

## Promote the Vote, Protect the Vote

# Voting Rights Landscape

A number of federal voting laws shape the voting rights landscape at the national level. This resource outlines some of these laws.

## US Constitution

Various amendments to the US Constitution have expanded who is able to vote:

- The **15th Amendment**, ratified in 1870, states that the right to vote cannot not be abridged based on a citizen's "race, color, or previous condition of servitude." Essentially it granted the right to vote to formerly enslaved men.
- The **19th Amendment** expanded the right to vote to women in 1920 (though many women of color did not gain practical access to the ballot at this time).
- In 1961, residents of the District of Columbia were granted the right to vote in the presidential election by the **23rd Amendment**.
- The **24th Amendment** banned Congress and the states from conditioning the right to vote on payment of a poll tax (or other tax). It was ratified during the Civil Rights Movement in 1964, when five states still retained a poll tax.
- In 1971, the **26th Amendment** lowered the voting age to 18.

## Voting Rights Act (VRA)

Race, gender, and other immutable characteristics have historically been used to deprive countless Americans of the right to vote. Congress passed the landmark Voting Rights Act (VRA) in 1965, which sought to prevent such discrimination by prohibiting states from making any voting changes without federal review in order to ensure that any change would not have a discriminatory impact. The VRA also barred denying the right of any citizen to vote on account of race or color. Congress has since expanded the law five times, most recently in 2006.

The passage of the VRA had an immediate positive impact on voting rights, particularly for voters of color. Later amendments to the VRA also helped enfranchise language minority voters. Between 1982 and 2006, the Department of Justice blocked over 700 voting changes because they would have prohibited voters of color from participating in the political process or limited their electoral impact.

### ***Shelby v. Holder***

In 2013, the US Supreme Court decision in *Shelby County v. Holder* gutted the section of the VRA that determined which jurisdictions had to submit changes to voting laws to the federal government prior to implementation so they could be checked for discriminatory impact. Without federal oversight, several states and jurisdictions immediately enacted restrictive voting laws, including ID requirements that were previously barred by the federal government because of their discriminatory impact. In 2016, the first presidential election in more than 50 years without the full protections of the VRA, 14 states had more restrictive voting rules than they did in 2012.

Women, as well as seniors, students, low income individuals, people of color, and other marginalized communities are particularly affected by restrictive voter laws, such as limits on early voting and burdensome ID requirements. There are federal efforts to pass legislation to restore this key part of the VRA, but they have yet to garner bipartisan support or success.

## **National Voter Registration Act (NVRA)**

Congress passed the National Voter Registration Act (NVRA), also known as the Motor Voter Act, in 1993. In the first quarter of 1995 (when the act was implemented), two million new voters were registered.

The purpose behind the law is to increase voter participation by making it easy to register to vote. It requires states to offer voter registration opportunities to any eligible individual who applies for or renews a driver's license, or applies for public assistance. Further, the law prevents states from removing voters from the registration rolls if they fail to vote or move (barring written notification of the move, or failure to respond to a notice from the registrar). The NVRA also contains some election integrity provisions.

## **Help America Vote Act (HAVA)**

The Help America Vote Act (HAVA) was enacted in 2002 to give voters basic rights and protections including:

- The right to verify (in a private and independent manner) one's vote before casting a ballot.
- The opportunity (in a private and independent manner) to change one's ballot or correct any error before casting the ballot.
- If needed, the opportunity to correct an error by using a replacement ballot.
- If the voter accidentally selects more than one candidate for a single office:
  - The right to be notified by election officials that they have selected multiple candidates for a single office on the ballot;

- The right to be notified by election officials, before the ballot is cast and counted, of the effect of casting multiple votes for the office; and
- The right to correct the ballot before the ballot is cast and counted.

To comply with HAVA, all states or jurisdictions that use a paper ballot voting system, a punch card voting system, or a central count voting system — including mail-in absentee ballots and mail-in ballots — are required to:

- Establish a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office.
- Provide voters with instructions on how to correct the ballot before it is cast and counted, including instructions on how to correct errors through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error.

Last, to comply with HAVA:

- Every voting system must be accessible for individuals with disabilities, including, but not limited to, non-visual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.
- Every polling place must use at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities.
- Every voting system must provide alternative language accessibility as specified in the Voting Rights Act of 1965 (VRA), which covers jurisdictions meeting certain criteria regarding non-English speaking voters.

## State Laws

States frequently pass laws that make it easier or harder to vote. It's important to advocate *for* laws that make it easier to vote, and *against* laws that make it more difficult — both are crucial to protecting the vote.

### Laws that make it easier to vote include:

- Voter registration modernization measures (see Voter Registration Reforms Talking Points, Resource 5.3);
- Pre-registration laws to register 16 and 17-year olds to vote;
- Laws restoring the right to vote for formerly incarcerated individuals;
- Increased funding for elections, including voting machines and polling places;
- Voter education information available in multiple languages and in ways that are accessible to individuals with disabilities;
- Enabling early voting for a set period prior to an election; and

- Same-day registration at the polls.

**Laws that make it more difficult to vote include:**

- Making it more difficult for organizations or individuals to register people to vote;
- Purging voters from the voting rolls without adequate safeguards; and
- Voter ID laws, which requires individuals to show a specific form of photo ID in order to cast a ballot.