

STATE SCORECARD

2021 GRADES FOR VOTE-BY-MAIL
AND EARLY VOTING OPPORTUNITIES

Acknowledgments

This report was written by Caleb Jackson and Valencia Richardson, with assistance from Nicholas Anway, Michelle Fraling, Natalie Kirchhoff and Grace Thomas. Thank you to Mark Gaber, Corey Goldstone, Kimberly Hall, Catie Kelley and Paul Smith for their feedback and to Eighty2degrees for designing the report.

The materials and information contained in this report provide general information only and not legal advice. Providing this material does not create an attorney-client relationship and is not a substitute for legal advice from a qualified attorney tailored to a specific jurisdiction's or state's laws.

The nonpartisan Campaign Legal Center (CLC) advances democracy through the law at the federal, state and local levels, fighting for every American's rights to responsive government and a fair opportunity to participate in and affect the democratic process. Since the organization's founding in 2002, CLC has participated in major redistricting, access to voting and campaign finance cases before the U.S. Supreme Court as well as numerous other federal and state court cases. CLC's work promotes every voter's right to participate in the democratic process.

Experts at the Campaign Legal Center are always available to provide tailored advice. Please feel free to contact us to discuss your state. You can reach us at info@campaignlegalcenter.org, (202) 736-2200 or www.campaignlegalcenter.org.

JULY 2021

Table of Contents

Introduction	3
Grading Methodology.....	4
Executive Summary	6
Vote by Mail and Early Voting in States Before, During and After 2020	8
Disparities Faced by Voters of Color Not Captured by the Grading Criteria	8
State-by-State Scorecard.....	10
Federal Legislation and Voter Access.....	32
For the People Act.....	33
John Lewis Voting Rights Advancement Act.....	34
Conclusion.....	37

INTRODUCTION

In the first half of 2021, state legislatures across the country altered their voting laws in response to the 2020 election.

Several states are working to create deliberate barriers to voting by restricting opportunities to vote by mail and vote early in person. Yet other states have worked to ensure that voters are able to cast their ballots in a safe and secure way, making permanent some of the most expansive voting procedures originally introduced to accommodate voting during the 2020 pandemic. This report grades the vote-by-mail and early voting laws in each state that has wrapped up its legislative session as of June 30, 2021, and notes the specific changes made during the 2021 legislative sessions.¹ Some states—like Indiana—stayed the same, others—like Illinois—markedly improved and some states—like Georgia—became worse, passing a slew of anti-voter bills. Finally, the report examines two key pieces of federal legislation—S. 1, the For the People Act, and the John Lewis Voting Rights Advancement Act (VRAA)—that, if passed, could have stopped much of the anti-voter legislation enacted in 2021 in its tracks.

Each state's grade is solely based on its vote-by-mail and early voting laws. The grades are not intended to reflect the quality of voter access overall. Furthermore, there are important nuances within each of the vote-by-mail and early voting factors included in this report that are not captured by each state's grade. For example, a state may allow drop boxes but severely restrict how many drop boxes each county can have, where the drop boxes can be located and how each drop box must be staffed. Each of these nuances can make drop boxes inaccessible for voters but are not captured by the drop box grading factor. Similarly, a state may allow election officials to send voters unsolicited mail ballot applications but ban third parties from doing so, which severely restricts the pathways for voters to receive these applications. Additionally, a state may allow all eligible voters to vote by mail, but refuse to make vote by mail accessible for Native American and other historically marginalized communities. These details are not captured by the grading factors in this report, but readers should keep them in mind when reviewing each state's grade.



GRADING METHODOLOGY

We analyzed 39 states whose legislative sessions ended on or before June 30, 2021. Each state is graded based on the following ten factors:²

- All Voters Can Vote by Mail.
- The State Maintains a Permanent Mail Voting List.³
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- The State Has a Uniform Mail Ballot Notice and Cure⁴ Process.
- The State Does Not Require a State-Issued Driver License or ID to Vote by Mail.⁵
- The State Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- The State Offers at Least Two Weeks of Early In-Person Voting.
- The State Offers Online Mail Ballot Tracking.
- The State Offers Ballot Drop Boxes.⁶
- The State Allows Voters to Vote by Mail without Notary or Enhanced Witness Requirements.⁷

Each factor is worth 1 point. The maximum grade a state can receive is a 10/10 and the minimum grade a state can receive is a 0/10. A state's grade is categorized into the following three ranges:

GREEN | 8–10

Green states are considered **least restrictive** for vote-by-mail and early voting access.

YELLOW | 6–7

Yellow states are considered **restrictive** for vote-by-mail and early voting access.

RED | 0–5

Red states are considered **most restrictive** for vote-by-mail and early voting access.

Green states are considered **Least Restrictive**, meaning a state's laws for vote-by-mail and early voting access are pro-voter; yellow states are considered **Restrictive** for vote-by-mail and early voting access, meaning a state's laws for vote-by-mail and early voting access must improve to support voters; and red states are considered **Most Restrictive**, meaning a state's laws for vote-by-mail and early voting access are anti-voter. While vote by mail and early voting are important methods that were crucial in ensuring safe and accessible voting during the coronavirus pandemic and beyond, they are not the only methods states should use to make voting accessible. This analysis does not cover other key parts of voter access, including in-person Election Day voting, same-day registration, automatic voter registration, out-of-precinct voting, voter wait times and more.

Notably, many states whose grades in this report suggest that they promote voter access must be criticized for the unique challenges that voters of color face in accessing the ballot box. Though certain states receive high grades for the existence of certain vote-by-mail and early voting provisions, they should not receive credit for the mere existence of provisions that fail to address burdens that disproportionately harm voters of color. State laws that appear to expand access to vote by mail and early voting should be assessed critically through this lens.





EXECUTIVE SUMMARY

Out of the 39 states in this report whose legislative sessions have adjourned for 2021, two received perfect grades—Illinois and Washington—and no state received a 0/10. Seven of the 39 states changed their vote-by-mail and early voting laws for the worse, while nine states changed their laws for the better. Unfortunately, many of the states that changed their laws for the better still fall short of the suggested best practices for vote by mail and early voting used in this report. The nine states that improved for vote by mail and early voting are Illinois, Kentucky, Maryland, New Jersey, New York, Oregon, Vermont, Virginia and Utah, and the seven states that passed restrictions are Alabama, Arizona, Arkansas, Florida, Georgia, Iowa and Louisiana.

With the exception of Maryland, the legislatures in states with the highest Black populations that changed their vote-by-mail and early voting policies each made changes for the worse: Alabama (27.5% Black), Georgia (33% Black) and Louisiana (33.4% Black).⁸ Notably, Georgia and Louisiana are the states with the second- and third-highest percentage of Black residents in the nation.⁹ Overall, 13 states received **Least Restrictive** vote-by-mail and early voting grades, 15 states received **Restrictive** vote-by-mail and early voting grades and 11 states received **Most Restrictive** vote-by-mail and early voting grades.

