

A Tale of Two Democracies

**How the 2021 Wave of State
Voting Laws Created a New
American Fault Line**

**VOTING
RIGHTS
LAB**

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Dear reader,

We founded the Voting Rights Lab to help build a better democracy by contributing research and resources to those working on and covering these issues. Five years on, with our voting systems taking center stage in state legislatures, in Congress, and in heated political discourse, this work has found new and demanding urgency.

In the following pages, you'll learn about a disturbing divergence occurring within our country, where some state leaders are working to fix our broken elections infrastructure and expand voter access while others are working to worsen them. This is an important story of today. We are honored to help write it alongside each and every one of you who are committed to creating an America where voting is equitable, accessible, and serves as a celebration of our freedom, of our democracy, and of our communities.

This report was developed by the same team of experts that power the Voting Rights Lab's [State Voting Rights Tracker](#) – a one-of-a-kind tool that offers unparalleled, nearly real-time analysis of current voting legislation and amendments in all 50 states and the District of Columbia.

Just like we believe our democracy is strongest when everyone participates, we also believe in improving access to information about the laws governing our elections. That's why we're proud to offer this report to the advocates, policymakers, and journalists working tirelessly to protect voting and election systems – and we're even more proud that our Tracker enables anyone to study, report, and influence the policies most relevant to them.

Thank you for your partnership,

A handwritten signature in black ink, appearing to read "Megan Lewis". The signature is fluid and cursive, with the first name "Megan" written in a larger, more prominent script than the last name "Lewis".

Megan Lewis
Executive Director and Co-founder, Voting Rights Lab

Executive Summary

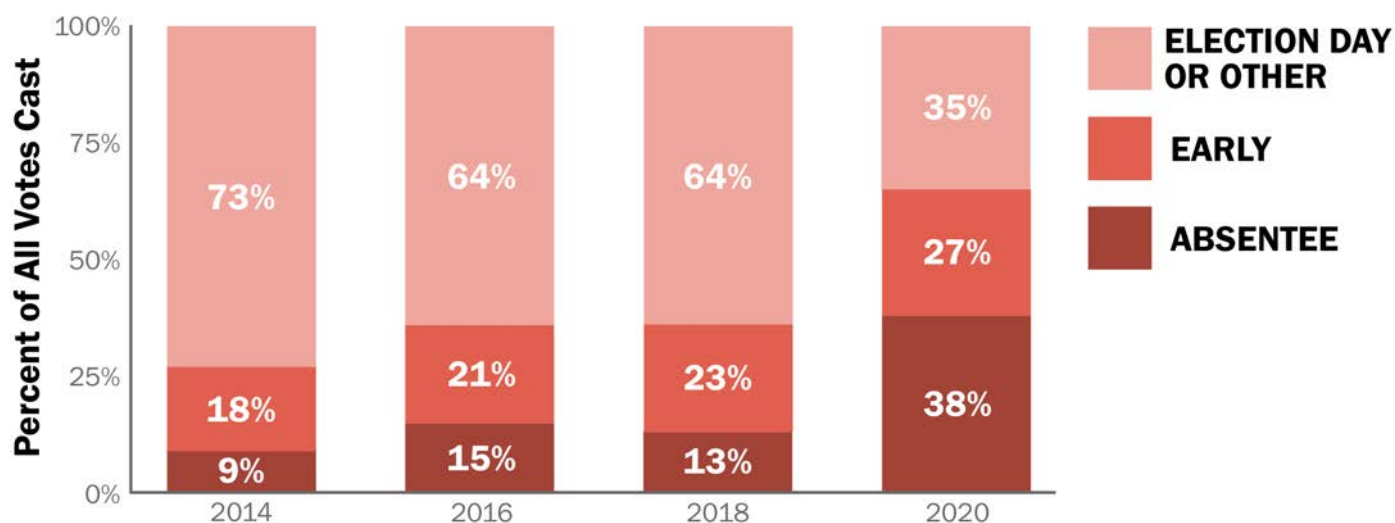
2021 has been a historic year for voting rights advocates, with both major gains and discouraging setbacks occurring in state legislatures across the country. This report outlines our observations from the state level so far this year, and what activity still remains to be seen.

The sheer volume of state legislative activity only tells one part of the story. What we are witnessing in real time across the country is a widening divide, whereby some states are working to expand participation in our democracy and strengthen our tradition of non-partisan elections administration, just as a significant number are working to curtail and undermine these objectives.

The growing fault line in the way states legislate voting is important not just on a theoretical level, but to voters of all stripes and all backgrounds. Take, for example, the issues of mail voting and early voting.

National data analyzed by Voting Rights Lab shows that early and mail voting accounted for nearly two-thirds of the total vote in the 2020 presidential election, and that these methods were broadly used by voters of all races and in both major parties, as well as independents. Mail and early voting were especially popular among veterans and active duty military, as well as voters age 55 and older.

EARLY AND ABSENTEE VOTING AS A PERCENTAGE OF ALL VOTES



More than twice as many voters cast ballots by mail as on Election Day and roughly equal shares of voters cast early, in-person ballots as on Election Day. While 2020 was an anomalous year, the share of absentee and early voting has been steadily growing over time.

Whether a state is moving in the right or wrong direction can have significant implications for voters. For instance, the millions of voters living with disabilities tend to vote early or absentee because few in-person polling places are fully accessible.

38.3 million

eligible voters

live with disabilities.

