

Issue: VA Voting Rights

Democrats Protect the Right to Vote in Virginia

One of the main pillars of our democracy is the constitutional right to vote. When Republicans controlled the state legislature, they passed restrictive voting laws that prevented eligible voters from exercising that sacred right. Those laws disproportionately affected people of color, low-income citizens, and young voters. After taking control of the legislature in 2019, Democrats have acted to restore democracy to Virginia. Ensuring the right to vote for all eligible citizens has been one of their top priorities for the past two years.

In a study about the ease of casting a ballot in the U.S., Virginia ranked 49th in 2018 when the Republicans controlled the legislature.¹ Virginia was second only to Mississippi as the hardest state in which to exercise the right to vote.² In 2020, after the Democrats had gained a majority in both houses of the state legislature and had overturned the voter suppression policies of the Republicans, Virginia rose to the 12th easiest state in which to vote.³ In doing so, the Democrats carried out the will of the people. A recent survey revealed that 65 percent of Virginians support universal suffrage.⁴

Below are some of the more important Democrat-sponsored laws enacted in 2020 and 2021 to protect the right to vote and preserve democracy in Virginia.

Expanded Voting by Mail

Both voter turn-out overall and vote-by-mail in particular reached record highs in Virginia in the November 2020 election.⁵ Prior to the election, the Democratic-led legislature changed the law to allow any registered voter to vote by absentee ballot. This change was especially important to protect citizens during the COVID-19 pandemic. Since then, the Democrats have made vote-by-mail even more accessible and convenient. A recent Stanford study shows that vote-by-mail does not favor either party, despite claims to the contrary by politicians and the media.⁶

No-Excuse Absentee Voting

HB1 and SB11—2020 (Only 12 out of 64 Republican legislators voted for this bill.)⁷

Under Republican rule, absentee voting was not allowed unless the individual satisfied one of the excuses on the restricted statutory list as a reason for not voting in person on Election Day. However, that law changed in 2020 after the Democrats gained a majority in the legislature. Now any registered voter may vote by mail up to 45 days before the election. No-excuse absentee voting removes many of the obstacles to voting caused by having to be physically present at a specific location on a certain day. Workers not entitled to paid leave do not have to miss work and lose income. Parents do not have to pay for childcare so they can stand in line to vote. Voters without transportation do not have to incur the expense of getting to the polls. Long lines at the polls, which exacerbates those problems, can be avoided, as well as the time and expense involved in the bureaucratic process of trying to qualify for an absentee ballot based on a statutory excuse.⁸

Permanent Absentee Voter List

HB207—2020 (Only 1 out of 64 Republican legislators voted for this bill.)⁹

Under Republican rule, not only did an individual have to meet one of the listed excuses to vote absentee, but also had to re-apply every time an election was held. Democrats eliminated that burden by establishing a permanent absentee voter list. Effective July 1, 2021, any registered voter can apply to have an absentee ballot mailed to her/him on an ongoing basis for every election without having to re-apply.

Drop-Off Boxes

SB1245—2021 (Not a single Republican voted for this bill.)¹⁰

Drop-off boxes must be installed at each local registrar's office and each voter satellite office for voters to return their absentee ballots before or on Election Day. This law also requires drop-off boxes at each polling place on the day of the election.

Process to Cure Errors on Absentee Ballots

SB1245-2021 (All Republican legislators voted against this bill.)¹¹

The same law above requires local registrars to pre-process absentee ballots received by the Friday before Election Day and notify the voter in writing or by email of errors and how to correct them. The law applies only to ballots received by the Friday before the election, and those ballots must be cured by noon of the third day after the election.

No Witness Signature During Pandemic

SB1097—2021 (Only 1 Republican voted yes.)¹²

To protect citizens from contagion during the current or any future pandemic, Democrats suspended during public health emergencies the requirement for a witness signature on absentee ballots.

