

Issue: AZ Voter Suppression

## Recent Efforts to Suppress the Vote in Arizona

### Introduction

The United States is a backsliding democracy.<sup>1, 2, 3, 4, 5</sup> That is the consensus of numerous international organizations that study and rate the health of democracies around the world. Due to this democratic recession in the United States, the health of American democracy is now on par with that of Romania, Panama and South Korea. There are, in fact, 57 countries that rank better than the United States.<sup>6</sup>

One key reason for degradation of our democracy is that voting rights are being curtailed. Another is partisan interference in election administration.<sup>7</sup> Starting in January of 2021, the number of bills being passed to restrict voting and to inject partisanship into election management in Republican-controlled states has been extraordinary.<sup>8</sup> The pace has only accelerated in 2022.<sup>9</sup> Arizona Republicans have introduced about 10% of all the recent voter suppression legislation nationwide.<sup>10</sup> This is in spite of election and voter fraud being virtually non-existent.

### The Myth of Election and Voter Fraud

Republican voter suppression legislation is premised on the myth of voter fraud in the 2020 election. It's a myth because voter fraud is virtually non-existent. Instead, claims of fraud are a dog whistle tactic used by Republicans to suppress the votes of those voters they believe favor Democrats.

No evidence of wide-spread voter fraud that could have affected the outcome of the 2020 election has been found. The Associated Press did an extensive investigation into possible instances of voter fraud in six purple states. The AP found there was no fraud in any of those states. Out of around 25 million votes cast in six swing states, there were only 475 cases of voting irregularities.<sup>11</sup>

In Arizona in the 2020 general election, there were 230 cases of voter irregularities out of about 3.4 million ballots cast—or about .007% (this is equal to 7 out of 100,000 votes).<sup>12</sup>

The Pima County Attorney's office cited one example where a few voters cast two ballots. However, the voters were unaware that their votes could potentially be counted twice.<sup>13</sup> (Possibly these voters voted twice because in September of 2020, Trump encouraged voters to both cast ballots by mail and in person, apparently thinking voters would be flagged at the polls if they had already cast a ballot by mail and thus would not be voting twice.<sup>14</sup>) Criminal charges were filed in just 10 cases in Arizona.<sup>15</sup>

Republicans used the myth of voter fraud to invite an sham election review by Cyber Ninjas, a firm with no experience in auditing elections.<sup>16</sup> Maricopa County election officials discredited close to 80 claims made by Cyber Ninjas.<sup>17</sup> Arizona taxpayers will end up paying for this partisan election review—an amount exceeding \$4 million, as of late February 2020.<sup>18</sup>

Despite a complete lack of evidence of voter fraud, Republicans throughout the country brought over 60 lawsuits claiming election fraud in the aftermath of the 2020 elections. With the exception of one case in Pennsylvania that involved the amount of time voters had to correct ballot errors, every case was thrown out of court.<sup>19</sup>

The repeated Republican claims of voter fraud damage democracy another way. Voter confidence in the electoral system is diminished with the repetition of untrue claims of electoral fraud.<sup>20</sup>

## Republicans' Voter Suppression and Election Meddling Legislation

By the beginning of February of 2022, Arizona Republicans had already filed 105 bills that would make it more difficult to vote or make election administration more partisan.<sup>21</sup> Although the vast majority of these bills did not become law, some have. Should more anti-democratic Republicans be elected to the Arizona legislature in the future, the likelihood of passage of extreme legislation increases.

Because of the sheer quantity of voter and election legislation introduced in Arizona, this paper will provide only a sampling of some of the more egregious bills. For further reading, please see the links in the Appendix.

### Overtaking Election Results

Republicans have introduced at least three bills that would have allowed the legislature to overturn election results it didn't like: HB 2596 (2022), HB 2720 (2022) and HB 2800 (2021). HB 2596 would have enabled the legislature to call a new election.<sup>22, 23, 24</sup> Another provision of that bill would have required all ballots to be counted *by hand* within 24 hours of the polls closing. It also would have eliminated early voting and mail voting. HB 2720 would have allowed the legislature to override the popular vote for any reason. HB 2800 would have required the legislature to come into session after every election to evaluate the results, and then affirm or reject the results.

