

# NORTH CAROLINA | A Democracy Crisis in The Making

## North Carolina Legislation Increasing the Risk of Election Subversion

In the 21 months since the 2020 presidential election, legislatures across the country have moved to seize power from professional, non-partisan election administrators and to needlessly expose the running of elections to partisan influence and disruption. This effort increases the risk of a crisis in which the outcome of an election could be decided contrary to the will of the people. [This year alone](#), lawmakers across 30 states have introduced hundreds of new bills that increase the likelihood of election subversion, whether directly or indirectly. In some cases, the potential subversion is quite direct—for example, bills that give the legislature the power to choose a victor contrary to the voters' will. In others, the impact is less direct but still dangerous. Some bills would introduce dysfunction and chaos into the election system and could lead to delay, uncertainty, and confusion, all of which could provide cover for subversion. This factsheet spotlights the status of election subversion legislation and other efforts in North Carolina.

[In our report on this trend](#), we analyzed legislation introduced in North Carolina and determined whether they might fall into one of several types of proposals that increase the risk of election subversion. These categories include:

### #1: Seizing power over election responsibilities.

Legislatures have proposed shifting power from professional election administrators to partisan legislatures or legislatively appointed officials. These bills increase the danger of partisan election manipulation and raise the risk of an election crisis.

As of July 31, we have found 1 bill in this category that was introduced this year in North Carolina or carried over from last year.

- [HB 606](#)



## #2: Creating unworkable burdens in election administration.

These bills increase the risk of subversion by intruding on the granular details of election administration. One particularly dangerous flavor of these bills, under consideration in Arizona, would require all ballots to be counted by hand, practically guaranteeing delays, higher rates of counting error, and increased risk of tampering by bad actors.

As of July 31, we have found 3 bills in this category that were introduced this year in North Carolina or carried over from last year.

- [HB 766](#)
- [HB 1160](#)
- [SB 731](#)

## #3: Imposing disproportionate criminal or other penalties.

Legislatures have proposed criminal prosecution of election officials for poorly defined offenses and have created criminal and civil liability for steps that election officials routinely take to help voters cast ballots. States are also escalating the enforcement of election laws by creating entirely new law enforcement agencies, which can breed distrust in elections and election officials and interfere with effective election administration.

As of July 31, we have found 2 bills in this category that were introduced this year in North Carolina or carried over from last year.

- [HB 715](#)
- [HB 766](#)

# Subversion from Beyond the Statehouse

## Independent State Legislature Theory

In June 2022, the Supreme Court agreed to hear *Moore v. Harper*, a case from North Carolina that could fundamentally alter the way elections are administered by removing most or all state-level checks on legislatures when they regulate federal elections. It could further empower legislators to enact the policies detailed in our May Report and throw elections into chaos. In *Moore*, members of the North Carolina state legislature invoke the radical and erroneous “independent state legislature” (ISL) [theory](#) to argue that they were not bound by a state constitutional prohibition on partisan gerrymandering when drawing congressional maps this redistricting cycle. Proponents of the theory assert that the federal Constitution gives a state legislature the power to regulate federal elections without any checks from other state officials or the constraints of the state’s constitution. Although *Moore* is a redistricting case, the theory, if adopted, could upend many aspects of election law.