



# **Voter Protection Program**

## **The Impact of H.R. 1 & S.1 on Voting: An Analysis of Key States**

*March 23, 2021*



The Voter Protection Program (VPP) is organized and operated as a 501(c)(3) nonprofit organization with a mission to ensure safe, fair, and secure elections.

The VPP advances nonpartisan strategies and recommendations to protect the vote and make sure every vote is counted, with a specific focus on the unique tools available to state attorneys general, governors, secretaries of state, and law enforcement officials. The VPP includes experienced litigators who have worked in state and federal government in both Republican and Democratic administrations, national experts on voting rights and election protection, communications professionals with expertise advising state officials, and a bipartisan Advisory Board of former state and federal officials.

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For more information, visit  
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**Voter  
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## Introduction

American democracy is at a crossroads. A group of federal, state, and local officials have emerged from the unprecedented and unjustified attacks on the 2020 election determined to build on the historic voter participation we witnessed last year and improve the way we vote. Another equally determined group of officials and advocates are unwilling to abandon the assault on voting, despite its dangerous consequences—including the January 6 insurrection. The two camps are responsible for hundreds of bills in more than forty states across the country.

The For the People Act (H.R.1), which passed the U.S. House on March 4, 2021, and its Senate version, S.1, which receives its first Senate hearing on March 24, 2021, are at the center of that nationwide contest about our elections. The bill represents a once-in-a-generation opportunity to establish nationwide rules, using some of the best practices in the states. It would help protect the freedom to vote and block the worst attempts to build barriers to voting. If signed into law, the bill would restore voters to their rightful place: the center of American democracy. In the wake of the January 6 insurrection and the ongoing effort in most states to use the Big Lie that fueled that attack to roll back voting progress, the stakes could not be higher.

The general provisions of the For the People Act are clear, but there has been too little attention on how they will work from jurisdiction to jurisdiction. Although the bill is moving on the federal level, the power of election administration remains with the states. As the rules are applied by the states, the impacts will vary. Some states have already implemented many of the key election provisions in the bill—for example, they may use automatic voter registration, allow no-excuse absentee balloting, provide early voting days, require challenges to a voter's eligibility to be based on personal and reliable knowledge, restore civil rights to individuals who have served their time, or mandate the use of paper ballots that can be double-checked by the voter. Many other states do not, and H.R.1/S.1 would have significant democracy benefits for their residents.

In this first in-depth look at how H.R. 1/S. 1 would affect particular states, we focus on how the legislation would protect the freedom to vote in nine key places across the United States: Arizona, Georgia, Florida, Michigan, Minnesota, Nevada, Pennsylvania, Texas, and Wisconsin. These states set records for voter registration and participation in 2020 and saw the most aggressive attempts to undermine the will of the American people. The overall impact of H.R. 1/S. 1 is clear: voters in every state we surveyed will see a notable improvement on the ground as they cast their ballots.

In a state like Wisconsin, for example, voters will be afforded relief from the uncertainty and conflict that has characterized election administration. Year in and year out, if the bill becomes law, Wisconsin voters can be confident that there will be fifteen days of early voting and that congressional districts will be drawn free from the worst forms of gerrymandering.

In a state like Texas, voting barriers would be brought down. Automatic voter registration would have to be implemented for federal elections, and unfair and inaccurate voter purging practices would be barred. No-excuse absentee voting would be allowed beyond the current

group of over-65 voters eligible for it. Drop boxes for absentee votes would be deployed through the counties based on voter population. Partisan gerrymandering would be barred, and federal congressional districts would be drawn by an independent commission. For those concerned about fraud and safety, the bill would require that Texas modernize and strengthen its election systems against attacks through the use of mandated threat assessments, security requirements for voting machines, and audit requirements.

And those improvements are just to current law. The For the People Act would also help thwart the wave of regressive and anti-voter laws that is building in the states. Nationwide, states are debating bills seeking to limit the freedom to vote.<sup>1</sup> They are part of a coordinated strategy to distort election outcomes by throwing up barriers to particular groups of voters casting their ballots. Many of these bills are founded on blatantly false claims about election fraud that have been rejected in virtually every court to consider them and debunked by local leaders and experts alike, using the facts on the ground.<sup>2</sup> As former Attorney General William Barr reported, the U.S. Department of Justice did not see “fraud on a scale that could have effected a different outcome in the election.”<sup>3</sup> There is no need to remedy ills that never existed.

America faces a stark choice between embracing a dangerous, Big Lie-based anti-voter ideology, or one that empowers the American voter and secures our democracy. Compiled by legal teams with expertise in each of the jurisdictions catalogued, the nine state-by-state analyses that follow show the ways H.R.1/S.1 will ensure commonsense improvements to election administration of federal elections in the states supported by bipartisan leaders throughout the nation.

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<sup>1</sup> The Brennan Center for Justice, “State Voting Bills Tracker 2021,” *Brennan Center*, available at <https://www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021>.

<sup>2</sup> Voter Protection Program, “Countering Lies about the 2020 Election,” *Voter Protection Program*, January 13, 2021, available at <https://voterprotectionprogram.org/wp-content/uploads/2021/01/000A-Myths-and-Facts-of-the-2020-Presidential-Election-20210113-FINAL.pdf>; Jim Rutenberg, Nick Corasaniti and Alan Feuer, “Trump’s Fraud Claims Died in Court, but the Myth of Stolen Elections Lives On,” *The New York Times*, January 7, 2021, available at <https://www.nytimes.com/2020/12/26/us/politics/republicans-voter-fraud.html>; see also Reuters staff, “Fact check: Courts have dismissed multiple lawsuits of alleged electoral fraud presented by Trump campaign,” *Reuters*, February 15, 2021, available at <https://www.reuters.com/article/uk-factcheck-courts-election/fact-check-courts-have-dismissed-multiple-lawsuits-of-alleged-electoral-fraud-presented-by-trump-campaign-idUSKBN2AF1G1>.

<sup>3</sup> Michael Balsamo, “Disputing Trump, Barr says no widespread election fraud,” *AP*, December 1, 2020, available at <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d>.

American voters should not have to fight their way to the polls every year. H.R. 1/S. 1 establishes a secure foundation that protects the freedom to vote, which everyone should be able to agree on.

## **Arizona**

If enacted in its current form, the For the People Act (H.R.1/S.1) would make changes to federal elections in Arizona that would strengthen the freedom to vote and make it more difficult to enact voter suppression laws in the future. Several of the requirements of H.R.1/S.1—including those relating to universal mail-in or absentee voting and independent redistricting commissions—already exist in some form in Arizona. Other requirements, such as those relating to same day registration, would more fundamentally change Arizona’s procedures for conducting federal elections.

Here are the most salient ways in which H.R.1/S.1 would affect voting in Arizona:

### **Expanding & Protecting Voter Registration Opportunities**

- Requires Arizona to implement automatic voter registration using data reported by contributing agencies and makes available grants to assist Arizona in doing so.<sup>4</sup>
- Allows same-day registration on Election Day and during in-person early voting. Arizona currently requires registration to be received before midnight of the 29<sup>th</sup> day preceding the date of the election.<sup>5</sup>
- Mandates new minimum age for voter pre-registration from 17 years and six months to 16 years old. Arizona currently allows registration by any individual who will be 18 at the time of the next general election.<sup>6</sup> This change will allow voter registration drives during a general election to register voters for the election thereafter.
- Requires universities to serve as voter registration agencies and to appoint “Campus Vote Coordinators” responsible for disseminating voter registration information.<sup>7</sup>

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<sup>4</sup> H.R. 1, Title I, Subtitle A, Part 2.

<sup>5</sup> H.R. 1, Title I, Subtitle A, Part 3; *cf.* A.R.S. § 16-120.

<sup>6</sup> H.R. 1, Title I, Subtitle A, Part 10; *cf.* AZ Procedures Manual, Ch.1, II.B; A.R.S. § 16-101(A)(2).

<sup>7</sup> H.R. 1, Title I, Subtitle N, Part 1, § 1901.

- Allows voters to submit sworn affidavits in lieu of government-issued identification when voting. Arizona already allows voters to register as “federal-only” voters without documentary proof of citizenship but requires voters (with a limited exception for certain members of federally recognized Native American tribes) otherwise to prove identity in order to cast a ballot.<sup>8</sup>
- Prohibits the removal of a voter from the rolls based on the failure of a registered voter to respond to any notice sent under the National Voter Registration Act (NVRA) process, unless the notice is returned as undeliverable. Arizona already relies principally on this method and requires more than one piece of returned official election mail. Consistent with the NVRA, Arizona prohibits systematic cancellations of registration records within 90 days of a primary or general election.<sup>9</sup>

### **Mandating Secure, Accessible Early Voting & Absentee Voting**

- Requires Arizona to make in-person early voting available for 15 days before Election Day and imposes certain minimum requirements on the hours during which early voting is open during this time period.
- Requires that early voting polling places be accessible by public transportation “to the greatest extent practicable” and ensures certain levels of access in rural areas. Arizona currently has generous rules for early mail-in voting but leaves early in-person voting availability to the discretion of local officials.<sup>10</sup>
- Requires secure drop boxes be available 24 hours a day, for 45 days before Election Day, and that the number of drop boxes be based on county population.<sup>11</sup>
- Requires drop boxes be distributed on a non-discriminatory basis and sufficiently available in rural and Tribal communities. Tribal leaders must be consulted before determining the number and location of drop boxes on Tribal lands in a county. Arizona currently allows counties and municipalities to exercise discretion in choosing whether to establish drop box and drop-off locations. Such locations must be approved by the Board of Supervisors.<sup>12</sup>
- Requires Arizona to count mail-in ballots received up to ten days after Election Day if postmarked on or before Election Day. Arizona currently only counts ballots received on or before Election Day.<sup>13</sup>

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<sup>8</sup> H.R. 1, Title I, Subtitle G; *cf.* AZ Procedures Manual, Ch. 1, II.A(4); *id.* at Ch. 9, IV; A.R.S. § 16-579(A).

<sup>9</sup> H.R. 1, Title II, Subtitle F; *cf.* AZ Procedures Manual, Ch. 1, VIII(C), (D).

<sup>10</sup> H.R. 1, Title I, Subtitle H; *cf.* AZ Procedures Manual, Ch. 2, II; A.R.S. § 16-246(C).

<sup>11</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>12</sup> H.R. 1, Title I, Subtitle N, Part 1, § 1907; *cf.* AZ Procedures Manual, Ch. 2, I; *id.* at (C)(3).

<sup>13</sup> H.R. 1, Title I, Subtitle I; *cf.* A.R.S. §§ 16-547(C), 16-551(C).