Lisa Schur and Douglas Kruse, Projecting the Number of Eligible Voters with Disabilities in the November 2020 Elections, September 24, 2020

A Government Accountability Office investigation in 2016 found that only 17% of polling places were fully accessible for older voters with disabilities and 83% of polling places examined had at least one impediment to voting.¹ This lack of access contributes to depressed turnout among voters with disabilities. Nationally, people with disabilities voted at a rate 7 percentage points lower than people without disabilities, despite the fact that people with disabilities demonstrate an interest in politics at a rate 11 percentage points higher than people without disabilities.² Voters with disabilities are also the voters most often in need of third party assistance and, therefore, those put most at risk by new efforts to criminalize common forms of voting assistance.

It's both the very personal ways in which pro-voter and anti-voter policies affect the public – especially those populations most historically oppressed and marginalized – as well as the intensity of the distrust in our system that have resulted in so many entrenched, protracted state-level fights about voting rights. And unfortunately, there's no sign of this abating. Nationwide, state legislatures introduced over 2,200 elections-related bills in the 2021

¹ [Voters With Disabilities: Observations on Polling Place Accessibility and Related Federal Guidance](#), 2017, U.S. Government Accountability Office, October 2017.

² *Id.*, at 13.

2021 Legislative Trends Summarized

PRO-VOTER TRENDS

9 states expanded in-person early voting

and only 1 has restricted it

9 states are giving election officials more time to process ballots

with 0 states cutting back pre-processing time

5 states passed ballot error notice and cure processes

and 0 states have rolled theirs back

4 states expanded voting eligibility or access for citizens with past felony convictions

and 0 states have done the reverse

4 states passed new or improved electronic ballot tracking laws

and 0 states have done the reverse

ANTI-VOTER TRENDS

11 states have passed new laws shifting election authority

with potentially chilling ramifications for non-partisan election administration in some of these places

10 states have created election-related crimes

with potentially suppressive effects

6 states imposed new or more restrictive voter ID laws

while only 1 state took action to make its voter ID law more equitable

MIXED OUTCOMES

22 states expanded mail voting

while 11 have restricted it

13 states improved voter registration

while 3 states imposed new registration barriers

8 states expanded ballot drop off locations

while 4 states restricted them

The Tidal Wave of New Voting Laws

legislative session.³ With about half the state legislatures closed for the year, at the time of publication of this report 153 of those bills are now law. Altogether, a total of 38 states have enacted at least one voting law this year.

As of June 13, 2021, there have been:

71 PRO-VOTER

BILLS

enacted in 28 states

31 ANTI-VOTER

BILLS

enacted in 18 states

35 MIXED OR

UNCLEAR BILLS

enacted in 19 states

18 NEUTRAL

BILLS

enacted in 11 states

You can always find the latest count by using the Voting Rights Lab [State Voting Rights Tracker](#), or clicking on the following links to find:

[Pro-voter bills enacted](#); [anti-voter bills enacted](#); [mixed or unclear bills enacted](#); and [neutral bills enacted](#).

³ Counts of legislation were generated using the Voting Rights Lab's State Voting Rights Tracker, which offers a detailed, nearly real-time analysis of pending voting legislation and amendments in all 50 states and the District of Columbia. The figures in this report are current as of June 13, 2021.

Some of what we saw this year was expected. For example, following unprecedented vote-by-mail usage in the 2020 election and inflammatory attacks on that time-tested voting method, many states changed their laws relating to vote by mail. In 2020, states across the country had expanded mail ballot access, and many of those states are now making those changes permanent. Other states are taking the opposite approach, and enacting legislation to make it more difficult to vote by mail in the future. So far this session, 22 states have enacted legislation to expand and improve mail voting, and 11 states have passed laws to restrict it.

There were also some surprises this session. Bills that shift the allocation of power in election administration, in some cases politicizing the election process, emerged as a new and alarming trend this year. This session, 144 bills shifting election authority were introduced, with the most concerning bills enabling partisan state legislatures to overturn election results. Fortunately, no legislation that extreme has been enacted yet, but 11 states have enacted new laws reallocating election administration power. We will undoubtedly see these efforts resurface in 2022. These new laws take a variety of forms. Some restrict executive authority to modify election procedures during declared states of emergency while others limit the autonomy of local election officials.

What follows is a detailed breakdown of the policy movement we are seeing across several trending topics.

Vote By Mail

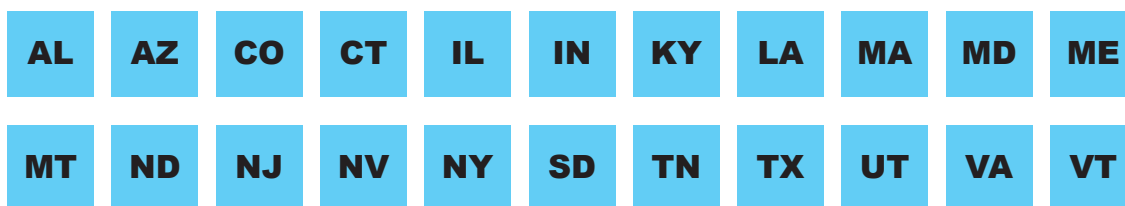
In 2020, states across the country expanded mail ballot access, and many of those states are now making those changes permanent. Other states, meanwhile, are enacting legislation to make it more difficult to vote by mail in the future.