- 26** of the states we analyzed allow all eligible voters to vote by mail.
- 21** of the states have permanent mail voting lists.
- 36** states allow election officials to send voters unsolicited mail ballot applications, though some, such as Georgia and Kansas, restrict third parties' ability to send them.
- 21** states require election officials to give voters notice that their mail ballot has been rejected and an opportunity to cure any deficiencies.
- 31** states do not require voters to have a state-issued driver license or ID to vote by mail.
- 5** states accept mail ballots postmarked on or before Election Day that are delivered within 10 days of the election.
- 23** of the states we analyzed offer at least two weeks of early in-person voting.
- 36** states offer online mail ballot tracking.
- 31** states offer ballot drop boxes, though some of these states restrict drop boxes either in number or by location to make them inaccessible for many voters.
- 31** states allow voters to vote by mail without having their mail ballot or ballot application notarized, signed by multiple witnesses or signed by a witness who meets special requirements.

This report also details how Congress can and must act to guarantee equal, nondiscriminatory access to vote by mail and early voting for all Americans. At least four of the states that passed restrictive vote-by-mail and early voting laws in 2021—Alabama, Georgia, Florida and Louisiana—would have been subject to preclearance if the John Lewis Voting Rights Advancement Act was in effect. Preclearance would have required those four states to prove to the U.S. Department of Justice that their restrictive laws would not discriminate against voters of color. The report also explains how at least 37 of the 39 states analyzed currently have laws in place that would be preempted by S. 1, the For the People Act.

While the expansion of vote-by-mail and early voting opportunities during the 2020 elections did not tilt the scales in favor of any particular political party, the changes did lead to the biggest election turnout in a century,¹⁰ a feat that should be celebrated irrespective of party preference. This is illustrated by states like Kentucky, a traditionally red state that former President Trump won by more than twenty-five percentage points in 2020, which moved to add drop boxes, require a notice and cure process for mail ballots and allow all voters to vote early during its 2021 legislative session.¹¹ Every state should work to expand vote-by-mail and early voting opportunities so that voter turnout can continue to improve. Our country's democracy works best when all voters are able to exercise the freedom to vote in safe and accessible elections.





Vote by Mail and Early Voting in States Before, During and After 2020

Vote-by-mail and early voting opportunities became focal points of the elections process during the COVID-19 pandemic, but these voting methods existed before the coronavirus disease changed the landscape of the 2020 elections. Before the pandemic, 34 states and D.C. allowed all eligible voters to vote by mail,¹² 45 states offered at least some early in-person voting days and 29 states and D.C. offered at least two weeks of early voting.¹³

The COVID-19 pandemic led several states to expand access to vote by mail and early voting. During the 2020 elections, 10 states changed their laws to allow all eligible voters to vote by mail either generally or because they feared contracting the coronavirus.¹⁴ In 2020, we saw an expansion of vote by mail in red and blue states alike. In fact, five of the 10 states that expanded vote-by-mail eligibility in 2020 were states that the Republican candidate, former President Donald Trump, won by 10 or more percentage points.¹⁵ The Republican candidate also won every one of the four states that expanded their early voting periods in response to the pandemic.¹⁶

Only one of the 10 states that expanded vote-by-mail eligibility in 2020 is in the process of making that expansion permanent. The New York State Legislature voted to place a constitutional amendment on the November 2021 statewide

ballot that would allow all eligible New York voters to vote by mail.¹⁷ One of the four states that extended its early voting period during the pandemic, Kentucky, permanently established three days of early voting through a bipartisan election reform package.¹⁸ Prior to the pandemic, Kentucky voters needed an excuse to vote early. While no states that previously allowed all eligible voters to vote by mail have restricted eligibility as of June 2021, two states have shortened their early voting periods. Iowa shortened its early voting period from 29 to 20 days,¹⁹ and Georgia shortened the required early voting period for runoff elections from three weeks to one week.²⁰

Disparities Faced by Voters of Color Not Captured by the Grading Criteria

The states analyzed in this report are judged by the existence of certain vote-by-mail policies, not the efficacy of those policies. This report is not intended to praise any given state's vote-by-mail policies, particularly states where those policies nevertheless result in substantial burdens on voters of color. Voters of color across the country fall victim to laws of general applicability that do not address the unique burdens they face, such as limited mailing access and distant—or nonexistent—early voting locations in their communities. Many of these states still have much work to do to promote the freedom to vote for all voters despite their relatively high grades.

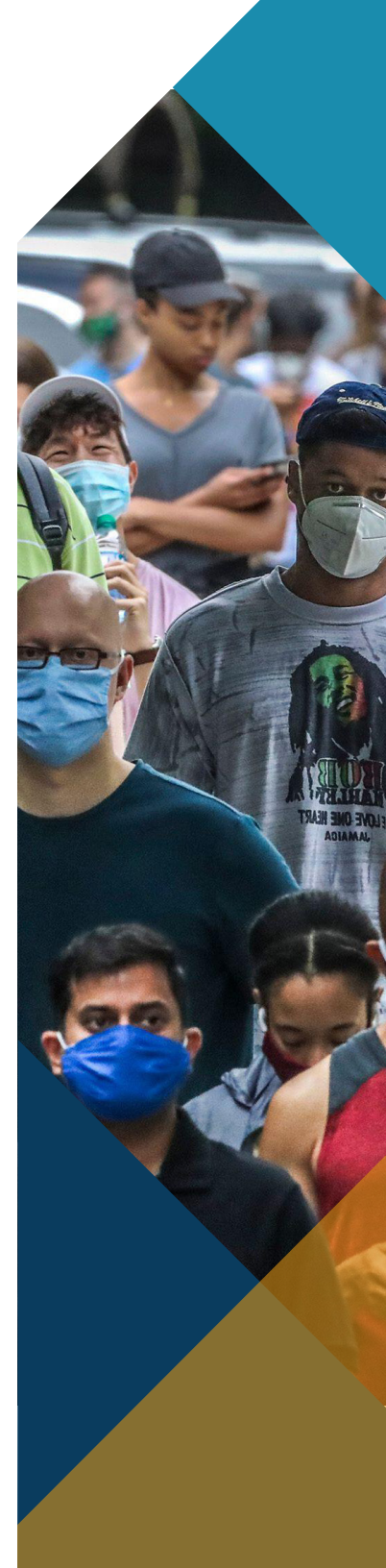
In particular, Native American voters face barriers to vote by mail in states that have ostensibly accessible vote-by-mail policies. Nine of the 13 states that received high grades for their vote-by-mail provisions have Native American populations greater than the national average.²¹ Many Native American voters do not have equal access to vote by mail because they lack access to mail boxes, post offices, mailing addresses and transportation.