Expanded In-Person Voting

Election Day Designated as Legal Holiday

HB108 and SB601—2020 (Only 1 Republican voted for this bill.)¹³

To make it possible for more people to vote in person on Election Day without missing work or school, Democrats designated the first Tuesday after the first Monday in November (Election Day) as a legal holiday. Lee-Jackson Day (the state holiday celebrating the Confederate generals) was removed from the list of legal holidays.

Early Voting on Sundays

HB1968—2021 (No Republicans voted for this bill.)¹⁴

This law allows, but does not require, local registrars to make in-person absentee voting available on Sundays. Sunday voting has been an important way to increase voting participation among African Americans. Started in the 1990s, "Souls to the Polls" has become a national movement whereby organizers arrange caravans to transport churchgoers after a Sunday service to early voting locations.¹⁵

Repealed Photo ID Requirement

HB19 and SB65—2020 (No Republican legislators voted for this bill.)¹⁶

In 2013 Republicans enacted a strict photo voter ID law. Acceptable forms of ID were limited to a Virginia driver's license, a Virginia DMV-issued photo ID, a U.S. passport, an employee-issued photo ID, a photo ID issued by a federal or state government agency, or a student photo ID issued by a school located in Virginia. In lieu of the listed IDs, a citizen had to appear in person at the registrar's office to obtain a free state-issued photo voter ID.¹⁷

Photo ID laws adversely affect millions of potential qualified voters and have a disproportionate impact on minorities and low-income people. Nationwide, 11 percent of U.S. citizens do not possess government-issued photo IDs. Among African Americans, that figure is 25 percent, as opposed to 8 percent among whites. Low-income citizens are less likely to own a car or drive, attend college, or

have the type of job that issues an employee badge with a photo. Obtaining an ID (even a free one) involves costs that can be prohibitive for many, such as fees for birth certificates and other supporting documents, lost time from work, and travel expenses. Since each county has only one registrar's office, that office may be far away and not easily accessible by public transportation.¹⁸

Democrats repealed the photo ID requirement and added other non-photo documents to the list of acceptable voter IDs, such as a utility bill, bank statement, paycheck, government check, or other government document that includes the voter's name and address. Also, student photo IDs now include those issued by any institution of higher learning located in the U.S., not just Virginia. If the voter does not produce an ID, s/he must sign a statement subject to criminal fraud penalties confirming her/his identity before being allowed to vote.¹⁹

Made Voter Registration Easier

Automatic Voter Registration Through the DMV

HB235 and SB219—2020 (Only 1 Republican voted for this bill, and he said it was a mistake. He meant to vote no.)²⁰

When a qualified citizen interacts with the DMV or its website to apply for, renew, or change the address on her/his driver's license or photo ID, that person's information is sent to the Department of Elections (unless the person actively opts out.) The registrar then registers that person to vote or updates the person's address if s/he is already registered.

Same-Day Voter Registration

HB201—2020 (This bill received no support from Republican legislators.)²¹

As of October 1, 2022, Virginia will join 18 other states and D.C. in allowing voters to register and cast a ballot on the same day, up to and including Election Day. (Two additional states allow same-day registration *before* Election Day.) Currently, registration ends 21 days before an election.²²

Proposed State Constitutional Amendment to Restore Voting Rights to Former Offenders

HJ555 and SJ272—2021 (Only 2 Republicans voted for the amendment.)²³

Virginia has historically been one of the harshest states in the U.S. regarding the disenfranchisement of former felons. The state constitution states, "No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority."²⁴ Therefore, once convicted of a felony, a person is banned for life from voting, unless further action is taken. In most cases, redress depends on the judgment of a single person—the governor.