So far this session, 22 states have enacted legislation to expand and improve mail voting. Two states (NV and VT) adopted new vote-by-mail systems. All voters in those states will receive a ballot in the mail each election and can choose whether they want to vote using that ballot or in person. Some states enacted legislation to make absentee voting more convenient and accessible by expanding access to drop boxes, improving language and disability access, and paying for return postage on completed absentee ballots. Others took steps to improve trust in elections and make sure that all ballots are counted by giving election officials more time to process absentee ballots, creating electronic ballot tracking systems, and ensuring voters have a chance to fix mistakes on their ballot envelopes through a notice and cure process.

Eleven states have enacted legislation restricting mail ballot access by limiting access to drop boxes, restricting third party ballot return, prohibiting election officials from mailing unrequested absentee ballot applications to registered voters, moving deadlines earlier,

and creating strict ID requirements for absentee voting.

Bills that expand access to or improve the process for voting by mail were enacted in 22 states⁴:



- **Expands pre-processing**
 - Nine states: [AL](#), [FL](#), [GA](#)⁵, [IN](#), [KY](#), [ME](#), [SD](#), [VA](#), [VT](#)
- **Drop box expansion**
 - Eight states: [IL](#), [IN](#), [KY](#), [MD](#), [NJ](#), [NV](#), [VA](#), [VT](#)
- **Language and disability access**
 - Eight states: [CO](#), [IN](#), [MA](#), [MT](#), [ND](#), [NV](#), [TN](#), [VA](#), [VT](#)
- **New or improved cure process**
 - Five states: [IN](#), [KY](#), [ND](#), [VA](#), [VT](#)
- **Creates ballot tracking system**
 - Five states: [IA](#)⁶, [KY](#), [LA](#), [TX](#), [UT](#)
- **Mail ballots to all voters**
 - Two states: [VT](#), [NV](#)
- **Return ballot postage paid**
 - Two states: [VA](#), [VT](#)
- **Creates permanent absentee voter list**
 - One state: [MD](#)
- **No-excuse absentee ballot initiative**
 - Two states: [CT](#), [NY](#)
- **Changes ballot return deadlines**
 - One state: [IN](#)

⁴ Excludes temporary legislation related to COVID-19 emergencies, as do the categories that follow. Visit the State Voting Rights Tracker to learn more about [legislation enacted in response to the pandemic](#).

⁵ This bill was omitted from the count of states that have expanded mail voting because it also contains significant, restrictive policies relating to mail voting.

⁶ Ibid.

Bills that restrict access to mail voting were enacted in 11 states:



- **Restrictions on third-party ballot return**
 - Eight states: [AR](#), [FL](#), [GA](#), [IA](#), [KS](#), [KY](#)⁷, [MT](#), [VT](#)⁸
- **Restrictions on mailing absentee ballot applications**
 - Five states: [AR](#), [GA](#), [IA](#), [KS](#), [ND](#)
- **Restrictions on drop boxes**
 - Four states: [AR](#), [FL](#), [GA](#), [IA](#)
- **Earlier ballot application deadlines**
 - Four states: [AL](#), [AR](#), [GA](#), [OK](#)
- **Stricter ID requirements**
 - Three states: [AR](#), [FL](#), [GA](#)
- **Cuts vote-by-mail period**
 - Three states: [AR](#), [GA](#), [IA](#)
- **Ends or limits multi-year absentee voter lists**
 - Two states: [AZ](#), [FL](#)

Early Voting

When it comes to in-person early voting legislation in 2021, states have almost exclusively passed legislation to expand it. The only exception is Iowa, which passed a bill this year to shorten the state's early voting period.

Meanwhile, two states (KY and NJ)⁹ created new early voting systems, and a third (CT) passed a resolution to put the issue on the ballot. Another seven states (IN, OK, VA, MD, NM, NV, NY) expanded their existing systems by providing more days, hours, or locations for early voting.

⁷ This bill was omitted from the count of states that have restricted mail voting because it also contains significant provisions expanding mail voting.

⁸ Ibid.

⁹ Correction: The original version of this report erroneously included Vermont among the list of states that added Election Day-style early voting.

Bills that create, expand, or improve early voting were enacted in nine states:



- **Creates early voting (in-person absentee)**
 - One state: [KY](#)
- **Adds Election-Day style early voting**
 - One state: [NJ](#)
- **Proposes constitutional amendment to allow early voting**
 - One state: [CT](#)
- **Adds or expands weekend early voting**
 - Five states: [IN](#), [KY](#), [NJ](#), [OK](#), [VA](#)
- **Expands early voting weekdays and/or hours**
 - Three states: [GA](#)¹⁰, [MD](#), [OK](#)
- **Expands early voting locations**
 - Three states: [MD](#), [NJ](#), [NV](#)

Bills that restrict early voting were enacted in one state:



- **Shortens early voting period**
 - Two states: [IA](#), [GA](#)¹¹ (runoffs only)
- **Allows rejection of petitions for early voting sites without requiring alternatives**
 - One state: [IA](#)

Voter Registration

Thirteen states enacted legislation this year to expand or improve voter registration, most commonly by increasing address confidentiality and data privacy and by facilitating registration for students, voters with disabilities, military personnel, or citizens with convictions.

¹⁰ This legislation was omitted from the count of states that have expanded early voting, because the bill also sets a ceiling for voting days and hours, and because it contains other provisions reducing the length of the early voting period for runoff elections.

