

Voting Laws Roundup 2018

As the year begins, voting legislation continues to be a significant subject of state legislators' attention. As of February 13 – when we completed our latest round of legislative bill tracking – 44 states and Washington, D.C., had opened their regular legislative sessions. North Carolina's legislature has met in a special session.¹

This year so far, legislators have introduced at least **28 bills restricting access in 14 states**.² In addition, **35 restrictive bills in 14 states carried over** from last year's sessions.³ In total, there are 63 restrictive bills that have been introduced or carried over in 24 states. Notably, **New Hampshire** state legislators continue to attempt to disenfranchise student voters. The restrictive bills introduced this year represent a continuation of a push to restrict access to the franchise that we have been tracking since 2010. (Previous voting legislation roundups are available [here](#).)

At the same time, we are seeing a significant push to expand access to the franchise. Indeed, every state legislature that has introduced restrictive bills in 2018 has also introduced expansive bills. Legislators have introduced at least **206 bills expanding access to the franchise in 30 states**.⁴ In addition, **262 expansive bills in 23 states and Washington, D.C. carried over** from last year's sessions.⁵ In total, there are 468 expansive bills that have been introduced or carried over in 39 states. **Virginia** accounts for a significant portion of the expansive bills introduced in 2018, as legislators newly empowered by last year's state elections seek to enact a broad-based, pro-voter [agenda](#).

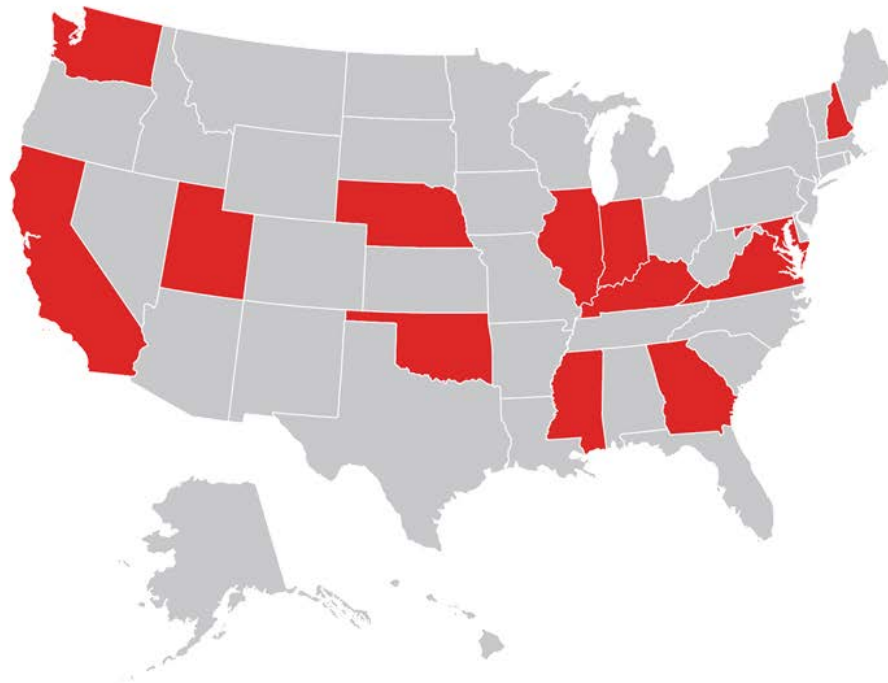
These bill counts do not capture all efforts to restrict or expand access to the vote – there is significant action occurring outside of statehouses. For example, Floridians have qualified a referendum for the ballot that would restore voting rights to most people who lost them because of a criminal conviction in their past, and Nevadans will vote on a referendum to adopt automatic voter registration this November. Voting rights are being threatened by non-legislative actions as well. For example, a letter the Department of Justice sent to states six months ago has been widely thought to be part of an effort to force states to conduct ill-conceived voter [purges](#). At the local level, activists have sent a [series of letters](#) to hundreds of local election officials threatening them with legal action if they do not undertake more aggressive purges.

