

MEMO



To: Damon Effingham, Billie Gardner
From: Caroline Joseph
Date: May 4, 2021
Re: Restrictive State-level Voting & Elections Laws

Memo Purpose

This document is a repository of information and talking points on state-level anti-voter laws and their relationship with the FTPA and RepresentUs' work. It is built to be repackaged into smaller memos according to audience and need. Spreadsheet for many of the bills discussed in this memo available [here](#).

Topline Stats:

(As of June 28)

State-level anti-voter legislation enacted in 2021 (VRL)	State-level anti-voter legislation introduced in 2021 (VRL)	Anti-FTPA resolutions /bills proposed	2021 anti-voter bills that shift election authority (VRL)	2021 anti-voter legislation passed across party lines	Bills and resolutions that await gubernatorial approval/finalized concurrence (VRL)	According to the Brennan Center's May numbers, restrictive voting laws will impact the following amount of Americans eligible to vote:
34	423	8 -- The New Hampshire Senate will vote on another one soon.	53	16 bills and resolutions	15	75 Million (A number that will jump to 105 Million with Texas) -- As of June 8, 2021

Links to Sections (titles still working):

- [Overview](#)
- [Texas Developments](#)

- [Florida S.90 description](#)
- [Under-publicized anti-voter laws enacted this year](#)
- [Main characteristics of anti-voter bills](#)
- [How the FTPA fits in \(FTPA provisions, State-level anti-FTPA bills\)](#)
- [Worrying state-level shifts in election authority](#)
- [Where RepresentUs' state level work fits in \(want to build this out more\)](#)
- [Anti-voter bills about to become law](#)
- [Notable anti-voter bills still moving through legislatures](#)

OVERVIEW

As of June 8, the Voting Rights Lab identified 409 pieces of anti-voter legislation introduced in state legislatures in 2021. Thirty have been enacted. An additional four have passed through the second chamber and await gubernatorial approval. If anything, this figure is an underestimation of the true scope of voter suppression initiatives, as [worrying new laws](#) like Utah's H.B. 12 and Arkansas' HB 1244 are currently excluded.

TEXAS DEVELOPMENTS

Texas recently enacted 4 anti-voter laws.

In line with bills like Arizona (H 2569), North Dakota (H 1256), and Kansas (H2183), H 2283 **restricts local election authorities' ability to accept outside funding for election administration** purposes. In particular, Texas' new law requires authorities to obtain approval before accepting donations of \$1,000 or more.

Texas H 3920 **restricts the excuses that people can claim in order to receive an absentee ballot.** In particular, it specifies that a lack of transportation, minor disability or sickness, and the inability to get election day off of work are not sufficient. Pregnant folks are only allowed to claim an absentee ballot if their due date falls within 3 weeks of election day.

With few exceptions, Texas H S1111 prevents voters from assigning their address to somewhere non-residential (like a post office). Anyone who has their residency questioned or challenged by the registrar must respond to a confirmation notice and provide documentation proving the address provided is their current residential address. Anyone whose residence does not have an official address must submit an affidavit to that effect and provide a specific description of its location.

Texas H S1113 **authorizes the Secretary of State to restrict funds from registrars that don't comply with voter roll maintenance in a timely fashion.**

The newest restrictive election law, Florida S. 90, passed today (May, 6th) and stands out as particularly dangerous.

The main changes proposed by the bill:

- Voting by mail
 - Greater requirements for mail ballot requests (Social Security number, Driver's License number, or equivalent are now needed to complete a request)
 - More frequent renewals required to continue receiving mail ballots
- Drop boxes
 - Limitations on early voting hours for non-supervisor office drop boxes
 - Required continual staffing of drop boxes when in use
 - Elimination of mobile drop boxes (locations must be announced in advance and cannot be changed)
- Ballot Returns
 - Floridians can return 2 max ballots beyond their own and their family members' (current law allows unlimited returns)
- Canvassing
 - Political parties and candidates will have pre-canvass access to ballot certificates and reference signatures
- In-Person Voting
 - Similar to GA law in its prevention of any activity meant to influence a voter in line at the polls (150 foot bubble around the line). The election center itself is allowed to distribute food/water
- Election Lawsuits
 - New, complex chain of notification requirements about election lawsuits that make it difficult to reach a settlement
- Private Funding
 - Private funding towards election administration, voter registration, and voter education is banned
- Voter Registration Drives
 - Hurdles for third party voter registration drives
- Voter Registration Updates
 - Non-voter registration form updates to name/address/party affiliation now require inclusion of driver's/state license or social security number. Current law only requires DOB