¹¹ This legislation was omitted from the count of states that have restricted early voting due to its provisions increasing the minimum days and hours of early voting for regular (non-runoff) elections.

Three states imposed new barriers to registration this year, generally by creating stricter ID requirements or earlier registration deadlines. Montana ended same-day registration on Election Day.

Bills that make voter registration safe, convenient, and accessible were enacted in 13 states:



- **Facilitates registration of incarcerated citizens, returning citizens, students, voters with disabilities, and/or military personnel**
 - Six states: [IN](#), [KY](#), [LA](#), [MD](#), [NV](#), [NY](#), [WA](#)
- **Addresses confidentiality and data privacy**
 - Five states: [AL](#), [AR](#), [NE](#), [SD](#), [NV](#)
- **Requires state universities to provide automatic voter registration**
 - One state: [NY](#)
- **Teen pre-registration**
 - One state: [VA](#)
- **No mandatory in-person voting for new registrants**
 - One state: [VA](#)
- **Ballot initiative to extend registration period**
 - One state: [NY](#)
- **Extends deadline for online voter registration**
 - One state: [NV](#)
- **Strengthens and facilitates online and DMV registrations and updates**
 - One state: [FL](#)¹²

Bills that impose registration barriers were enacted in three states:



¹² This legislation was omitted from the count of states that have facilitated registration due to its provisions creating barriers to registration address updates and eliminating the privacy of registrants' records relating to prior disenfranchising convictions.

- **Stricter ID requirements to register or update registration**
 - Two states: [FL](#)¹³, [MT](#)
- **Eliminates public records exemption for registrants' information regarding prior felony convictions**
 - One state: [FL](#)¹⁴
- **Earlier registration deadline**
 - One state: [IA](#)
- **Ending same-day registration on Election Day**
 - One state: [MT](#)
- **Requires party affiliation updates prior to registration deadline for primaries**
 - One state: [UT](#)

Voter ID

Only one state, Indiana, took action to mitigate the burden that voter ID puts on voters by expanding its list of acceptable voter IDs to include tribal IDs. Meanwhile, six states created new or more restrictive voter ID laws or expanded ID requirements to include absentee ballots or applications.

Bills that expand the kinds of IDs accepted to vote were enacted in one state:

IN

- **Include tribal IDs**
 - One state: [IN](#)

Bills that impose restrictive voter ID laws were enacted in six states:

AR

FL

GA

IA

MT

WY

- **ID requirements on absentee ballots or applications**
 - Two states: [FL](#), [GA](#)

¹³ This legislation was omitted from the count of states that have created barriers to registration due to its provisions strengthening and facilitating online and DMV registrations and updates.

¹⁴ Ibid.

- **New ID requirements**
 - One state: [WY](#)
- **Tougher ID requirements**
 - One state: [MT](#)
- **Eliminates or restricts alternatives to ID**
 - Two states: [AR](#), [IA](#)

Criminalization

Ten states created or expanded criminal behavior by voters, election officials, or by people helping others vote.

Penalizing people for providing food and water to voters has been getting the most attention, but states are also creating stiff felony-level penalties for election officials. For example, a new law in Texas creates a new election crime whose sentencing guidelines are on par with those for manslaughter or kidnapping.

Bills creating new or harsher criminal penalties for voters, election officials, or third parties that could have potentially suppressive effects were enacted in 10 states:



- **Bills criminalizing voter behavior**
 - Criminalizes ballot selfies
 - One state: [GA](#)
- **Bills criminalizing election officials**
 - New felony for modifying election dates or deadlines
 - One state: [AZ](#)
- **Criminalizes failure to perform official duties**
 - One state: [IA](#)
 - New misdemeanor for accepting private funds for election administration
 - One state: [ND](#)
 - Creates second degree felony for counting invalid votes or failing to count valid votes
 - One state: [TX](#)

- **Bills criminalizing third party behavior**
 - Lowers threshold for presumption of intent to defraud based on possession of multiple ballots
 - One state: [AR](#)
 - Creates crimes for third parties returning or filling out ballots or ballot applications
 - Three states: [GA](#), [FL](#), [KS](#)
 - Misdemeanor for providing food or water to voters
 - Two states: [GA](#), [FL](#)
 - Misdemeanor for violating petition rules
 - Two states: [UT](#)
 - Creates criminal penalties for failing to register for exit polling
 - Two state: [LA](#)
- **Bills criminalizing both third parties and elections officials**
 - Misdemeanor for violation of ballot application rules
 - One state: [KS](#)

Voting Restoration

Two states (NY and WA) passed legislation ensuring that people with past felony convictions are eligible to vote once they are released from prison. A third state, Virginia, passed a resolution proposing a constitutional amendment that would do the same. Louisiana passed a law making it easier for people with past felony convictions to vote by removing hurdles to registration. No state has enacted legislation this year rolling back eligibility for people with felony convictions.

Bills that restore voting eligibility to individuals with criminal convictions, or that pave the way for voters to approve such a law, were enacted in four states:



- **Restores voting eligibility to individuals who are incarcerated for a felony upon their release from incarceration**
 - Two states: [NY](#), [WA](#)
- **Proposes a constitutional amendment to restore eligibility after incarceration**
 - One state: [VA](#)
- **Removes hurdles to registration for people with past felony convictions**
 - One state: [LA](#)

Shifts in Election Authority

Bills that shift the allocation of power in election administration, in some cases politicizing the election process, emerged as a new and alarming trend this year. So far this session, 144 bills shifting election authority have been introduced, with the most concerning bills enabling partisan state legislatures to overturn election results. Fortunately, no legislation that extreme has been enacted, but 11 states have enacted new laws reallocating power to administer elections. These new laws take a variety of forms. Some restrict executive authority to modify election procedures during declared states of emergency while others limit the autonomy of local election officials.