- Allows Indian Tribes to designate one building per precinct at which ballots can be dropped off and allows certain voters to use the address of that building as their residential and mailing address for voter registration purposes.<sup>14</sup>

### **Protecting & Expanding Ballot Access**

- Makes Election Day a federal holiday.<sup>15</sup>
- Requires Arizona to take steps to ensure that voters wait no more than 30 minutes to vote. Arizona already requires the establishment of a wait time reduction plan intended to “ensure that voters do not have to wait in lines at the voting location for more than 30 minutes.”<sup>16</sup> In the 2016 General Election, Maricopa County agreed to adopt a Wait Time Reduction Plan to settle claims prompted by hours-long waits in that year’s primaries.<sup>17</sup>
- Mandates any changes to polling place locations be announced seven days before Election Day.<sup>18</sup> Arizona currently has no minimum notice requirement.
- Prohibits challenges to a voter’s eligibility based on race, ethnicity, or age by non-election officials. Requires all challenges to be submitted formally in writing, “supported by personal knowledge,” and “subject to an oath or attestation under penalty of perjury.” Arizona currently allows any qualified elector in the county to challenge a voter’s eligibility orally on Election Day. Under current practice, a challenged voter must affirm their eligibility under penalty of perjury even if they appear to be registered or vote a provisional ballot.<sup>19</sup>
- Requires that provisional ballots from eligible voters in the wrong precinct or polling place still be counted for those races in common with the correct precinct. The United States Supreme Court recently heard arguments on a challenge to Arizona’s current practice of not counting any portion of such ballots.<sup>20</sup>
- Requires Arizona to restore civil rights to people with felony convictions upon release from prison, and to offer voter registration materials upon eligibility. Arizona already allows those with only misdemeanor convictions to register to vote, but only allows ex-felons to have their voting rights restored upon certain conditions.<sup>21</sup>

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<sup>14</sup> H.R. 1, Title I, Subtitle N, Part 1, § 1904

<sup>15</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>16</sup> H.R. 1, Title I, Subtitle N, Part 1, § 1906; AZ Procedures Manual Ch. 8, IX; ARS 16-411.

<sup>17</sup> Adam DeRose, “Voting groups welcome Maricopa County plan to cut poll wait times,” *Cronkite News*, October 20, 2016, available at <https://cronkitenews.azpbs.org/2016/10/20/voting-groups-welcome-maricopa-county-plan-to-cut-polling-wait-times/>.

<sup>18</sup> H.R. 1, Title I, Subtitle N, Part 1, § 1902.

<sup>19</sup> H.R. 1, Title I, Subtitle C; *cf.* AZ Procedures Manual, Ch. 9, VII.

<sup>20</sup> H.R. 1, Title I, Subtitle G; *cf.* *Brnovich v. Democratic National Committee*, Docket No. 19-1257 (argument heard Mar. 2, 2021).

<sup>21</sup> H.R. 1, Title I, Subtitle E; *cf.* AZ Procedures Manual, Ch. 1, II.D.

## Strengthening Election Security & Trust in Elections

- Requires Arizona to begin pre-processing early voter ballots at least 14 days prior to the date of the election involved.<sup>22</sup>
- Requires the U.S. Postal Service to sweep its facilities and post offices daily to ensure that ballots are expeditiously transmitted to local election officials.<sup>23</sup>
- Prevents the U.S. Postal Service from enacting any new operational change that slows the delivery of voting materials in the 120 day period before an election. Prevents the U.S. Postal Service from enacting any new operational change that slows the delivery of voting materials in the 120 day period before an election.<sup>24</sup>
- Requires the U.S. Postal Service to appoint Election Mail Coordinators to assist election officials with any voting material questions.<sup>25</sup>
- Requires the voting system to produce a paper ballot that is verified by the voter before the vote is cast. Arizona currently requires direct-recording electronic voting machines to produce a paper ballot for audit purposes but does not require that the paper ballot be verified by the voter before being cast or that the paper ballot constitute the vote that is cast.<sup>26</sup>
- Permits the security of drop boxes through remote or electronic surveillance.<sup>27</sup>

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<sup>22</sup> H.R. 1, Title I, Subtitle I.

<sup>23</sup> Amendment 5 to H.R.1, Part B.

<sup>24</sup> Amendment 26 to H.R.1, Part B.

<sup>25</sup> Amendment 27 to H.R.1, Part B.

<sup>26</sup> H.R. 1, Title I, Subtitle F; *cf.* AZ Procedures Manual, Ch. 4 I.(A)(2)(3)(e)

<sup>27</sup> Amendment 9 to H.R.1, Part B.

## Florida

If enacted in its current form, the For the People Act (H.R.1/S.1) would make changes to federal elections in Florida that would strengthen the freedom to vote and make it more difficult to enact voter suppression laws in the future. Several of the requirements of H.R.1/S.1—including those relating to online voter registration—already exist in some form in Florida. Other requirements, such as those relating to automatic voter registration, restoration of civil rights for people with felony convictions, and early voting, would more fundamentally change Florida's procedures for conducting federal elections.

The following is a summary of the most salient ways in which H.R.1/S.1 would affect voting in Florida:

### **Expanding & Protecting Voter Registration Opportunities**

- Requires Florida to automatically register voters based on information available to specified state and federal agencies, so long as the resident does not opt out. Establishes a grant program to fund this new requirement.<sup>1</sup> Florida does not currently automatically register voters.
- Permits voters to register to vote at a polling place and vote on the same day. Applies to Election Day and early voting.<sup>2</sup> Floridians currently must register to vote 29 days before Election Day.<sup>3</sup>
- Prohibits using voter caging or unverified match lists to remove voters from the rolls without additional corroborating information.<sup>4</sup>

### **Mandating Secure, Accessible Early Voting & Absentee Voting**

- Establishes more options to obtain vote-by-mail ballots for disabled, overseas, and military voters.<sup>5</sup>
- Establishes a ballot tracking system, so voters can follow their ballot's status through the voting and counting process.<sup>6</sup>

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<sup>1</sup> H.R. 1, Title I, Subtitle A, Part 2.

<sup>2</sup> H.R. 1, Title I, Subtitle A, Part 3.

<sup>3</sup> Fla. Stat. § 97.055(1)(a).

<sup>4</sup> H.R. 1, Title I, Subtitle C.

<sup>5</sup> H.R. 1, Title I, Subtitle J.

<sup>6</sup> H.R. 1, Title I, Subtitle I.

- Protects the distribution of applications for absentee ballots and voter registration.<sup>7</sup>
- Gives voters the option of voting early for a full 15 days before an election, including opportunities before and after business hours, on weekends, and on the day before Election Day.<sup>8</sup> Florida currently does not permit early voting the day before Election Day and only requires early voting to begin 10 days before Election Day, although many counties begin early voting 15 days before Election Day.<sup>9</sup> Florida polls need not be open more than 8 hours per day for early voting.<sup>10</sup>
- Deems ballots postmarked by Election Day valid and must be counted, if delivered to election officials up to ten days after the election.<sup>11</sup> Except for overseas voters, current Florida law requires ballots be received by the local supervisor of elections by 7 p.m. on Election Day.<sup>12</sup>
- Requires the U.S. Postal Service to implement a same-day ballot processing effort and prohibits it from making operational changes that would slow the delivery of voting materials in the 120 day period before an election.<sup>13</sup>
- Requires that drop boxes be available 24 hours a day, for 15 days before Election Day and that the number of drop boxes be based on county population.<sup>14</sup>
- Requires drop box site to indicate how to check to make sure their votes were counted.<sup>15</sup>
- Florida currently requires drop boxes at every early-voting site and office of a supervisor of elections and permits drop boxes at additional locations.<sup>16</sup> The law would still markedly increase the number of drop boxes in Florida's urban centers, leading to approximately 100 more drop-boxes in Miami-Dade County, for example. Since the 2020 election, there have been calls to reduce or eliminate drop boxes in Florida.<sup>17</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> H.R. 1, Title I, Subtitle H.

<sup>9</sup> Fla. Stat. § 101.657(1)(d).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Fla. Stat. § 101.67(2).

<sup>13</sup> *Id.*

<sup>14</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>15</sup> *Id.*

<sup>16</sup> Fla. Stat. § 101.69(2).

<sup>17</sup> C.S. for C.S. for S.B. 90, §§ 3, 5 (Mar. 11, 2021); Renzo Downey, "Ron DeSantis, Blaise Ingoglia announce proposal for sweeping changes to Florida election laws," *Florida Politics*, February 20, 2021, available at <https://floridapolitics.com/archives/405105-ron-desantis-blaise-ingoglia-announce-sweeping-election-reform-proposal>.



## Protecting & Expanding Ballot Access

- Makes Election Day a federal holiday.<sup>18</sup>
- Requires Florida to take steps to ensure that voters wait no more than 30 minutes to vote.<sup>19</sup> Florida has experienced widely varying wait times, including reports of hours-long waits during 2020 early voting.<sup>20</sup>
- Requires that voters who are already registered be able to provide a sworn written statement on a state form to confirm their identity and eligibility to vote in the election.<sup>21</sup> Florida law requires registered voters to vote a provisional ballot if they cannot present an acceptable form of identification.<sup>22</sup>

## Restoring Civil Rights

- Requires Florida to restore civil rights to people with felony convictions once they are released from prison, and to offer voter registration materials upon eligibility.<sup>23</sup> Currently, Floridians with felony convictions can vote only after they have completed their probation and/or parole and paid any restitution, fines, court costs, or fees imposed.<sup>24</sup> H.R. 1/S. 1 could re-enfranchise more than 750,000 Floridians.<sup>25</sup>

## Strengthening Election Security & Trust in Elections

- Prohibits challenges to a voter's eligibility based on race, ethnicity, or age by non-election officials. Requires challenges to voter qualifications to be under oath, based on personal knowledge, and filed more than 10 days before Election Day.<sup>26</sup> Currently, while

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<sup>18</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>19</sup> *Id.*

<sup>20</sup> See, e.g., Aaron Leibowitz and David Smiley, "Florida Voters Get Up Before Dawn—and Wait—To Vote Early," *Miami Herald*, October 20, 2020, available at <https://www.miamiherald.com/news/politics-government/article246505920.html>.

<sup>21</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>22</sup> Fla. Stat. § 101.043(2).

<sup>23</sup> H.R. 1, Title I, Subtitle E.

<sup>24</sup> Advisory Op. to Gov. Re: Implementation of Amendment 4, 288 So. 3d 1070, 1072, 1084 (Fla. 2020).

<sup>25</sup> Gary Fineout, "Final tally, group says 67,000 felons registered in Florida after Amendment 4," *Politico*, October 19, 2020, available at <https://www.politico.com/states/florida/story/2020/10/19/final-tally-group-says-67-000-felons-registered-in-florida-after-amendment-4-1327176>.