UNDERPUBLICIZED CASES

Issues in Florida and Georgia have been heavily publicized, but there are many worrying cases nation-wide receiving very little media attention:

- Alabama (H 285) **bans curbside and outdoor voting**, options that can improve accessibility.

- Arkansas (S 643) **sneakily eliminated the potential for ballot drop boxes**, a widely popular measure, by requiring that in-person absentee ballot returns must happen at the county clerk's office.
- Arizona (S 1485) **now removes voters from the permanent early voting list** for failing to vote via early ballot for all elections in 2 consecutive election cycles
 - Voters will get a notice that they submit to remain on the list, but the process is unnecessarily complicated
- Arizona (H 2569), North Dakota (H 1256), and Kansas (H2183) **fanned [right wing conspiracy theories](#)** by banning local governments from accepting private money for election administration and voter registration costs. In Kansas, election administrators would face felonies for doing so, even in emergency circumstances.
 - Although nonprofits, particularly the Zuckerberg-funded Center for Tech and Civic Life, provided grants towards election administration in 2020, this decision has [widely been regarded as a saving grace](#) in the face of a federal government that failed to properly fund and ensure capacity.
- Iowa (S 413) **eliminated almost a third of both its early voting days and its absentee voting days**. In addition, the state cut its absentee ballot application period nearly in half.
- Kansas (H 2332) bars non-Kansans from sending mail ballot applications to eligible voters and sets up a complaints system for investigation and prosecution. It also requires a residential address for voter registration (P.O. boxes and locations of that sort are ineligible).
- Kentucky (S 1) **complicated emergency declarations, limiting the Secretary of State and Governor's discretionary ability to adjust election administration** in times of need.
- Montana **revoked its election day registration option** (H 176) and expanded the number of polling places eligible for shorter hours of operation (S 196).
- Nevada (S 894) raises the maximum number of voters per precinct from 3,000 to 5,000, thereby authorizing **a reduction of the minimum number of available precincts**.
- Utah (H 197) **quickenened the deadline for primary participation registration**.
- Wyoming (H 75) **adopted expansive voter ID requirements**.
- Texas (H 3920) **restricts the excuses that people can claim in order to receive an absentee ballot**. In particular, it specifies that a lack of transportation, minor disability or sickness, and the inability to get election day off of work are not sufficient. Pregnant folks are only allowed to claim an absentee ballot if their due date falls within 3 weeks of election day. Through H S1113, the state also **authorizes the Secretary of State to restrict funds from registrars that don't comply with voter roll maintenance in a timely fashion**.

State legislators are enacting a takeover, afraid of a democracy that is accessible and functional for all. All hands must be on deck if we are to salvage and strengthen our democracy.

The Brennan Center also does a great profile on some of the trends within restrictive voting laws passed this year, accessible [here](#).

TRACKING THE MAIN ATTACKS

Each state legislature has unique approaches to restricting the voting process, but most rely on a recipe of the following actions:

- Vote-by-Mail Limitations
 - Outlawing universal absentee ballots
 - Limiting who can apply for absentee ballots
 - Limiting when they can apply for absentee ballots
 - Reducing the amount of locations voters can drop off their ballots
 - Requiring voter ID to submit absentee ballots
 - Restricting who can pass along forms for mail ballot applications
 - Restricting who can submit mail ballots on the behalf of others
- Voter Registration
 - Placing restrictions on third party voter registration drives
- Early voting Limitations
 - Restricting hours and days available for early voting
 - Restricting where early voting can take place
- Voter ID restrictions
 - Requiring Photo ID
 - Requiring ID for provisional ballots
 - Requiring ID for VBM (also listed above)
- Voter Roll Purges
 - Authorizing large purges of the list of registered voters, using unreliable data and processes that are prone to error
 - Not following up with or offering same day registration for people whose voter registration is cut
- Minimization of checks and balances throughout the election process
 - Stacking an election board in the legislature's favor and
- Severe Criminal Penalties
 - Validating extreme claims about voter and election fraud by creating severe criminal penalties that serve to intimidate rather than protect (See: TX)

