the public hearing to three minutes per speaker and capped total time to one-hour.

13. Then, Representative Tony Bacala moved the Committee to depart from normal procedures by arbitrarily limiting the public testimony of the opponents of the bill to one hour of testimony.

14. The ACJ Committee passed both Representative Fontenot's and Representative Bacala's motions.

15. Consequently, after one hour of testimony on HB-4, the Chair of the ACJ Committee, Representative Debbie Villio, ended the portion of the public hearing for those in opposition to HB-4.

16. In turn, even though I had filled out a red card indicating that I wanted to testify about HB-4, I was denied my constitutional right to do so.

17. I also witnessed at least nine other individuals denied the right to testify about HB-4.

18. The entire hearing for HB-4, HB-6, HB-9 and HB-10 is available for viewing online at the Louisiana Legislature's website.

17. I am filing this TRO and Preliminary Injunction requesting that this Honorable Court enjoin the Louisiana House of Representatives from considering the passage of this bill until a committee has "held a public hearing" that complies with the Louisiana Constitution.

18. I declare under penalty of perjury that the facts contained in this document are true and correct to the best of my knowledge.

DATED:

Signed,

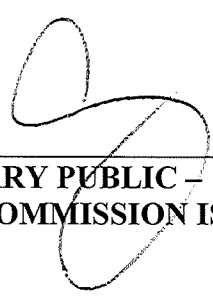


NORRIS HENDERSON

Executive Director of Voice of the Experienced

SWORN TO AND SUBSCRIBED, before me, this 21st day of Feb., 2024.

NOTARY PUBLIC -
MY COMMISSION IS FOR LIFE



Emily H. Posner

352841

NINETEENTH JUDICIAL DISTRICT COURT FOR
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

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PHILLIP DEVILLIER and DEBBIE VILLIO

FILED: _____

DEPUTY CLERK

AFFIDAVIT OF RONALD MARSHALL

STATE OF LOUISIANA
PARISH OF ORLEANS

BEFORE ME, the undersigned Notary Public, personally came and appeared:

RONALD MARSHALL

who after being duly sworn, did depose and state the following:

1. My name is Ronald Marshall and I am a person of full age and majority.
2. I am also a New Orleans resident, whose domicile is in Orleans Parish.
3. My work address is 4930 Washington Avenue, Suite D; New Orleans, Louisiana 70125.
4. I am a Petitioner in the Motion for Temporary Restraining Order (“TRO”) and Preliminary Injunction filed in the above referenced matter.
5. I am providing the foregoing Affidavit in support of my TRO, Motion for Preliminary Injunction and Petition Permanent Injunction.
6. On February 20, 2024, I traveled from New Orleans to the Louisiana State Capitol in Baton Rouge.
7. I went to Baton Rouge to observe, participate and testify at the scheduled public hearings for several proposed bills being heard in the House Committee for the Administration of Criminal Justice (ACJ).
8. This is my third year of regularly testifying at Louisiana Legislative Committee hearings regarding proposed legislation that affects those impacted by the criminal justice system.

9. As someone with lived experiences with nearly all aspects of Louisiana's criminal justice, I choose to exercise my constitutional right to participate in public hearings about legislation that concerns these matters. This experience includes being the victim of violent crime, as I have lost many family members and friends to violence.
10. As required by the Rules of the ACJ committee, on February 20, 2024, I filled out a red card indicating that I wished to testify in opposition to the proposed House Bill (HB)-4.
11. At the beginning of the public hearing, Representative Byran Fontenot committee departed from normal committee procedures by arbitrarily limiting testimony at the public hearing to three minutes per speaker and capped total time to one-hour.
12. Then, Representative Tony Bacala moved the Committee to depart from normal procedures by arbitrarily limiting the public testimony of the opponents of the bill to one hour of testimony.
13. The ACJ Committee passed both Representative Fontenot's and Representative Bacala's motions.
14. Consequently, after one hour of testimony on HB-4, the Chair of the ACJ Committee, Representative Debbie Villio, ended the portion of the public hearing for those in opposition to HB-4.
15. Consequently, even though I had filled out a red card indicating that I wanted to testify about HB-4, I was denied my constitutional right to do so.
16. I witnessed at least nine other individuals who were also denied their constitutional right to testify at the HB-4 public hearing.
17. I want to exercise my constitutional right to participate in a public hearing about HB-4, however, I was denied my right to present testimony about these proposed pieces of legislation.
17. The Speaker of the House has scheduled HB-4 to be heard on the House Floor today, February 21, 2024 at 5 PM.
18. I traveled again on February 21, 2024 to the Louisiana State Capitol in Baton Rouge from New Orleans.
19. I went to Baton Rouge to observe, participate and testify at the scheduled public hearings for several proposed bills being heard in the House Committee for the Administration of Criminal Justice (ACJ).
20. As required by the Rules of the ACJ committee, on February 21, 2024, I filled out a red card indicating that I wished to testify in opposition to the proposed bills HB-9 and HB-10.
21. Just like on February 20, 2024, the ACJ Committee departed from normal procedures by arbitrarily limiting the public testimony of the opponents of the bill to one hour of testimony.
22. I was allowed to testify on HB-9, but witnessed at least three individuals denied the right to testify even though they had filled out a red card wishing to testify in opposition to this bill.

