

# Voter Registration and the Voter ID Debate

---

There are no federal laws requiring US voters to register to vote or to present identification when voting, but the US Constitution allows each state to decide how voters need to register or to identify themselves before voting. All states, except one, require registration prior to being able to vote in federal or municipal elections, and voter identification (ID) laws have been embraced by voters in a majority of states. Supporters of more restrictive voting policies argue that such measures are needed to prevent voting fraud, though data suggests that fears of voter fraud are exaggerated and that fraudulent in-person voting has not contributed to the outcome of any modern US election in any significant way.

## Voter Registration

The framers of the US Constitution felt that voting rights and voting laws should be a matter for state discretion, and this meant that different states were able to establish vastly different policies with regard to voting. Immediately after the United States separated from England, most states began enacting their own voting policies, and many of these were designed to restrict voting rights. Because of racism, sexism, and classism, most of the states initially only allowed white male property owners to cast votes in American elections.<sup>1</sup>

Conservative politicians have often argued that voter restrictions are necessary to ensure that only those with an appropriate level of knowledge and investment are allowed to control the evolution of the country. John Adams, the nation's second president, was one of the prominent political leaders who believed that not all citizens deserved a voice in elections. In a 1776 letter to James Sullivan, referring to efforts to expand voting rights in the state of Massachusetts, Adams wrote:

Depend upon it, sir, it is dangerous to open So fruitfull a Source of Controversy and Altercation, as would be opened by attempting to alter the Qualifications of Voters. There will be no End of it. New Claims will arise. Women will demand a Vote. Lads from 12 to 21 will think their Rights not enough attended to, and every Man, who has not a Farthing, will demand an equal Voice with any other in all Acts of State. It tends to confound and destroy all Distinctions, and prostrate all Ranks, to one common Levell.<sup>2</sup>

By the dawn of the nineteenth century, America's conservative political leaders had another fear to contend with: the influx of immigrants into the United States was diluting the voting power of those born in America. One of the solutions to this perceived problem was to establish laws that required those who wanted to vote to register with the state before being deemed eligible. The first voter registration law was passed in Massachusetts in 1800, but many states followed suit shortly thereafter.

## What to Watch For

The Senate will vote this week on the For the People Act, a sweeping voting rights bill that would counteract many of the state-level restrictions now being imposed. Though the bill has passed the House, it stands little chance of success of getting the 60 votes it needs in the Senate, as Republicans remain staunchly opposed to the legislation and Democratic Sen. Joe Manchin (W.V.) has said he would vote against the bill in its present form because it is too “partisan.” Manchin has put forward changes to the bill that would get him on board with the legislation—which largely mirrors the measures voters backed in the Monmouth poll, with provisions that would both mandate early voting in federal elections while also imposing new requirements for voter ID. While Democrats have expressed openness to the senator’s changes, however, amending the bill is still unlikely to get the GOP on board, with Senate Minority Leader Mitch McConnell saying Manchin’s proposal retains the legislation’s “rotten core.”

## Print Citations

---

**CMS:** Durkee, Alison. “80% of Americans Support Voter ID Rules—But Fewer Worried About Fraud, Polls Find.” In *The Reference Shelf: Voting Rights*, edited by Micah L. Issitt, 14–16. Amenia, NY: Grey House Publishing, 2022.

**MLA:** Durkee, Alison. “80% of Americans Support Voter ID Rules—But Fewer Worried About Fraud, Polls Find.” *The Reference Shelf: Voting Rights*, edited by Micah L. Issitt, Grey House Publishing, 2022, pp. 14–16.

**APA:** Durkee, A. (2022). 80% of Americans support voter ID rules—but fewer worried about fraud, polls find. In M. L. Issitt (Ed.), *The reference shelf: Voting rights* (pp. 14–16). Grey House Publishing. (Original work published 2022)

## Electoral Consequences

The *Brnovich* ruling means Arizona’s voting restrictions stand. It also gives other states greater latitude when adopting similar rules and limits the federal government’s ability to police restrictive voting practices.

Since the 2020 presidential election, legislators in at least 48 states have introduced 389 so-called “election integrity” bills placing new restrictions on voting. Of these, 22 have been enacted.

For example, Georgia’s March 2021 election law imposes new limits on the use of absentee ballots, makes it a crime for outside groups to provide food and water to voters waiting at polling stations and hands greater control over election administration to the Republican-led state legislature.

On June 25 the U.S. Department of Justice sued Georgia, arguing these rules violated Section 2 of the Voting Rights Act and that Georgia’s law is intended to discriminate.

Before 2013, states with a history of racial discrimination needed federal approval before enacting new voting laws, under Section 5 of the Voting Rights Act. But in 2013, the Supreme Court in *Shelby County v. Holder*—an Alabama voting rights case—dismantled these procedures.

As a “preclearance” state, Arizona was previously blocked by the federal government from enacting voter restrictions like H.B. 2023. Other former preclearance states that have passed restrictive laws since 2013 include Georgia, Texas and Florida.

Since *Shelby County v. Holder*, voting rights advocates have had to rely on a different part of the Voting Rights Act—Section 2—to block these restrictive voting laws. *Brnovich v. DNC* was the first Supreme Court test of this strategy.

The court’s decision severely cripples it, further eroding the Voting Rights Act. Attention now shifts to Congress to see whether it will respond.

## Print Citations

---

**CMS:** Clayton, Cornell W., and Michael Ritter. “Supreme Court Blunts Voting Rights in Arizona—and Potentially Nationwide—in Controversial Ruling.” In *The Reference Shelf: Voting Rights*, edited by Micah L. Issitt, 85–87. Amenia, NY: Grey House Publishing, 2022.

