

Issue: Florida Voter Suppression

Republicans are Taking Away Your Right to Vote in Florida

Summary

After the “hanging chads” debacle in Florida during the 2000 presidential election, one would think that Florida, with its long history of voter disenfranchisement, would take painstaking care to address election-related issues and ensure equal access for all citizens to vote. But one would be wrong. Far from addressing these issues, Florida Republicans doubled down on the false narrative of pervasive election fraud, using it as an excuse to tighten up voter eligibility requirements while simultaneously continuing to purge voter rolls, making it more difficult for Democratic-leaning minority populations to vote.

Continued History of State-Regulated Voter Suppression

Governor Rick Scott and the Republican-led legislature have passed a slate of increasingly stringent voter suppression laws and regulations, purged tens of thousands of eligible citizens from voter rolls and denied hundreds of thousands of former felons the right to vote even after serving their full sentences—something few states find palatable, earning Florida the label of the most punitive state in the country.¹

2011 Florida Legislature passes HB 1355

Under the continued guise of preventing “voter fraud,” Tea Party Governor Scott signed into law extensive voting-related legislation² to reduce the number of Democrats voting in the 2012 U.S. Presidential election.³ In 2012, GOP officials and GOP consultants publicly admitted that voting measures in HB1355 were not actually an effort to charge the battle cry against voter fraud. Former Republican Party Chair Jim Greer went on record admitting that the measures were an effort to secure a GOP victory. Rather than protect people who belonged on the voter rolls and encourage voter turnout, the GOP-led efforts were designed to prevent people from voting.

In particular, Governor Scott instituted measures that:

- Reduced the number of early voting days from 14 to 8 – resulting in long lines at the polls;
- Eliminated voting on the Sunday before Election Day (“Souls to the Polls” voting);
- Reduced the number of hours that polls were required to be open;
- Established strict guidelines for voter registration drives conducted by civic groups such as the League of Women Voters and the Boy Scouts of America, with violations resulting in fines;
- Compressed time frames for third-party organizations to submit voter registration applications to the Division or Supervisor of Elections from 10 days to 48 hours (or the next business day if the office is closed for that 48-hour period);

- Provided penalties for failure to submit voter registration applications in the specified time frame, subjecting those organizations to fines (Ch. 2011-40, Sec. 4). A federal judge ruled in May 2012 against the time frame restrictions in a lawsuit filed by the League of Women Voters, Rock the Vote and the Florida Public Interest Research Group Education Fund, (*LWVF v. Browning*).⁴

One might assume that these measures would have a non-partisan effect on the population. In reality, these measures are cynical manipulations that disproportionately impact Democrats, especially minorities and low-income citizens who statistically vote Democratic. Reducing the number of early voting days, eliminating voting on Sundays, and reducing polling place hours adversely impact hourly-wage employees who have to take unpaid time off to vote. Long lines cause lost wages, higher childcare costs, and transportation problems for those who rely on public transport. Early or absentee balloting would allow voting ahead or by mail—the *opposite* of what Scott’s measures accomplish. Lastly, the shorter time frames for voter registration efforts serve those parties who have more voters already registered, i.e., the entrenched Republican Party, rather than encouraging newcomers and younger people to vote.

Increasingly Stringent Eligibility Standards

Up until 1977, the only requirements to be eligible to vote in Florida⁵ were to:

- Be a citizen of the United States of America (does not include a lawful permanent resident, commonly referred to as a "green card holder");
- Be a Florida resident;
- Be at least 18 years old;
- Not have been adjudicated as mentally incapacitated with respect to voting in Florida or any other state without having the right to vote restored; and
- Not have been convicted of a felony without restoration of civil rights.

In 1977, the Florida Legislature required that every voter present an ID at the polls.

Then in 1998, the Florida Legislature passed the additional requirement of a photo ID. A voter must present one of the following current and valid picture identifications at the polls:

- Florida driver's license;
- Florida ID card issued by the Department of Highway Safety and Motor Vehicles;
- U.S. passport;
- Debit or credit card;
- Military identification;
- Student identification;
- Retirement center identification;
- Neighborhood association ID;
- Public assistance identification;
- Veteran health identification card issued by the United States Department of Veterans Affairs (SB 666; 2016);
- A license to carry a concealed weapon or firearm (SB 666; 2016);
- Employee identification card issued by any branch, department, agency, or entity of the federal government, the state, a county, or a municipality. (SB 666; 2016)
- If the picture identification does not contain the signature of the voter, an additional identification that provides the voter signature shall be required.