Bills that shift the allocation of election authority were enacted in 11 states:



- **Restricts judicial authority**
 - One state: [KS](#)
- **Limits emergency authority of state officials**
 - Five states: [GA](#), [IN](#), [KS](#), [KY](#), [MT](#)
- **Establishes legislative or state official oversight of local election officials**
 - Three states: [GA](#), [IA](#), [TX](#)
- **Limits state and/or local officials' litigation settlement authority**
 - Three states: [FL](#), [GA](#), [KS](#)
- **Replaces secretary of state with legislatively appointed Election Board Chair**
 - One state: [GA](#)
- **New criminal penalties for election officials**
 - Two states: [AZ](#), [IA](#)
- **Expands investigation and reporting of election law violations**
 - Three states: [AR](#), [IA](#), [TX](#)
- **Shifts decision making authority regarding vote centers or early voting locations**
 - Two states: [AR](#), [IA](#)
- **Strips officials of power to modify election dates and deadlines**
 - One state: [AZ](#)
- **Grants executive authority to request certain recounts**
 - One state: [OK](#)

On The Horizon

About half of state legislatures are still open as of this report's publication. Some states have indicated they are likely to call a special session to deal with election-related issues later in the summer or fall. With big swaths of the country headed in opposite directions on issues of voter access, many advocates are ramping up pressure for federal legislation to ensure that all Americans have equal access to participate in our democracy.

Even if Congress passes strong federal legislation, state laws will remain a critical determinant of voting access. The Voting Rights Lab will continue to do our part to make these changes as transparent and accessible as possible through the State Voting Rights Tracker.

A Hot Summer in the States

Here is a roundup of some of the key states we have our eye on in the weeks and months ahead.

Texas passed a number of anti-voter bills during their regular legislative session which ended on May 31, including bills to [tighten restrictions on the ability of voters with disabilities](#) to vote by mail, create [new felony penalties for election administrators](#), and [limit private donations to assist local election administration](#). Lawmakers, however, were unable to pass [Senate Bill 7](#), the elections omnibus bill that included limitations on early voting hours, new ID requirements for mail voting, prohibitions on election officials mailing ballot applications, and numerous new crimes threatening election administrators, polling place officials, and individuals providing voter assistance. Governor Abbott has stated his intention to call a special session to take up election legislation sometime later in the summer before the expected redistricting special session in September or October. State legislative leaders have already indicated they will revisit some cuts to early voting and interference with elections administration.

Ohio's legislature has yet to pass substantial election legislation during its year-long legislative session. The Republican-controlled legislature and Secretary of State Frank LaRose have proposed their legislative priorities via [House Bill 294](#). The omnibus bill would allow voters to request an absentee ballot online and establish an automated voter registration and verification system, but it also includes a reduction in the number of days of early voting, new ID requirements for mail voting, strict limitations on the number

and location of ballot drop boxes, and prohibitions on the provision of prepaid postage for mail ballot applications and ballots. The bill sponsor has indicated several amendments will be forthcoming, and this bill is expected to progress through the remainder of the year.

Wisconsin lawmakers have introduced a cache of narrowly-focused bills designed to alter election procedures rather than a single omnibus like those already passed in Georgia and Florida. Some of these bills are beginning to move through the chambers, including bills to [tighten ID requirements for early voting and mail ballots](#), limit a voter's ability to return a mail ballot using a [drop box](#) or by giving it to a [third party](#), increase the [likelihood of a voter's mail ballot being rejected](#) for a minor defect, and create additional barriers for [voters with disabilities](#) and [indefinitely confined voters](#).

Michigan lawmakers are taking a similar approach as those in Wisconsin by relying on bills dealing with individual issues rather than proposing a single election omnibus. A bill that has passed the House would allow local election officials to [consolidate precincts and increase the numbers of voters serviced at each](#). Other bills that have passed out of committee would tighten ID requirements for [mail voting](#) and [in-person voting](#) and make [verification of provisional ballots](#) more difficult for voters. Other bills that have been introduced but are yet to move would [close drop boxes prior to Election Day](#), [prohibit election officials from providing prepaid postage for mail ballots](#), and [allow parties and political organizations to designate challengers with greater authority](#) to contest election processes, including the ability for [challengers to videotape or photograph vote tabulation](#).

Pennsylvania's legislature has recently introduced a slew of elections bills that would [eliminate no-excuse mail voting](#), [create voter ID requirements for in-person voting](#), [purge inactive voters from the voter registration list without notice](#), and [shift election audit responsibilities from county election officials to the Auditor General's office](#). But as the Republican controlled legislature prepares to advance legislation, most notably [H.B. 1300](#) – an omnibus bill containing a mix of pro-voter and anti-voter provisions – Governor Wolf has told members of the press that he intends to [veto](#) any voter suppression bills. The bill's pro-voter provisions include creating curbside voting for voters with disabilities, allowing early in-person voting, expanding the time election administrators have to process absentee ballots, and mandating the availability of secure drop boxes.