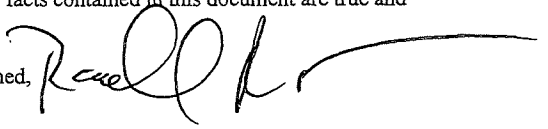
23. Then, I was again prevented from participating and testifying at the public hearing for HB-10.

24. I witnessed at least four additional individuals get denied the right to testify about HB-10.

25. I am filing this TRO and Preliminary Injunction requesting that this Honorable Court enjoin the Louisiana House of Representatives from considering the passage of HB-4 and HB-10 until the ACJ Committee has "held a public hearing" on these bills that complies with the Louisiana Constitution.

19. I declare under penalty of perjury that the facts contained in this document are true and correct to the best of my knowledge.

DATED: 2/21/24

Signed, 

Ronald Marshall

SWORN TO AND SUBSCRIBED, before me, this 21st day of February, 2024.



NOTARY PUBLIC - Colin Reynolds, La Bar # 33252
MY COMMISSION IS FOR LIFE

My signature is my seal

NINETEENTH JUDICIAL DISTRICT COURT FOR
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PHILLIP DEVILLIER and DEBBIE VILLIO

FILED: _____

DEPUTY CLERK

AFFIDAVIT OF ERICA NAVALANCE

STATE OF LOUISIANA
PARISH OF ORLEANS

BEFORE ME, the undersigned Notary Public, personally came and appeared:

ERICA NAVALANCE

who after being duly sworn, did depose and state the following:

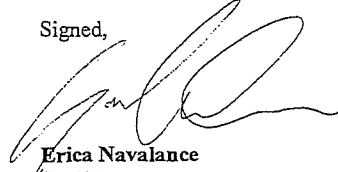
1. My name is Erica Navalance and I am a person of full age and majority.
2. I am a Senior Staff Attorney at the Promise of Justice Initiative (“PJI”), a Louisiana non-profit organization that is registered in the State of Louisiana.
3. PJI’s principal place of business and domicile is in Orleans Parish, Louisiana, and has a mailing address of 1024 Elysian Fields; New Orleans, Louisiana 70117.
4. I am also a New Orleans resident, whose domicile is in Orleans Parish.
5. I am a Petitioner in the Motion for Temporary Restraining Order (“TRO”) and Preliminary Injunction filed in the above referenced matter.
6. I am providing the foregoing Affidavit in support of my TRO, Motion for Preliminary Injunction and Petition Permanent Injunction.
7. On February 20, 2024, I traveled from New Orleans to the Louisiana State Capitol in Baton Rouge.
8. I went to Baton Rouge to observe, participate and testify at the scheduled public hearings for several proposed bills being heard in the House Committee for the Administration of Criminal Justice (ACJ).

