



HOW THE FREEDOM TO VOTE ACT STOPS ELECTION SUBVERSION

Across the country, state legislators have proposed and passed bills that would give partisan actors greater control over elections while hamstringing experienced state and local election administrators who have traditionally run our voting systems. (Protect Democracy, Law Forward, and States United Democracy Center released a [report detailing 216+ such bills](#) introduced this year.) Along with phony audits like the one ongoing in Arizona and a harassment campaign that is driving election workers out of their jobs, we are facing unprecedented threats to the integrity of future elections and to Americans' faith in our election systems.

The **Freedom to Vote Act** includes common-sense reforms that protect elections against partisan interference, decrease the chances of future post-election turmoil, and strengthen the bedrock of American elections, regardless of which party controls any given political office or stands to win a given election:

1. Paper ballot requirements

Future efforts to subvert election outcomes will likely involve creating doubt and uncertainty about the actual count of the popular vote in a jurisdiction. In Georgia in 2020, the ability to conduct repeated recounts of physical ballots verified by voters was a critical backstop to disprove unfounded allegations of voter fraud. But as of 2020, [eight states](#) still used paperless voting machines in some jurisdictions. Widespread reports that these machines are insecure (and may have been targeted by Russian hackers in 2016) would make it easy to cast a cloud of suspicion over votes not supported by a paper record. **To prevent this, the Freedom to Vote Act will require every voter to cast their vote on a paper ballot that they have an opportunity to review before it is cast. (Sec. 3901-08, the "Voter Confidence and Increased Accessibility Act of 2021")**

2. Chain of custody protections for ballots, other election records, and election equipment

Once voters cast a paper ballot, those ballots must be preserved throughout the tabulation and certification processes. Federal law already requires that ballots be retained for 22 months, but specifies no standards for how they should be stored and monitored throughout that period. The ongoing, highly-criticized partisan election review conducted by the Arizona State Senate illustrates how the integrity of ballot records can be jeopardized by a sloppy counting process — for instance, using pens to mark ballots during review risks permanently obscuring a voter’s true intent. Furthermore, the fact that sensitive voting machines were handed over to third parties means that they [should not be used in future elections](#), which could cost taxpayers millions. **The Freedom to Vote Act strengthens federal protections for ballots, other election records, and election equipment, by directing the Department of Homeland Security to issue rules governing how these items should be handled, and by giving candidates and the Attorney General the right to seek judicial enforcement of these rules. (Secs. 3301–03)**

3. Judicial review of the vote-counting process

Several states have passed laws that shift responsibility for counting ballots and certifying elections to highly partisan officials. This increases the likelihood that these officials may seek to use their control of the vote-counting process to improperly influence the outcome of an election, for instance by baselessly discarding certain ballots. **The Freedom to Vote Act ensures that election administration decisions, as well as decisions about ballot-handling, are explicitly subject to federal judicial scrutiny, by creating a statutory right to have one’s vote properly counted. (Secs. 3401–3404)**

4. Preventing partisan takeovers of election administration

In several states, laws have been proposed or enacted that would make it easier for state legislators and other partisan actors to take control over election administration from local election officials, which would then allow them to more easily manipulate or subvert the results. For example, a provision of Georgia’s new omnibus voting law (SB 202) allows the State Board of Elections—which is controlled by the state legislature—to remove local

election officials for little or no reason and replace them with their own handpicked substitutes. Georgia Senate Republicans have [already taken first steps](#) towards using this authority to replace election officials in heavily Democratic Fulton County. **The Freedom to Vote Act stops this type of partisan interference by barring the removal of local election officials absent good cause, such as substantial neglect or malfeasance. (Sec. 3001)**

5. Protections for election workers

Election officials and poll workers play a crucial role in the infrastructure of our democracy, but they are currently under attack. In 2020, and continuing into 2021, election officials have faced [unprecedented threats](#), including death threats, because of the false allegations that the 2020 election was “rigged.” In addition, states are passing [harsh new laws](#) to penalize even inadvertent errors and mistakes by election officials and poll workers. **The Freedom to Vote Act reaffirms that harassment and intimidation of election workers is unlawful and makes it a crime to doxx them or their family members. (Secs. 3101-02)**

6. Reaffirming that election manipulation or subversion is a crime

The 2020 election did not turn into a full-blown crisis in large part because local and state election officials refused to bow to pressure from President Trump and others to subvert the results. However, voters cannot necessarily rely on similar forbearance in future elections, as (1) the pressure is likely to be even greater, (2) many of the officials who refused to subvert the results may be out of office by 2022/2024 and may be replaced by more pliable individuals, and (3) proposed and/or enacted state legislation may make it easier for officials who are so inclined to manipulate or subvert an election. **Federal law already prohibits individuals, including election officials, from manipulating or subverting election results, but in order to deter future attempts at subversion the Freedom to Vote Act reaffirms that interfering with the tabulation, canvassing, or certification of ballots is a crime. (Sec. 3206, the “Deceptive Practices and Voter Intimidation Prevention Act of 2021”)**