None of these bills made it out of committee; they were so extreme that even some Republicans balked. For example, House Speaker Rusty Bowers effectively killed HB 2596 by sending it to all 12 standing committees.<sup>25</sup>

### Unconstitutional Legislation

A budget bill passed in 2021 (SB 1819) contained a number of election related provisions. One provision would remove voters from voting rolls who are registered to vote just for federal offices. Why? Because voting in federal elections does not require verification of citizenship. Voting for Arizona state offices does.<sup>26</sup> This bill also enabled the legislature to select private organizations to monitor the voting rolls of Arizonans who can vote in federal elections.<sup>27</sup>

The Arizona state constitution prohibits appropriations bills from containing unrelated policy items. A challenge to the bill resulted in parts of the bill being "nullified."<sup>28</sup>

HB 2492 (2022) was signed into law and will require proof of citizenship to register to vote. This bill conflicts with federal law and is expected to be contested in court. Voting rights advocates say this bill could "remove hundreds of thousands of eligible Arizonans from the voter rolls, giving them just 30 days to re-register to vote."<sup>29</sup>

### Hand Counting Ballots Introduces Errors

Several 2022 bills would have required hand counting of all ballots in all elections (HB 2289, HB 2596 and HB 2080). The first two of those bills also requires that results be completely tabulated within 24 hours of the polls closing.<sup>30, 31</sup> It is estimated that counting ballots by hand can introduce errors as

high as 2%.<sup>32</sup> (Taxpayers might reasonably ask if funds were appropriated to pay for the additional workers that would be required to hand count all ballots.)

## Searchable Ballots

Secret ballots are a core tenet of the American electoral system. Yet two 2022 Republican-introduced bills (HB 2780 and HB 2023) would have required that images of ballots be searchable online. HB 2780 would have also required the names and addresses of eligible and actual voters to be published online.<sup>33</sup> Although public ballot images would have been anonymized, research has shown that it is very easy to de-anonymize data.<sup>34</sup>

## Punishing Election Officials

A number of bills do more than just prohibit certain actions of election officials—they contain punitive provisions that could result in election officials being charged with a felony if they (even inadvertently) fail to follow the letter of the law.<sup>35</sup> Two laws which passed in 2021 would make it a felony for changing any dates or deadlines related to elections (HB 2794)<sup>36</sup> or sending a mail ballot to someone who did not request one (HB 2905).<sup>37</sup>

## Arizonans Like No-Excuse Mail Voting

Arizona has had no-excuse mail voting since 1991. By 2007, voters no longer had to request a mail ballot every year and the Permanent Early Voting List (PEVL) was born. Voters on the PEVL *were* automatically sent ballots in the mail. In recent elections, a vast majority of Arizonans—more than 80%— have voted by mail.<sup>38</sup> In fact, about 80% of Republican legislators are on the PEVL.<sup>39</sup> Republicans may say that mail voting increases fraud, but that claim is baseless.<sup>40</sup> Mail ballot safeguards includes checking every signature and tracking ballots.<sup>41</sup>

Despite Arizonans clear preference for mail ballots, legislation was passed in 2021 (SB 1485) that changed the PEVL to the Active Early Voting List (AEVL). Now voters who don't use their mail ballot frequently enough and don't respond to a notice from election officials are removed from the AEVL list.

Arizona Republicans filed a lawsuit with the state Supreme Court in February of 2022 in another attempt to eliminate voting by mail. The lawsuit claims that only voting in person is constitutional.<sup>42</sup> In April, the court declined to consider the case, saying that the case needed to be heard first by a lower court.<sup>43</sup> The state Republican Party then filed a case in Mohave County Superior Court in an attempt to curtail early voting; the judge again ruled against the Republican Party.<sup>44</sup>

## Making Voting More Difficult and Inconvenient

Bills have been introduced to:

- Eliminate drop boxes (HB 2238 and HB 1058, both from 2022)
- Prohibit voting centers, which are locations in a given jurisdiction where any voter can cast a ballot (HB 2240, 2022)
- Eliminate drive-through voting (SB 1058, 2022)
- Require that all voting occurs only on election day (HB 2596 and HB 2743, both 2022)

## Conclusion

While most of this anti-democratic legislation did not pass, that could change if Republicans gain more seats in the 2022 elections. Two Republicans—House Speaker Rusty Bowers and Senator Paul Boyer—who have stood up against some of the extreme legislation are not rerunning in 2022.

Voting rights is an issue Arizonans care about and a majority—60%—oppose the kinds of voting restrictions that Republicans in the legislature are introducing.<sup>45</sup> But only by electing more Democrats and taking control of one or both chambers will these threats to democracy be minimized.

## Appendix: Further Reading

It is beyond the scope of this paper to describe all or even most of the election-related legislation Republicans have introduced. However, the articles referenced below provide a good overview of the type of changes Republicans would like to introduce.