9. I have been an attorney working on death penalty litigation for over eight years. I regularly track legislation concerning the death penalty in Louisiana, as well as attend public hearings in the Legislature concerning death penalty bills.
10. On February 21, 2024, I initially filled out a red card indicating that I was in opposition to House Bill ("HB") 6, but that I did not want to testify. I turned in my card before the hearing started.
11. At the beginning of the public hearing, Representative Byran Fontenot committee departed from normal committee procedures by arbitrarily limiting testimony at the public hearing to three minutes per speaker and capped total time to one-hour.
12. Then, Representative Tony Bacala moved to limit the testimony of the public hearing of all bills heard on February 21, 2024 to two hours. In particular, he moved to limit the testimony to allow those in opposition to any bill to speak for only one hour.
13. The ACJ Committee passed both Representative Fontenot's and Representative Bacala's motions.
14. At least an hour before HB-6 was called, I decided I did want to speak. I approached the Sergeant at Arms to let her know my decision, and asked if she preferred that I alter my original card, or submit a new red card that indicated I wanted to speak. She asked me to submit a new card, and I did so.
15. When Chair Debbie Villio called HB-6, she called several people up to speak testify in opposition to HB-6. My understanding is that these individuals all filled out a red card, like I did, indicating they wanted to testify in opposition to HB-6.
16. When Representative Villio called the last two red cards to come speak, and it became clear I was not going to be called, I approached the Sergeant and clarified that this was the bill that I had substituted a card for and *did* want to speak. The Sergeant confirmed she had turned in my new red card. I asked her to please check to make sure I would be called.
17. I watched the Sergeant then approach an ACJ Committee staff member sitting adjacent to Representative Villio to discuss my card. I saw them speak and point to me, and I visibly indicated to this staff member as well that I was the person that wished to speak.
18. After the last two people who were speaking finished, Representative Villio began to read the remaining red cards into the record. I was not given the opportunity to speak.
19. I want to exercise my constitutional right to participate in a public hearing about HB-6, however, I was denied my right to present testimony about these proposed pieces of legislation.
20. I am filing this TRO and Preliminary Injunction requesting that this Honorable Court enjoin the Louisiana House of Representatives from considering the passage of this bill until a committee has "held a public hearing" that complies with the Louisiana Constitution.

21. I declare under penalty of perjury that the facts contained in this document are true and correct to the best of my knowledge.

DATED:

Signed,



Erica Navalance
Staff Attorney
Promise of Justice Initiative

SWORN TO AND SUBSCRIBED, before me, this 21 day of FEBRUARY 2024.



NOTARY PUBLIC - Colin Reissold La Bar # 33252
MY COMMISSION IS FOR LIFE

My signature is my seal

NINETEENTH JUDICIAL DISTRICT COURT FOR
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FILED: _____
DEPUTY CLERK

TEMPORARY RESTRAINING ORDER

Considering the foregoing:

This matter having been brought forth on _____, 2024, upon the application of Petitioners for a temporary restraining order, supported by a Verified Petition and Affidavits from Petitioners, and appearing that the issuance of a temporary restraining order is proper and just under the circumstances.

It is hereby ordered and decreed that, pending a full hearing on Petitioners' motion for a preliminary injunction, Defendants Phillip DeVillier and Debbie Villio, in their respective official capacities as The Speaker of the Louisiana House of Representatives and the Chair of the House Committee for the Administration of Criminal Justice, are temporarily restrained and enjoined from considering House Bill 4 and House Bill 6 on the House Floor, until the bills have been heard before a committee that hosts a constitutionally compliant public hearing. It is further ordered that this temporary restraining order shall expire at _____ on _____, 2024, unless before such time this Order, for good cause shown, is extended by this Court.

It is further ordered that the Defendants, and all parties in interest, show cause for at an evidentiary and/or contradictory hearing at _____ .m on _____, 2024, as to why this Motion for a Preliminary Injunction filed by Petitioners, should not be granted.

New Orleans, Louisiana this _____ day of February 2024.