**MLA:** Clayton, Cornell W., and Michael Ritter. “Supreme Court Blunts Voting Rights in Arizona—and Potentially Nationwide—in Controversial Ruling.” *The Reference Shelf: Voting Rights*, edited by Micah L. Issitt, Grey House Publishing, 2022, pp. 85–87.

**APA:** Clayton, C. W., & Ritter, M. (2022). Supreme Court blunts voting rights in Arizona—and potentially nationwide—in controversial ruling. In M. L. Issitt (Ed.), *The reference shelf: Voting rights* (pp. 85–87). Grey House Publishing. (Original work published 2021)

Of course, the reason we're seeing new election legislation now, in both red and blue states, isn't just the latest iteration in the politicization of voting, or even a reaction and counterreaction to Trump's post-election shenanigans, culminating on Jan. 6. It's that the COVID-19 pandemic forced a chaotic process of ad hoc voting changes, including an overwhelming number of mailed ballots that local officials simply didn't have the capacity to process. And not just absentee and mail voting was expanded; ballot-harvesting (collecting ballots from unrelated voters) and the automatic mailing of ballots to all registered voters (at their last known address) led to an electoral process unique in our history.

Then, local officials and state courts changed rules on the fly, including those regarding the validity of ballots arriving after Election Day or without confirmable voter identification. This free-for-all was a recipe not just for chaos in election administration but for a further lessening of political trust and increase in perceptions of both fraud and suppression at a time when that trust was already in short supply. And so, states moved to rein in some of the looseness, to codify the regulations that would apply to absentee, early, and mailed ballots under normal circumstances.

Different states can rightly take different approaches to achieving the common goal of making it easy to vote but hard to cheat, just as they take differing approaches to administering other government programs. There's no Platonic number of early voting days and hours, for example, so I'm not really criticizing Delaware, New Jersey, or New York for coming late and cautiously to that game. Where you draw the various lines is a technocratic policy debate that can go differently in urban versus rural areas and also depends on other aspects of the overall election law. But Democratic criticism of Iowa for reducing early voting from 29 to 20 days is disingenuous when the District of Columbia, Delaware, Hawaii, Maryland, New York, and 16 other states all have shorter in-person voting periods. And slamming the Hawkeye State for closing poll locations at 8 p.m. (after opening at 7 a.m.) is rich given that California, D.C., Delaware, Massachusetts, and Rhode Island have the exact same hours.

Even from a progressive perspective, the outrage is much ado about nothing because, as the *New York Times* has reported, "making voting convenient doesn't necessarily translate into more votes." And convenience isn't the only criterion for voting rules. The ultimate goal is to preserve our orderly system of democratic decision-making and therefore the legitimacy of the governance it produces.

Democracy is complicated, but voting should be simple. And it largely is, at least when there's no pandemic—so simple that majorities of all races (59% of whites, 56% of blacks, and 63% of other minorities) say it's more important to prevent fraud than to make it easier to vote.

This isn't rocket science. You register; you get a ballot; you mark a box; you deliver the ballot; your vote is counted. But lurking behind that ideal is the need to maintain accurate voter rolls, have enough polling places so voters don't wait an unreasonable amount of time, and ensure speed and transparency in vote tabulation. The 2020 election failed on all those counts in many states, without anything nefarious necessarily going on.

Each of the top ten districts is home to 15,000 or more immigrants eligible for naturalization, the city's data show.

When City Council Member Shekar Krishnan was campaigning for his seat last year in Jackson Heights and Elmhurst, he made a point of reaching out to constituents with roots around the world in a mostly Latino and Asian district.

"Residents would come up to me when I was out door knocking and out on Election Day and say, 'We support all of your policies, but we aren't able to vote for you,'" Krishnan, a Democrat and former civil rights lawyer, said.

Krishnan said the lack of voting rights has translated into less attention from city government for issues including debt-laden taxi drivers and pandemic aid for immigrant workers ineligible for federal help.

"I don't think it was any accident that the city, throughout this pandemic, ignored the needs of our most essential workers," he said. "It was the biggest failure of city government during this pandemic, but it was no accident."

### **"I Don't Think It Ever Goes into Effect"**

Opposition to the noncitizen voting law has come from Republicans and some Democrats.

Laurie Cumbo, a Democrat who was City Council majority leader at the time, argued during the debate on the law at a Council meeting that introducing hundreds of thousands of new immigrant voters would dilute the power of Black voters.

In areas like upper Manhattan—home to large Black and Latino communities as well as an influx of newer white residents—she said the bill could shift the balance of power against Black voters. She cited an increase in votes for former President Donald Trump in immigrant neighborhoods in the 2020 election.

"This particular legislation is going to shift the power dynamics in New York City in a major way," Cumbo said. "The only thing that many African American communities have left are their Black representatives and representation."

Republicans quickly sued to stop the noncitizen voting law, arguing it is illegal under the state constitution and state election law. More recently, a conservative legal group filed a lawsuit on behalf of a group of Black voters, charging that the law is racially discriminatory.

New York's constitution says that every citizen is entitled to vote as long as they are at least 18 years old and have lived in the jurisdiction for 30 days. The Republicans' suit also cites a state election law that says no one shall be qualified to register to vote unless they are a citizen of the United States. The city filed a response on Friday, denying any violations of the law.

The court battle could get more complicated, depending on how the city Board of Elections moves to implement the law. The city law requires the board to produce a report on its plans by July, but the city Board of Elections recently punted and sent a letter to the state Board of Elections asking how to proceed. The board is evenly split between Democrats and Republicans.