<https://www.phoenixnewtimes.com/news/arizona-lawmaker-wendy-rogers-wants-to-change-election-law-12773851>

<https://www.phoenixnewtimes.com/news/extreme-arizona-elections-bills-inching-closer-to-law-13323436>

<https://www.azcentral.com/story/news/politics/arizona/2022/02/15/arizona-legislature-100-plus-bills-introduced-restrict-elections/6693312001/>

<https://www.kold.com/2022/02/23/new-voting-laws-move-through-arizona-legislature/>

<https://www.washingtonpost.com/opinions/2022/03/03/arizona-republicans-target-voting-access/>

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<sup>1</sup> <https://freedomhouse.org/country/united-states>

<sup>2</sup> <https://www.npr.org/2021/11/25/1059262066/how-the-u-s-became-a-backsliding-democracy-according-to-a-european-think-tank>

<sup>3</sup> <https://www.nytimes.com/interactive/2022/03/17/magazine/democracy.html>

<sup>4</sup> <https://freedomhouse.org/countries/freedom-world/scores?sort=asc&order=Total%20Score%20and%20Status>

<sup>5</sup> [https://v-dem.net/media/publications/dr\\_2022.pdf](https://v-dem.net/media/publications/dr_2022.pdf)

<sup>6</sup> <https://freedomhouse.org/countries/freedom-world/scores?sort=asc&order=Total%20Score%20and%20Status>

<sup>7</sup> <https://freedomhouse.org/country/united-states/freedom-world/2022>

<sup>8</sup> <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>

<sup>9</sup> <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2022>

<sup>10</sup> <https://www.npr.org/2022/03/04/1083501487/arizona-republicans-continue-pushing-voting-restrictions-risking-backfire>

<sup>11</sup> <https://www.pbs.org/newshour/show/exhaustive-fact-check-finds-little-evidence-of-voter-fraud-but-2020s-big-lie-lives-on>

<sup>12</sup> <https://www.usnews.com/news/politics/articles/2022-01-14/no-charges-for-151-arizona-votes-vetted-over-fraud-claims>

