



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

**Testimony In Support of Senate Bill 244
An Act Concerning Eligibility to Hold Public Office or be Employed by
the State or any Municipality**

**Jenna Grande
Press Secretary, Citizens for Responsibility and Ethics in Washington (CREW)**

Chairperson Flexer, Chairperson Blumenthal, Ranking Member Sampson, Ranking Member Mastrofrancesco and members of the Committee, thank you for the opportunity to appear before you today.

My name is Jenna Grande, and I am here to offer testimony about Senate Bill 244. As a Connecticut native who was born and raised in Branford, I have always been proud of our state's policies to safeguard our democracy. Connecticut has played a crucial role in ensuring that all people have the opportunity to participate in the political process by taking steps such as making voting more accessible and creating a public campaign finance system that reduces the influence of money in politics. I grew up with a deep appreciation for public service, given my mother's involvement in local politics.

I got my start in politics and public service right here in Connecticut. While in college, I interned for Senator Richard Blumenthal, and after graduating, I returned home in 2014 to serve as the campaign manager for now-Comptroller Sean Scanlon's first campaign to serve in the Connecticut General Assembly. After that, I worked in this very building during the 2015 legislative session as the Planning and Development Committee Clerk, and many of the names and faces I see here today are members I had the distinct pleasure of working alongside. After leaving the Connecticut statehouse, I worked for former Congresswoman Elizabeth Esty, where I spent three years working on behalf of Connecticut residents in the Fifth Congressional District. After leaving Capitol Hill, I transitioned to the role I still hold today as Press Secretary for Citizens for Responsibility and Ethics in Washington (CREW).

CREW is a nonpartisan nonprofit organization committed to government ethics, transparency, and accountability. We are offering this testimony of support for Senate Bill 244 which would bar certain individuals who engage in insurrection, rebellion, or sedition from holding civil office in or being employed by the state of Connecticut.¹

On January 6, 2021, a violent mob, egged on by then-President Trump, stormed the United States Capitol, seeking to overturn the lawful results of the 2020 presidential election. The mob's violent efforts disrupted and delayed the peaceful transfer of power for the first time in American history.

¹ *An Act Concerning Eligibility to Hold Public Office Or Be Employed by the State or Any Municipality*, S.B. 244, 2023 Sess. (C.T. 2023), https://cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=SB-244 [hereinafter S.B. 244].

The framers of the post-Civil War Amendments to the U.S. Constitution understood the fundamental truth that those who seek to overthrow the government should not be entrusted to hold positions of power within that government. That is why they adopted Section 3 of the Fourteenth Amendment, which provides that no individual who engages in insurrection or rebellion against the Constitution—after having previously taken an oath to support it—shall hold any federal or state office (unless Congress, by a vote of two-thirds in each house, removes such disability).² In the immediate aftermath of the Civil War, it was used to bar former Confederates from office including North Carolina Secessionist Governor and Confederate officer Zebulon Vance who was denied a seat in the U.S. Senate for violating Section 3 of the Fourteenth Amendment.³

Although Section 3 of the Fourteenth Amendment was written to address the challenges of the post-Civil War era, its words are applicable today as well. This past September, a state district court judge in New Mexico removed then-County Commissioner Couy Griffin from office for engaging in insurrection in violation of Section 3 of the Fourteenth Amendment in a case that CREW brought on behalf of a group of New Mexico residents.⁴ In that ruling - the first judicial decision in over 150 years removing someone from office under the Fourteenth Amendment - the court explained that the events on and before January 6 were an “insurrection” against the Constitution of the United States.⁵ The New Mexico Supreme Court recently dismissed Mr. Griffin’s appeal on procedural grounds, leaving the district court’s decision in place.⁶

Section 3 of the Fourteenth Amendment is a crucial tool for securing our democracy, but it is not without its limitations. Section 3 only applies to individuals who previously swore an oath to the Constitution and then engaged in insurrection. It has no application to individuals who engaged in prohibited conduct but did not previously swear an oath. For instance, at the end of January four members of the right-wing militia group the Oath Keepers were found guilty of seditious conspiracy and other charges related to the January 6, 2021 attack on the U.S. Capitol.⁷ Most of these individuals are not barred from holding office by Section 3 of the Fourteenth Amendment because they did not previously swear an oath to the Constitution.⁸ Constitutionally speaking, they are free to seek elected or appointed office and run the government that they violently tried to overthrow.