Finally, following the [election security concerns](#) that surfaced in the 2016 election, we expect to see significant legislative activity around this issue. Thus far this year, **16 states**⁶ have introduced bills related to **election security**, and **ten states**⁷ are still considering **carry-over bills** related to election security. Note, however, that this count does not include appropriations bills or administrative action – two potentially important tools for improving election security.

[Overview of Restrictive Bills](#)

As of February 13, 2018, legislators had introduced at least 28 bills restricting access in 14 states. Four of these bills were introduced in **New Hampshire**. In addition, the New Hampshire Senate has already passed a carryover bill directed at making student voting more difficult.

Bills to Restrict Access to Voting in 2018



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The restrictions introduced this year include:

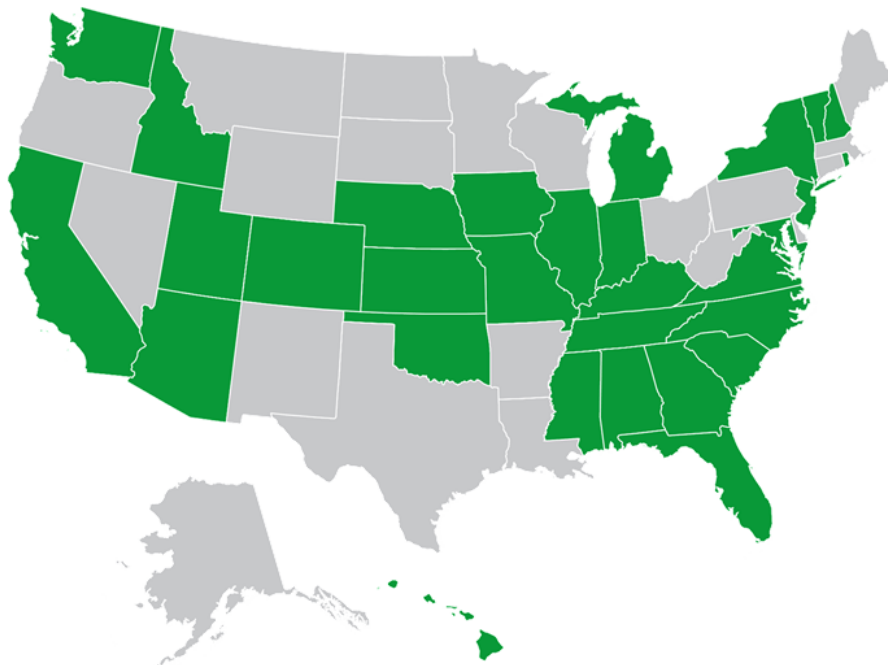
- **Voter ID (*Six states*)**. Illinois, Maryland, Nebraska, and New Jersey have introduced bills imposing photo ID requirements in order to vote, and Kentucky and New Hampshire have introduced bills making their voter ID laws more restrictive.
- **Proof of Citizenship (*Three states*)**. California, Mississippi, and Oklahoma have introduced bills imposing documentary proof of citizenship requirements to register to vote.
- **Registration Restrictions (*Three states*)**. Virginia and Oklahoma have introduced bills making it more difficult for prospective voters to register, and Virginia has also introduced a bill to limit voter registration mobilization efforts. In addition, California has introduced a bill making its automatic voter registration system more restrictive.
- **Early Voting (*Two states*)**. Indiana has introduced a bill shortening the early voting period, and Utah has introduced a bill permitting election officers to shorten the early voting period.
- **Absentee Voting (*Four states*)**. Kentucky, Nebraska, New Jersey, and Virginia have introduced bills restricting access or increasing burdens related to absentee voting.