In Montana, for example, our analysis gives the state a high grade for providing laws that appear to increase access to vote by mail. However, many Native American voters in Montana lack mailing access that would allow them to enjoy the state's vote-by-mail policies.²² Voters in rural reservations in particular often have little access to mail routes, lack traditional mailing addresses and do not receive mail at home.²³ Montana has refused to alleviate the barriers facing Native American voters; indeed, Montana has compounded these burdens by making in-person voting more restrictive.²⁴

Native American voters in other states face similar hardships not borne by other populations. Though North Dakota also received a high grade for the existence of certain vote-by-mail laws, Native American voters there disproportionately bear the burdens of mail ballot rejection and lack of traditional mailing addresses. North Dakota only implemented a notice and cure process for mail ballots after it was sued and the court issued

a permanent injunction requiring it.²⁵ Arizona likewise receives a high grade for the existence of certain vote-by-mail procedures but should not be credited for its accessibility when voters of color in the state—especially Black, Native American and Latino voters—frequently face barriers to the polls.²⁶ Several other states that received high grades, including Nevada and Virginia, have had a history of discrimination against Black, Latino and Native American voters at the ballot box, despite the apparent accessibility their grades in this report might suggest.²⁷ And in many of these states, ballot collection laws severely restrict the ability for Native American voters to submit their ballots.²⁸

On the other hand, some states with high grades, like Washington and Colorado, have attempted to address the issues faced by Native American voters in accessing vote by mail. The Washington State Legislature passed the Washington Native American Voting Rights Act in 2019 to allow voters on reservations to use nontraditional addresses to vote, establish ballot drop boxes on reservations and open vote centers on reservations.²⁹ Colorado enacted a series of reforms in 2019, which included adding vote centers and ballot drop boxes on reservations to address the disparities in mail access faced by Native American voters in the all-mail-election state.³⁰



— STATE BY STATE —

SCORECARDS



ALABAMA

● ● ● ● ● ● ● ● ● ●
2/10

Alabama has the worst grade of any state in the country after its 2021 legislative session. Alabama did nothing to improve voting conditions; indeed, Alabama codified its ban on curbside voting, which was the subject of litigation during the 2020 elections.³¹

- ☐ All Eligible Voters Can Vote by Mail.
- ☐ State Maintains a Permanent Mail Voting List.
- ☒ Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- ☐ Uniform Mail Ballot Notice and Cure Process.
- ☐ State-Issued Driver License or ID Not Required to Vote by Mail.
- ☐ Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- ☐ At Least Two Weeks of Early In-Person Voting.
- ☒ Online Mail Ballot Tracking.
- ☐ Ballot Drop Boxes.
- ☐ Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



ALASKA

7/10

Alaska made no vote-by-mail or early voting changes during its 2021 legislative session. During the 2020 election, a lawsuit was filed demanding that the state set up a ballot curing process; however, the lawsuit was unsuccessful.³²

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID not required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



ARIZONA

8/10

Arizona moved backward during the 2021 legislative session. First, the legislature passed SB 1485, which removed Arizona's permanent mail voting list and replaced it with an "active early voting list" that will require voters to vote to stay on the list. Next, it passed SB 1003, which will only allow voters to cure their ballots with missing signatures by Election Day at 7 p.m. Further, though Arizona allows all voters to vote by mail, it has failed to make mail voting accessible for Native American voters who lack mail services. These nuances, though not captured in Arizona's grade, make its voting system problematic.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



ARKANSAS

4/10

Arkansas would have had a better grade but for changes made in the 2021 legislative session to make it more difficult to solicit mail ballots and its refusal to codify its temporary expansion of vote-by-mail eligibility in 2020.

- ☐ All Eligible Voters Can Vote by Mail.
- ☐ State Maintains a Permanent Mail Voting List.
- ☐ Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- ☐ Uniform Mail Ballot Notice and Cure Process.
- ☒ State-Issued Driver License or ID not required to Vote by Mail.
- ☐ Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- ☒ At Least Two Weeks of Early In-Person Voting.
- ☒ Online Mail Ballot Tracking.
- ☐ Ballot Drop Boxes.
- ☒ Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



COLORADO

9/10

Colorado has an all-mail system and made no vote-by-mail or early voting changes relevant to the grading criteria during its 2021 legislative session.

- ☒ All Eligible Voters Can Vote by Mail.
- ☒ State Maintains a Permanent Mail Voting List.
- ☒ Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- ☒ Uniform Mail Ballot Notice and Cure Process.
- ☒ State-Issued Driver License or ID Not Required to Vote by Mail.
- ☐ Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- ☒ At Least Two Weeks of Early In-Person Voting.
- ☒ Online Mail Ballot Tracking.
- ☒ Ballot Drop Boxes.
- ☒ Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



CONNECTICUT

6/10

Connecticut made no vote-by-mail or early voting changes relevant to the grading criteria during its 2021 legislative session.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID not required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



FLORIDA

7/10

Florida passed notable vote-by-mail restrictions during the 2021 legislative session, including limiting drop boxes and requiring voters to make more frequent applications to vote by mail.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



GEORGIA



6/10

Georgia passed SB 202 during its 2021 legislative session, a bill that included some of the most severe vote-by-mail changes in the country. While Georgia has ballot drop boxes, SB 202 severely limited the number and location of drop boxes that counties are allowed to install. Also, while Georgia still has two weeks of early voting for general elections, SB 202 shortened the required early voting period for runoff elections to one week.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID not required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



HAWAII



8/10

Hawaii became an all-mail state in 2019 and made no vote-by-mail or early voting changes relevant to the grading criteria during the 2021 legislative session.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



IDAHO

7/10

Idaho made no vote-by-mail or early voting changes during the 2021 legislative session but still lacks adequate vote-by-mail policies. In particular, Idaho does not have a notice and cure process for ballots that have been rejected and only accepts ballots up until Election Day.³³ Idaho's vote-by-mail policies need to become more accessible before receiving a higher grade.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID not required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



ILLINOIS

10/10

Illinois became one of the most accessible states in the country for alternative forms of voting after the 2021 legislative session, when the legislature passed SB 825 to add a permanent mail voting list for all eligible voters in the state. Though Illinois does not have uniform online ballot tracking, counties are free to create their own online ballot tracking system, which merits an additional point with that sole caveat.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



INDIANA

6/10

Indiana implemented a notice and cure process after a court issued a permanent injunction requiring it following a lawsuit during the 2020 elections.³⁴ Indiana made no vote-by-mail or early voting changes relevant to the grading criteria during the 2021 legislative session, so it has some work to do before achieving a better grade.

- ☐ All Eligible Voters Can Vote by Mail.
- ☐ State Maintains a Permanent Mail Voting List.
- ☒ Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- ☒ Uniform Mail Ballot Notice and Cure Process.
- ☒ State-Issued Driver License or ID not required to Vote by Mail.
- ☐ Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- ☒ At Least Two Weeks of Early In-Person Voting.
- ☒ Online Mail Ballot Tracking.
- ☐ Ballot Drop Boxes.
- ☒ Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



IOWA

7/10

Iowa made its system less accessible during the 2021 legislative session. Specifically, the legislature passed laws reducing early voting from 29 to 20 days and prohibiting election officials from sending voters unsolicited mail ballot applications.

- ☒ All Eligible Voters Can Vote by Mail.
- ☐ State Maintains a Permanent Mail Voting List.
- ☐ Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- ☒ Uniform Mail Ballot Notice and Cure Process.
- ☒ State-Issued Driver License or ID Not Required to Vote by Mail.
- ☐ Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- ☒ At Least Two Weeks of Early In-Person Voting.
- ☒ Online Mail Ballot Tracking.
- ☒ Ballot Drop Boxes.
- ☒ Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



KANSAS

7/10

While Kansas made no vote-by-mail or early voting changes relevant to the grading criteria during the 2021 legislative session, the state restricted voting access by banning out-of-state entities from sending voters advance mail ballot applications. While this change did not affect Kansas's grade, it will make voting harder for Kansans. [CLC is in active litigation](#) against the state over this measure.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID not required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



KENTUCKY

5/10

Kentucky made its voting system more accessible during the 2021 legislative session, but the state still has plenty of room to grow. The legislature passed legislation adding drop boxes, requiring a notice and cure process and granting all voters access to three days of early voting. However, the early voting period is only three days and not all voters are eligible to vote by mail.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



LOUISIANA

6/10

The Louisiana State Legislature took steps backward during its 2021 legislative session by passing SB 224, which would have required voters to have photo ID to vote by mail, but the governor vetoed the legislation.³⁵ However, the legislature did extend the number of early voting days for presidential elections to 11 days.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID not required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



MARYLAND

7/10

Maryland made positive changes to its system during the 2021 legislative session but still has room to grow. Maryland codified drop boxes, making them permanent fixtures in the state's elections, and added a permanent mail voting list, but it declined to implement a notice and cure procedure.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.³⁶
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID not required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



MISSOURI

4/10

Missouri law does not expressly ban drop boxes, but the state did not allow them in 2020. The state made no vote-by-mail or early voting changes relevant to the grading criteria during the 2021 legislative session.