The Honorable Judge

Please Serve:

1. The Honorable Representative Phillip DeVillier
Chambers of the House of Representatives

900 North Third Street
Baton Rouge, Louisiana 70804

2. The Honorable Representative Phillip DeVillier
439 Highway 758
Eunice, Louisiana 70535

3. The Honorable Representative Debbie Villio
House Committee Room 6
900 North Third Street
Baton Rouge, Louisiana 70804

4. The Honorable Representative Debbie Villio
5440 David Drive
Kenner, Louisiana 70065

3. Liz Murrill, Louisiana Attorney General
on behalf of the Honorable Representatives Phillip DeVillier and Debbie Villio
1885 North Third Street
Baton Rouge, Louisiana 70802

NINETEENTH JUDICIAL DISTRICT COURT FOR
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NORRIS HENDERSON, RONALD MARSHALL, and ERICA NAVALANCE

VERSUS

PHILLIP DEVILLIER and DEBBIE VILLIO

FILED: _____

DEPUTY CLERK

**MEMORANDUM IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

MAY IT PLEASE THE COURT:

Norris Henderson, Ronald Marshall and Erica Navalance (hereinafter "Petitioners"), hereby move this Honorable Court pursuant to Louisiana Code of Civil Procedure article 3601 for entry of a temporary restraining order and/or preliminary injunction against the Honorable Representative Phillip Devillier and the Honorable Representative Debbie Villio, in their respective official capacities as the Speaker of the Louisiana House of Representatives and the Chair of the House Committee on the Administration of Criminal Justice (hereinafter "Defendants"), for reporting House Bill ("HB")-4 and HB-6 out of the the Administration of Criminal Justice Committee without first hosting a constitutionally compliant public hearing.

Petitioners request that the Court enter a TRO because they have an interest in the democratic process the Louisiana House Committee for the Administration of Criminal Justice ("ACJ") must follow, but has circumvented, in order unconstitutionally fast-track the passage of HB-4 and HB-6.

The Louisiana Constitution states that "[n]o bill shall be considered for final passage unless a committee has held a public hearing and reported on the bill." La. Const. Article III, §15(D). In turn, any House Committee, including the House ACJ Committee, cannot report a bill to the House Floor without first holding a public hearing. The Louisiana Constitution does not define "public hearing." However, several places throughout Louisiana law clearly indicate that a public hearing is a hearing "at which any person may have a reasonable opportunity to be heard . . ." *See e.g.* La. R. S. 33:2393(25).

The Petitioners regularly participate and testify at public hearings before the ACJ Committee. However, on February 20, 2024, the ACJ Committee departed from normal procedures by arbitrarily limiting the public testimony of the opponents of HB-4 and HB-6. Then in violation of the Louisiana Constitution, the ACJ Committee illegally reported and voted to move both HB 4 and HB 6 out of Committee to the House Floor.

Petitioners now request that this Honorable Court enjoin the Defendants from considering HB 4 and HB 6 on the Floor of the Louisiana House of Representatives until the ACJ Committee has conducted a public hearing compliant with La. Const. Article III, §15(D).

FACTUAL BACKGROUND

On Monday, February 19, 2024, the special legislative session on crime begins at the state capitol in Baton Rouge. From February 19, 2024 until March 1, 2024, the 105 House Representatives and 39 Senators elected last Fall to the Louisiana Legislature will consider twenty-four bills that would bring sweeping change to Louisiana's criminal legal system and incarceration. These twenty-four bills were assigned to five legislative committees, with half of them in the House Committee for the Administration of Criminal Justice ("ACJ"). Together, these proposals are an attack on the most comprehensive criminal legal reforms in Louisiana's history, passed in 2017 through the bipartisan Justice Reinvestment Initiative ("JRI"). JRI spurred a rapid decrease in Louisiana's jail and prison population, allowing Louisiana to shed the unfortunate title of "incarceration capital of the world." And as incarceration rates fell, *so did crime rates*, showing that Louisiana can make its communities safer while incarcerating fewer people.

Even experts at the conservative Pelican Institute agree that the JRI reforms have been a success, saving the state over \$100 million and allowing Louisiana to reinvest in programs that help victims of crimes and support reentry for people leaving prison.

The proposed bills during the special legislative session are dangerous, disingenuous, and extremely expensive. They nearly eliminate post-conviction relief, lower the age to criminally charge children as adults, and cripple parole and public defender offices. Notably, many of these bills would *protect* bad legal actors who perpetuate Louisiana's rampant prosecutorial misconduct problem and eliminate pathways for innocent people in prison to gain freedom. Petitioners contend that these bills scheduled to be heard during the special crime session make Louisianan's less safe, and harm vulnerable people in the criminal legal system, their loved ones, and our communities.