The state policy on felony disenfranchisement is rooted in racism. The intent of using felony disenfranchisement to suppress the Black vote can be traced back to the Virginia Constitutional Convention of 1902 during which delegates openly discussed that intent.²⁵ Current statistics bear out the racially discriminatory effects of Virginia's extremely harsh policy on felony disenfranchisement. Now nationally 6.2 percent of the African American population is disenfranchised as compared to 1.7 percent of the non-African American population. In Virginia, 1 in 7 African Americans (14 percent) are disenfranchised, which is more than twice the national average for African Americans.²⁶

In the 2021, the legislature passed a constitutional amendment that would automatically restore voting rights to all felons upon completion of their sentence. However, to become law in Virginia, a

constitutional amendment must be passed by a majority vote of both the state House and Senate and then passed a second time in the successive legislative session before appearing on the ballot for voter approval. Therefore, the amendment that was passed in 2021 must be passed again in the 2022 legislative session. If approved, the amendment would appear on the ballot in the November 2022 election.²⁷

Promoted Participation Among Minorities and Youth

Election Materials in Minority Languages

HB1210—2020 (Only 8 out of 64 Republicans voted yes.)²⁸

As of September 1, 2021, state election materials must be provided in a minority language if 5 percent of the voting-age population of the electoral district are a single-language minority, or 10,000 of the voting-age population are a single-language minority, or the district includes any part of a Native American reservation and 5 percent of the voting-age Native Americans is a single-language minority. In addition to meeting one of those three requirements, the single-language minority must have an illiteracy rate higher than the national illiteracy rate.

Pre-registration for 16- and 17-Year-Olds²⁹

HB 2125—2021 (No Republicans supported this bill.)

As of October 1, 2022, 16- and 17-year-olds may pre-register to vote in Virginia. Upon turning 18, those citizens are then automatically registered and eligible to vote.

Prohibited Partisan Gerrymandering

HB1255—2020 (This bill received 0 Republican votes.)³⁰

In 2020 Virginia voters passed a constitutional amendment creating a 16-member bipartisan redistricting commission.³¹ This bill sets the criteria by which that commission draws state and congressional election district lines based on the national census conducted every 10 years. The criteria allow no more than a 5-percent deviation in population among the districts, prohibit the drawing of district lines that results in undue advantage or disadvantage for any political party, require adherence to laws and court decisions regarding racial and ethnic fairness, preserve boundaries of cultural communities, consider compactness and contiguity, and define how incarcerated voters are to be counted. The bill also includes provisions of the Voting Rights Act of 1965 preventing the drawing of districts in ways that dilute the voting power of minority populations.

Adopted State-Level Version of the Voting Rights Act

HB1890 and SB1395—2021 (No Republicans voted in favor of this bill.)³²

Because of its long history of racially-targeted voter discrimination, Virginia was one of nine states required under Section 5 of the Voting Rights Act of 1965 to get federal approval from the Justice Department or a federal court before changing any state voting-related laws. However, in 2013, a ruling by the U.S. Supreme Court (*Shelby County v. Holder*) made the preclearance requirement unenforceable.³³ Without federal oversight, the Republican-led Virginia legislature enacted voter suppression laws, such as the strict photo ID requirement. However, after flipping both chambers of the state legislature in the 2019 election, the Democrats overturned the racially-biased election policies of the Republicans. To address future attempts to adopt racially discriminatory voting rules, the Democrats enacted in 2021 a state-level version of the federal Voting Rights Act. Virginia is the first Southern state to do so.³⁴

Under the Virginia Voting Rights Act, any proposed changes in election procedures must undergo a review process before being implemented. Local election officials have a choice of either getting approval from the state attorney general or publicizing and taking public comments for 30 days, followed by another 30-day waiting period during which the attorney general, civil rights groups, and any voter affected by the change can file a court challenge. Examples of changes subject to review would be closing polling locations, changing local election district boundaries, or creating at-large seats on local governing bodies that would dilute the power of minorities to elect representatives. Proceeds from any lawsuit go to a voter education fund.