<sup>26</sup> *Id.*

Florida requires such challenges to be under oath, it does not expressly require personal knowledge and permits challenges on Election Day.<sup>27</sup>

- Allows voters to check for errors and requires a paper ballot count for recounts.<sup>28</sup>
- Prevents Florida from rolling back voter protections already in state law, including:
  - Pre-registration of 16 and 17 year olds to vote immediately upon turning 18.<sup>29</sup>
  - Online voter registration.<sup>30</sup>
  - No voter ID required to request an absentee ballot.<sup>31</sup>
  - Notice of polling-place relocation at least seven days before Election Day.<sup>32</sup>
- Permits the security of drop boxes through remote or electronic surveillance.<sup>33</sup>

### **Ending Partisan Gerrymandering in Federal Congressional Redistricting**

- Currently, the state legislature crafts congressional districts in Florida, subject to state constitutional prohibitions on partisan gerrymandering.<sup>34</sup> There is no public input requirement. There has been concern, however, that the newly conservative state supreme court would not enforce those limitations as vigorously as in the last redistricting cycle. H.R.1/S.1. would do the following:
  - Requires Florida to set up an independent commission to draw federal congressional districts, which must take public input and operate in an open, transparent process.<sup>35</sup>
  - Prevents one party from dominating the process or excluding minority groups and takes map drawing away from politicians.<sup>36</sup>
  - Requires consideration of “communities of interest” when drawing congressional districts.<sup>37</sup>
  - Creates enforceable standards for evaluating and preventing partisan gerrymandering of congressional districts. Prohibits the use of party-based voting history in drawing districts (but not in evaluating them for partisanship).<sup>38</sup>

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<sup>27</sup> Fla. Stat. § 101.111.

<sup>28</sup> H.R. 1, Title I, Subtitle F.

<sup>29</sup> H.R. 1, Title I, Subtitle A, Part 10; Fla. Stat. § 97.041(1)(b)

<sup>30</sup> H.R. 1, Title I, Subtitle A, Part 1; Fla. Stat. § 97.0525.

<sup>31</sup> H.R. 1, Title I, Subtitle I; Fla. Stat. § 101.62.

<sup>32</sup> H.R. 1, Title I, Subtitle N, Part 1; Fla. Stat. § 101.71(2).

<sup>33</sup> Amendment 9 to H.R.1, Part B.

<sup>34</sup> Fla. Const. art. III, § 20.

<sup>35</sup> H.R. 1, Title III, Subtitle E.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

- Counts incarcerated Floridians as residents of their home community for purposes of representation, ending Florida’s prison gerrymanders.<sup>39</sup>

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<sup>39</sup> Id.



## Georgia

If enacted in its current form, the For the People Act (H.R.1/S.1) would make several changes to federal elections in Georgia which would strengthen the freedom to vote and make it more difficult to enact voter suppression laws in the future. Several of the requirements of H.R. 1—including those relating to universal mail-in voting and early voting—already exist in some form in Georgia, although there are pending legislative proposals in the state that would alter current practice. Other requirements, such as those relating to voter registration and partisan gerrymandering, would more fundamentally change Georgia’s procedures for conducting federal elections.

The following is a summary of the most salient ways in which H.R.1/S.1 would affect voting in Georgia:

### **Expanding & Protecting Voter Registration Opportunities**

- Provides for Automatic Voter Registration by triggering such registration when a citizen over the age of 16 interacts with designated state or federal agencies, including the DMV, educational institutions, and the Social Security Administration, unless the citizen affirmatively declines to register.<sup>1</sup> Georgia law provides that an application for a driver’s license or a fishing, hunting or trapping license by an applicant at least 17 and a half years old triggers an application for voter registration.<sup>2</sup> Georgia law also requires state offices administering public assistance programs or providing services to disabled to offer voting registration applications to people seeking such assistance and to offer help in filling out such applications.<sup>3</sup>
- Requires same-day voter registration.<sup>4</sup> Georgia law currently requires registration by the fifth Monday preceding the election.<sup>5</sup>
- Provides for pre-registration of 16 and 17 year olds.<sup>6</sup> Georgia law permits registration of voters who are at least 17 and a half years old.<sup>7</sup> In both cases, the registrant must be 18 years old in order to cast a ballot.

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<sup>1</sup> H.R. 1, Title I, Subtitle A.

<sup>2</sup> O.C.G.A. § 21-2-221.

<sup>3</sup> O.C.G.A. § 21-2-222. The statute imposes the same requirement on recruitment offices for the armed services.

<sup>4</sup> H.R. 1, Title I, Subtitle A.

<sup>5</sup> O.C.G.A. § 21-2-224.

<sup>6</sup> H.R. 1, Title I, Subtitle A.

<sup>7</sup> O.C.G.A. § 21-2-221.1.; O.C.G.A. § 21-2-216.

- Prohibits states from removing a voter from the voting rolls without documentation that a voter is not a Georgia resident and creates strict standards to prevent removal of eligible voters from the voting rolls based on cross-checks of databases.<sup>8</sup>

### **Mandating Secure, Accessible Early Voting & Absentee Voting**

- Provides voters the option of voting early for a full 15 days before an election, including opportunities before and after business hours, on weekends, and on the day before Election Day.<sup>9</sup> Georgia currently provides for early voting beginning 22 days before the election and requires polling places to be open during business hours on weekdays and on at least one Saturday.<sup>10</sup> Counties are permitted to offer early voting on weekends, including both Saturdays and Sundays, and to extend the hours during which polling places are open for early voting.<sup>11</sup> In 2020, some counties offered expanded early voting on weekends, including on Sundays, but others did not.
- Deems ballots postmarked by Election Day valid and require that they must be counted if delivered up to ten days after the election.<sup>12</sup> Under current Georgia law absentee ballots must be received by 7:00 p.m. on Election Day except for ballots cast by members of the armed forces, which are counted if received up to 3 days after Election Day.<sup>13</sup>
- Requires secure drop boxes be available 24 hours a day, for 45 days before Election Day, and that the number of drop boxes be based on county population.<sup>14</sup> Current Georgia law authorizes but does not require counties to establish drop boxes up to 49 days before an election.<sup>15</sup> In 2020, some counties provided drop boxes, and some did not.
- Mandates drop box sites also have clearly posted information to help voters track ballots and make sure their vote is counted.<sup>16</sup>

### **Protecting & Expanding Ballot Access**

- Requires Georgia to eliminate wait times of more than 30 minutes to vote.<sup>17</sup> Current Georgia law addresses wait times only for voters who are over 75 or disabled.<sup>18</sup>

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<sup>8</sup> H.R. 1, Title I, Subtitle A.

<sup>9</sup> H.R. 1, Title I, Subtitle H.

<sup>10</sup> O.C.G.A. § 21-2-385.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Ga. State Election Board Rule 183-1-14-.10.

<sup>14</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>15</sup> Ga. State Election Board Rule 183-1-14.

<sup>16</sup> *Id.*

<sup>17</sup> H.R. 1, Title I, Subtitle N.

<sup>18</sup> O.C.G.A. § 21-2-409.1.

- Mandates changes to polling place locations be announced seven days before Election Day.<sup>19</sup> Current Georgia law has no comparable provision.
- Requires challenges to voters other than by registrars to be sworn under oath and based on personal knowledge and prohibits challenges within 10 days of an election unless the voter registered within 20 days of the election and bars challenges based on race, ethnicity, or national origin.<sup>20</sup> Current Georgia law does not require challenges to be sworn or based on personal knowledge and may be made at any time before the elector votes.<sup>21</sup>

### **Creating an Alternative to Discriminatory “Voter ID” Laws**

- Permits registered voters to vote without presenting an ID card if they provide a sworn written statement on a state form, confirming their identity and eligibility to vote in the election.<sup>22</sup> Under current Georgia law voters are required to present a compliant photo ID in order to cast an in-person ballot.<sup>23</sup> Voters unable to present a valid ID must cast a provisional ballot, which is counted only if the registrar subsequently confirms the voter’s identification.
- Prohibits Georgia from requiring voters to submit a photo ID in order to receive an absentee ballot.<sup>24</sup> Current Georgia law requires a voter casting an absentee ballot to submit a photo ID if the voter is voting for the first time and did not submit a photo ID when he registered.<sup>25</sup>

### **Restoring Civil Rights**

- Requires Georgia to restore civil rights to people with felony convictions once they are released from prison, and to offer voter registration materials upon eligibility.<sup>26</sup> Currently, Georgians with felony convictions for offenses involving moral turpitude can vote only after they have completed their sentences.<sup>27</sup>

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<sup>19</sup> H.R. 1, Title I, Subtitle N.

<sup>20</sup> H.R. 1, Title I, Subtitle C.

<sup>21</sup> O.C.G.A. § 21-2-230.

<sup>22</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>23</sup> O.C.G.A. § 21-2-417.

<sup>24</sup> H.R. 1, Title I, Subtitle I.

<sup>25</sup> O.C.G.A. § 21-2-385.

<sup>26</sup> H.R. 1, Title I, Subtitle E.

<sup>27</sup> O.C.G.A. § 21-2-216.

## **Strengthening Election Security & Trust in Elections**

- Requires Georgia to begin processing mail-in ballots received during the early voting period, as opposed to current law, which provides that the pre-canvassing process can begin no earlier than 7:00 a.m. on Election Day.<sup>28</sup> This will reduce the kinds of delays that were exploited in 2020 to spread distrust in Georgia’s counting process.
- Requires the U.S. Postal Service to sweep its facilities and post offices daily to ensure that ballots are expeditiously transmitted to local election officials.<sup>29</sup>
- Prevents the U.S. Postal Service from enacting any new operational change that slows the delivery of voting materials in the 120 day period before an election.<sup>30</sup>
- Requires the U.S. Postal Service to appoint Election Mail Coordinators to assist election officials with any voting material questions.<sup>31</sup>
- Requires the voting system to produce a paper ballot that is verified by the voter before the vote is cast.<sup>32</sup>
- Permits the security of drop boxes through remote or electronic surveillance.<sup>33</sup>

## **Ending Partisan Gerrymandering in Federal Congressional Redistricting**

- Current Georgia law permits the state legislature to establish congressional districts without public input and for partisan advantage. H.R.1/S.1 would do the following:
  - Requires Georgia to set up an independent commission to draw federal congressional districts no later than November 15, 2021 after receiving public input.
  - Creates enforceable standards for evaluating and preventing partisan gerrymandering of congressional districts.<sup>34</sup>
  - Require consideration of “communities of interest” when drawing districts.<sup>35</sup>
  - Counts incarcerated Georgians as residents of their home community for purposes of representation, ending Georgia’s prison gerrymanders.<sup>36</sup>

**H.R.1/S.1 would preempt provisions of legislation pending in the Georgia legislature (S.B. 202 and H.B. 531) that would severely suppress voting rights.**

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<sup>28</sup> H.R. 1, Title I, Subtitle I; 25 P.S. § 3146.8.