HOW THE FTPA FITS IN

Four state legislative bodies (Kansas -- HCR5015, Arizona -- HCR 2023, Michigan -- HCR 005, Indiana -- SR 64, and Oklahoma -- SR9 and HR1009) have already passed 5 resolutions in opposition to the For the People Act. These are the exact same bodies attempting to institute voter roll purges (AZ) and disturbing checks and balances in the election administration process (GA). In fact, AZ SB1485, failed because one Republican felt that it wasn't strict *enough* in executing mass voter roll purges.

Some states, including Alaska and New Hampshire have started attempts to break up their federal and state voting processes.

- New Hampshire S89 explicitly mentions the FTPA and claims that voter registration, voter roll maintenance, and election processes will be split for state and federal elections if the federal bill passes. The last action taken was the Senate's approval of concurrence, meaning that the bill will likely make it to the Governor soon.
- Alaska SB 142 declares that the state of Alaska will stop running federal elections altogether if the director of its division of elections determines that a federal measure interferes with standards and procedures outlined in Alaska Statute 15.
- Nebraska LR 107 expresses distress at unnamed federal efforts to manage redistricting and the election process and further affirms the state's rights to set their own standards for elections. That being said, it seems like more of a non-binding statement rather than a consequential one.

These lawmakers understand the gravity and power of the For the People Act, and they feel threatened by the minimum standards for voting rights and election protections that it proposes. As is evident with Florida S. 90, some legislatures have even expressed regret after realizing that [they do not understand the real impact](#) of their own self-serving, anti-democratic decisions. In the end, the decisions to create obstacles between voters and their ballots might even harm the lawmakers who passed them.

Setting bare minimum standards to thwart attempts at voter suppression is critical now more than ever.

The FTPA sets the following baseline accessibility standards:

- Universal VBM
- Automatic voter registration options, including a one-time opt-out registration of all eligible citizens
- Same day voter registration all the way up to election day
- Eradication of voter ID requirements
- Prevention of voter roll purges
- Accessible and expanded ballot return options
- Establishment of a federal holiday for election day
- Accessible and numerous drop off locations

The For the People Act is all about letting people vote on their own terms: whenever and however they want.

Understanding the importance of safety, the FTPA also introduces a series of election security measures:

- Requirements for universal voter-verified paper ballots
- Security measures for absentee ballots and their drop off points
- Signature verification/affidavits as a replacement for voter ID
- New criminal charge for hindrance or interference in the voter registration process
- Modernized voting machines to prevent tampering and foreign interference

SHIFTS IN ELECTION AUTHORITY

Like any bill, the FTPA has limitations. Some of the more insidious, under-publicized characteristics of the Georgia bill attack state-level checks and balances. The Secretary of State's position on the Elections Board has been replaced by a legislature-elected Chair; the legislature already appoints 2 of the 5 members of the board. The board also now has the power to suspend up to 4 election superintendents at a time under the grounds of "nonfeasance, malfeasance, or gross negligence in the administration of the elections" twice in two years. In other words, the law centralizes power around the legislature and creates a potential culture of intimidation.

The Georgia legislature is unfortunately not alone in this power grabbing behavior. Kansas and Kentucky have passed laws that place limitations on the Governor and Secretary of State's discretionary powers to adapt election administration procedure while the state is under an emergency declaration. Even more of these kinds of restrictions are currently moving through legislatures, from North Carolina to Michigan. Of the 310 active anti-voter bills identified by the Voting Rights Lab, 48 have been designated as authorizing shifts in election authority. Some of these shifts are more benign than others, but the trend still stands; state legislatures are taking power for themselves.

- Arizona recently passed HB 2794, which created a new felony for any unauthorized modification of the implementation of election-related date guidelines ingrained in state code. In essence, this centralizes power over election procedure around the legislature (and courts of "competent jurisdiction" that can authorize exceptions).