North Carolina's legislature is expected to pass a bill to [move up the ballot return deadline](#) to require all absentee ballots to be returned by Election Day, eliminating the three-day grace period available to voters since 2009. If this law had been in effect for the 2020 election, more than 11,000 of the [nearly 15,000 eligible votes received after Election Day](#) would have been thrown away.

A Federal Fight Unabated

Voting rights advocates are currently pushing for two major vehicles to address the disparity in voter access that legislative threats at the state level have created: The For the People Act and the John Lewis Voting Rights Act.

It is important to note that some of the state laws passed this session would not be addressed by either of these federal bills – or any federal legislation to come – making continued vigilance and activism on the state level all the more important. The policies unlikely to have federal solutions include, for example, legislation that politicizes the voting process, shifts power away from state and local election officials, and criminalizes behavior by voters, election officials, and third parties.

For the People Act

The For the People Act (H.R. 1/S. 1) would set a uniform standard for voters across the board, ensuring all those registered can vote using a mail ballot and can vote in-person for 15 consecutive days before Election Day. It would also negate many of the anti-voter trends we've observed this year, particularly attacks on mail voting.

The anti-voter, state-level trends H.R. 1/S. 1 would address include:

- **Attacks on drop boxes.** Four states ([AR](#), [FL](#), [GA](#), [IA](#)) passed new laws restricting the ability of election administrators to provide drop boxes for voters to return completed, sealed mail ballots. H.R. 1/S.1 would set a required number of 24-hour secure drop boxes based on county population.
- **Prohibitions on sending absentee ballot applications to all registered voters.** Five states ([AR](#), [GA](#), [IA](#), [KS](#), [ND](#)) passed legislation this year prohibiting election officials from sending ballots to voters who did not specifically request one, or otherwise restricting the mailing of applications to voters. H.R. 1/S. 1 would instead require that states send applications to all registered voters.
- **Restrictions on third party ballot return.** Seven states ([AR](#), [FL](#), [GA](#), [IA](#), [KS](#), [KY](#), [VT](#)) passed new laws restricting the ability of friends, neighbors, and unpaid volunteers to help voters return their completed, sealed ballots. H.R.1/S.1 would allow voters to designate a third party to return their completed and sealed mail-in ballot, as long as that person is not paid.

- **Restrictive voter ID laws.** Six states ([AR](#), [FL](#), [GA](#), [IA](#), [MT](#), [WY](#)) enacted new or more restrictive voter ID laws. H.R.1/S.1 would ensure that voters who do not have an ID with them can still vote by signing a sworn affidavit. It would also ensure that no voter has to provide an ID or notary or witness signature in order to vote by mail.
- **Barriers to voter registration.** Three states ([IA](#), [MT](#), [UT](#)) passed new barriers to registering to vote this year. H.R.1/S.1 would ensure every citizen has access to same day voter registration, automatic voter registration, and online voter registration.

John Lewis Voting Rights Act

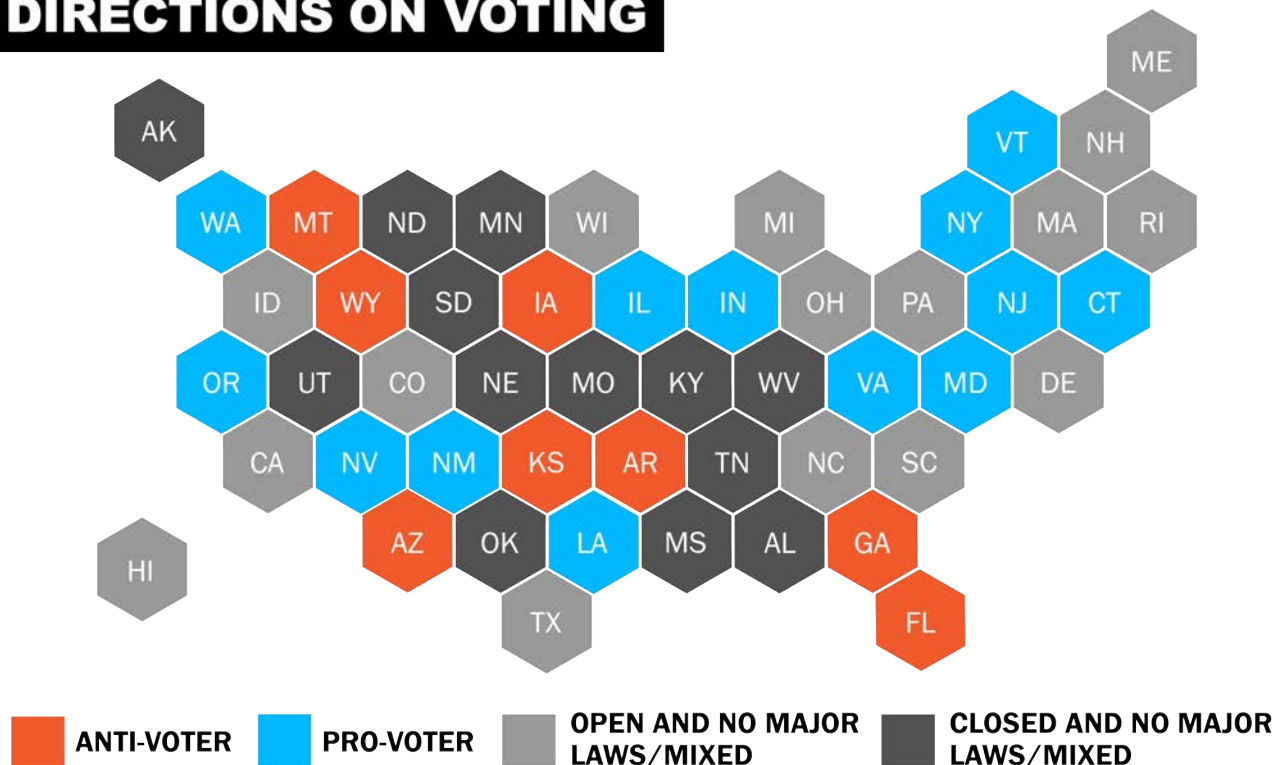
While H.R.1/S.1 would set a national floor for voting access, the John Lewis Voting Rights Act (H.R. 4) would set up a system to screen new voting laws and policies for discriminatory impact. H.R.4 effectively restores Section 5 of the Voting Rights Act of 1965 by requiring states and jurisdictions with a proven history of discriminatory voting practices to obtain certification, or “preclearance” before making changes to election procedures. In 2013, the formula used to determine which jurisdictions were subject to preclearance was struck down as unconstitutional by the Supreme Court in *Shelby County v. Holder*. H.R. 4 would create a new, updated formula to determine which jurisdictions are subject to preclearance, and would create universal preclearance for certain types of changes.