Florida's photo ID law (§101.043) is classified as non-strict according to the National Conference of State Legislatures, 2018.⁶ If you do not bring proper ID, you can still cast a provisional ballot. The provisional ballot will eventually be counted (typically after election night), as long as the individual is eligible to vote, the individual voted at the proper precinct, and the signature on the provisional ballot matches the individual's signature on his or her registration record. Once again, one might assume that the above photo ID measures would have a non-partisan effect. In reality, they disproportionately impact minorities and low-income citizens (who statistically vote Democratic) because they often don't have a driver's license, passport, credit cards, college ID, or the type of job with an employee ID. According to the ACLU, Voter ID laws are a solution in search of a problem.⁷

Other GOP Tactics to Suppress Voting

Database Cross Checking

Following the chaos in Florida in the 2000 presidential election, Congress passed the Help America Vote Act (HAVA), in 2002 with the goal of modernizing voting systems and establishing uniform election standards. The law required each state to create a centralized digital voter database to remove ineligible voters and prevent fraud. While the intent of the law was admirable, some states have applied the law in questionable ways to disenfranchise certain groups of voters. In fact, HAVA turned out to be a large-scale opportunity for the Republican Party to remove from the voter rolls the names of people who are more likely to vote Democratic.

The most common means to purge potentially erroneous voter names is through database cross checking. The voter database is checked against other databases, such as those maintained by the Social Security Administration, the Department of Motor Vehicles, state courts, state police, the voter databases of other states, immigration agencies, etc. The intent is to purge voter registration records of ineligible voters (those who have moved out of the jurisdiction, have died, have been convicted of a felony, or have been ruled incompetent) and to prevent fraud (identify individuals who are registered to vote in multiple jurisdictions). The problem is that database matching is highly prone to errors with a high percentage of false positives, risking the disenfranchisement of a significant number of eligible voters. For example, each year the Social Security Administration erroneously identifies 14,000 people as dead⁸ and database cross checking with the SSA database yields an error rate of 28.5%⁹ (Ironically, one notable example in 2006 occurred when the Interstate Voter Registration Crosscheck Program identified now Governor Rick Scott as deceased.)

Factors that cause mismatches between the database and the voter registration records include:

- Hyphenated names, multiple surnames, and names with accent marks (ñ, è, ź)
- Common names - more prevalent in communities of color, ex. Jose Garcia
- Nicknames - ex. Juana/Juanita
- Maiden/married names - affecting women of all ethnicities
- Reversal of first and last names - more likely with ethnic names

These errors can disproportionately impact minorities, who are predominantly Democratic voters. One analysis showed that 1 in 6 Hispanics, 1 in 7 Asian Americans, and 1 in 9 African Americans appear on lists in states using the Crosscheck Program. Without proper care or the political will to carefully avoid these mistakes, the purge list is ripe for plunder.¹⁰

2012 Non-Citizen Voter Roll Purge Prior to U.S. Presidential Election

Florida conducted two separate purges to remove non-citizens from the rolls prior to the presidential election. Known as “Project Integrity,” this effort drew lawsuits from the U.S. Justice Department and voting-rights groups. Because the state used a flawed system that relied on often out-of-date motor vehicle records, numerous eligible voters were wrongly flagged. The 11th Circuit Court of Appeals found that the purge violated the National Voter Registration Act, which bans the systematic removal of voters from the rolls within 90 days of an election. (*League of Women Voters et al., v. Detzner et al.*).

2014 Non-Citizen Voter Roll Purge Prior to Mid-Term Election

Undeterred, Governor Scott’s administration continued “Project Integrity” and again attempted to purge non-citizens from the voter rolls in 2014. The program was quickly suspended when county election officials, suspicious of its timing, resisted conducting the purge.

Felony Disenfranchisement

Florida is one of only four states in the country that require individuals to personally petition the Governor’s Executive Clemency Board to have their voting rights reinstated following a felony conviction. Rather than simply reinstating former felons’ voting rights once they have served their sentences, they must travel to a clemency hearing, which are held four times annually. If the governor denies clemency, the petitioner returns home without the full privileges of citizenship.

Gov. Scott’s Administration took full advantage of this anachronism, rolling back decades of reforms related to felon disenfranchisement. Florida is now the most punitive state in the U.S. in terms of denying ex-felons voting rights. In the period between 2010 and 2016, the Scott Administration restored voting rights to only 2,000 Floridians, leaving 20,000 applications pending. In contrast the previous administration under Gov. Crist restored rights to 155,315. Not only did Gov. Scott deny clemency to a majority of applicants, the disenfranchised population also grew by an additional 150,000.¹¹

Presently 27% of all United States disenfranchised former felons live in Florida. By 2016, the number of disenfranchised Floridians had increased to 10.4% of its citizens. Fully 21% of black eligible voters are disenfranchised. And one-tenth of Florida’s voting age population cannot vote because of felon disenfranchisement (potentially 1.5 million votes).¹²

Despite widespread media coverage regarding hanging chads and butterfly ballots during the 2000 presidential election, it was the purge of former felons from the voter rolls that resulted in a significant loss of votes in Florida. Governor Jeb Bush’s administration ordered the purge of 58,000 ex-felons from the voter rolls just prior to the election. The state hired an outside company to conduct the purge and used deeply flawed criteria to match the felon list with voter rolls, resulting in numerous false-positive matches. Florida wrongly labeled 12,000 registered voters as ex-felons and scrubbed them from the voter rolls. This figure is significant because George W. Bush beat Al Gore by only 537 votes that year. Many people attempting to vote on Election Day were turned away. A disproportionate number of them were black voters, given that the voter rolls were 11% black, whereas the felon list was 44% black.¹³