- **List Maintenance (*Five states*)**. Indiana, Maryland, Mississippi, Nebraska, and New Hampshire have introduced bills implementing restrictive list maintenance practices.⁸
- **Minimum Standards (*Two states*)**. Georgia and Washington have introduced bills relaxing minimum standards for election administration.
- **Student Voting (*One state*)**. New Hampshire has introduced two bills that appear to be directed at making it more difficult for students to vote. In addition, the New Hampshire Senate passed a carryover bill directed at deterring student voting that had already been passed by the House last year.

Overview of Expansive Bills

As of February 13, legislators had introduced at least 206 bills expanding access to the franchise in 30 states. Remarkably, **Virginia** accounts for **more than one fifth** of the expansive bills introduced thus far this session. In addition, we are seeing **significant momentum** to implement **automatic voter registration** in **Washington** and **New Jersey**.

Bills to Expand Access to Voting in 2018



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Pro-voter reforms introduced this year include:

- **Automatic Voter Registration (*16 states*)**. AVR is a transformative reform that registers voters unless they “opt out” of registration and leverages existing technology to more

efficiently update the voter rolls. Arizona, Florida, Hawaii, Idaho, Illinois, Iowa, Maryland, Mississippi, Missouri, New Jersey, Oklahoma, Tennessee, Utah, Virginia, and Washington have introduced bills this year that would implement AVR. North Carolina has introduced a bill requiring electronic transmittal of voter registration information from the Department of Transportation and other agencies to elections officials.

- **Additional Registration Reforms.**
 - ***Same Day Registration (11 states)***. Alabama, Indiana, Kansas, Maryland, New Jersey, New York, Virginia, and Washington have introduced bills that would allow voters to register on Election Day. Arizona, Tennessee, and Utah have introduced bills to allow voters to register on the same day that they vote, whether on Election Day or during the early voting period.
 - ***Online Registration (Four states)***. Mississippi, New Hampshire, New Jersey, and New York have introduced bills establishing online voter registration.
 - ***Portability (Four states)***. Arizona, Georgia, Tennessee, and Washington have introduced bills allowing voters to update their addresses on Election Day.
 - ***Registration Deadlines and Locations (13 states)***. Arizona, Georgia, Indiana, Iowa, Maryland, New Jersey, New York, South Carolina, Tennessee, Utah, Vermont, Virginia and Washington have introduced reforms extending registration deadlines, adding registration locations or methods, or otherwise making it easier to register.
- **Rights Restoration (11 states)**. Alabama, Arizona, Colorado, Florida, Hawaii, Illinois, Mississippi, Nebraska, New Jersey, Tennessee, and Virginia have introduced bills restoring voting rights to individuals with criminal convictions or otherwise liberalizing their laws with respect to the disenfranchisement of those individuals.
- **List Maintenance (Two states)**. Georgia and Washington have added protections for voters with respect to their list maintenance practices.
- **Early Voting (Seven states)**. Indiana, Kentucky, Mississippi, New Jersey, New York, Oklahoma, and Virginia have introduced bills expanding opportunities for early in-person voting.
- **Absentee Voting (16 states)**. Alabama, Arizona, California, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Mississippi, New Jersey, New York, North Carolina, Oklahoma, Tennessee, and Virginia have introduced bills expanding opportunities for absentee voting.¹
- **Voter ID (Seven states)**. Arizona, Indiana, Oklahoma, Tennessee, and Virginia have introduced bills easing the burden of existing voter ID laws. In addition, Arizona, Iowa, Rhode Island, and Virginia have introduced bills repealing their voter ID requirements.
- **Proof of Citizenship (Two states)**. Arizona and Kansas have introduced bills eliminating or easing their proof of citizenship requirements for registration.
- **Provisional Ballots (Three states)**. Arizona, Maryland, and Virginia have introduced bills either increasing opportunities to vote by provisional ballot or increasing the likelihood that a properly cast provisional ballot will be counted.
- **Minimum Standards (Six states)**. Indiana, Kentucky, New York, and Virginia have introduced bills extending polling place hours. Arizona has introduced a bill implementing new standards for voting centers. Arizona and New York have introduced bills regarding

¹ Note that the Illinois bill requires election officials establish a vote by mail program for eligible voters in county jails and to establish temporary polling places in county jails in counties with populations of 3 million or more.