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- <sup>13</sup> <https://www.usnews.com/news/politics/articles/2022-01-14/no-charges-for-151-arizona-votes-vetted-over-fraud-claims>
- <sup>14</sup> <https://www.reuters.com/article/us-usa-election-trump-vote/trump-encourages-supporters-to-try-to-vote-twice-sparking-uproar-idUSKBN25UOKK>
- <sup>15</sup> <https://www.usnews.com/news/politics/articles/2022-01-14/no-charges-for-151-arizona-votes-vetted-over-fraud-claims>
- <sup>16</sup> <https://bipartisanpolicy.org/press-release/bpc-elections-and-election-officials-cyber-ninjas-report-shows-glaring-ignorance-of-election-administration/>
- <sup>17</sup> <https://www.nbcnews.com/politics/politics-news/cyber-ninjas-company-led-arizona-gop-election-audit-shutting-down-n1287145>
- <sup>18</sup> <https://www.azcentral.com/story/news/politics/arizona/2022/02/23/arizona-audit-cost-to-taxpayers-for-2020-election-review-tops-4-million/6829459001/>
- <sup>19</sup> <https://www.politifact.com/factchecks/2021/jan/08/joe-biden/joe-biden-right-more-60-trumps-election-lawsuits-1/>
- <sup>20</sup> <https://cpb-us-e1.wpmucdn.com/sites.dartmouth.edu/dist/5/2293/files/2021/03/voter-fraud.pdf> (See abstract and pages 3 and 4.)
- <sup>21</sup> <https://www.abcl5.com/news/state/making-sense-of-the-105-election-reform-bills-filed-at-the-legislature>
- <sup>22</sup> [https://tucson.com/news/state-and-regional/govt-and-politics/arizona-bill-would-let-state-lawmakers-reject-election-results/article\\_96cfea46-7ee7-11ec-a699-63edfc9a0e58.html#tracking-source=article-related-bottom](https://tucson.com/news/state-and-regional/govt-and-politics/arizona-bill-would-let-state-lawmakers-reject-election-results/article_96cfea46-7ee7-11ec-a699-63edfc9a0e58.html#tracking-source=article-related-bottom)
- <sup>23</sup> <https://www.democracydocket.com/alerts/arizona-republicans-continue-voter-suppression-and-election-subversion-efforts/>
- <sup>24</sup> <https://www.azcentral.com/story/news/politics/legislature/2022/01/26/arizona-legislature-new-wave-far-reaching-election-bills-introduced/9228344002/>
- <sup>25</sup> <https://www.azcentral.com/story/opinion/op-ed/laurieroberts/2022/02/01/ahouse-speaker-just-killed-arizonas-most-outrageous-election-reform/9307151002/>
- <sup>26</sup> <https://www.azcentral.com/story/news/politics/arizona/2021/08/13/democrats-threaten-lawsuit-over-new-arizona-election-law/8128275002/>
- <sup>27</sup> <https://democrats.org/news/dnc-arizona-democrats-take-legal-action-against-republican-voter-suppression/>
- <sup>28</sup> <https://eu.azcentral.com/story/news/politics/arizona/2022/01/06/arizona-supreme-court-issues-opinion-backing-up-budget-bill-decision/9110857002/>
- <sup>29</sup> <https://www.azcentral.com/story/news/politics/elections/2022/03/30/proof-citizenship-bill-arizona-voters-signed-gov-ducey/7221503001/>
- <sup>30</sup> [https://www.azcentral.com/story/news/politics/arizona/2022/02/15/arizona-legislature-100-plus-bills-introduced-restrict-elections/6693312001?utm\\_source=azcentral-AZ%20Briefing&utm\\_medium=email&utm\\_campaign=baseline\\_greeting&utm\\_term=newsletter\\_greeting&utm\\_content=1531AR-E-NLETTTER02](https://www.azcentral.com/story/news/politics/arizona/2022/02/15/arizona-legislature-100-plus-bills-introduced-restrict-elections/6693312001?utm_source=azcentral-AZ%20Briefing&utm_medium=email&utm_campaign=baseline_greeting&utm_term=newsletter_greeting&utm_content=1531AR-E-NLETTTER02)
- <sup>31</sup> <https://www.azcentral.com/story/news/politics/arizona/2022/03/22/arizona-legislature-bill-end-early-voting-require-hand-counts-returns/9459281002/>
- <sup>32</sup> <https://www.azcentral.com/story/news/politics/legislature/2022/01/18/arizona-legislature-dozens-gop-bills-alter-voting-elections/9188425002/>
- <sup>33</sup> <https://www.azmirror.com/blog/every-voters-name-address-and-ballot-would-be-published-online-after-every-election-under-gop-proposal/>
- <sup>34</sup> <https://techcrunch.com/2019/07/24/researchers-spotlight-the-lie-of-anonymous-data/>
- <sup>35</sup> <https://www.abcl5.com/news/region-phoenix-metro/central-phoenix/looking-back-or-moving-forward-bills-aimed-at-changing-election-rules-move-forward>
- <sup>36</sup> <https://statesuniteddemocracy.org/wp-content/uploads/2021/04/FINAL-Democracy-Crisis-Report-April-21.pdf> (See page 14 of report.)
- <sup>37</sup> <https://azgovernor.gov/governor/news/2022/03/governor-ducey-signs-legislation-furthering-arizonas-position-leader-election#:~:text=H.B.%202905%20to%20prohibit%20a,the%20active%20early%20voting%20list>
- <sup>38</sup> <https://www.azmirror.com/2022/02/08/nearly-90-of-arizona-voters-use-early-ballots-republicans-would-eliminate-that-to-combat-imagined-fraud/>
- <sup>39</sup> <https://azcapitoltimes.com/news/2020/04/16/republicans-rail-against-all-mail-elections-but-they-vote-by-mail/>

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<sup>40</sup> <https://www.brookings.edu/policy2020/votervital/how-does-vote-by-mail-work-and-does-it-increase-election-fraud/>

<sup>41</sup> <https://news.azpm.org/p/newsfeature/2020/8/21/178857-arizonas-long-history-with-voting-by-mail/>

<sup>42</sup> <https://www.azcentral.com/story/news/politics/elections/2022/02/28/arizona-republican-party-asks-state-supreme-court-end-early-voting/9322681002/>

<sup>43</sup> <https://www.azcentral.com/story/news/politics/elections/2022/04/05/arizona-supreme-court-wont-hear-state-gop-lawsuit-end-early-voting/9477794002/>

<sup>44</sup> [https://www.azcentral.com/story/news/politics/elections/2022/06/06/arizona-early-voting-upheld-judge-rejecting-gop-attempt-end/7507444001?utm\\_source=azcentral-AZBriefing&utm\\_medium=email&utm\\_campaign=baseline\\_greeting&utm\\_term=newsletter\\_greeting&utm\\_content=PPHX-1531AR-E-NLETTER02](https://www.azcentral.com/story/news/politics/elections/2022/06/06/arizona-early-voting-upheld-judge-rejecting-gop-attempt-end/7507444001?utm_source=azcentral-AZBriefing&utm_medium=email&utm_campaign=baseline_greeting&utm_term=newsletter_greeting&utm_content=PPHX-1531AR-E-NLETTER02)

<sup>45</sup> <https://crooked.com/articles/pollercoaster-voting-arizona/>