

VOTING RIGHTS LAB

The Freedom to Vote Act: National Context

Among its provisions, the Freedom to Vote Act would create nationwide standards for early voting, mail voting, voting restoration, voter identification, and voter registration. Below is a summary of how each of these provisions would change existing state law across the country, and how states approached these issues in the 2021 legislative session.

Early Voting: The Freedom to Vote Act would require at least two weeks of consecutive days of early voting, including two full weekends, beginning at least 15 days before Election Day and continuing through at least the second day before the election. H.R. 1/S. 1 would have required voting be offered up until the day before the election.

- **National Landscape:** [43 states](#) offer early voting. In [30 states](#), it begins at least 15 days before Election Day
- **2021 Legislative Session:** Early voting legislation has been almost exclusively pro-voter this session with [15 states](#) across the political spectrum enacting pro-voter early voting bills. Only [one state](#) (Iowa) has enacted a bill limiting early voting this session.

Mail Voting: The Freedom to Vote Act would require that states allow all eligible voters to vote by mail. H.R. 1/S.1 had a similar provision.

- **National Landscape:** Though most states allow all eligible voters to vote by mail, there are still [17 states](#) that require that voters provide a special reason, or excuse, to get a mail ballot.
- **2021 Legislative Session:** [17 states introduced 93 bills](#) that would have created no-excuse mail voting for the first time, or expanded no-excuse mail voting. [30 bills in 14 states](#) attempted to contract or eliminate no-excuse mail voting. Only one of the bills reducing the number of excuses accepted for mail voting, [TX H 3920](#), was enacted.

Notice and Cure Process for Mail Ballots: The Freedom to Vote Act would require that states notify voters of issues with their mail ballot envelopes and give them a chance to fix the problem. This policy has seen significant bipartisan momentum this session – and some courts have held that due process requires it. H.R. 1/S.1 had a similar provision.

- **National Landscape:** [29 states](#) have a statewide notice and cure process.
- **2021 Legislative Session:** [8 states](#) passed legislation creating statewide cure processes so far this session ([IN](#), [KY](#), [ME](#), [ND](#), [NH](#), [TX](#), [VA](#), [VT](#)). No states passed laws rolling back or eliminating existing cure processes.

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Hurdles to Mail Voting: The Freedom to Vote Act prohibits states from requiring identification documentation or information, witness signatures, or notarization in order to request or cast an absentee ballot. For states that verify voters' signatures on mail ballots, the bill creates procedures for signature verification. H.R. 1/S. 1 had a similar provision.

- **National Landscape:** [34 states](#) let mail voters return and cast a ballot using basic information, such as name, address, and date of birth, and/or the voter's signature. In [30 states](#), voters request mail ballots using this basic information, or they are sent mail ballots automatically.
- **2021 Legislative Session:** [4 states](#) ([AR](#), [FL](#), [GA](#), [TX](#)) enacted legislation establishing new identification requirements for mail voters.

Voting Restoration: The Freedom to Vote Act would allow people with past felony convictions to vote after they have been released from prison. H.R. 1/S.1 had a similar provision.

- **National Landscape:** As of [January 1, 2022](#), at least [22 states](#) will allow people to vote as long as they are not currently in prison. But [3 states](#) still permanently ban people with felony convictions from voting, and another [6 states](#) explicitly require people to pay financial obligations before they can vote.
- **2020 Legislative Session:** [8 states](#) ([LA](#), [MD](#), [NY](#), [VA](#), [WA](#), [CT](#), [HI](#), [IL](#)) passed legislation expanding voting access for people with past felony convictions this session.

Voter ID for In-Person Voters: The Freedom to Vote Act would leave it to each state to decide whether to require voter ID or not, but it would set guidelines for those states that do choose to require voter ID. The bill would require that states with voter ID requirements: (1) accept a wide range of documents, including non-photo documents such as utility bills; (2) count ballots cast by voters without ID if a witness attests to the voter's identity; and (3) count provisional ballots cast by voters without ID if the voter attests to their own identity, and their signature matches one on file. While the Freedom to Vote Act would allow states to provide regular ballots to voters who sign attestations regarding their identity and eligibility, H.R. 1/S. 1 would have required that states do so.

- **National Landscape:** [15 states](#) currently require voters to provide ID documentation with few or no exceptions. Of these, [10 states](#) require photo ID.
- **2021 Legislative Session:** [4 states](#) ([AR](#), [IA](#), [MT](#), [WY](#)) have enacted laws creating new or stricter ID requirements for people voting in-person. [No states](#) have loosened ID requirements for in-person voters.

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Online Voter Registration: The Freedom to Vote Act would require that states provide eligible voters with the ability to newly register or update their registration information online.¹ H.R. 1/ S. 1 had a similar proposal.

- **National Landscape:** [Only 7 states](#) do not currently provide online voter registration and are not in the process of implementing online voter registration.
- **2020 Legislative Session:** [68 bills in 17 states](#) would create new or improved online voter registration systems. Only 2 bills in 2 states ([RI](#) & [OH](#)) would make it more difficult to register online.

Same Day Voter Registration: The Freedom to Vote Act would require states to offer same day registration both on Election Day and during the early voting period. They must offer it at all polling places by 2024,² and in at least one location per 15,000 registered voters by 2022. H.R. 1/S. 1 contained the same requirement, but it would have gone into full effect for the November 2022 election.

- **National Landscape:** [27 states](#) offer some form of same day registration either on Election Day, during early voting, or both (or else do not require registration at all).³
- **2021 Legislative Session:** [25 states](#) introduced legislation that would create or strengthen same day registration, while [10 states](#) introduced legislation that would do the opposite. One state ([MT](#)) passed a law eliminating same day registration on Election Day.

Automatic Voter Registration: The Freedom to Vote Act would require that states offer automatic voter registration (AVR) at the DMV. This is narrower than H.R. 1/S. 1, which provided AVR at other government agencies as well.

- **National Landscape:** [21 states](#) have, or are in the process of implementing, AVR
- **2021 Legislative Session:** [104 bills in 32 states](#) were introduced this session that would create or strengthen AVR, with [seven of these states](#) enacting such legislation. [No bills eliminating or rolling back AVR](#) have been enacted this session.

¹ The bill would also require election officials to accept an online voter registration application submitted at least 28 days before Election Day. The NVRA currently requires election officials to accept voter registration applications submitted in person at least 30 days before Election Day.

² States would be deemed in compliance with the law if they certify that it would not be practicable to have SDR at all polling places by 2024. No excuses allowed starting in 2026.

³ This figure includes North Dakota, which does not require voter registration.