Voting Laws Roundup 2018

Legislative sessions have either commenced or concluded in every state that is meeting this year, except North Carolina, and the most notable takeaway of this session so far is the remarkable momentum around automatic voter registration, or AVR. What follows is the Brennan Center’s analysis of state legislative activity as of April 2, 2018.¹

In March, the New Jersey Senate passed an AVR bill out of committee with a bipartisan vote. In the same month, Washington’s governor signed AVR into law and the Maryland Legislature passed an AVR bill and sent it to the state’s governor. In addition, the Massachusetts House has passed an AVR bill out of committee. The Utah Senate passed an AVR bill this year, but it died in the House.

Broadly speaking, more pro-voter reforms are moving than anti-voter restrictions. Washington state has been a significant locus of pro-voter reform this year: in addition to AVR, the Legislature passed – and the governor signed – a package of reforms, including election day registration, pre-registration for 16- and 17-year-olds, and a state-level Voting Rights Act. California and Utah have also enacted laws improving voter access. In total, as of April 2 – when we at the Brennan Center completed our latest round of legislative bill tracking – at least 12 states have advanced at least 20 bills expanding voting access through at least one state legislative chamber.²

Nevertheless, efforts to restrict access to the franchise persist. At least five states have advanced at least six bills restricting voting access through at least one chamber.³ Notably, the New Hampshire Legislature has passed a bill targeting student voting. In addition, the Georgia Senate passed a pair of bills cutting voting hours in Atlanta, one of which also would have restricted early voting options on weekends. But those bills were rejected by the state Assembly.

Finally, states have taken only tentative steps to address significant election security issues ahead of the 2018 elections. So far this year, at least six states have advanced at least eight bills related to election security through at least one chamber.⁴ At the federal level, Congress recently appropriated $380 million to help states upgrade their voting systems. This is a necessary, but far from sufficient, step toward securing our voting systems.

Overview of Expansive Bills

As of April 2, at least 41 states and Washington D.C. have introduced or carried over at least 514 bills expanding voting access.
Pro-voter reforms that have moved thus far this year include:

- **Bills That Have Been Signed (Three States).**
  - Washington state has enacted: (1) a law implementing automatic voter registration, (2) a law implementing election day registration, (3) a law implementing pre-registration for 16- and 17-year-olds, and (4) a state-level Voting Rights Act that grants citizens the right to challenge electoral systems that deny race, color, or language minority groups an equal opportunity to elect candidates of their choosing.
  - California has enacted a law implementing pre-registration through its AVR system.
  - Utah has enacted (1) a law that extends registration deadlines and (2) a law that may encourage certain counties to offer early voting opportunities.

- **Bills Passed by the Legislature (Three States).**
  - The Maryland Legislature has passed (1) a bill implementing automatic voter registration and (2) a constitutional amendment that would permit the Legislature to implement election day registration. If ultimately enacted, the amendment will go to the voters in a November referendum.
  - The South Dakota Legislature has passed a bill facilitating the addition of registration locations.
  - The Wisconsin Legislature has passed a bill permitting the use of tribal identification to register to vote.

- **Bills Passed by One Legislative Chamber (Eight States).**
  - The Indiana Senate has passed a bill that would implement no-excuse absentee voting.
  - The Kansas Senate has passed a bill improving access for voters with disabilities.
The Maryland House and Senate have each passed separate bills that would implement no-excuse absentee voting in municipal elections.

The Michigan Senate has passed a bill that would permit applicants to register to vote online through the secretary of state’s website.

The New York Assembly has passed a bill extending the deadline for receipt of absentee ballot applications.

The Oklahoma Senate has approved a bill facilitating opportunities for early in-person voting.

The Pennsylvania Senate has passed a bill easing access to absentee ballots for voters with disabilities.

The Wisconsin House has approved a bill expanding access for military voters.

Overview of Restrictive Bills

As of April 2, 2018, at least 24 states have introduced or carried over at least 70 bills restricting voting access.