² U.S. Const. amend. XIV, § 3.

³ In 1870 the North Carolina legislature elected Vance to an open U.S. Senate seat but Congress refused to seat Vance under Section 3 of the Fourteenth Amendment. In 1878 Vance was able to reclaim that Senate seat after President Grant signed the Amnesty Act of 1872 which stated that all political disabilities imposed by the Fourteenth Amendment “are hereby removed”. See Anne M. Butler and Wendy Wolff, *United States Senate Election, Expulsion, and Censure Cases, 1793-1990*, S. Doc. 103-33. Washington, GPO (1995), https://www.senate.gov/about/origins-foundations/electing-appointing-senators/contested-senate-elections/059Abbott_Vance_Ransom.htm.

⁴ See, e.g., *State v. Griffin*, No. D-101-CV-2022-00473, 2022 WL 4295619 (N.M. Dist. Sep. 06, 2022).

⁵ *Id.* at *16.

⁶ *Griffin v. State*, No. S-1-SC-39571 (N.M. Sup. Ct. Feb. 16, 2023), <https://www.citizensforethics.org/wp-content/uploads/2023/03/2023.02.16-order-denying-motion-for-reconsideration.pdf>.

⁷ *Four Oathkeepers Found Guilty of Seditious Conspiracy Related to U.S. Capitol Breach*, Dept. of Just. (Jan. 23, 2023), <https://www.justice.gov/opa/pr/four-oath-keepers-found-guilty-seditious-conspiracy-related-us-capitol-breach#:~:text=Today's%20verdict%20follows%20the%20Nov,charges%20in%20that%20first%20trial.>

⁸ 18 U.S.C. § 2383; 18 U.S.C. § 2384.

Senate Bill 244 fills this gap in our legal framework and represents a critical step forward for accountability for our democracy. By its very terms, the legislation does two important things.

First, it makes anyone who engages in rebellion or insurrection (18 U.S.C. § 2383) permanently ineligible to hold office in Connecticut or serve in the armed forces regardless of whether they previously swore an oath to the Constitution.⁹

Second, this legislation makes anyone convicted of rebellion, insurrection, or seditious conspiracy (18 U.S.C. § 2384), or a felony in relation to any such act, permanently ineligible to be employed by the state or any of its political subdivisions.¹⁰ This mirrors the text and aims of 18 U.S.C. § 2383, which provides that anyone convicted thereunder “shall be incapable of holding any office under the United States.”¹¹

This legislation would have the effect of more completely capturing the individuals who attacked the U.S. Capitol and prohibit them from trying to run the government that they attempted to overthrow without inadvertently sweeping in protected First Amendment conduct.¹² This is because the prohibition would still be tied to the existence of an insurrection, rebellion, or sedition and therefore could not be weaponized against legitimate protest activity. The need to protect legitimate First Amendment activity was a cornerstone of CREW’s litigation in New Mexico and remains a cornerstone of our advocacy. As part of our case in New Mexico, the NAACP submitted an amicus curiae brief explaining the difference between an insurrectionist and a protestor, and why courts have been correct in uniformly rejecting comparisons between January 6th insurrectionists and Black Lives Matter protestors.¹³ Another amicus brief was submitted by some of the country’s leading First Amendment scholars who explained that the “First Amendment does not protect speech that—like any speech that could trigger constitutional disqualification—is integral to inciting imminent lawless action or making ‘true threats.’”¹⁴ Their legal reasoning is applicable to this legislation as well since it would be narrowly tailored to only apply to individuals who are convicted of insurrection, rebellion, seditious conspiracy, or a felony related to one of those acts.

Protecting our democracy from those who wish to overthrow it is not a theoretical concern. To date, the Department of Justice has brought criminal charges against over 900 individuals who participated in the January 6th attack on the U.S. Capitol. Although Connecticut has a comparably smaller percentage of residents who participated in the insurrection, to date there are five individuals who have been charged, pled guilty, or been

⁹ *Id.* S.B. 244, *supra* note 1.