<sup>29</sup> Amendment 5 to H.R.1, Part B.

<sup>30</sup> Amendment 26 to H.R.1, Part B.

<sup>31</sup> Amendment 27 to H.R.1, Part B.

<sup>32</sup> H.R. 1, Title I, Subtitle F.

<sup>33</sup> Amendment 9 to H.R.1, Part B.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

- H.B. 531 would require already registered absentee voters to submit identification in order to obtain or submit an absentee ballot. Current Georgia law requires only a signed statement, except that if a voter registered without submitting identification and is voting for the first time, identification is required.<sup>37</sup> H.R.1/S.1 would prohibit states from requiring that absentee ballots be witnessed and from requiring proof of identification unless the voter registered without submitting identification and is voting for the first time.<sup>38</sup>
- H.B. 531 would permit registered voters to request absentee ballots only during the period eleven weeks prior to election until two Fridays before the election. Current law permits such a request anytime between 180 days before the election until Election Day.<sup>39</sup> H.R.1/S.1 requires states to honor requests until five days before Election Day.<sup>40</sup>
- H.B. 531 would prohibit election officials from mailing absentee ballots until four weeks before the election. Current Georgia law requires prompt responses to requests for absentee ballots beginning between 45 and 49 days before Election Day.<sup>41</sup> H.R.1/S.1 would require states to send absentee ballots to disabled voters not later than 45 days before the election.<sup>42</sup>
- H.B. 531 would limit early voting to business hours during three weeks prior to Election Day, plus two weekend days, only one of which can be a Sunday. Current Georgia law requires early voting during business hours for 16 days (Monday through Friday of the three full weeks before the election plus the second Saturday) and permits counties to provide early voting during extended hours and on weekends.<sup>43</sup> In 2020, many counties permitted early voting on weekends, including Sundays. H.R.1/S.1 would require states to offer early voting for at least 15 consecutive days prior to the election for at least 10 hours per day, including on weekends and the day before the election.<sup>44</sup>
- H.B. 531 would allow ballot drop boxes only inside early-voting sites, only when those sites are open, and would allow only one drop box per 200,000 registered voters. Current Georgia law places no such restrictions on the number, location or available hours of drop boxes counties may require.<sup>45</sup> H.R.1/S.1 would require at least one drop box per every 20,000 voters and require that they be available 24 hours per day.<sup>46</sup>

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<sup>37</sup> O.C.G.A. § 21-2-385(a).

<sup>38</sup> H.R. 1, Title I, Subtitles I and N.

<sup>39</sup> O.C.G.A. § 21-2-381.

<sup>40</sup> H.R. 1, Title I, Subtitle I.

<sup>41</sup> O.C.G.A. § 21-2-384.

<sup>42</sup> H.R. 1, Title I, Subtitle B.

<sup>43</sup> O.C.G.A. § 21-2-385.

<sup>44</sup> H.R. 1, Title I, Subtitle H

<sup>45</sup> Ga. State Election Board Rule 183-1-14.

<sup>46</sup> H.R. 1, Title I, Subtitle N

- H.B. 531 would prohibit provisional ballots cast by registered voters at the wrong precinct from being counted. Current Georgia law requires such ballots to be counted for offices for which the voter was registered to vote.<sup>47</sup> H.R.1/S.1 would require such ballots to be counted.<sup>48</sup>

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<sup>47</sup> O.C.G.A. § 21-2-385.

<sup>48</sup> H.R. 1, Title I, Subtitle G

## Michigan

If enacted in its current form, the For the People Act (H.R.1/S.1) would make changes to federal elections in Michigan that would strengthen the freedom to vote and make it more difficult to enact voter suppression laws in the future. Many of the requirements of H.R.1/S.1—including those relating to voter registration, voting by mail, re-enfranchising persons with criminal records, and access for voters with disabilities—already exist in some form in Michigan. Other requirements, such as those relating to early voting, would more fundamentally change Michigan’s procedures for conducting federal elections.

The following is a summary of the most salient ways in which H.R.1/S.1 would affect voting in Michigan:

### **Expanding & Protecting Voter Registration Opportunities**

- Mandates new minimum age for voter pre-registration from 17 years and six months to 16 years old.<sup>1</sup> Currently law in Michigan requires voters be at least 18 years old on the day of the next election to register.<sup>2</sup>
- Requires universities to serve as voter registration agencies and to appoint “Campus Vote Coordinators” responsible for disseminating voter registration information.<sup>3</sup>
- Prohibits challenges to a voter’s eligibility based on race, ethnicity, or age by non-election officials. Imposes significant limitations on the ability to challenge a voter’s registration or eligibility, including by prohibiting challenges on Election Day other than by an election official, and requiring a challenger to submit an affidavit of good cause based on personal knowledge. Current law does not require personal knowledge nor an affidavit.<sup>4</sup>

### **Mandating Secure, Accessible Early Voting & Absentee Voting**

- Requires secure drop boxes be available 24 hours a day, for 45 days before Election Day, and that the number of drop boxes be based on county population.<sup>5</sup> In 2020, each election district determined whether drop boxes were used in Michigan. Many communities had none.

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<sup>1</sup> H.R. 1, Title I, Subtitle A, Part 10.

<sup>2</sup> “Who can register to vote in Michigan?,” *The Office of Secretary of State Jocelyn Benson*, accessed March 22, 2021, available at [https://www.michigan.gov/sos/0,4670,7-127-5647\\_12539\\_29836-88638—,00.html](https://www.michigan.gov/sos/0,4670,7-127-5647_12539_29836-88638—,00.html).

<sup>3</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>4</sup> H.R. 1, Title I, Subtitle C.

<sup>5</sup> H.R. 1, Title I, Subtitle N, Part 1.

- Requires Michigan to make early in-person voting available for 15 days before Election Day, including on weekends,<sup>6</sup> but the current scheme requires only that clerks accept absent voter ballots on a single day prior to Election Day.<sup>7</sup> Michigan currently allows in-person requests for and submission of absentee voter ballots before Election Day.<sup>8</sup>
- Requires Michigan to count absent voter ballots received up to ten days after Election Day if postmarked on or before Election Day, as opposed to current law, which prohibits counting absent voter ballots received after Election Day.<sup>9</sup>

### **Protecting & Expanding Ballot Access**

- Requires Michigan to take steps to ensure that voters wait no more than 30 minutes to vote.<sup>10</sup> While the statewide average wait time in Michigan has traditionally been below 20 minutes, in some neighborhoods voters waited in hours-long lines during the 2020 primary and general elections.<sup>11</sup>
- Allows voters to submit sworn affidavits to demonstrate eligibility to vote in lieu of government-issued identification, as opposed to current law, which requires those without acceptable identification to vote by provisional ballot.<sup>12</sup>
- Requires voters to have notice and a meaningful opportunity to cure any signature discrepancies, whereas under current law, election officials are required to inform absent voters of any signature discrepancies within 48 hours of receipt of the ballot or before 8:00 p.m. on the day before the election, whichever is first.<sup>13</sup>
- Restores civil rights to those serving misdemeanor sentences by limiting criminal conviction disenfranchisement to those currently serving felony sentences.<sup>14</sup>

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<sup>6</sup> H.R. 1, Title I, Subtitle H.

<sup>7</sup> M.C.L.A. § 168.761b.

<sup>8</sup> M.C.L.A. § 168.761b.

<sup>9</sup> H.R. 1, Title I, Subtitle I

<sup>10</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>11</sup> See, e.g.: Kayla Ruble et. al, "In pivotal Michigan, residents brave long lines and windy cold to cast early ballots," *The Washington Post*, November 2, 2020, available at:

[https://www.washingtonpost.com/politics/michigan-early-voting/2020/11/02/ee529d2c-1d59-11eb-90dd-abd0f7086a91\\_story.html](https://www.washingtonpost.com/politics/michigan-early-voting/2020/11/02/ee529d2c-1d59-11eb-90dd-abd0f7086a91_story.html), and C. Stewart III and S. Ansolabehere, "Waiting in Line to Vote," *U.S. Election Assistance Commission*, July 28, 2013, available at:

<https://www.eac.gov/documents/2017/02/24/waiting-in-line-to-vote-white-paper-stewart-ansolabehere>.

Note: it is still to be determined if "polling place" applies to early voting locations as well.

<sup>12</sup> H.R. 1, Title I, Subtitle G.

<sup>13</sup> H.R. 1, Title I, Subtitle I; M.C.L.A. § 168.761(2).

<sup>14</sup> H.R. 1, Title I, Subtitle E.



## Strengthening Election Security & Trust in Elections

- Requires Michigan to begin pre-processing early voter ballots at least 14 days prior to the date of the election involved, as opposed to current law, which prohibits processing absent voter ballots before Election Day.<sup>15</sup>
- Requires the U.S. Postal Service to sweep its facilities and post offices daily to ensure that ballots are expeditiously transmitted to local election officials.<sup>16</sup>
- Prevents the U.S. Postal Service from enacting any new operational change that slows the delivery of voting materials in the 120 day period before an election.<sup>17</sup>
- Requires the U.S. Postal Service to appoint Election Mail Coordinators to assist election officials with any voting material questions.<sup>18</sup>
- Requires the voting system to produce a paper ballot that is verified by the voter before the vote is cast.<sup>19</sup>
- Permits the security of drop boxes through remote or electronic surveillance.<sup>20</sup>

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<sup>15</sup> H.R. 1, Title I, Subtitle I.

<sup>16</sup> Amendment 5 to H.R.1, Part B.

<sup>17</sup> Amendment 26 to H.R.1, Part B.

<sup>18</sup> Amendment 27 to H.R.1, Part B.

<sup>19</sup> H.R. 1, Title I, Subtitle F.

<sup>20</sup> Amendment 9 to H.R.1, Part B.

## Minnesota

If enacted in its current form, the For the People Act (H.R.1/S.1) would make changes to federal elections in Minnesota that would strengthen the freedom to vote and make it more difficult to enact voter suppression laws in the future. Several of the requirements of H.R.1/S.1—including those relating to registration, and felon enfranchisement—already exist in some form in Minnesota. However, Minnesota is exempt from several provisions in H.R.1/S.1 because the state is exempt from the National Voter Registration Act of 1993.<sup>1</sup> Other requirements, such as those relating to early voting, would more fundamentally change Minnesota’s procedures for conducting federal elections.