Conclusion

The threat of voter fraud is a Republican fraud in itself. Numerous studies by universities, government agencies, and nonprofits have shown that the incidence of voter fraud is inconsequential³⁵—“infinitesimal” according to one study,³⁶ less likely than the chances of being hit by lightning, according to another.³⁷ The five states that conduct elections almost exclusively by mail-in ballot (Utah, Colorado, Washington, Oregon, Hawaii) report that voter fraud is “extremely rare.”³⁸ Republicans have invented this problem to justify their voter suppression campaign.³⁹ By expanding voting rights to make it easier for all eligible citizens to participate in elections, Virginia Democrats are leading the effort to protect our democracy.

NOTE: The endnote for each bill includes links to the Virginia Legislative Information System showing how the State Senators and House Delegates voted. In the body of this document, the references to Republican votes in the parentheses next to each bill number were determined by comparing those vote tallies against the list of State Senators and Delegates on the Virginia General Assembly website, which shows party affiliation. Those lists can be found via these links:

<https://apps.senate.virginia.gov/Senator/index.php>

<https://virginiageneralassembly.gov/house/members/members.php>

¹ <https://newsroom.niu.edu/2018/09/25/new-study-scrutinizes-time-and-effort-it-takes-to-vote-in-each-state/>

² <https://www.nbc12.com/2018/10/23/study-finds-theres-only-one-state-us-where-its-harder-vote-than-virginia/>

³ <https://newsroom.niu.edu/2020/10/13/how-hard-is-it-to-vote-in-your-state/>

⁴ <https://acluva.org/en/press-releases/research-poll-shows-two-thirds-virginia-voters-support-universal-suffrage>

⁵ <https://www.elections.virginia.gov/resultsreports/registrationturnout-statistics/>

⁶ <https://siepr.stanford.edu/research/publications/neutral-partisan-effects-vote-mail-evidence-county-level-roll-outs>
<https://news.stanford.edu/2020/09/03/examining-effects-challenges-mail-in-voting/>

⁷ <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=HB1>
<https://www.elections.virginia.gov/media/electionadministration/electionlaw/2020-Changes-to-Virginia-Election-Laws.pdf> (p. 4)
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+SV0882HB0001+HB0001>
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+HV1464+HB0001>

⁸ https://ballotpedia.org/Arguments_for_and_against_no-excuse_absentee/mail-in_voting

⁹ <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=HB207>
<https://www.elections.virginia.gov/media/electionadministration/electionlaw/2020-Changes-to-Virginia-Election-Laws.pdf> (p. 4)

<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+SV2010HB0207+HB0207>
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+HV2157+HB0207>

¹⁰ <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+SB1245>
<https://www.vpap.org/bills/72660/SB1245/#>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+lst+APP+SB1201>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+SV0592SB1245+SB1245>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+HV2091+SB1245>

¹¹ Ibid.

¹² <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+SB1097>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+lst+APP+HB2307>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+SV0321SB1097+SB1097>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+HV1808+SB1097>

¹³ <https://www.elections.virginia.gov/media/electionadministration/electionlaw/2020-Changes-to-Virginia-Election-Laws.pdf> (p. 11)
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+HB108&201+sum+HB108>
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+SV0977HB0108+HB0108>
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+HV0495+HB0108>

¹⁴ <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+HB1968>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+lst+APP+HB1887>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+SV0222HB1968+HB1968>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+HC1049+HB1968>

¹⁵ <https://www.unionreview.org/articles/the-black-churchs-history-getting-souls-to-the-polls/>
<https://www.npr.org/2021/03/22/977929338/black-church-leaders-in-georgia-on-the-importance-of-souls-to-the-polls>
<https://www.washingtonpost.com/politics/2021/02/24/new-georgia-legislation-would-curb-souls-polls/>

¹⁶ <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+hb19&201+sum+hb19>
<https://www.elections.virginia.gov/media/electionadministration/electionlaw/2020-Changes-to-Virginia-Election-Laws.pdf> (p. 16)
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+SV1810HB0019+HB0019>
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+HV1986+HB0019>