On February 20, 2024, the House ACJ Committee scheduled public hearings for HB-4 and HB-6. As proposed, HB-4 forces district attorneys and judges to object when an incarcerated person files a post-conviction application (“PCR”) that is after the filing deadline, if it had been heard before, or if over a year has passed since uncovering newly discovered evidence. As written, HB-4 removes all discretion from judges and prosecutors concerning procedural matters, so that the merits of a PCR could be heard when serious doubts about the legitimacy of the conviction exist.

As written, HB-6 proposes to add the electric chair, gas suffocation, and lethal injection using a secret process to hide what poisons are being used to kill people on death row.

On February 20, 2024, Petitioners Norris Henderson and Ronald Marshall traveled from New Orleans to Baton Rouge to observe, participate and testify on HB-4. Both Mr. Henderson and Mr. Marshall submitted the required red card indicating that they would like to testify in opposition to HB-4.

Likewise, also on February 20, 2024, Petitioner Erica Navalance traveled from New Orleans to Baton Rouge to observe, participate and testify on HB-6.

For the last two decades, Mr. Henderson has regularly testified at Louisiana Legislative Committee hearings regarding proposed legislation that affects those impacted by the criminal justice system. As someone with lived experiences with nearly all aspects of Louisiana’s criminal justice, he regularly and consistently chooses to exercise his constitutional right to participate in public hearings about legislation that concerns these matters. This experience includes being the victim of violent crime, as he has lost family members and friends to violence, including my son and my brother.

This is the third year that Mr. Marshall has regularly testified at Louisiana Legislative Committee hearings regarding proposed legislation that affects those impacted by the criminal justice system. As someone with lived experiences with nearly all aspects of Louisiana’s criminal justice, he regularly and consistently chooses to exercise his constitutional right to participate in public hearings about legislation that concerns these matters. This experience includes being the victim of violent crime, as he has lost family members and friends to violence

As required by the Rules of the ACJ committee, on February 21, 2024, Mr. Henderson and Mr. Marshall filled out a red card indicating that they each wished to testify in opposition to the proposed HB-4.

At the beginning of the public hearing, Representative Byran Fontenot moved to limit the testimony at the public hearing to three minutes per speaker. This motion passed. Then, Representative Tony Bacala moved the Committee to depart from normal procedures by arbitrarily limiting the public testimony of the opponents of the bill to one hour of testimony. The ACJ Committee passed both Representative Fontenot's and Representative Bacala's motions.

Consequently, after one hour of testimony on HB-4, Defendant Villio, ended the portion of the public hearing for those in opposition to HB-4. In turn, even though Mr. Henderson and Mr. Marshall had filled out a red card indicating that they each wanted to testify about HB-4, Defendant Villio denied them their constitutional right to do so.

The ACJ Committee departure from normal procedure for public hearings on proposed legislation violated both Mr. Henderson's and Mr. Marshall's constitutional right to be heard and speak in opposition to HB-4. Mr. Henderson and Mr. Marshall each respectively witnessed at least nine witnesses being denied the right to participate in the public hearing for HB-4. In turn, the ACJ Committee illegally reported on and voted HB-4 to be heard on the Floor of the Louisiana House of Representatives. Defendant DeVillier must be enjoined from allowing HB-4 to be heard on the House Floor until the ACJ holds a proper public hearing in compliance with the Louisiana Constitution.

Petitioner Navalance has been an attorney working on death penalty litigation for over eight years. She regularly tracks legislation concerning the death penalty in Louisiana, as well as attends public hearings in the Legislature concerning death penalty bills.

On February 21, 2024, Petitioner Navalance initially filled out a red card indicating that she was in opposition to HB-6, but that she did not want to testify. She turned in my card before the hearing started. At least an hour before HB-6 was called, Petitioner Navalance decided that she did want to be heard and testify at the public hearing. Petitioner Navalance approached the Sergeant-at-Arms in the ACJ Committee Room and told her that she now wanted to testify. Petitioner Navalance asked the Sergeant-at-Arms if she preferred that the Petitioner alter my original card, or submit a new red card that indicated she wanted to testify. The Sergeant-at-Arms instructed Petitioner Navalance to submit a new card, which she did.