Restrictive Bills Introduced or Carried Over in 2018

No states have enacted restrictive laws yet this year, but restrictive legislation is still advancing.

- Bills Passed by the Legislature (Two States).
  - The Indiana Legislature has approved a list maintenance bill that fails to fix the problems with its current list maintenance practices (though as we previously observed in footnote 3, this bill presents an unusual case).
  - The New Hampshire Legislature has passed a bill that appears to be directed at deterring student voting.

- Bills Passed by One Legislative Chamber (Four States).
  - The Kentucky House has passed a bill restricting access to absentee voting.
The New Hampshire House has passed a bill that appears to be directed at deterring student voting.
The Ohio Senate has passed a bill reducing the minimum required number of precinct officials in certain circumstances.
The Oklahoma House has passed a bill authorizing the state Election Board to compare the state voter registration database to other state and federal databases and requiring the Board to refer any individuals on the voter rolls identified as potential non-citizens to the district attorney.

Overview of Election Security Bills

As of April 2, 2018, at least 26 states have introduced or carried over at least 79 bills related to election security. Note that this count does not include appropriations bills or administrative action, nor is the Brennan Center opining on the impact or potential efficacy of these bills in this document.

Election Security Bills Introduced or Carried Over in 2018

Election security bills that have moved thus far this year include:

- Bills That Have Been Signed (Three States).
  - Indiana has enacted (1) a law containing a variety of provisions related to maintaining voting equipment; updating the permissible error rate for voting systems to reflect current federal standards; and requiring county election boards to notify the Secretary of State within 48 hours of certain security violations, and (2) a law regarding post-election reconciliation of vote counts.
  - South Dakota has enacted a law prohibiting voting equipment from being connected to the Internet and prohibiting ballot marking devices from saving or tabulating votes.
  - Washington has enacted a law expanding the types of post-election audits election officials may run on direct recording electronic or in-person ballot marking systems to include random checks of ballot counting equipment, risk-limiting audits, and electronic audits of ballot counting equipment.
• Bills Passed by One Legislative Chamber (*Three States*).
  
  o The **Maryland** House has passed (1) a bill requiring post-election, manual audits of voter-verifiable paper records for general elections (and authorizing such audits for primary elections) and (2) a bill requiring the state election administrator to notify the governor and other elected officials and agencies, within seven days, of security violations involving state elections systems.
  
  o The **Michigan** House has passed a bill requiring that electronic voting systems use paper ballots for tabulating purposes.
  
  o The **Missouri** House has passed a bill that beginning January 1, 2019 bans future purchase of direct recording electronic voting machines and requires that all newly purchased electronic voting systems read paper ballots that voters have marked by hand or, in the case of disabled voters who need assistance, from paper ballots that have been marked by paper-ballot marking devices designed to assist disabled voters.

Appendices listing the bills referenced in this analysis can be found here.

---

1 This document tracks certain voting legislation making it easier or harder to register or vote, as well as certain legislation related to election security. Note that there are several types of election- and voting-related legislation that we do not track, including: redistricting, ballot design, enfranchisement of people under 18 or non-citizens, or public or individual notice requirements. The document also does not track administrative changes that could expand or restrict access.

2 California, Indiana, Kansas, Maryland, Michigan, New York, Oklahoma, Pennsylvania, South Dakota, Utah, Washington, Wisconsin. This count – and the counts of restrictive and election security bills passed through one chamber – does not include bills that passed through one chamber last year and carried over, or bills that passed through one chamber and subsequently failed.

3 Indiana, Kentucky, New Hampshire, Ohio, Oklahoma. Indiana’s current law violates the National Voter Registration Act of 1993. This Indiana bill introduces some protections against improper purges, but it does not address Indiana’s unlawful failure to give notice to voters prior to purging them.

4 Indiana, Maryland, Michigan, Missouri, South Dakota, Washington.