The following is a summary of the most salient ways in which H.R.1/S.1 would affect voting in Minnesota:

### **Expanding & Protecting Voter Registration Opportunities**

Permits voters to provide a written statement on a state form, confirming their identity and eligibility to vote in the election.<sup>2</sup> Currently, Minnesota law requires proof-of-residence for same-day registration and absentee voting.<sup>3</sup>

### **Mandating Secure, Accessible Early Voting & Absentee Voting**

- Deems ballots postmarked by Election Day to be valid and requires that they be counted if they are delivered to election officials within ten days of the election.<sup>4</sup> Currently, Minnesota law requires that mail-in ballots be received by 8 p.m. on Election Day.<sup>5</sup>
- Requires secure drop boxes must be available 24 hours a day, for 45 days before Election Day, and that the number of drop boxes be based on county population.<sup>6</sup> Currently, Minnesota law allows voters to drop off absentee ballots with county and town officials before Election Day but does not contain any of the specific duration and number requirements included in H.R.1/S.1.<sup>7</sup>

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<sup>1</sup> “The National Voter Registration Act of 1993 (NVRA),” *U.S. Department of Justice*, March 11, 2020, [https://](https://www.justice.gov/crt/national-voter-registration-act-1993-nvra)

[www.justice.gov/crt/national-voter-registration-act-1993-nvra](https://www.justice.gov/crt/national-voter-registration-act-1993-nvra).

<sup>2</sup> H.R.1, §§ 1621, 1903.

<sup>3</sup> Minn. Stat. §§ 201.061, subd. 3, 203B.04, subd. 4.

<sup>4</sup> H.R.1, § 1621.

<sup>5</sup> Minn. Stat. § 203B.08, subd. 3; *see also Carson v. Smith*, 978 F.3d 1051 (8th Cir. 2020) (holding that the election-day deadline superseded a consent decree that had extended the deadline).

<sup>6</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>7</sup> Minn. Stat. § 203B.08, subd. 1; Minn. R. 8210.2100, 8210.2400.

- Mandates drop box sites also have clearly posted information to help voters track ballots and make sure their vote is counted.<sup>8</sup>
- Grants absent uniformed military officers and overseas Americans a private cause of action to enforce their rights under the Uniformed and Overseas Citizens Absentee Voting Act.<sup>9</sup>

### **Protecting & Expanding Ballot Access**

- Requires Minnesota to take steps to ensure that voters wait no more than 30 minutes to vote.<sup>10</sup>
- Mandates any changes to polling place locations be communicated by phone, as well as by text message and email (if possible), in addition to Minnesota's current mail requirement.<sup>11</sup>
- Requires Minnesota to restore civil rights to people with felony convictions upon release from prison and to inform these people of their voting rights in writing. Currently, Minnesotans with felony convictions can vote only after they have completed parole and supervised release.<sup>12</sup>

### **Strengthening Election Security & Trust in Elections**

- Requires the U.S. Postal Service to sweep its facilities and post offices daily to ensure that ballots are expeditiously transmitted to local election officials.<sup>13</sup>
- Prevents the U.S. Postal Service from enacting any new operational change that slows the delivery of voting materials in the 120 day period before an election.<sup>14</sup>
- Requires the U.S. Postal Service to appoint Election Mail Coordinators to assist election officials with any voting material questions.<sup>15</sup>
- Requires the voting system to produce a paper ballot that is verified by the voter before the vote is cast.<sup>16</sup>

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<sup>8</sup> *Id.*

<sup>9</sup> H.R.1, § 1702.

<sup>10</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>11</sup> H.R.1, § 1902; Minn. Stat. § 204B.16, subd. 1a.

<sup>12</sup> H.R.1, §§ 1403, 1405; Minn. Stat. § 609.165, subd. 1-2; *Schroeder v. Simon*, 950 N.W.2d 70, 74 (Minn. Ct. App. 2020).

<sup>13</sup> Amendment 5 to H.R.1, Part B.

<sup>14</sup> Amendment 26 to H.R.1, Part B.

<sup>15</sup> Amendment 27 to H.R.1, Part B.

<sup>16</sup> H.R. 1, Title I, Subtitle F.

- Permits the security of drop boxes through remote or electronic surveillance.<sup>17</sup>

### **Ending Partisan Gerrymandering in Federal Congressional Redistricting**

- Under current Minnesota law, the legislature crafts congressional districts, subject to gubernatorial veto. It can do so for partisan advantage or to favor incumbents. H.R.1/S.1 would do the following:
  - Mandates that Minnesota conduct congressional redistricting by independent redistricting commission, rather than the Minnesota state legislature.<sup>18</sup>
  - Counts incarcerated Minnesotans as residents of their home community for purposes of representation, not their place of incarceration.<sup>19</sup>

Because Minnesota is exempt under the NVRA, it is not subject to the requirement that states implement automatic voter registration and pre-registration of 16 and 17 year olds to vote immediately upon turning 18.<sup>20</sup>

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<sup>17</sup> Amendment 9 to H.R.1, Part B.

<sup>18</sup> H.R.1, § 2401; Minn. Stat. § 2.91, subd. 1.

<sup>19</sup> H.R.1, § 2701.

<sup>20</sup> H.R.1, §§ 1012, 1018.

## Nevada

If enacted in its current form, the For the People Act (H.R.1/S.1) would make changes to federal elections in Nevada that would strengthen the freedom to vote and make it more difficult to enact voter suppression laws in the future. Several of the requirements of H.R.1/S.1—including those relating to universal absentee voting and automatic voter registration—already exist in some form in Nevada. Other requirements, such as those relating to gerrymandering, would more fundamentally change Nevada’s procedures for conducting federal elections.

The following is a summary of the most salient ways in which H.R.1/S.1 would affect voting in Nevada:

### **Expanding & Protecting Voter Registration Opportunities**

- Requires states to use Automatic Voter Registration (AVR) for federal elections,<sup>1</sup> which is consistent with Nevada’s current practice of using AVR.
- Allows 16 and 17 year olds to pre-register to vote and then vote immediately upon turning 18.<sup>2</sup> Under current Nevada law, 17 year olds may pre-register to vote, but 16 year olds may not.
- Prohibits officials from using voter caging or unverified match lists to prevent any individual from registering or voting in a federal election.<sup>3</sup> In the 2020 election, several lawsuits were brought challenging the eligibility of voters based on match lists, and the Republican Party of Nevada sent a criminal referral to the U.S. Department of Justice based on match lists.<sup>4</sup>
- Requires election officials to complete cross-check purges at least six months prior to a given election,<sup>5</sup> in contrast to Nevada law which places no restrictions on when voter purges must be complete.

### **Mandating Secure, Accessible Early Voting & Absent Balloting**

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<sup>1</sup> H.R. 1, Title I, Subtitle A, Part 2.

<sup>2</sup> H.R. 1, Title I, Subtitle A, Part 10.

<sup>3</sup> H.R. 1, Title II, Subtitle F.

<sup>4</sup> See *Becker v. Cannizzaro* No. A-20-825130-W (Nev. Dist. Ct., Clark City.), *Law v. Whitmer*, No. 20 OC 00163 1B (Nev. Dist. Ct., Carson City), Celine Castronuovo, “Nevada Republican Party sends criminal referral to DOJ alleging thousands of cases of voter fraud,” *The Hill*, November 5, 2020, available at <https://thehill.com/homenews/campaign/524749-nevada-republican-party-sends-criminal-referral-to-doj-alleging-thousands>

<sup>5</sup> H.R. 1, Title II, Subtitle F.

- Requires secure drop boxes must be available 24 hours a day, for 45 days before Election Day, and that the number of drop boxes be based on county population.<sup>6</sup> In 2020, counties were only required to provide one drop boxes in their jurisdiction, and while some counties provided more, others did not. Moreover, their use was subject to litigation and contest.
- Expands accessibility requirements for ballot drop box locations to ensure unhoused communities can participate in federal elections.<sup>7</sup>
- Mandates drop box sites also have clearly posted information to help voters track ballots and make sure their vote is counted.<sup>8</sup>
- Deems ballots postmarked by Election Day valid and must be counted, if delivered to election officials up to ten days after Election Day.<sup>9</sup> Currently, Nevada law requires that a ballot must be received within seven days of Election Day to be counted.<sup>10</sup>
- Establishes more options to obtain absentee ballots for disabled, overseas, and military voters.<sup>11</sup>
- Mandates option to vote early (in-person absent) for a full 15 days before an election, including weekends and the day before Election Day.<sup>12</sup> Nevada currently provides for two weeks of early voting but exempts Sundays and federal holidays.<sup>13</sup>
- Requires early voting locations must be open at least ten hours each day, with hours before 9 a.m. and after 5 p.m.<sup>14</sup> Requires all polling stations to be open for a minimum of 4 total hours outside of the regular working hours from 9 a.m. to 5 p.m. in the time zone of the polling location.<sup>15</sup> Currently, Nevada law requires early voting locations to open eight hours each weekday and four hours each Saturday.<sup>16</sup>

## Protecting & Expanding Ballot Access

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<sup>6</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>7</sup> Amendment 15 to H.R.1, Part B.

<sup>8</sup> H.R. 1, Title I, Subtitle I.

<sup>9</sup> H.R. 1, Title I, Subtitle I.

<sup>10</sup> NRS § 293.317.

<sup>11</sup> H.R. 1, Title I, Subtitle J.

<sup>12</sup> H.R. 1, Title I, Subtitle H.

<sup>13</sup> NRS § 293.356(1).

<sup>14</sup> H.R. 1, Title I, Subtitle H.

<sup>15</sup> Amendment 50 to H.R.1, Part B.

<sup>16</sup> NRS § 293.356(3).

- Requires Nevada to take steps to ensure fair and equitable waiting time for all voters across the state and limits wait time at any polling place to no longer than 30 minutes.<sup>17</sup> During the 2020 election, hours-long lines were common in Nevada.<sup>18</sup>
- Mandates any changes to polling place locations be announced seven days before Election Day.<sup>19</sup>

### **Restoring Civil Rights**

- Requires Nevada to restore voting rights to people with felony convictions upon release from prison and to offer voter registration materials upon eligibility.<sup>20</sup> This is consistent with current Nevada law, which allows individuals convicted of a felony to vote upon release from prison.

### **Strengthening Election Security & Trust in Elections**

- Requires Nevada to begin pre-processing early voter ballots at least 14 days prior to the date of the election involved.<sup>21</sup> This will reduce the kinds of delays that were exploited in 2020 to spread distrust in Nevada's counting process.
- Requires the U.S. Postal Service to sweep its facilities and post offices daily to ensure that ballots are expeditiously transmitted to local election officials.<sup>22</sup>
- Prevents the U.S. Postal Service from enacting any new operational change that slows the delivery of voting materials in the 120 day period before an election.<sup>23</sup>
- Requires the U.S. Postal Service to appoint Election Mail Coordinators to assist election officials with any voting material questions.<sup>24</sup>
- Requires the voting system to produce a paper ballot that is verified by the voter before the vote is cast.<sup>25</sup>
- Permits the security of drop boxes through remote or electronic surveillance.<sup>26</sup>

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<sup>17</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>18</sup> Kaitlyn Olvera, "Voters face long lines, lengthy wait times as first day of early voting kicks off in Clark County," *8 News Now*, October 17, 2020, available at <https://www.8newsnow.com/news/local-news/voters-face-long-lines-lengthy-wait-times-as-first-day-of-early-voting-kicks-off-in-clark-county/>.