Under H.R. 4, the Department of Justice would review election policy changes before they took effect in states and political subdivisions with a history of voting rights violations. Efforts to close or consolidate polling places, restrict early and absentee voting, and erect barriers to registering to vote in these states would need to be reviewed for discriminatory impact. And all states would need to have certain policy changes – such as making voter ID laws more restrictive – reviewed for discriminatory impact before they could become law.

Two Americas Left in The Wake

The sheer volume of state legislative activity only tells one part of the story. What we are witnessing in real time across the country is a widening divide, whereby some states are working to strengthen and expand participation in our democracy just as a significant number of states work to curtail it. Though many state legislatures are still in session – or reconvening in upcoming special sessions – the fault lines have begun to take shape.¹⁵

STATES MOVE IN OPPOSITE DIRECTIONS ON VOTING

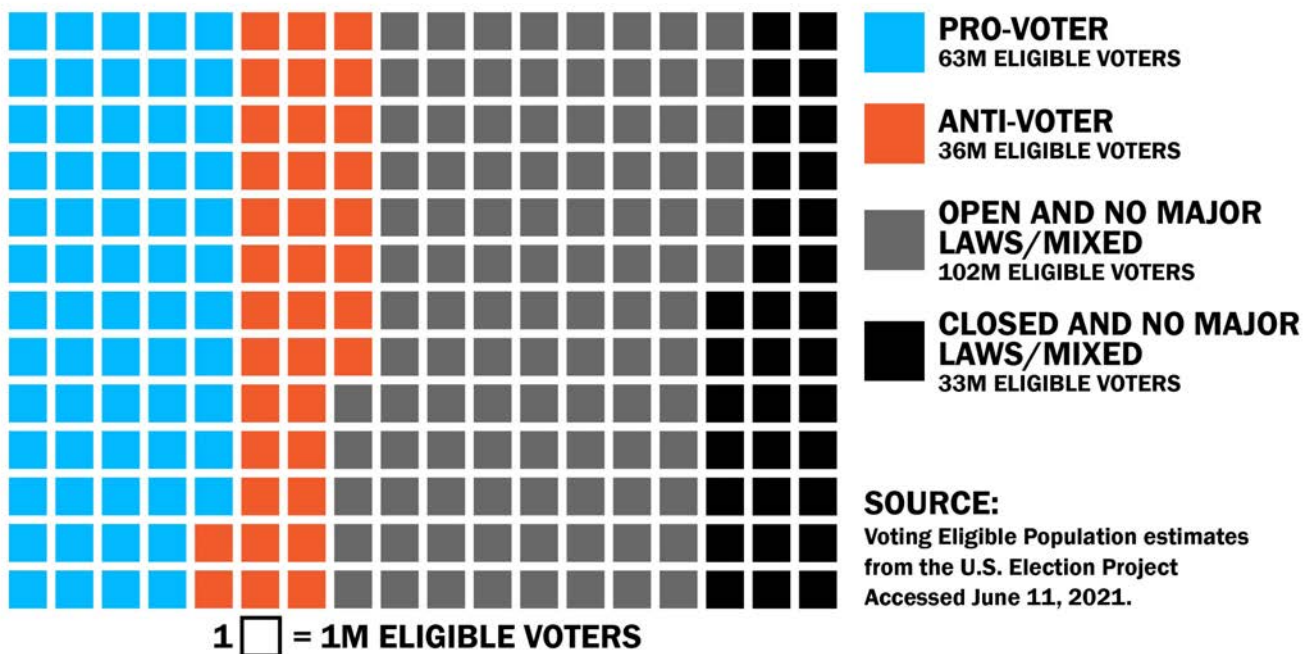


Approximately **one-quarter** of eligible voters live in states that improved their laws this year, **15%** live in states that enacted restrictive laws this year, and **nearly half** are awaiting a final tally upon the conclusion of their state's legislative session.