¹⁰ Although as of this writing the text of the proposed legislation applies to sedition, it is our understanding that the drafters intended to apply it to seditious conspiracy and will be amending it as such. There is no federal crime of sedition.

¹¹ 18 U.S.C. § 2383.

¹² *Id.* S.B. 244, *supra* note 1.

¹³ Brief for NAACP N.M. and NAACP Otero Cty. as Amici Curiae Supporting Plaintiffs, *State v. Griffin*, No. D-101-CV-2022-00473, 2022 WL 4295619 (N.M. Dist. Sep. 06, 2022), <https://www.citizensforethics.org/wp-content/uploads/2022/08/Brief-of-Amicus-Curiae-NAACP-NM-State-Conf-erence-and-Exhibits-8-23-22.pdf>.

¹⁴ Brief for Floyd Abrams et al. as Amici Curiae Supporting Plaintiffs, *State v. Griffin*, No. D-101-CV-2022-00473, 2022 WL 4295619 (N.M. Dist. Sep. 06, 2022) <https://www.citizensforethics.org/wp-content/uploads/2022/08/2022.08.01-1A-Scholar-Amicus.pdf>.

convicted of felonies related to the Capitol attack.¹⁵ Moreover, there are others who may be under investigation but have yet to face charges, such as Gino DiGiovanni Jr., an alderman in Derby, who just this week filed a candidate registration form to run for mayor despite having admitted to being part of the mob that stormed the U.S. Capitol on January 6th.¹⁶ The Connecticut legislature has a compelling interest in ensuring that those citizens who tried to overthrow our government are not permitted to now turn around and lead it.

The January 6th insurrection was a shameful day for our nation. The fact that individuals who participated in that attack continue to serve in government throughout the country represents an acute threat to the future vitality of our democracy. We are heartened to see that the Connecticut legislature is considering passing this important democracy preservative legislation. We strongly urge you to consider and pass Senate Bill 244 during this legislative session.

¹⁵ Statement of Facts of Anonymous Affiant, *United States v. Baouche*, No. 1:21-cr-00733-CRC (D.C. Dist. Ct. [2021]), <https://www.justice.gov/usao-dc/case-multi-defendant/file/1528881/download>; Statement of Facts of Anonymous Affiant, *United States v. Crosby, Jr.*, No. 1:21-cr-458 (D.C. Dist. Ct. [2021]), <https://www.justice.gov/usao-dc/case-multi-defendant/file/1401786/download>; Statement of Facts of Anonymous Affiant, *United States v. Krzywicki*, No. 1:21-mj-00594 (D.C. Dist. Ct. [2021]), <https://www.justice.gov/usao-dc/case-multi-defendant/file/1433371/download>; Jordan Freiman, *Man who pinned D.C. police officer in door frame during Jan. 6 riot convicted of 7 felonies*, CBS News (Sep. 13, 2022), <https://www.cbsnews.com/news/patrick-mccaughey-convicted-7-felonies-pinned-daniel-hodges-in-door-frame-january-6-capitol-riot/>; Carlie Porterfield, *Florida And Texas Lead The Country In January 6 Capitol Riot Charges*, Forbes (Aug. 23, 2021), <https://www.forbes.com/sites/carlieporterfield/2021/08/23/florida-and-texas-lead-the-country-in-jan-6-capitol-riot-charges/>.

¹⁶ Frankie Graziano, *Jan. 6 protestor, who entered U.S. Capitol, wants to be mayor of Connecticut town*, Connecticut Public Radio (March 7, 2023), <https://www.nepm.org/2023-03-07/jan-6-protestor-who-entered-u-s-capitol-wants-to-be-mayor-of-connecticut-town/>; Frankie Graziano, *Derby official's role in Jan. 6 riots questioned*, The Connecticut Mirror (Nov. 11, 2022), <https://ctmirror.org/2022/11/11/ct-derby-alder-us-capitol-january-6/>.