<sup>19</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>20</sup> H.R. 1, Title I, Subtitle E.

<sup>21</sup> H.R. 1, Title I, Subtitle I.

<sup>22</sup> Amendment 5 to H.R.1, Part B.

<sup>23</sup> Amendment 26 to H.R.1, Part B.

<sup>24</sup> Amendment 27 to H.R.1, Part B.

<sup>25</sup> H.R. 1, Title I, Subtitle F

<sup>26</sup> Amendment 9 to H.R.1, Part B.

## Ending Partisan Gerrymandering in Federal Congressional Redistricting

- Under current Nevada law, the legislature crafts congressional districts, subject to gubernatorial veto. It can do so for partisan advantage or to favor incumbents. There is no public input requirement. H.R.1/S.1 would do the following:
  - Prevents one party from dominating the process or excluding minority groups and takes map drawing away from politicians.<sup>27</sup>
  - Requires consideration of “communities of interest” when drawing districts.<sup>28</sup>
  - Counts incarcerated Nevadans as residents of their home community for purposes of representation, which is consistent with current Nevada law.
  - H.R.1/S.1 does not apply to redistricting for state or local offices.

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<sup>27</sup> H.R. 1, Title II, Subtitle E.

<sup>28</sup> H.R. 1, Title II, Subtitle E.



## Pennsylvania

If enacted in its current form, the For the People Act (H.R.1/S.1) would make changes to federal elections in Pennsylvania that would strengthen the freedom to vote and make it more difficult to enact voter suppression laws in the future. Several of the requirements of H.R.1/S.1—including those relating to universal mail-in voting, online registration, and felon enfranchisement—already exist in some form in Pennsylvania. Other requirements, such as those relating to early voting, would more fundamentally change Pennsylvania’s procedures for conducting federal elections.

The following is a summary of the most salient ways in which H.R.1/S.1 would affect voting in Pennsylvania:

### **Expanding & Protecting Voter Registration Opportunities**

- Requires further expansion of Pennsylvania’s DMV registration procedure.<sup>1</sup>
- Requires same-day voter registration for federal elections.<sup>2</sup> Currently, Pennsylvania voters must have registered to vote at least 15 days before any election.<sup>3</sup>
- Prohibits challenges to a voter’s registration less than 10 days before a federal election unless the individual registered to vote less than 20 days before the election.<sup>4</sup> In 2020, voter qualifications could be challenged up until the Friday before Election Day.<sup>5</sup>
- Lowers the minimum age for voter pre-registration from 18 to 16.<sup>6</sup> In Pennsylvania, you must be at least 18 on the day of the next election to register.<sup>7</sup>
- Requires universities to serve as voter registration agencies and to appoint “Campus Vote Coordinators” responsible for disseminating voter registration information.<sup>8</sup>
- Prohibits challenges to a voter’s eligibility based on race, ethnicity, or age by non-election officials. Imposes significant limitations on the ability to challenge a voter’s registration or eligibility, including by prohibiting challenges on Election Day other than

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<sup>1</sup> H.R. 1, Title I, Subtitle A, Part 8.

<sup>2</sup> H.R. 1, Title I, Subtitle A, Part 3.

<sup>3</sup> “Register to Vote,” *Votes PA*, accessed March 22, 2021, available at <https://www.votespa.com/Register-to-Vote/Pages/default.aspx>.

<sup>4</sup> H.R. 1, Title I, Subtitle C; 25 P.S. § 1329.

<sup>5</sup> Mark Morales et.al., “Key deadline to challenge mail-in ballot applications in Pennsylvania passes with few filings,” *CNN*, October 31, 2020, available at <https://www.cnn.com/2020/10/31/politics/deadline-philadelphia-pennsylvania-mail-in-challenge/index.html>.

<sup>6</sup> H.R. 1, Title I, Subtitle A, Part 10; 25 P.S. § 1301(a).

<sup>7</sup> “Voter Registration Requirements,” *Votes PA*, accessed March 22, 2021, available at <https://www.votespa.com/Register-to-Vote/Pages/Voter-Registration-Requirements.aspx>.

<sup>8</sup> H.R. 1, Title I, Subtitle N, Part 1.

by an election official, and requiring a challenger to submit an affidavit of good cause based on personal knowledge. Current law permits in-person challenges at the polling place to be made by any voter or a poll watcher, and which requires neither an affidavit nor personal knowledge.<sup>9</sup>

### **Mandating Secure, Accessible Early Voting & Absentee Voting**

- Requires secure drop boxes be available 24 hours a day, for 45 days before Election Day, and that the number of drop boxes be based on county population.<sup>10</sup> In 2020, the question whether counties could use drop boxes was resolved only after a lawsuit made its way to the state Supreme Court in September.<sup>11</sup> Only then did some counties begin using drop boxes, but their use was highly variable.<sup>12</sup>
- Mandates drop box sites also have clearly posted information to help voters track ballots and make sure their votes are counted.<sup>13</sup>

### **Protecting & Expanding Ballot Access**

- Makes Election Day a federal holiday.<sup>14</sup>
- Mandates that changes to polling place locations be announced seven days before Election Day.<sup>15</sup>
- Requires Pennsylvania to take steps to ensure that voters wait no more than 30 minutes to vote.<sup>16</sup> While the statewide average wait time in Pennsylvania has traditionally been in

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<sup>9</sup> H.R. 1, Title I, Subtitle C; 25 P.S. § 3050(d); *see also* Pennsylvania Department of State, “Guidance Concerning Poll Watchers and Authorized Representatives,” *Votes PA*, October 28, 2020, available at <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/Poll%20Watcher%20Guidance%20Final%2010-6-2020.pdf>.

<sup>10</sup> H.R. 1, Title I, Subtitle N, Part 1; *cf.* *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345, 361 (Pa. 2020), *cert. denied sub nom. Republican Party of Pennsylvania v. Degraffenreid*, 141 S. Ct. 732 (2021) (holding that the Election Code permits county boards of election to accept hand-delivered mail-in ballots at locations other than their office addresses including drop-boxes).

<sup>11</sup> *See Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345, 380 (Pa. 2020)

<sup>12</sup> “Pennsylvania Secretary Of State Reminds Voters About Drop Box Locations Ahead Of Nov. 3 Election,” *Pennsylvania Pressroom*, October 23, 2020, available at <https://www.media.pa.gov/pages/state-details.aspx?newsid=419>.

<sup>13</sup> *Id.*

<sup>14</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>15</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>16</sup> H.R. 1, Title I, Subtitle N, Part 1.

the range of 10 to 15 minutes, in some neighborhoods voters waited in hours-long lines during the 2020 primary and general elections.<sup>17</sup>

- Requires measures to make ballots and voting machines more accessible to people with disabilities.<sup>18</sup>
- Offers the opportunity to voters to submit sworn affidavits to demonstrate eligibility to vote in lieu of government-issued identification, as opposed to current law, which requires first-time voters to present identification to vote and to vote provisionally if they submit sworn affidavits in lieu of identification.<sup>19</sup>
- Requires voters have notice and a meaningful opportunity to cure any signature discrepancies, as opposed to current law, which is unclear, and seems to provide that in-person ballots must be marked as “challenged” when the voter’s signature does not match the signature on file,<sup>20</sup> but that election officials may not reject mail-in ballots based on signature discrepancies.<sup>21</sup>
- Requires Pennsylvania to restore civil rights to people with felony convictions once they are released from prison, which is consistent with current Pennsylvania law.<sup>22</sup>

### **Strengthening Election Security & Trust in Elections**

- Requires Pennsylvania to begin pre-processing mail-in ballots received during the early voting period, as opposed to current law, which provides that the pre-canvassing process

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<sup>17</sup> See, e.g., Lowell Melser, “Looooooooong lines form for hours in Pa. on Election Day,” *WBAL TV*, November 3, 2020, available at <https://www.wbaltv.com/article/election-day-long-lines-pennsylvania-voting/34564763#>; C. Stewart III, S. Ansolabehere, “Waiting in Line to Vote,” July 28, 2013, *U.S. Election Assistance Commission*, available at <https://www.eac.gov/documents/2017/02/24/waiting-in-line-to-vote-white-paper-stewart-ansolabehere>.

<sup>18</sup> H.R. 1, Title I, Subtitle F.

<sup>19</sup> H.R. 1, Title I, Subtitle G. The Pennsylvania Supreme Court struck down the State’s voter identification law, 25 P.S. § 3050(a.2), in *Applewhite v. Commonwealth*, 2014 WL 184988 (Pa. Cmwlth. Jan. 7, 2014). The statute remains technically on the books, even though struck down, creating the potential for confusion.

<sup>20</sup> H.R. 1, Title I, Subtitle I; 25 P.S. § 3050(a.3)(2).

<sup>21</sup> In re: November 3, 2020 General Election, 240 A.3d 591 (Pa. 2020).

<sup>22</sup> H.R. 1, Title I, Subtitle E. Although still on the books, the Pennsylvania statute (25 P.S. § 961.501, now codified as 25 P.S. § 1301(a)) that rendered persons incarcerated for a felony in the preceding five years ineligible to register has been declared unconstitutional. See *Mixon v. Com.*, 759 A.2d 442 (Pa. Cmwlth. Co. 2000), *aff’d*, 566 Pa. 616 (Pa. 2001). Current guidance issued by the Secretary of the Commonwealth promulgates the same standard for disenfranchisement as set forth in Title I, Subtitle E. See Pennsylvania Department of State, “Voting Rights of Convicted Felons, Convicted Misdemeanants and Pretrial Detainees,” *Votes PA*, accessed March 22, 2021, available at [https://www.votespa.com/Register-to-Vote/Documents/Convicted\\_felon\\_brochure.pdf](https://www.votespa.com/Register-to-Vote/Documents/Convicted_felon_brochure.pdf).

can begin no earlier than 7:00 a.m. on Election Day.<sup>23</sup> This will reduce the kinds of delays that were exploited in 2020 to spread distrust in Pennsylvania’s counting process.