¹⁷ <https://www.nytimes.com/2013/02/21/us/virginia-passes-photo-id-voting-requirement.html>
https://scholar.harvard.edu/files/morse/files/14_jels_79.pdf (p. 87-89)
https://localmajority.org/wp-content/uploads/2017/08/VA.votingrights.kp_.6.11.17-1.pdf

¹⁸ <https://www.aclu.org/other/oppose-voter-id-legislation-fact-sheet>

¹⁹ <https://www.elections.virginia.gov/media/formwarehouse/voter-id/outreach-materials/documents/Voter-Identification-Chart-Rev-4-28-21.pdf>

²⁰ <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+hb235&201+sum+hb235>
<https://www.elections.virginia.gov/media/electionadministration/electionlaw/2020-Changes-to-Virginia-Election-Laws.pdf> (p. 16)
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+SV1694HB0235+HB0235>
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+HV1984+HB0235>

²¹ <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+hb201&201+sum+hb201>
<https://www.elections.virginia.gov/media/electionadministration/electionlaw/2020-Changes-to-Virginia-Election-Laws.pdf> (p. 16)

<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+SV1692HB0201+HB0201>
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+HV1918+HB0201>

²² <https://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx>

²³ <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+HJ555>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+lst+APP+HB2307>
<https://www.richmondsunlight.com/bill/2021/hj555/>
[https://ballotpedia.org/Virginia_Felon_Voting_Rights_Restoration_Amendment_\(2022\)](https://ballotpedia.org/Virginia_Felon_Voting_Rights_Restoration_Amendment_(2022))
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+SV0577HJ0555+HJ0555>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+HV2044+HJ0555>

²⁴ https://en.wikipedia.org/wiki/Felony_disenfranchisement_in_Virginia

²⁵ <https://www.theatlantic.com/politics/archive/2016/04/virginia-felon-disenfranchisement/480072/>

²⁶ <https://www.sentencingproject.org/publications/locked-out-2020-estimates-of-people-denied-voting-rights-due-to-a-felony-conviction/>

²⁷ [https://ballotpedia.org/Virginia_Felon_Voting_Rights_Restoration_Amendment_\(2022\)](https://ballotpedia.org/Virginia_Felon_Voting_Rights_Restoration_Amendment_(2022))

²⁸ <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+hb1210&201+sum+hb1210>
<https://www.elections.virginia.gov/media/electionadministration/electionlaw/2020-Changes-to-Virginia-Election-Laws.pdf> (p. 14)
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+SV1286HB1210+HB1210>
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+HV1670+HB1210>

²⁹ <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+HB2125>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+lst+APP+HB2009>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+SV0223HB2125+HB2125>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+HC1309+HB2125>

³⁰ <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+hb1255&201+sum+hb1255>
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+SV2034HB1255+HB1255>
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+vot+HV2179+HB1255>

³¹ https://ballotpedia.org/Redistricting_in_Virginia

³² <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+HB1890>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+lst+APP+HB1887>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+SV0618HB1890+HB1890>
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+vot+HV2069+HB1890>

³³ <https://www.virginiamercury.com/2021/03/12/virginia-is-set-to-become-the-first-southern-state-with-its-own-voting-rights-act-heres-what-it-does/>
<https://www.npr.org/2021/02/26/971366621/virginia-is-poised-to-approve-its-own-voting-rights-act>
<https://www.nytimes.com/2021/04/02/us/politics/virginia-voting-rights-northam.html>

³⁴ Ibid.

³⁵ https://www.brennancenter.org/sites/default/files/legal-work/Briefing_Memo_Debunking_Voter_Fraud_Myth.pdf
https://www.brennancenter.org/sites/default/files/2019-08/Report_Truth-About-Voter-Fraud.pdf
<https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/>
<https://votingrights.news21.com/article/election-fraud/>