¹⁵ States in blue have enacted significant pro-voter legislation this session. Orange indicates states that have enacted significant anti-voter legislation this session. States in dark grey either enacted no major election legislation this session or the legislation they enacted was mixed in impact, not clearly categorizable as pro-voter or anti-voter on balance. Light grey indicates states that are either still open or have indicated that they will call a special session.

For every state that moves to restrict voting access, millions of voters are impacted. From Texas (18.7 million people eligible to vote¹⁶) to Florida (15.5 million) to Arizona (5 million), a growing sector of the American population will find its path to the ballot box obstructed. Increasingly, one's ZIP code determines a citizen's ability to exercise their constitutional right to vote.

MORE THAN 230M ELIGIBLE VOTERS IMPACTED BY STATE LEGISLATION



Those most impacted by these mounting legislative obstacles are Americans who have historically been disenfranchised or blocked from casting a ballot. Black and brown people, Native Americans, voters with disabilities, veterans and members of the military, non-native English speakers, rural voters and low-income Americans – populations that have borne the brunt of disenfranchisement for generations and now face new, overwhelmingly onerous restrictions.

What we are left with is a disparity that both violates our country's promise and echoes its history: **Two Americas, two unequal populations. One group heard, one group silenced. A democracy divided.**

¹⁶ The Voting Eligible Population estimates adjust the Voting Age Population by subtracting people ineligible to vote due to felony disenfranchisement laws and adding the estimated overseas voting population. Source: McDonald, Michael. 2020. U.S. Election Project. Accessed June 11, 2021 at <http://www.electproject.org/2020g>.

Under-Reported Policy Highlights

While the state legislative threats to voting have justifiably earned attention this year, it bears repeating that more than half of states have enacted dozens of pro-voter bills. The trends include expanded early voting availability ([9 states](#)); expanded availability of drop boxes and other ballot drop off locations ([8 states](#)); new or improved cure processes ([5 states](#)), and voting restoration for people with felony convictions ([4 states](#)).

Here's a closer look at some of the underreported bright policy spots for voters in the 2021 state legislative session – including the surprising places in which some of them occurred.

Indiana

[S 398](#):

- Creates a cure process to notify voters of disputed or missing signatures on their absentee ballot envelopes, and give them a chance to fix the problem, so their ballot can be counted.
- Expands a voter's options for hand-delivering their completed ballot.
- Changes the absentee ballot return deadline from noon on Election Day to 6 p.m. on Election Day.
- Expands options for voters with disabilities.

Kentucky

[H 574](#):

- Creates three days of in-person early voting.
- Establishes a limited statewide cure process, giving voters an opportunity to fix mismatched signatures on absentee ballots up

until Election Day.

- Establishes an online absentee request portal and absentee ballot tracking.
- Allows the use of drop boxes and requires each county to provide at least one secure drop box.
- Permits pre-processing of absentee ballots up to 14 days before Election Day.

However, HB 574 also enables counties to establish vote centers where voters from multiple precincts can vote in-person. In doing so, the bill theoretically allows for unlimited polling place consolidation. What this change means for voters will depend on how the state ultimately implements the new law.

Montana

[S 15](#) expands accommodations for voters with disabilities.

Under-Reported Policy Highlights

New York

- [S 830](#) restores voting rights to people with felony convictions immediately upon release from prison.
- [S 517](#) will put no-excuse absentee voting on the ballot in November as an amendment to the state's outdated constitution, which currently prohibits it.

North Dakota

[H 1253](#) is a mixed bill, but its strong provisions create a statutory notice and cure process for absentee ballots.

Oklahoma

[H 2663](#) is a mixed bill, but its pro-voter provisions expand the early voting period.

South Dakota

- [S 102](#) allows domestic violence victims to keep their registration address confidential.
- [S 184](#) adds hours of pre-processing time for absentee ballots.

Utah

[H 70](#) creates a mail ballot tracking system that includes the ability for a voter to opt in for texts or emails with updates about their ballot status. This is especially helpful in UT, which is a full vote-by-mail state.

Virginia

[H 1980](#) / [S 1395](#) is the nation's first state-level preclearance law. The law aims to prevent race-based discrimination in voting laws and practice by requiring localities to get certain changes (e.g. consolidating polling places and redistricting) reviewed and approved. It is one of [several pro-voter bills](#) enacted in Virginia this session.

Washington

[H 1078](#) will restore voting rights to people with felony convictions immediately after they are released from incarceration when it takes effect on January 1, 2022.

Categorizing Legislation

In this report and in our State Voting Rights Tracker, the Voting Rights Lab categorizes legislation as “pro-voter,” “anti-voter,” “neutral,” or “mixed or unclear.” These classifications reflect the Voting Rights Lab’s assessment of whether the legislation in question is likely to increase or restrict voter access or representation. They are not meant to indicate the Voting Rights Lab’s concern with or position on a bill. Bills are categorized according to the following criteria:

- **Pro-Voter:** Legislation that is entirely or overwhelmingly pro-voter in nature. Most or all of the bill’s provisions will increase voter access or representation.
- **Anti-Voter:** Legislation that is entirely or overwhelmingly anti-voter in nature. Most or all of the bill’s provisions will decrease voter access or representation.
- **Neutral:** Legislation that makes technical, administrative, non-substantive or other minor changes that are neither pro- nor anti-voter in nature, or that do not meaningfully impact voter access or representation.
- **Mixed or Unclear:** Legislation that contains a mix of significant pro- and anti-voter policies, that could have mixed implications for voters, or where the intent or potential implications of the bill are unclear.

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