- Requires the U.S. Postal Service to sweep its facilities and post offices daily to ensure that ballots are expeditiously transmitted to local election officials.<sup>24</sup>
- Prevents the U.S. Postal Service from enacting any new operational change that slows the delivery of voting materials in the 120 day period before an election.<sup>25</sup>
- Requires the U.S. Postal Service to appoint Election Mail Coordinators to assist election officials with any voting material questions.<sup>26</sup>
- Requires the voting system to produce a paper ballot that is verified by the voter before the vote is cast.<sup>27</sup>
- Permits the security of drop boxes through remote or electronic surveillance.<sup>28</sup>

### **Ending Partisan Gerrymandering in Federal Congressional Redistricting**

- Currently, the state legislature crafts congressional districts in Pennsylvania. There is no public input requirement.<sup>29</sup> H.R.1/S.1. would do the following:
  - Requires Pennsylvania to set up an independent commission to draw federal congressional districts, which must take public input and operate an open, transparent process.<sup>30</sup>
  - Requires consideration of “communities of interest” when drawing congressional districts.<sup>31</sup>
  - Counts incarcerated Pennsylvanians as residents of their home community for purposes of representation, ending Pennsylvania’s prison gerrymanders.<sup>32</sup>
  - Authorizes a federal court to draw the maps if not finalized by December 15, 2021.<sup>33</sup> (This does not impact the process for state legislative or local

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<sup>23</sup> H.R. 1, Title I, Subtitle I; 25 P.S. § 3146.8.

<sup>24</sup> Amendment 5 to H.R.1, Part B.

<sup>25</sup> Amendment 26 to H.R.1, Part B.

<sup>26</sup> Amendment 27 to H.R.1, Part B.

<sup>27</sup> H.R. 1, Title I, Subtitle F

<sup>28</sup> Amendment 9 to H.R.1, Part B.

<sup>29</sup> There are no statutory or constitutional provisions for congressional redistricting in Wisconsin. The process is governed by court and procedural precedents, including U.S. Supreme Court holdings that districts must absolutely equal in population, and be enacted into law following the same process as any bill.

<sup>30</sup> H.R. 1, Title III, Subtitle E.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> H.R. 1, Title III, Subtitle E.

redistricting.)<sup>34</sup>

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<sup>34</sup> H.R. 1, Title III, Subtitle E, Part 4.

## Texas

If enacted in its current form, the For the People Act (H.R.1/S.1) would make changes to federal elections in Texas that would strengthen the freedom to vote and make it more difficult to enact voter suppression laws in the future. The requirements of H.R.1/S.1—including those relating to universal mail-in voting, automatic voter registration, and gerrymandering—would more fundamentally change Texas’s procedures for conducting federal elections.

The following is a summary of the most salient ways in which H.R.1/S.1 would affect voting in Texas:

### **Expanding & Protecting Voter Registration Opportunities**

- Requires states to use Automatic Voter Registration (AVR) for federal elections nationwide.<sup>1</sup> Provides for AVR by triggering such registration when a citizen over the age of 16 interacts with designated state or federal agencies, including the DMV, educational institutions, and the Social Security Administration, unless the citizen affirmatively declines to register.<sup>2</sup> Texas currently does not use AVR.
- Allows 16 and 17 year olds to pre-register to vote and then vote immediately upon turning 18.<sup>3</sup> Under current Texas law, individuals may register to vote at 17 years and 10 months.
- Prohibits officials from using voter caging or unverified match lists to prevent any individual from registering or voting in a federal election.<sup>4</sup>
- Requires election officials to complete cross-check purges at least six months prior to a given election,<sup>5</sup> in contrast to Texas law which places no restrictions on when voter purges must be complete.

### **Mandating Secure, Accessible Early Voting & Absentee Voting**

- Requires states to allow any eligible voter to vote by mail in federal elections (no-excuse absentee voting). Current Texas law only allows people who are sick or disabled, over the

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<sup>1</sup> H.R. 1, Title I, Subtitle A, Part 2.

<sup>2</sup> H.R. 1, Title I, Subtitle A.

<sup>3</sup> H.R. 1, Title I, Subtitle A, Part 10.

<sup>4</sup> H.R. 1, Title II, Subtitle F.

<sup>5</sup> H.R. 1, Title II, Subtitle F.

age of 65, out of the county during the election, or in jail but eligible to vote to obtain a mail in ballot.<sup>6</sup>

- Establishes more options to obtain absentee ballots for overseas, and military voters.<sup>7</sup>
- Establishes a ballot tracking system, so voters can follow their ballot's status through the voting and counting process.<sup>8</sup>
- Deems ballots postmarked by Election Day valid and must be counted, if delivered to election officials up to ten days after Election Day.<sup>9</sup> Currently, Texas law requires that a ballot must be received not later than 5 p.m. on the day after Election Day to be counted.<sup>10</sup>
- Requires secure drop boxes must be available 24 hours a day, for 45 days before Election Day, and that the number of drop boxes be based on county population.<sup>11</sup> In 2020, Texas counties were allowed only one drop-off location for mail-in ballots per county.<sup>12</sup> Moreover, their use was subject to litigation and contest.
- Expands accessibility requirements for ballot drop box locations to ensure unhoused communities can participate in federal elections.<sup>13</sup>
- Ensures that the number of drop boxes and geographical distribution of drop boxes provide a reasonable opportunity for voters to submit their ballot.

### **Protecting & Expanding Ballot Access**

- Permits voters to provide a written statement on a state form, confirming their identity and eligibility to vote in the election.<sup>14</sup> Currently, Texas voters are required to provide a driver's license or photo identification card to vote.<sup>15</sup>
- Mandates option to vote early (in-person absentee) for a full 15 days before an election, including weekends and the day before Election Day.<sup>16</sup> Texas currently provides that

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<sup>6</sup> "Application for a Ballot by Mail," *Texas Secretary of State*, accessed March 22, 2021, available at <https://www.sos.texas.gov/elections/voter/reqabbbm.shtml>.

<sup>7</sup> H.R. 1, Title I, Subtitle J.

<sup>8</sup> H.R. 1, Title I, Subtitle I.

<sup>9</sup> H.R. 1, Title I, Subtitle I.

<sup>10</sup> Tex. Elec. Code § 86.007(a)(2).

<sup>11</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>12</sup> Jolie McCullough, "Texas counties will be allowed only one drop-off location for mail-in ballots," *Texas Tribune*, October 27, 2020, available at <https://www.texastribune.org/2020/10/27/texas-voting-elections-mail-in-drop-off/>

<sup>13</sup> Amendment 15 to H.R. 1, Part B.

<sup>14</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>15</sup> Tex. Elec. Code § 63.0101.

<sup>16</sup> H.R. 1, Title I, Subtitle H.

early voting begins the 17th day before Election Day and continues through the fourth day before Election Day.<sup>17</sup>

- Requires early voting locations must be open at least ten hours each day, with hours before 9 a.m. and after 5 p.m.<sup>18</sup> Requires all polling stations to be open for a minimum of 4 total hours outside of the regular working hours from 9am to 5pm in the time zone of the polling location.<sup>19</sup> Currently, Texas law requires early voting locations to open “during the hours that the county clerk’s or city secretary’s main business office is regularly open for business,” unless the county has a population of 100,000 or more.<sup>20</sup> In counties of 100,000 or more individuals, Texas requires early voting locations to open at least twelve hours each weekday.<sup>21</sup>
- Requires Texas to take steps to ensure fair and equitable waiting time for all voters across the state and limits wait time at any polling place to no longer than 30 minutes.<sup>22</sup> During the 2020 election, hours-long lines were common in Texas. Mandates any changes to polling place locations be announced seven days before Election Day.<sup>23</sup>

### **Restoring Civil Rights**

- Requires Texas to restore voting rights to people with felony convictions upon release from prison, and to offer voter registration materials upon eligibility.<sup>24</sup> Texans convicted of a felony are currently eligible to register to vote once their sentence has been “fully discharged,” including probation and supervised release.<sup>25</sup>

### **Strengthening Election Security & Trust in Elections**

- Requires a voting system that produces a paper ballot that is verified by the voter before the vote is cast.<sup>26</sup>

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<sup>17</sup> Tex. Elec. Code § 85.001.

<sup>18</sup> H.R. 1, Title I, Subtitle H.

<sup>19</sup> Amendment 50 to H.R. 1, Part B.

<sup>20</sup> Tex. Elec. Code. § 85.005.

<sup>21</sup> Tex. Elec. Code. § 85.005.

<sup>22</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>23</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>24</sup> H.R. 1, Title I, Subtitle E.

<sup>25</sup> Tex. Elec. Code § 11.002.

<sup>26</sup> H.R. 1, Title I, Subtitle F.



- Requires the U.S. Postal Service to sweep its facilities and post offices daily to ensure that ballots are expeditiously transmitted to local election officials.<sup>27</sup>
- Prevents the U.S. Postal Service from enacting any new operational change that slows the delivery of voting materials in the 120 day period before an election.<sup>28</sup>
- Requires the U.S. Postal Service to appoint Election Mail Coordinators to assist election officials with any voting material questions.<sup>29</sup>
- Permits the security of drop boxes through remote or electronic surveillance.<sup>30</sup>

### **Ending Partisan Gerrymandering in Federal Congressional Redistricting**

- Under current Texas law, the legislature or the Legislative Redistricting Board crafts congressional districts. Either can do so for partisan advantage or to favor incumbents. There is no public input requirement. H.R. 1/S. 1. would do the following:
  - Requires Texas to set up an independent commission to draw federal congressional districts, which must take public input and operate an open, transparent process.<sup>31</sup>
  - Prevents one party from dominating the process or excluding minority groups and takes map drawing away from politicians.<sup>32</sup>
  - Requires consideration of “communities of interest” when drawing districts.<sup>33</sup>
  - Counts incarcerated Texans as residents of their home community for purposes of representation.

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<sup>27</sup> Amendment 5 to H.R. 1, Part B.

<sup>28</sup> Amendment 26 to H.R. 1, Part B.

<sup>29</sup> Amendment 27 to H.R. 1, Part B.

<sup>30</sup> Amendment 9 to H.R. 1, Part B.

<sup>31</sup> H.R. 1, Title III, Subtitle E.

<sup>32</sup> H.R. 1, Title II, Subtitle E.

<sup>33</sup> H.R. 1, Title II, Subtitle E.