- ☐ All Eligible Voters Can Vote by Mail.
- ☒ State Maintains a Permanent Mail Voting List.
- ☒ Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- ☐ Uniform Mail Ballot Notice and Cure Process.
- ☒ State-Issued Driver License or ID not required to Vote by Mail.
- ☐ Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- ☐ At Least Two Weeks of Early In-Person Voting.
- ☐ Online Mail Ballot Tracking.
- ☒ Ballot Drop Boxes.
- ☐ Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



MONTANA

9/10

Montana made no vote-by-mail or early voting changes relevant to the grading criteria during its 2021 legislative session. While Montana facially appears to have expansive vote-by-mail and early voting policies, these policies disproportionately burden Native American voters. Specifically, Montana, unlike Colorado and Washington, has failed to make mail voting accessible to Native American voters who lack mailing services. Therefore, its grade should be assessed critically.

- ☒ All Eligible Voters Can Vote by Mail.
- ☒ State Maintains a Permanent Mail Voting List.
- ☒ Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- ☒ Uniform Mail Ballot Notice and Cure Process.
- ☒ State-Issued Driver License or ID Not Required to Vote by Mail.
- ☐ Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- ☒ At Least Two Weeks of Early In-Person Voting.
- ☒ Online Mail Ballot Tracking.
- ☒ Ballot Drop Boxes.
- ☒ Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



NEBRASKA

7/10

Nebraska made no vote-by-mail or early voting changes relevant to the grading criteria during its 2021 legislative session.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID not required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



NEVADA

9/10

Nevada made no vote-by-mail or early voting changes relevant to the grading criteria during its 2021 legislative session.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID not required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



NEW MEXICO

7/10

New Mexico made no vote-by-mail or early voting changes relevant to the grading criteria during its 2021 legislative session.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



NEW YORK

7/10

During the 2021 legislative session, the New York State Legislature passed a bill to make all voters eligible to vote by mail, but the change will have to be approved by the state's voters through a ballot measure in November 2021.* The legislature also codified a notice and cure procedure after CLC sued the state over its notice and cure process.³⁸

- All Eligible Voters Can Vote by Mail.*
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



NORTH DAKOTA

8/10

North Dakota made no vote-by-mail or early voting changes relevant to the grading criteria during its 2021 legislative session and only adopted its notice and cure procedure after CLC won a permanent injunction against the state.³⁹

While North Dakota facially appears to offer expansive voting options, the state has historically enforced laws that disproportionately burden Native American voters. For instance, the state previously required Native American voters who lived on reservations without traditional mailing addresses to present voter ID listing a traditional mailing address when voting both in person and by mail.

After CLC and the Native American Rights Fund (NARF) sued over the voter ID requirement, the state entered into a consent decree allowing Native American voters who lack or do not know their mailing addresses to visually locate their homes on a map and have their ballots accepted.⁴⁰ North Dakota's high grade is a result of advocacy and litigation, not the legislature's own doing, so its grade should be viewed critically.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



5/10

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



8/10

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



SOUTH CAROLINA

4/10

South Carolina made no vote-by-mail or early voting changes relevant to the grading criteria during the 2021 legislative session. As a result, it maintains its **Most Restrictive** vote-by-mail and early voting grade.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



SOUTH DAKOTA

6/10

South Dakota made no vote-by-mail or early voting changes relevant to the grading criteria during the 2021 legislative session, which is unfortunate because the state's vote-by-mail and early voting policies are graded as **Restrictive**. Voters either have to have a state-issued photo ID to vote by mail or have their mail ballot notarized. Because each of these alternatives is separately unfavorable, this report treats the state as requiring both for scoring purposes.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID not required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



TENNESSEE

5/10

Tennessee made no vote-by-mail or early voting changes relevant to the grading criteria during its 2021 legislative session. As a result, it maintains its **Most Restrictive** vote-by-mail and early voting grade.

- ☐ All Eligible Voters Can Vote by Mail.
- ☒ State Maintains a Permanent Mail Voting List.
- ☒ Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- ☐ Uniform Mail Ballot Notice and Cure Process.
- ☒ State-Issued Driver License or ID Not Required to Vote by Mail.
- ☐ Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- ☒ At Least Two Weeks of Early In-Person Voting.
- ☒ Online Mail Ballot Tracking.
- ☐ Ballot Drop Boxes.
- ☐ Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



UTAH

9/10

During the 2021 legislative session, Utah expanded its online ballot tracking system so voters can track their mail ballots and receive text or email updates notifying them of the status of their ballot.

- ☒ All Eligible Voters Can Vote by Mail.
- ☒ State Maintains a Permanent Mail Voting List.
- ☒ Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- ☒ Uniform Mail Ballot Notice and Cure Process.
- ☒ State-Issued Driver License or ID Not Required to Vote by Mail.
- ☐ Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- ☒ At Least Two Weeks of Early In-Person Voting.
- ☒ Online Mail Ballot Tracking.
- ☒ Ballot Drop Boxes.
- ☒ Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



VERMONT

8/10

The Vermont General Assembly passed a bill during its 2021 legislative session that provides a uniform mail ballot notice and cure process for voters who have their ballots rejected.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



VIRGINIA

9/10

The Virginia General Assembly passed a law during its 2021 legislative session permanently codifying the mail ballot notice and cure process that was implemented during the 2020 election.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



WASHINGTON

• • • • •
10/10

Washington made no vote-by-mail or early voting changes relevant to the grading criteria during its 2021 legislative session. However, it did not need to because it is one of only two states that meet all 10 criteria. Washington is also an all-mail state.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



WEST VIRGINIA

• • • • •
5/10

West Virginia made no vote-by-mail or early voting changes relevant to the grading criteria during the 2021 legislative session. As a result, it maintains its **Most Restrictive** vote-by-mail and early voting grade.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID not required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.