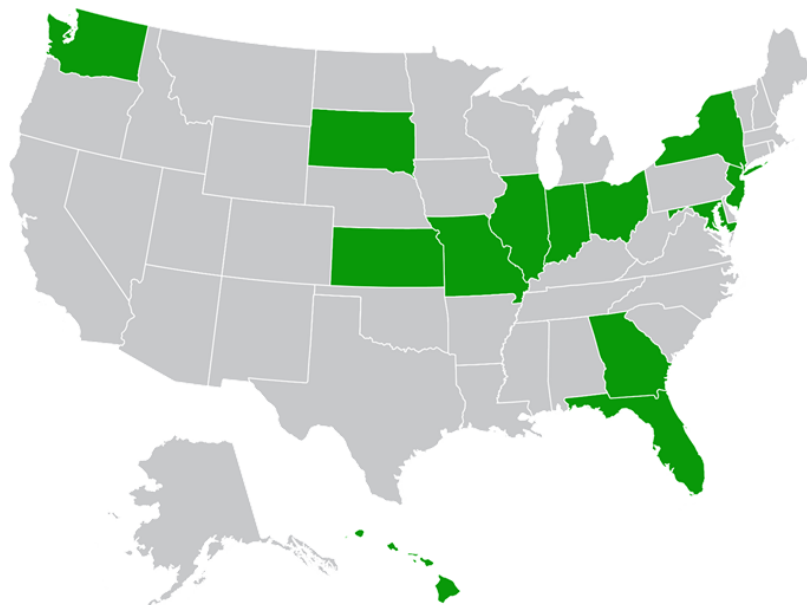
minimum standards with respect to voter wait times, and Georgia has introduced a bill regarding minimum standards with respect to the distance of polling places from voters.

- **Military Voting (*Four states*)**. Michigan, Mississippi, New Jersey, and Virginia have introduced bills expanding access for military voters.
- **Student Voting (*Four states*)**. Arizona, Maryland, South Carolina, and Tennessee have introduced bills expanding access for student voters.
- **Disability Access (*Four states*)**. Kansas, Missouri, South Carolina, and Washington have introduced bills improving access for voters with disabilities.
- **Language Access (*Two states*)**. New Hampshire and New York have introduced bills that would expand language access for voters who speak a language other than English.
- **Voting Discrimination (*One state*)**. The Washington Senate has passed a bill 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.
- **Pre-Registration (*Four states*)**. Oklahoma, Tennessee, Virginia, and Washington have introduced bills permitting minors to pre-register to vote prior to their eighteenth birthdays.

Overview of Election Security Bills

Sixteen states have introduced bills related to election security thus far this year. Note that these bills do 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 in 2018



These bills include the following:

- **Post-Election Audits of Voting Machines.**
 - Georgia and New York have introduced bills authorizing or requiring post-election risk-limiting audits.
 - Illinois, Kansas, Maryland, and Ohio have introduced bills requiring a post-election audit comparing counts of paper ballots or the voter-verified paper record to voting machine totals. New Hampshire has introduced a bill authorizing such post-election audits.
 - Virginia's House and Senate have passed bills repealing the state's provision for post-election of audits of voting machines and creating a working group to develop standards and procedures for such post-election audits.
 - Washington has introduced a bill 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.
 - Washington has also introduced separate a bill mandating a post-election random check of ballot counting equipment more generally, requiring a comparison of a manual ballot count to the machine count. This random check is currently discretionary. Washington has introduced a separate bill requiring the Secretary of State to evaluate audit procedures adopted by counties and identify best practices.
- **Voting Machine Upgrades.**
 - Indiana, Kansas, Georgia, Missouri and New Jersey have introduced bills phasing out direct recording electronic voting machines.
 - Indiana's bill prohibits a county from purchasing new DREs after June 30, 2018 and prohibits the use of DREs after December 31, 2022 (except for use by voters with disabilities).
 - One of Georgia's bills phases out DREs starting January 1, 2019; three others phase out DREs starting January 1, 2024.
 - Kansas's bill prohibits the purchase of new DREs starting January 1, 2019.
 - Missouri's bill prohibits the purchase of new DREs starting January 1, 2019.
 - One of New Jersey's bills provides that going forward, elections shall be conducted using district-based optical scan voting systems. Another bill would phase out DREs starting June 5, 2018. And an additional bill would require use of paper ballots going forward.
 - Tennessee's bills require the use of optical scanning machines by January 1, 2020.
 - New Jersey has introduced bills requiring that every new voting machine produce a voter-verified paper record. Similarly, Ohio has introduced a bill requiring that voting machines either produce or tabulate voter-verified paper ballots. And Tennessee has introduced bills requiring that any DREs used in the state be capable of producing a voter-verifiable paper audit trail before January 1, 2020.
- **Other Security.**
 - Georgia has introduced a bill prohibiting collusion with a foreign government to influence the results of an election.

- Hawaii has introduced a bill requiring an information systems and operational audit of voting systems used in three randomly selected races and the submission of a report with the audit findings to the state legislature.
- Indiana has introduced bills relating to post-election reconciliation of vote counts.
- Indiana has also introduced a bill containing a variety of provisions related to storing, inventorying, and disposing of voting equipment and e-pollbooks; updating the permissible error rate for voting systems to reflect current federal standards; and requiring county election boards to file a report with the Secretary of State within 48 hours of receiving notice that voting equipment has been improperly obtained or altered in violation of state law or that data maintained in the statewide voter registration system has been accessed or altered in violation of Indiana law.
- Maryland has introduced a bill requiring the state board of elections to conduct an annual audit of voter registration infrastructure to identify any security vulnerabilities and another bill requiring the state election administrator to notify the governor and other elected officials and agencies, within seven days, regarding any security incident involving state election systems.
- Ohio has introduced a bill requiring the Secretary of State to appoint a director of elections cybersecurity and establishing an independent elections cybersecurity council.
- South Dakota has introduced a bill prohibiting voting equipment from being connected to the Internet.
- Tennessee has introduced a bill requiring election officials to engage a cybersecurity firm to produce a report on risks to voter data posed by hacking.
- Washington has introduced a bill requiring voting system manufacturers and distributors to immediately notify the Secretary of State of any security breach and permits the Secretary of State to decertify a voting system based on non-compliance with security requirements or with the notification requirement.

Appendices listing the bills referenced in this analysis can be found here (bills introduced in 2017) and here (bills introduced 2018).

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, Georgia, Illinois, Indiana, Kentucky, Maryland, Mississippi, Nebraska, New Hampshire, Oklahoma, Utah, Virginia, Washington.

³ Delaware, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island.

⁴ Alabama, Arizona, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington.

⁵ Alaska, California, Delaware, Georgia, Hawaii, Illinois, Iowa, Kansas, Massachusetts, Michigan, Minnesota, Nebraska, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Washington, Washington, D.C., West Virginia, Wisconsin.

⁶ Florida, Georgia, Hawaii, Illinois, Indiana, Kansas, Maryland, Missouri, New Hampshire, New Jersey, New York, Ohio, South Dakota, Tennessee, Virginia, Washington.

⁷ Georgia, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Nebraska, New York, South Carolina, Washington.

⁸ We note that Indiana and Mississippi present unusual cases. 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. The Mississippi bill introduces a prohibition on purges within 60 days of an election, which provides protections arguably greater than current law in some instances, but would violate the law in others.