When Defendant Villio called HB-6, she called several people up to testify in opposition to HB-6. My understanding is that these individuals all filled out a red card, like I did, indicating they wanted to testify in opposition to HB-6. Then, when Defendant Villio called the last two

red cards to come speak, and it became clear that she was not going to call Petitioner Navalance, Petitioner Navalance again approached the Sergeant and clarified that this was the bill that she had substituted a card for and *did* want to speak. The Sergeant confirmed she had turned in Petitioner Navalance's new red card. Petitioner Navalance asked the Sergeant to please check to make sure that she would be called.

Petitioner Navalance then observed the Sergeant approach an ACJ Committee staff member sitting adjacent to Defendant Villio to discuss her red-card. Petitioner Navalance saw them speak and point to her. Petitioner Navalance visibly indicated to this staff member that she wanted speak.

After the last two people who were speaking finished, Defendant Villio began to read the remaining red cards into the record. Petitioner Navalance was not given the opportunity to speak or testify on HB-6.

At 5:00 P.M. Today, February 21, 2024, Defendant DeVillier is scheduled to call HB-4 for its second-reading and consideration by the full House Floor. As of the filing of this motion, HB-6 has not yet been calendared by Defendant DeVillier for consideration for the House Floor.

Mr. Marshall traveled again on February 21, 2024 to the Louisiana State Capitol in Baton Rouge from New Orleans. He went to Baton Rouge to observe, participate and testify at the scheduled public hearings for several proposed bills being heard in the House Committee for the Administration of Criminal Justice (ACJ). As required by the Rules of the ACJ committee, on February 21, 2024, he filled out a red card indicating that he wished to testify in opposition to the proposed bills HB-9 and HB-10.

Just like on February 20, 2024, the ACJ Committee departed from normal procedures by arbitrarily limiting the public testimony of the opponents of the bill to one hour of testimony. Mr. Marshall was allowed to testify on HB-9 on February 21, 2024, but witnessed Defendant Villio prevent at least three individuals from testifying even though they had filled out a red card wishing to testify in opposition to this HB-9. Then, Mr. Marshall was again prevented from participating and testifying at the public hearing for HB-10. He also witnessed Defendant Villio deny at least four additional individuals of their constitutional right to testify about HB-10.

LAW AND ARGUMENT

I. STANDARD FOR ISSUANCE OF A TEMPORARY RESTRAINING ORDER AND FOR A PRELIMINARY INJUNCTION

A. Temporary Restraining Order

Article 3601 of the Louisiana Code of Civil Procedure provides that an injunction shall be issued in cases where irreparable injury, loss, or damage may otherwise result to the plaintiffs. La. Code Civ. Proc. art. 3601(A). During the pendency of an action for an injunction, the court may issue a temporary restraining order, a preliminary injunction, or both. La. Code Civ. Proc. art. 3601(C). Louisiana law is well settled that when the conduct sought to be restrained is unconstitutional, a showing of irreparable injury is not required because the deprivation of a constitutional right is, itself, irreparable harm. As the Louisiana Supreme Court stated:

A petitioner is entitled to injunctive relief without the requisite showing of irreparable injury when the conduct sought to be restrained is unconstitutional or unlawful, i.e., when the conduct sought to be enjoined constitutes a direct violation of a prohibitory law and/or a violation of a constitutional right. **Once a plaintiff has made a prima facie showing that the conduct to be enjoined is reprobated by law, the petitioner is entitled to injunctive relief** without the necessity of showing that no other adequate legal remedy exists.

Jurisich v. Jenkins, 99-0076 (La. 10/19/99); 749 So. 2d 597, 599–600 (citations omitted) (emphasis added).

B. Preliminary Injunction

“An injunction shall be issued in cases where irreparable injury, loss, or damage may otherwise result to the applicant, or in other cases specifically provided by law.” La. Code of Civ. Proc. art. 3601. To obtain a preliminary injunction, the moving party must make a prima facie showing that: (1) the injury, loss, or damage it will suffer if the injunction is not issued may be irreparable; (2) it is entitled to the relief sought; and (3) it will likely prevail on the merits of the case. *General Motors Acceptance Corp. v. Daniels*, 377 So. 2d 346, 348 (La. 1979); *Burnham Broadcasting Co. v. Williams*, 629 So. 2d 1335, 1338 (La. App. 4th Cir. 1993), *writ denied*, 94-0150 (La. 2/25/94). Where, as here, the petitioner seeks to enjoin a constitutional violation, the petitioner need not show irreparable harm. *City of New Orleans v. Bd. of Com’rs of Orleans Levee Dist.*, 640 So. 2d 237, 253 (La. 1994).