WYOMING

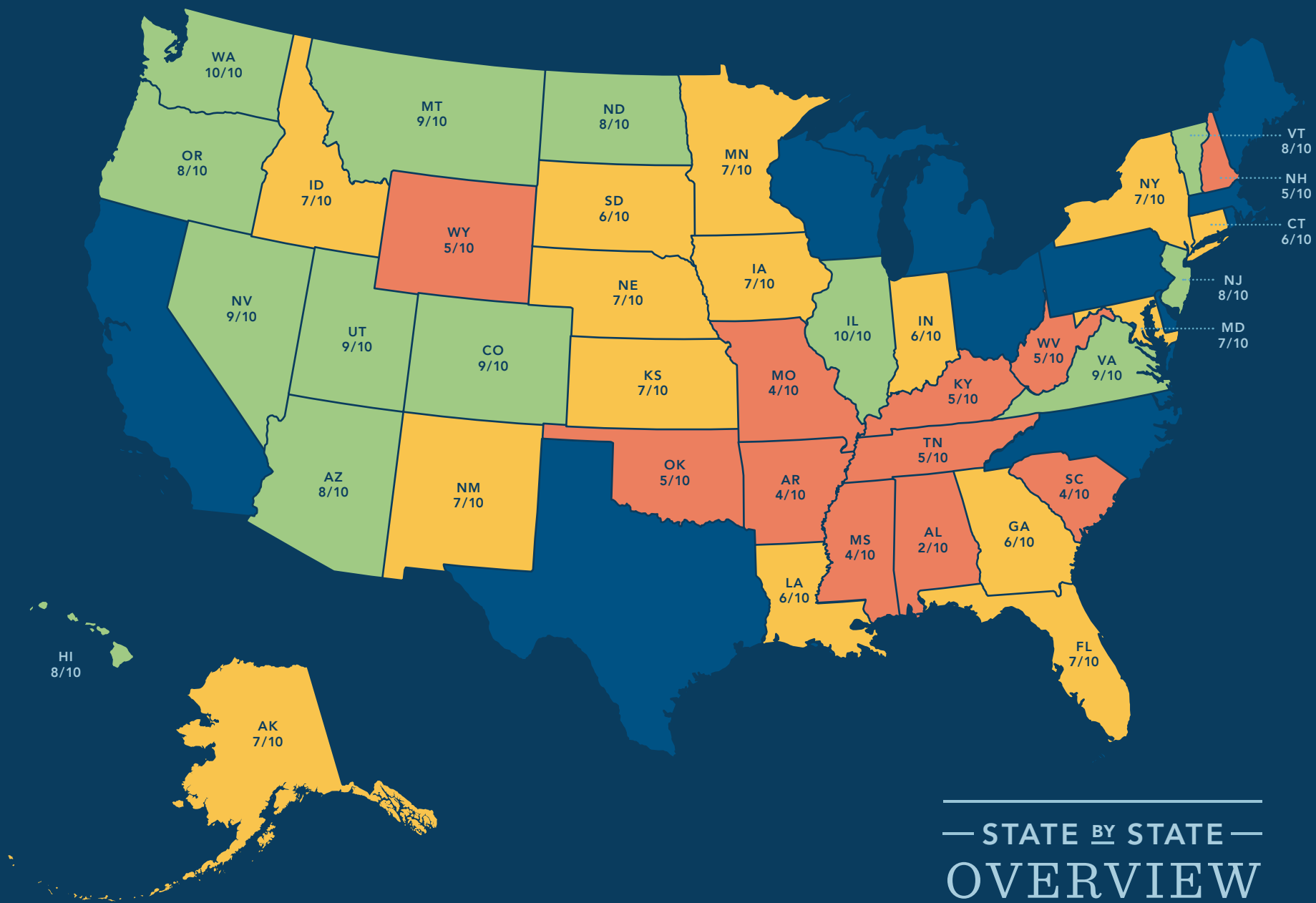
5/10

Wyoming made no vote-by-mail or early voting changes during the 2021 legislative session. As a result, it maintains its **Most Restrictive** vote-by-mail and early voting grade.

- All Eligible Voters Can Vote by Mail.
- State Maintains a Permanent Mail Voting List.
- Election Officials Can Send Voters Unsolicited Mail Ballot Applications.
- Uniform Mail Ballot Notice and Cure Process.
- State-Issued Driver License or ID Not Required to Vote by Mail.
- Accepts Mail Ballots Postmarked on or before Election Day and Received up to 10 Days After Election Day.
- At Least Two Weeks of Early In-Person Voting.
- Online Mail Ballot Tracking.
- Ballot Drop Boxes.
- Voters Able to Vote by Mail without Notary or Enhanced Witness Signature.

OVERVIEW

AL	●●●●●●●●	MT	●●●●●●●●
AK	●●●●●●●●	NE	●●●●●●●●
AZ	●●●●●●●●	NV	●●●●●●●●
AR	●●●●●●●●	NH	●●●●●●●●
CO	●●●●●●●●	NJ	●●●●●●●●
CT	●●●●●●●●	NM	●●●●●●●●
FL	●●●●●●●●	NY	●●●●●●●●
GA	●●●●●●●●	ND	●●●●●●●●
HI	●●●●●●●●	OK	●●●●●●●●
ID	●●●●●●●●	OR	●●●●●●●●
IL	●●●●●●●●	SC	●●●●●●●●
IN	●●●●●●●●	SD	●●●●●●●●
IA	●●●●●●●●	TN	●●●●●●●●
KS	●●●●●●●●	UT	●●●●●●●●
KY	●●●●●●●●	VT	●●●●●●●●
LA	●●●●●●●●	VA	●●●●●●●●
MD	●●●●●●●●	WA	●●●●●●●●
MN	●●●●●●●●	WV	●●●●●●●●
MS	●●●●●●●●	WY	●●●●●●●●
MO	●●●●●●●●		





FEDERAL LEGISLATION AND VOTER ACCESS

Many of the problems with vote-by-mail accessibility would be ameliorated by federal legislation already introduced or waiting to be introduced in Congress. Two bills in particular would drastically change the outcomes of states' legislative sessions—the For the People Act (S. 1) and the John Lewis Voting Rights Advancement Act (VRAA). At least nine states passed laws that would be preempted by federal regulations included in the For the People Act. Under a Voting Rights Act (VRA) revived by the VRAA, at least four of those nine states passed laws that would have been subject to preclearance, which would have forced them to prove to the U.S. Department of Justice or the United States District Court for the District of Columbia that the laws would not discriminate against voters of color. At least 37 of the 39 states included in this report have laws in place that would be preempted by the For the People Act.



For the People Act

In 2021, the House passed the For the People Act, or S. 1, which would provide for sweeping changes to vote by mail. The For the People Act would, among other things, require states to adopt a notice and cure process for ballots that are rejected; require states to send mail ballot applications to all registered voters no later than 60 days before the election; require states to accept ballots postmarked on Election Day and received up to 10 days after Election Day; provide universal vote by mail so that no registered voter is required to meet certain eligibility criteria to vote by mail; and require states to adopt a system for voters to track the status of their mail ballots. Additionally, the For the People Act would provide two weeks of early in-person voting for all federal elections.

Of the 39 states we analyzed, only two states, Illinois and Washington, have already implemented the provisions of the For the People Act included in our grading criteria. The remaining 37 states we analyzed failed to address these issues during the legislative session, either by declining to pass proposed legislation or by failing to introduce relevant legislation altogether. Accordingly, the For the People Act would affect these states' policies in the following ways:

- 18 states would have to adopt a notice and cure process.
- 34 states would have to extend the period to accept postmarked mail ballots.
- 13 states would have to eliminate their eligibility criteria to vote by mail.
- 16 states would have to extend their early voting periods to two weeks.

Notably, nearly every state has a system allowing voters to track their mail ballots online.⁴¹

Only three of the 39 states we analyzed do not have either a statewide or local online system for voters to track their ballots: Mississippi, Missouri and Wyoming. None of those three states made changes during the 2021 legislative session to add a system for online ballot tracking.