If anything, these concerning developments underline the importance of passing the FTPA: as a law, it would open the door to a responsive democracy that can institute even more reforms and restorations. Furthermore, it sets a baseline of voter protection that state legislatures can't get around to entrench their power, hard as they may try. Federal reform offers the quickest route towards getting our democracy back on track.

WHERE REPRESENT US FITS IN

What Represent Us, our partners, and organizations like us do is critical; for the 30 restrictive bills enacted this year, x number of pro-voter bills passed. EXPAND ON/REWORK THIS SECTION

FUTURE CONCERNS: ON DECK

Although twenty anti-voter bills have already been passed, X are on deck waiting for concurrence, gubernatorial approval, or a similar process. They are:

- Arizona
 - S 1241 creates **more opportunities for voter roll purges** (investigates identity if a voter doesn't cure their ballot, for example) and more opportunities for election workers to get misdemeanors (for not properly reporting the chain of custody over election equipment, for example).
 - S 1819 creates some **shifts in election authority/burdens on the Democratic Secretary of State**. The Attorney General's office (headed by Republican Mark Brnovich) and a person chosen by the legislature would have access to the state's voter rolls and could determine whether or not the maintenance of those rolls complies with federal law. If they find issues, they can then direct the Secretary of State to get the voters removed from the list. Perhaps most notably, **the Attorney General -- not the Secretary of State -- would have authority to handle election related lawsuits**. The bill also designates review of the Maricopa County audit to the Senate review committee.
- Louisiana
 - S 63 defines hand delivery to mean to the registrar/employee at the registrar's principal office, branch office, or early voting location.
 - S 224 creates **more hoops to jump through (more info necessary) to submit absentee ballots**
- Michigan
 - S 303 creates more strict signature verification processes (if a voter's signature doesn't match the one on the online pollbook, they are only granted a provisional ballot until verified)
 - S 304 establishes that in order to have a provisional ballot verified, a voter must verify their voter registration with the relevant town/area or provide an acceptable ID and address. Local clerks only have 7 days after election day to send in accepted provisional ballots.
- New Hampshire
 - **S 89 would split apart state and federal voter registration and election procedure should the For the People Act pass.**
 - H 523 requires all voters who don't have qualifying ID while registering to have their photo taken in addition to filling out an affidavit. Currently, all they have to do is fill out an affidavit. Current NH law requires all voters on election day without ID to take a photo unless they confirm that they have a religious exemption. If someone has had their photo taken already while registering, they wouldn't have to do it again.
- New York
 - A 7478 -- changes max voters per precinct from 1,150 to 2,000

- Pennsylvania
 - H 1300 pushes back the request deadline for absentee ballots.
- Wisconsin
 - A 173 **bans outside funding for election administration, limits who can be appointed as an election official** (based on their employment for a political org), and creates a **felony for people improperly helping out with vote counting (must be a resident of the state, properly trained, etc.)**
 - S 203 places **restrictions on third-party ballot collection and drop boxes**
 - S 204 creates a whole host of **obstacles to getting reliable absentee ballots** (requires more frequent applications, requires photo ID to apply, creates more requirements for disabled voters, etc.)
 - S 205 creates a **felony for employees of an elderly home to coerce seniors into applying for an absentee ballot (or not), voting (or not)**, or supporting a specific candidate.
 - S 212 **creates a misdemeanor for anyone correcting an error in the voter's certificate** (if they aren't the voter themselves or voter's witness). Notice of the error will be posted online. The bill also would create a whole host of **new election-related felonies**.

- Montana (H 530)
 - Bars payment for ballot collection and return
 - Directs SoS to develop election security standards, county and SoS compliance with & reporting on those standards
- Oklahoma H 2663
 - **Majorly restricts the absentee ballot application period** (third monday before election day vs existing tuesday before)
 - Expands early voting for presidential and primary elections but **removes Saturday voting for federal midterms and all other elections**
- Tennessee S 1534
 - Prohibits acceptance of outside money to help pay for costs for election administration unless approved by the state's Speakers of the House and Senate

FUTURE CONCERNS: MOVING THROUGH LEGISLATURE

Of the anti-voter legislation introduced in 2021, 310 are still moving through state legislatures nationwide. A few of the most worrying examples include:

- S.B. 7 & H.B. 6 in Texas (currently essentially functioning as duplicate bills):
 - **Creates harsh criminal penalties** against:
 - payment for delivering ballots
 - failure to properly fill out a voter assistance oath
 - public officials soliciting applications (unless in specific authorized circumstances) or delivering unrequested mail ballots, etc.
 - Supports potentially intimidating system of poll-watchers
 - **Reduces the amount of voting machines in cities**

- S.B. 531 in Iowa has passed its 2nd chamber committee, if enacted it would:
 - Set similar (arguably more restrictive) limits emergency declarations as Kansas and Kentucky:
 - **Bans emergency changes to voter ID requirements or absentee ballot distribution**
 - **Allows the legislature (or legislative council) to rescind emergency regulations made by the election commissioner** (and will only allow election modifications if the emergency falls within 15 days of election day)

- Michigan (several options to choose from)
 - H 4127 (passed first chamber)
 - All voter registered with a placeholder DOB must present additional evidence that their DOB is accurate
 - H 4128 (passed first chamber)
 - Voter roll purge for voters who haven't voted since 2000 (have the opportunity to respond to a mailer or vote to keep their registration)
 - H 3134
 - Max amount of voters per precinct changed from 2,999 to 4,000
 - City/ward/township with less than 4,000 voters can consolidate into 1 precinct
 -

- S 84 in Nevada (passed first chamber)
 - Makes way for a reduction in the amount of polling stations (maximum amount of voter per station changes from 3,000 to 5,000)

- Wisconsin
 - S 207 (passed first chamber)
 - **Prohibits people who are employed by PACs, issue advocacy groups, and committees from serving as poll workers**
 - **Makes use of private resources for election administration a felony** (unless it's authorized under specific circumstances)
 - Creates a felony for unauthorized vote tabulation (need to be a state resident who has been properly trained and signed an oath)
 - S 213 (passed first chamber)

- Allows challengers of election validity to bypass processing through the Wisconsin Election Commission and go straight to court
- Limits the suits that can be filed to defendants based in the corresponding county or a contiguous one (applies to campaign finance, ethics, election disputes)
 - Currently, suits are filed where the defendant lives and can be moved to the area from where the dispute originated afterward

Maybe a section on the talking points that voter suppressing legislators use? Any stats on how voter suppression laws have impacted turnout in recent years?

Looking into stats on Dem votes on these kinds of legislation for Damon

Heritage Action's first ever state advocacy campaign focuses on: Arizona, Florida, Georgia, Iowa, Michigan, Nevada, Texas, and Wisconsin. This memo highlights AZ, FL, TX, GA already... **worth looking at IA, MI, NV, WI to check what's moving through their legislatures at the moment**

RESEARCH:
2021 STATE LEVEL ANTI-VOTER LAWS

[Georgia](#)

- S.B. 202
 - Limits VBM (ID requirements, harder to apply for, fewer drop boxes)
 - Shifts early voting backward, thereby omitting popular days (like the Saturday before election day)
 - Incentivizes voter roll purges (allows for mass challenges of voter eligibility)
 - Limits distribution of food and drink to voters in line
 - Reassigns SoS's power on the State Election Board to a chairperson elected by the state legislature

[Iowa](#)

- S.F. 413
 - Encourages voter roll purges
 - Restricts early voting
 - Limits VBM (harder to apply, harder to drop off)

[Arkansas](#)

- H.B. 1112
 - Creates unnecessary roadblocks to submitting provisional ballots without an ID (an affidavit was formerly sufficient, now a voter must return with ID by the following Monday)
- H.B. 1244
 - Bars drivers licenses without photo ID from being allowed as voter ID
- H.B. 1715
- H.B. 1866
- S.B. 643

Arizona

- H 2569
- HCR 2023
 - Anti-FTPAs resolution

[Utah](#)

- H.B. 12
 - Institutes voter roll purges via death records
- H 197

Kansas

- H 2183
- H 2332

- HCR 5015
 - Anti-FTP

Kentucky

- S 1

Michigan

- SR 25
 - Anti-FTP

Montana

- S 169
- S 196

North Dakota

- H 1256

Oklahoma

- SR 9
 - Anti-FTP

Wyoming

- H 75