II. PETITIONERS ARE ENTITLED TO A TEMPORARY RESTRAINING ORDER AND, AFTER DUE PROCEEDINGS, A PRELIMINARY INJUNCTION

A. Irreparable Injury

Petitioners have suffered and will suffer irreparable injury should this Court not issue a temporary restraining order and preliminary injunction. Injunctions shall issue under circumstances “where irreparable injury, loss, or damage may otherwise result to the applicant.” La. Code Civ. Proc. art. 3601(A). Whether a party will suffer irreparable harm by the

non-issuance of the preliminary mandatory injunction is not measured by pecuniary standards such as money damages. *Constr. Diva, L.L.C. v. New Orleans Aviation Bd.*, 2016-0566 (La. App. 4 Cir. 12/14/16), 206 So. 3d 1029, 1034, *writ denied*, 2017-0083 (La. 2/24/17). A preliminary injunction requiring a party to do something is proper if the current conditions are inflicting the irreparable harm. *Tokyo Japanese Steakhouse, Inc. v. Sohn*, 47,897 (La. App. 2 Cir. 5/15/13), 114 So. 3d 543, 545.

As shown below and in this Verified Motion, Petitioners have made a prima facie showing that they are entitled to the relief sought because the conduct to be restrained is unlawful and unconstitutional under the Louisiana Constitution. The action taken by the Defendant Villio denied the Petitioners their constitutionally guaranteed right to participate and be heard in any public hearing concerning proposed legislation. *See* La. Const. Article III §15(D). The Louisiana Constitution guarantees this right. Deprivation of this right—a citizen’s right to engage in the democratic process governing the passage of state legislation—is not an injury that can be compensated with money damages. Without immediate intervention from this Court, the Petitioners may lose this right if Defendant DeVillier proceeds with allowing HB-4 and HB-6 to be voted on by the entire House of Representatives.

Accordingly, Petitioner is entitled to an immediate Temporary Restraining Order and, after due proceedings, a preliminary injunction. Without injunctive relief from this Honorable Court, Defendants Villio and DeVillier will have circumvented the clearly defined process in the Louisiana Constitution that guarantees the right of the public to have the opportunity to be heard in a public hearing.

B. Petitioners Will Succeed on the Merits of Their Claims

The Petitioners are entitled to the temporary restraining order and preliminary injunction because it will succeed on the merits of its claim. The Louisiana Constitution provides that “[n]o person shall be deprived of life, liberty, or property, except by due process of law.” La. Const. art. I, § 2. The Louisiana Constitution also states t “[n]o bill shall be considered for final passage unless a committee has held a **public hearing** and reported on the bill.” La. Const. Article III §15(D) (emphasis added). The Louisiana Constitution also affords every citizen court access by stating that “[a]ll courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights.” La. Const. art. I, § 22.

The Petitioners are constitutionally guaranteed the right to public hearing and to testify at a public hearing for all bills proposed in the Louisiana Legislature. HB-4 and HB-6 cannot be considered by the House Floor until a committee has held a **public hearing** and reported on the bill. A public hearing must allow all interested people the opportunity to be heard.

Defendant Villio's actions to prematurely end the public hearing on HB-4 and HB-6 clearly contravens the Louisiana Constitution and violate the Petitioners' rights. She has reported on a bill before the ACJ held a public hearing. By failing to follow the required protocol, Defendant Villio deprived the Petitioners of the right to be heard at a constitutionally guaranteed public hearing.. The Petitioners will prevail on the merits of their claims, and are therefore entitled to a temporary restraining order and preliminary injunction.

CONCLUSION

In light of the foregoing, the Petitioners respectfully request that this Honorable Court enter a temporary restraining order and preliminary injunction that enjoins the Defendant DeVillier and Defendant Villio from considering House Bill 4 and House Bill 6 on the House Floor, until the bills have been heard before a committee that hosts a constitutionally compliant public hearing.

Respectfully submitted,

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