In total, the For the People Act would expand voter access with respect to the vote-by-mail and early voting factors considered in this report for millions of voters across at least 37 states and millions more in states whose legislative sessions have not yet concluded.

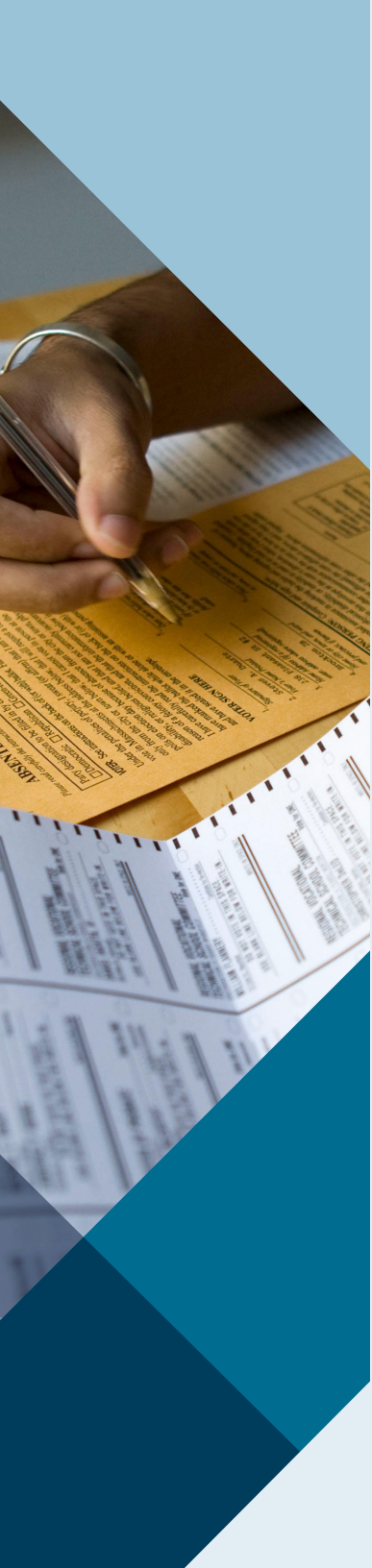
John Lewis Voting Rights Advancement Act

The John Lewis Voting Rights Advancement Act (VRAA) would prevent many states from erecting barriers that have a discriminatory impact on racial minorities. Originally, the Voting Rights Act operated to require certain jurisdictions with a history of racial discrimination to get approval, or “preclearance,” from the federal government for all election-related changes. This helped ensure that election rules did not impose racially discriminatory barriers. Since the Supreme Court struck down Section 5 of the Voting Rights Act in *Shelby County v. Holder* in 2013, the Department of Justice has not had the tools it needs to hold states with a history of discrimination in voting accountable for passing election laws that erect barriers to the polls for voters of color.

If passed, the VRAA would restore Section 5 of the Voting Rights Act and provide a new coverage formula to determine which states with a history of racially discriminatory voting practices will be subject to federal government oversight. Specifically, the VRAA’s new coverage formula would require federal oversight for each state that has had a history of freedom-to-vote violations in the last 25 years that would continuously update based on each states’ future conduct.

Under the new formula provided by the VRAA, Alabama, California, Florida, Georgia, Louisiana, Mississippi, New York, North Carolina, South Carolina, Texas and Virginia would likely be subject to preclearance under the VRAA.⁴²





All of these states were previously subject to federal oversight under the Voting Rights Act before 2013 and they have been the subject of the majority of Section 2 cases brought by the Department of Justice since *Shelby County*.⁴³

In 2020, minority residents in these states faced a slew of challenges accessing the polls. Every one of these states faced a legal challenge related to voter access during the 2020 elections.⁴⁴ Likewise, most of these states—Alabama, Florida, Georgia, Louisiana, South Carolina, Texas and Virginia—were sued under Section 2 of the Voting Rights Act for their allegedly discriminatory voting policies during the COVID-19 pandemic.⁴⁵ Relatedly, most of these states have a population of Black residents that is higher than the national average of 13%, including Alabama (27.5%), Florida (17.5%), Georgia (33%), Louisiana (33.4%), Mississippi (38.5%), New York (17.3%), North Carolina (23%), South Carolina (28.1%) and Virginia (21.1%).⁴⁶

Under preclearance, covered states would have to submit any new voting law to the federal government or federal court system for a determination that the law does not have the impact of discriminating against racial minorities.⁴⁷ Many of the voting laws covered under preclearance would include policies related to vote by mail and early voting.⁴⁸ Accordingly, we estimate that the following non-exhaustive vote-by-mail and early voting laws enacted during the 2021 legislative sessions would have been subject to preclearance under the VRAA:



STATE SUBJECT TO PRECLEARANCE:

Alabama

BILL PASSED:

HB 285: Bans curbside voting in the state.



STATE SUBJECT TO PRECLEARANCE:

Georgia

BILL PASSED:

SB 202: Bans unsolicited mail ballot applications; limits the number and location of drop boxes in each county.



STATE SUBJECT TO PRECLEARANCE:

Florida

BILL PASSED:

SB 90: (1) Restricts ballot drop boxes by limiting where they can be located, limiting their hours of operation and requiring in-person monitoring. (2) Limits who can assist voters in requesting and dropping off vote-by-mail ballots. Individuals can only assist immediate family members and two other voters or face criminal penalties for violating the new limits. This effectively bans volunteers and organizations from assisting voters. (3) Requires voters to reapply to vote by mail every cycle instead of every two election cycles. (4) Adds restrictive ID requirements for mail ballot applications.



Notably, these are just the bills that were signed into law. Dozens more bills that would be subject to preclearance by the federal government nearly became law in these states. For example, South Carolina nearly passed an onerous bill that would have eliminated a number of criteria for mail voting that would have disproportionately burdened voters of color, voters with disabilities and the elderly.⁴⁹ The state already has one of the worst mail ballot systems in the country and is one of the few states that still requires voters to meet certain criteria to vote by mail.⁵⁰ After advocacy from groups including CLC, the South Carolina Legislature ultimately declined to move forward with the changes.

The Louisiana State Legislature passed a number of restrictive voting bills that were subsequently vetoed by the governor.⁵¹ Among these bills was SB 224, which would have required photo ID to vote by mail. Louisiana, graded as Restrictive, is one of the few states that continues to require voters to have an excuse to vote by mail. The governor vetoed this bill, “because it would make the application to vote absentee by mail more stringent than what is currently required to actually vote absentee by mail.”⁵² In a subsequent veto-override session, the legislature declined to override the governor’s veto. A new law requiring photo ID for mail ballots would have undoubtedly been subject to preclearance under the VRAA.

Additionally, there are states whose legislative sessions have not yet ended or ended shortly before this report’s publication whose laws would be subject to preclearance. In Texas, legislators sought to make sweeping changes to

the state’s already abysmal vote-by-mail system in the spring. Among other restrictions, Texas’ SB 7 would have limited early voting hours, cut Sunday voting, placed new burdens on vote-by-mail eligibility, banned online ballot applications and implemented draconian mismatch policies.⁵³ Though the bill failed in the regular session, the Texas Legislature is reconsidering several of its provisions during a summer 2021 special session.⁵⁴ Under the VRAA, Texas would be required to submit each of these provisions to the Department of Justice or United States District Court for the District of Columbia for preclearance if enacted, and each of these provisions directly targets voters of color.⁵⁵ Importantly, the preclearance requirement previously compelled legislatures whose states were covered under the VRA to consider the racially discriminatory effect of a law before it was enacted, so the state would avoid federal intervention.⁵⁶ As long as these states are not subject to preclearance, they have no incentive to consider the racial impact of the burdensome laws that they pass.