And in 2004, a voter roll purge under Governor Jeb Bush's Administration was carried out by the Department of Elections prior to the re-election of George W. Bush (Jeb Bush's brother). Approximately 48,000 felons were scrubbed from the voter rolls. More than 22,000 black were removed, while only 61 Hispanics were removed. Blacks were 90% Democrats, while Hispanics in Florida were largely Republican at the time.¹⁴

Efforts to Remedy Voting Rights Restoration

In February 2018, U.S. District Court Judge Mark Walker ruled in *Hand v. Scott* that Florida's process for restoring voting rights to felons was unconstitutional.¹⁵ Walker held that while the 14th Amendment does permit states to disenfranchise convicted felons, it does not permit a state to give a handful of government officials "unfettered discretion and no meaningful time restraints" in deciding whether to restore voting rights to former felons. Judge Walker ordered the parties to submit briefs on what they believe the appropriate remedy to be. Whether he orders a mass restoration or just requires Florida to come up with new standards remains to be seen, as do future appeals to his decision.

In addition to the judicial challenge, Florida's policy on felony disenfranchisement is being challenged at the ballot box as well. Floridians for a Fair Democracy supports the November 2018's Ballot Initiative "*Voter Restoration Amendment*" (Amendment 4). This initiative would restore voting rights to ex-felons after completing all terms of a sentence, including probation and parole. The 501(c)(4) nonprofit Floridians For a Sensible Voting Rights Policy opposes the ballot initiative but has not formally registered as a ballot initiative political committee, and no counter initiative is set to appear on the November 2018 ballot.¹⁶

Opportunities to Improve Voter Registration Rates in Florida

Puerto Ricans are among the many poor, minority, and/or displaced voters not being represented in Florida's voter rolls. The number of Puerto Ricans resettling in Florida following Hurricane Maria was estimated last fall to be 200,000 to 300,000. Thus far, the number of new Puerto Ricans registering to vote has not supported these estimates. For example, of the one million Puerto Ricans living in Florida, approximately one third lived in Central Florida before the hurricane, yet state records show that only 9,341 new Hispanic voters were registered between Sept. 20 and Dec. 31, 2017. They made up fewer than half the total new voter registrations in the four counties during the same period.¹⁷

Despite the dismal record of Republican-led voter disenfranchisement efforts in Florida, there is great potential for positive growth. A full one-fourth of the state's adult population is not registered to vote. Get out the vote efforts and early registration initiatives in local communities offer opportunities to improve voter registration rates. Relatively simple changes in voter ID regulations, ex-felon disenfranchisement procedures, and legislation against arbitrary voter purges could yield literally millions of new voters. Democrat or Republican alike, greater voter participation can only be good for our democracy.

¹ <https://www.motherjones.com/politics/2015/10/jeb-bush-florida-felon-voting-rights-clemency/>

² <https://www.liebertpub.com/doi/abs/10.1089/elj.2012.0157>

³ http://www.bobgrahamcenter.ufl.edu/sites/default/files/changes_in_florida_election_laws_since_2001_final_april32013_0.pdf

⁴ <http://www.brennancenter.org/analysis/new-state-voting-laws-ii-protecting-right-vote-sunshine-state>

⁵ <http://dos.myflorida.com/elections/for-voters/voter-registration/register-to-vote-or-update-your-information/>

⁶ <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>

⁷ www.aclu.org/other/oppose-voter-id-legislation-fact-sheet

⁸ http://money.cnn.com/2011/08/17/pf/social_security_deaths_mistakes/

⁹ <https://www.wired.com/2008/09/voter-database-glitches-could-disenfranchise-thousands/?currentPage=all>

¹⁰ <https://www.rollingstone.com/politics/features/the-gops-stealth-war-against-voters-w435890>

¹¹ <https://www.brennancenter.org/blog/turning-back-clock-florida>

¹² <https://thinkprogress.org/florida-elections-shut-out-1-5-million-voters-these-people-want-to-change-that-54d9e0ab9437/>

¹³ <https://www.thenation.com/article/how-the-2000-election-in-florida-led-to-a-new-wave-of-voter-disenfranchisement/>

¹⁴ <https://www.motherjones.com/politics/2015/10/jeb-bush-florida-felon-voting-rights-clemency/>

¹⁵ <https://thinkprogress.org/federal-court-decision-voting-rights-aea61633d8ab/>

¹⁶ <https://secondchancesfl.org/>

¹⁷ <http://www.orlandosentinel.com/news/politics/political-pulse/os-puerto-rican-voter-registration-20180126-story.html>