## Wisconsin

If enacted in its current form, the For the People Act (H.R.1/S.1) would make changes to federal elections in Wisconsin that would strengthen the freedom to vote and make it more difficult to enact voter suppression laws in the future. Several of the requirements of H.R. 1—including those relating to universal mail-in voting and online registration—already exist in some form in Wisconsin. Other requirements, such as those relating to early voting and partisan gerrymandering, would more fundamentally change Wisconsin’s procedures for conducting federal elections. However, key provisions in the bill are effectuated through amendments to the National Voter Registration Act (NVRA), which leaves Wisconsin and five other states exempt from several of the bill’s new protections.<sup>1</sup>

The following is a summary of the most salient ways in which H.R.1/S.1 would affect voting in Wisconsin:

### **Mandating Secure, Accessible Early Voting & Absentee Voting**

- Requires the state to provide voters the option of voting early for a full 15 days before an election, including opportunities before and after business hours, on weekends, and on the day before Election Day.<sup>2</sup> Wisconsin currently has in-person absentee voting,<sup>3</sup> with days and hours set by local clerks, limited to no earlier than 14 days before an election, and ending no later than the Sunday before election day.<sup>4</sup>
- Protects the distribution of applications for absentee ballots and voter registration.<sup>5</sup>

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<sup>1</sup> Wisconsin is currently exempt from the requirements of the NVRA, 52 U.S.C. §§ 20501, et seq., often called the Motor-Voter Act. The NVRA’s requirements apply to all states except those that either a) have no voter registration requirement for federal elections, or b) allow election-day registration at the polling place. These exemptions apply only if the relevant state law was in place when the NVRA was passed and has remained in effect continuously since. Wisconsin is one of five states with continuous election-day registration. North Dakota does not require voter registration for federal elections.

<sup>2</sup> H.R. 1, Title I, Subtitle H.

<sup>3</sup> “In-person absentee voting” and “early voting” both allow voters an opportunity to fill out a ballot, at a polling place, before election day. While Wisconsin’s “in-person absentee” voting is colloquially referred to as “early voting,” it is legally distinct. An elector voting in-person absentee requests an absentee ballot at the polling place immediately before casting their (absentee) ballot, which is held by the clerk and delivered to their polling place (or central count) on election day. See Wis. Stat. § 6.88 That absentee ballot can then be challenged on election day.

<sup>4</sup> Wis. Stat. § 6.86(1)(b) (beginning at the second sentence).

<sup>5</sup> H.R. 1, Title I, Subtitle I.

- Establishes a ballot tracking system, so voters can follow their ballot's status through the voting and counting process.<sup>6</sup>
- Eliminates discriminatory witness signature requirements.<sup>7</sup> Currently, Wisconsin law requires the signature of a witness, who must be an adult U.S. citizen, on the absentee return envelope.<sup>8</sup>
- Establishes more options to obtain absentee ballots for disabled, overseas, and military voters.<sup>9</sup>
- Deems ballots postmarked by Election Day valid and must be counted, if delivered to election officials up to ten days after the election.<sup>10</sup> Current Wisconsin law requires ballots be received by the clerk, and in most municipalities also distributed to the voter's precinct, before polls close on election day.<sup>11</sup>
- Requires secure drop boxes must be available 24 hours a day, for 45 days before Election Day, and that the number of drop boxes be based on county population.<sup>12</sup> In 2020, drop boxes were available in some (but not all) Wisconsin municipalities, and their use was subject to significant litigation and contest, though their legality was ultimately vindicated.<sup>13</sup> A proposal currently before the legislature would severely limit the use of drop boxes, allowing only one per municipality and requiring it be at the municipal clerk's permanent office.<sup>14</sup>
- Mandates drop-box sites also have clearly posted information to help voters track ballots and make sure their vote is counted.<sup>15</sup>

### **Protecting & Expanding Ballot Access**

- Makes Election Day a federal holiday.<sup>16</sup>

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<sup>6</sup> H.R. 1, Title I, Subtitle I.

<sup>7</sup> H.R. 1, Title I, Subtitle I.

<sup>8</sup> Wis. Stat. § 6.87(4)(b)1.

<sup>9</sup> H.R. 1, Title I, Subtitle J.

<sup>10</sup> *Id.*

<sup>11</sup> Wis. Stat. § 6.87(6).

<sup>12</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>13</sup> *See, e.g., Mueller v. Jacobs*, No. 2020AP1958-OA (Wis. Sup. Ct.) and *Trump v. Wis. Elections Comm'n*, Case No. 20-cv-1785-BHL (E.D. Wis. Dec. 12, 2020).

<sup>14</sup> Wisconsin 2021 LRB-1585 (circulating for co-sponsorship, February 2021).

<sup>15</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>16</sup> *Id.*

- Requires Wisconsin to take steps to ensure that voters do not wait more than 30 minutes to vote.<sup>17</sup> While the statewide average wait time in Wisconsin has traditionally been below 30 minutes, in some neighborhoods voters waited in hours-long lines during the 2020 primary and general elections.<sup>18</sup>
- Mandates that changes to polling place locations be announced seven days before Election Day.<sup>19</sup>
- Prohibits challenges to a voter's eligibility based on race, ethnicity, or age by non-election officials. Requires that challenges to voters (or registrations) be based on personal knowledge about the issue and be sworn to under penalty of perjury.<sup>20</sup> Currently Wisconsin allows challenges by any other elector, who need not have first-hand knowledge of the challenged voter's ineligibility.<sup>21</sup>

### **Creating Alternatives to Wisconsin's Draconian "Voter ID" Law**

- Requires that voters who are already registered be able to provide a sworn written statement on a state form, confirming their identity and eligibility to vote in the election,<sup>22</sup> in contrast to Wisconsin's current law, which requires registered voters to present a compliant photo ID (one meeting several specific requirements) every time they vote at the polls.<sup>23</sup>
- Mandates that no ID be required to request an absentee ballot for registered voters, who may provide a signature instead,<sup>24</sup> in contrast to current Wisconsin law requiring registered voters to submit photo ID to request an absentee ballot (except in limited circumstances).<sup>25</sup>

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<sup>17</sup> *Id.*

<sup>18</sup> See, e.g., Corrine Hess and Megan Hart, "Wisconsin Polls Close but Hundreds of Voters Remain in Line," *Wisconsin Public Radio*, April 7, 2020, available at <https://www.wpr.org/wisconsin-polls-close-hundreds-voters-remain-line>, and C. Stewart III, S. Ansolabehere, "Waiting in Line to Vote," *U.S. Election Assistance Commission*, July 28, 2013, available at <https://www.eac.gov/documents/2017/02/24/waiting-in-line-to-vote-white-paper-stewart-ansolabehere>.

<sup>19</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>20</sup> H.R. 1, Title I, Subtitle C.

<sup>21</sup> Wis. Stat. § 6.48; Wis. Stat. § 6.925.

<sup>22</sup> H.R. 1, Title I, Subtitle N, Part 1.

<sup>23</sup> Wis. Stat. § 5.02(6m), (16c) and § 6.79(2)(a).

<sup>24</sup> H.R. 1, Title I, Subtitle I.

<sup>25</sup> Wis. Stat. § 6.86(1)(ac) and § 6.87(1), (4)(b)2-3.

## Restoring Civil Rights

- Requires Wisconsin to restore civil rights to people with felony convictions once they are released from prison and to offer voter registration materials upon eligibility.<sup>26</sup> Currently, Wisconsinites with felony convictions can vote only after they have completed their probation and/or parole.<sup>27</sup>

## Strengthening Election Security & Trust in Elections

- Requires clerks to begin processing mail-in ballots received during the early voting period, as opposed to current law, which provides that the pre-canvassing process can begin no earlier than 7:00 a.m. on Election day.<sup>28</sup> This will reduce the kinds of delays that were exploited in 2020 to spread distrust in the Wisconsin counting process.
- Requires the U.S. Postal Service to sweep its facilities and post offices daily to ensure that ballots are expeditiously transmitted to local election officials.<sup>29</sup>
- Prevents the U.S. Postal Service from enacting any new operational change that slows the delivery of voting materials in the 120 day period before an election.<sup>30</sup>
- Requires the U.S. Postal Service to appoint Election Mail Coordinators to assist election officials with any voting material questions.<sup>31</sup>
- Requires the voting system to produce a paper ballot that is verified by the voter before the vote is cast.<sup>32</sup>
- Permits the security of drop boxes through remote or electronic surveillance.<sup>33</sup>

## Ending Partisan Gerrymandering in Federal Congressional Redistricting

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<sup>26</sup> H.R. 1, Title I, Subtitle E.

<sup>27</sup> Wis. Stat. § 6.03(1)(b) and § 304.078(3).

<sup>28</sup> H.R. 1, Title I, Subtitle I; 25 P.S. § 3146.8.

<sup>29</sup> Amendment 5 to H.R.1, Part B.

<sup>30</sup> Amendment 26 to H.R.1, Part B.

<sup>31</sup> Amendment 27 to H.R.1, Part B.

<sup>32</sup> H.R. 1, Title I, Subtitle F.

<sup>33</sup> Amendment 9 to H.R.1, Part B.

- Currently, the state legislature crafts congressional districts in Wisconsin. It can do so for partisan advantage or to favor incumbents. There is no public input requirement.<sup>34</sup> H.R.1/S.1. would do the following:
  - Requires Wisconsin to set up an independent commission to draw federal congressional districts, which must take public input and operate an open, transparent process.<sup>35</sup>
  - Prevents one party from dominating the process or excluding minority groups and takes map drawing away from politicians.<sup>36</sup>
  - Requires consideration of “communities of interest” when drawing congressional districts.<sup>37</sup>
  - Creates enforceable standards for evaluating and preventing partisan gerrymandering of congressional districts. Prohibits the use of party-based voting history in drawing districts (but not in evaluating them for partisanship).<sup>38</sup>
  - Counts incarcerated Wisconsinites as residents of their home community for purposes of representation, ending Wisconsin’s prison gerrymanders.<sup>39</sup>
  - Requires an independent commission draw congressional maps for the 2021 redistricting cycle, no later than November 15, 2021. Authorizes a federal court to draw the maps if not finalized by December 15, 2021.<sup>40</sup> (This does not impact the process for state legislative or local redistricting).<sup>41</sup>

#### **Because of its exemption from the NVRA, Wisconsin misses out on:**

- Pre-registration of 16 and 17 year olds to vote immediately upon turning 18.
- Voter purge protections included in H.R.1/S.
- Automatic Voter Registration across state agencies, including at the DMV.

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<sup>34</sup> There are no statutory or constitutional provisions for congressional redistricting in Wisconsin. The process is governed by court and procedural precedents, including U.S. Supreme Court holdings that districts must absolutely equal in population, and be enacted into law following the same process as any bill.

<sup>35</sup> H.R. 1, Title III, Subtitle E.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> H.R. 1, Title III, Subtitle E.

<sup>41</sup> H.R. 1, Title III, Subtitle E, Part 4.

Wisconsin could also be denied some of the benefits of H.R.1/S.1 because provisions establishing grant eligibility and requiring emergency planning do not limit state legislative intervention. In Wisconsin, future state laws could prohibit municipalities or state election officials from applying for, or receiving, federal funds to support voting. The state legislature could also block the implementation of an “election contingency plan” required by H.R.1/S.1 in the face of a natural disaster or public health crisis. While H.R.1/S.1 requires the drafting and updating of such a contingency plan, it does not currently allocate any power to election officials to implement this plan in the event of a crisis. In Wisconsin, the plan’s components could be tied up in court, or reversed by the legislature, without explicit federal authority to execute such a plan.