Our research shows that federal intervention would have succeeded in preventing dozens of states from passing laws that severely curtail the freedom to vote for countless Americans, particularly voters of color. The For the People Act and John Lewis Voting Rights Advancement Act would have stopped legislatures in their tracks, compelling them to consider national standards and to avoid considering laws that could disproportionately burden voters of color.

CONCLUSION

Americans' right to vote came under attack during the 2021 legislative session in many states, yet it was expanded in others. Across the country, many states used the false claims that circulated in response to the 2020 presidential election to restrict vote-by-mail and early voting opportunities. Several other states, including Texas, did not adjourn their legislative sessions by the year's halfway mark but plan to create deliberate barriers to vote by mail and early voting before the year ends. Federal intervention—notably the For the People Act and the John Lewis Voting Rights Advancement Act—would have stopped the vast majority of these bills from going into effect. Every eligible voter deserves the freedom to vote in the safe and secure manner of their choosing. The few states that used their 2021 legislative sessions to make that happen should be applauded. As other state legislatures continue to work tirelessly to pass anti-voter laws, the federal government must work even harder to stop these nefarious efforts in their tracks.



END NOTES

- 1 This report does not include states whose legislatures have not adjourned for the year or are scheduled to return later this year to consider voting legislation. Such states include Texas, California, Ohio and several others.
- 2 Many, but not all, of these factors match requirements in the For the People Act.
- 3 This includes states that have a permanent mail voting list for all voters and states that only have a permanent mail voting list for voters with disabilities or the elderly. States with limited permanent mail voting lists include CT, KS, LA, MS, MO, NV, NY, TN and WV.
- 4 “Notice” refers to a state law, policy or procedure that requires election officials to make a reasonable effort to contact voters about signature or other discrepancies with their mail ballots before discarding them. “Cure” refers to a state law, policy or procedure that requires election officials to allow voters to verify their identity after being notified of any discrepancies in order to have their votes counted.
- 5 States that require voters to list their driver license or ID number on their mail ballot or application, rather than attach a photocopy, are categorized as requiring either form of ID to vote by mail.
- 6 A number of states, including Georgia and Ohio, moved to limit the number of drop boxes in the state, rather than eliminate them outright; however, these limitations are not included in each state’s grade.
- 7 “Enhanced Witness Requirements” refers to states that require a voter to either have more than one witness sign their mail ballot or ballot application, or have special requirements for who can serve as a witness.
- 8 See U.S. CENSUS BUREAU, American Community Survey, 2019 American Community Survey 5-Year Estimates, https://data.census.gov/cedsci/table?q=0100000US_0400000US01,02,04,05,06,08,09,10,12,13,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38,39,40,41,42,44,45,46,47,48,49,50,51,53,54,55,56&tid=ACSDP5Y2019.DP05&hidePreview=true&moe=false (last accessed July 8, 2021).
- 9 See U.S. CENSUS BUREAU, American Community Survey, 2019 American Community Survey 5-Year Estimates, https://data.census.gov/cedsci/table?q=0100000US_0400000US01,04,05,12,13,17,19,21,22,24,34,36,41,49&tid=ACSDP5Y2019.DP05&hidePreview=true&moe=false (last accessed July 8, 2021).
- 10 The 2020 presidential election had the highest voter turnout of the 21st century, with 66.8% of citizens 18 years and older voting in the election. 2020 Presidential Election Voting and Registration Tables Now Available, U.S. CENSUS BUREAU, <https://www.census.gov/newsroom/press-releases/2021/2020-presidential-election-voting-and-registration-tables-now-available.html> (Apr. 29, 2021).
- 11 Allan James Vestal, et al., *Presidential Election Results*, POLITICO, <https://www.politico.com/2020-election/results/president/> (last updated Jan. 6, 2021); Kentucky House Bill 574, Acts Ch. 197 (2021), available at <https://apps.legislature.ky.gov/law/acts/21RS/documents/0197.pdf>.
- 12 AK, AZ, CA, CO, DC, FL, GA, HI, ID, IL, IA, KS, ME, MD, MI, MN, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SD, UT, VT, VA, WA, WI, WY.
- 13 Every state except CT, DE, MS, NH and SC offered early in-person voting before the COVID-19 pandemic. However, Delaware will begin offering early voting in 2022. The following states offered two weeks of early voting before the COVID-19 pandemic: AL, AK, AZ, AR, CA, DC, GA, ID, IL, IN, IA, KS, ME, MI, MN, MT, NE, NM, NC, ND, OH, PA, RI, SD, TN, VA, WY, CO, NV, VT and WA.
- 14 Ten states allowed all voters to vote by mail during the COVID-19 pandemic: AL, AR, CT, DE, KY, MA, NH, NY, SC, WV.
- 15 Trump won South Carolina by more than 10 percentage points and Alabama, Arkansas, Kentucky and West Virginia by more than 20 percentage points. Allan James Vestal, et al., *Presidential Election Results*, POLITICO, <https://www.politico.com/2020-election/results/president/> (last updated Jan. 6, 2021).
- 16 Kentucky, South Carolina, Utah and Texas were the four states that extended early voting during the COVID-19 pandemic. In fact, three out of the four states (all except Utah) extended their early voting periods to more than two weeks during the pandemic.
- 17 Assembly Passes Legislation Expanding Voters’ Access to the Ballot in New York, New York State Assembly News Release, available at <https://nyassembly.gov/Press/?sec=story&story=97087> (May 11, 2021).
- 18 Bruce Schreiner, *Kentucky Governor Signs Bipartisan Early Voting Measure*, ASSOC. PRESS, <https://apnews.com/article/bills-legislation-elections-kentucky-coronavirus-pandemic-cfae45798b5dee94f52a7782a562509a> (Apr. 7, 2021).
- 19 Stephen Gruber-Miller, *Gov. Kim Reynolds Signs Law Shortening Iowa’s Early and Election Day Voting*, DES MOINES REGISTER, <https://www.desmoinesregister.com/story/news/politics/2021/03/08/iowa-governor-kim-reynolds-signs-law-shortening-early-voting-closing-polls-earlier-election-day/6869317002/> (last updated Mar. 9, 2021, at 10:44 am).
- 20 Mark Niese, *How Georgia’s Voting Law Works*, ATLANTA J. CONST., <https://www.ajc.com/politics/how-georgias-new-voting-law-works/GF6PLR44PNESPKR5FXCBE7VEOY/#early%20voting> (May 6, 2021).
- 21 U.S. CENSUS BUREAU, American Community Survey, 2019 American Community Survey 5-Year Estimates, https://data.census.gov/cedsci/table?q=0100000US_0400000US04,08,15,17,30,32,34,38,41,49,51,53&tid=ACSDP5Y2019.DP05&hidePreview=true&moe=false (last accessed July 8, 2021).
- 22 *Western Native Voice v. Stapleton*, No. DV 20-0377, 2020 WL 8970685, at *5 (Mont. Dist. Sep. 25, 2020).
- 23 *Id.*
- 24 See Maggie Astor, *How G.O.P.-Backed Laws in Montana Could Hurt Native American Voting*, N.Y. TIMES (July 6, 2021).
- 25 *Infra* note 39.

- 26 See Meena Venkataramanan, *Native Americans in Arizona Brace for More Electoral Challenges in Light of Supreme Court Decision*, A.Z. CENT. (July 2, 2021), <https://www.azcentral.com/story/news/politics/elections/2021/07/02/scotus-decision-native-americans-arizona-brace-electoral-challenges/7832823002/>; see also Grace Oldham, *Arizona Has Suppressed Black, Latino and Native American Voters for More Than a Century*, A.Z. CENT. (Sept. 13, 2020), <https://www.azcentral.com/story/news/politics/arizona/2020/09/13/arizonas-history-suppressing-black-latino-native-american-voters/5771359002/>; *infra* note 27.
- 27 See Native American Voting Rights Coalition, *Voting Barriers Encountered by Native Americans in Arizona, New Mexico, Nevada and South Dakota* (Jan. 2018), <https://www.narf.org/wordpress/wp-content/uploads/2018/01/2017NAVRCsurvey-results.pdf>; Am. Civ. Liberties Union of Va., *New Voting Laws That Break Barriers to the Ballot Box* (July 29, 2020), <https://www.acluva.org/en/NewVotingLaws2020> (explaining Virginia's history of Jim Crow voting laws).
- 28 See *supra*.
- 29 2019 Wash. Sess. Laws 32.
- 30 2019 Colo. Sess. Laws 3005 (Colorado Votes Act).
- 31 *Merrill v. People First of Alabama*, 592 U.S. __ (2020).
- 32 *Alaska Center Education Fund v. Fenumiai*, No. 3AN-20-08354CI (Alaska Super. Ct., 3d Dist.) (Oct. 15, 2020).
- 33 Idaho Code §34-1005.
- 34 *Frederick v. Lawson*, 481 F. Supp. 3d 774, 799 (S.D. Ind. 2020) (permanently enjoining the state from rejecting ballots based on signature mismatch and requiring the state to implement a notice and cure process).
- 35 *Infra*, note 51.
- 36 Permanent list is limited to mail ballot applications, not the ballots.
- 37 See *League of Women Voters v. Way*, No. 2:20-cv-05990-MAS-LHG, ECF 48 (Oct. 5, 2020) (consent order); *Plaintiffs in NJ Lawsuit Establishing Fair Ballot Signature Match Process Applaud Ballot Cure Act*, Campaign Legal Ctr. (Aug. 31, 2020), <https://campaignlegal.org/press-releases/plaintiffs-nj-lawsuit-establishing-fair-ballot-signature-match-process-applaud>.
- 38 See *League of Women Voters v. Kosinski*, No. 1:20-cv-05238-MKV, ECF 49 (June 9, 2021) (stipulation of dismissal); *Lawsuit Challenging New York's Signature Match Procedure*, Campaign Legal Ctr. (Apr. 13, 2021), <https://campaignlegal.org/cases-actions/lawsuit-challenging-new-yorks-signature-match-procedure>.
- 39 *Self Advocacy Sols. N.D. v. Jaeger*, No. 3:20-CV-00071, 2020 WL 6576304, at *2 (D.N.D. Aug. 28, 2020); *Self Advocacy Sols. v. Jaeger*, Campaign Legal Ctr. (May 1, 2020), <https://campaignlegal.org/cases-actions/self-advocacy-solutions-v-jaeger>.
- 40 *Spirit Lake Tribe v. Jaeger*, No. 1:19-cv-00222-DLH-CRH, ECF 97 (D.N.D. Apr. 27, 2020) (Consent Decree), <https://campaignlegal.org/sites/default/files/2020-04/Court-Ordered%20Consent%20Decree.pdf>.
- 41 Some states, like Illinois, do not have a uniform system, but many counties have implemented online tracking. See *supra*, Illinois scorecard.
- 42 Vann R. Newkirk II, *The Democrats' New Voting-Rights Moment*, THE ATLANTIC (Mar. 2, 2019), <https://www.theatlantic.com/politics/archive/2019/03/democrats-hope-restore-key-section-voting-rights-act/583969/>.
- 43 DEPARTMENT OF JUSTICE, *Cases Raising Claims Under Section 2 of the Voting Rights Act*, <https://www.justice.gov/crt/cases-raising-claims-under-section-2-voting-rights-act-0>.
- 44 Brennan Ctr. for Justice, *Voting Rights Litigation Tracker 2020*, <https://www.brennancenter.org/our-work/court-cases/voting-rights-litigation-tracker-2020#top>.
- 45 *Id.*
- 46 See U.S. CENSUS BUREAU, *American Community Survey, 2019 American Community Survey 5-Year Estimates*, https://data.census.gov/cedsci/table?g=0100000US_0400000US01,12,13,22,28,36,37,45,51&tid=ACSDP5Y2019.DP05&hidePreview=true&moe=false (last accessed July 8, 2021). Likewise, nearly half of the nine states that made changes that would be preempted by the For the People Act have a Black population larger than the national average, including Alabama, Arkansas (16.3%), Florida and Georgia. See *id.*
- 47 H.R. 4, 116th Cong. § 4A(c) (2020).
- 48 *Id.* at § 4A(b)(6).
- 49 H. 4150, 124th Leg. (S.C. 2021).
- 50 National Conference of State Legislatures, *Voting Outside the Polling Place: Absentee, All Mail and other Voting at Home Options* (Sept. 24, 2020), <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>.
- 51 See Louisiana State Legislature, *Vetoed Bills*, <https://www.legis.la.gov/legis/VetoBills.aspx?sid=last> (last accessed July 6, 2021).
- 52 Office of the Governor, Gov. John Bel Edwards Issues Vetoes, Completes Bill Signings for 2021 Regular Legislative Session (July 2, 2021), <https://gov.louisiana.gov/index.cfm/newsroom/detail/3258>.
- 53 SB 7, 87th Leg. (Tex. 2021).
- 54 Patrick Svitek, *Gov. Greg Abbott Includes Voting Restrictions, Critical Race Theory and Rules for Transgender Student Athletes on Special Legislative Session Agenda*, TEX. TRIB. (July 7, 2021), <https://www.texastribune.org/2021/07/02/texas-special-session-greg-abbott/>; Cassandra Pollock, *Texas Gov. Greg Abbott Sets July 8 Date for Special Legislative Session on Voting Bill, Other Issues*, TEX. TRIB. (June 22, 2021), <https://www.texastribune.org/2021/06/22/texas-greg-abbott-special-session/>.
- 55 See Amy Gardner, *How the Texas Voting Bill Would Have Created Hurdles for Voters of Color*, WASH. POST (May 31, 2021), <https://www.washingtonpost.com/politics/2021/05/30/texas-voting-law/>.
- 56 See, e.g., La. Election Code Ann. art. 18:1941 (setting forth requirements for submitting changes for preclearance under the federal Voting Rights Act).



Campaign Legal Center
1101 14th St. NW
Suite 400
Washington, D.C. 20005
campaignlegal.org

