



Florida Voting Law Fact Sheet

Overview

After the 2020 election, Florida enacted Senate Bill 90, an elections omnibus that enhances Florida's already strong election integrity policies by adding several integrity reforms while continuing to make it easy for voters to participate in the political process.¹

Among its provisions, S.B. 90:

- Established new procedures for absentee ballot drop boxes;
- Created requirements before election officials can enter into civil settlements that affect election procedures;
- Precluded the acceptance of private funds for election administration;
- Reformed third-party absentee ballot collection;
- Mandated new disclosures for third-party voter registration organizations;
- Bolstered voter identification requirements for absentee ballot applications;
- Penalized the solicitation of voters near polling places and drop boxes; and
- Prohibited election officials from unilaterally—absent affirmative requests by voters—mailing absentee ballots or ballot applications to voters.

State legislatures generally have inherent authority to prescribe election procedures in state elections, unless their state constitutions provide otherwise. State legislatures are authorized to determine the time, place, and manner of federal elections within their state under Article I, Section 4 of the United States Constitution.² States have latitude to implement laws and procedures designed to administer their elections in an efficient, secure, and fair manner. States have adopted different election policies and procedures to balance these different concerns. While states may be lenient or in the minority on certain election procedures designed to enable voters to easily participate, they often balance these procedures with more stringent, mainstream election rules to guarantee honesty and fairness in the process. Florida has done this by enacting S.B. 90.

Several lawsuits were filed to challenge a handful of S.B. 90's 32 sections on the grounds that certain provisions place an unconstitutional burden on the fundamental right to vote under the Fourteenth Amendment. In early 2021, a federal court [struck down](#) 3 of the challenged provisions but left the remaining provisions in place. On appeal, two provisions were at issue – SB 90's drop box and non-solicitation provisions.

LDF filed an [amicus curiae brief](#) at the 11th Circuit Court of Appeals in *League of Women Voters v. Florida Secretary of State* to highlight just how reasonable S.B. 90's safeguards for absentee ballot drop boxes are and how Florida is similar to countless other states in preventing electioneering near polling locations.

¹ See Senate Bill 90, Chpt. 2021-11, Laws of Fla. (2021), available at: <http://laws.flrules.org/2021/11>.

² U.S. Const. art. I, § 4, cl 1.



This memo examines the challenged provisions of S.B. 90 by highlighting similar, valid election procedures already in use by numerous states across the country to demonstrate the degree to which S.B. 90's puts Florida solidly within the mainstream.

Drop Boxes

*Claim: S.B. 90's new drop box provisions unconstitutionally burden the right to vote for voters "who struggle to vote on election day or during early voting hours due to personal circumstances."*³

While Florida already statutorily authorized the use of absentee ballot drop boxes prior to SB 90's enactment, SB 90 implemented meaningful safeguards and requirements for drop boxes that combat fraud and ensure their proper and uniform use in Florida elections.⁴ Florida passed legislation in 2019 allowing drop boxes, albeit with relatively minimal limitations.⁵ While the old law did not statutorily authorize Supervisors to make drop boxes available 24-hours a day during the early voting, most Supervisors took the statutory silence as license to do so, leading to disproportionate drop box use across the state.⁶

SB 90 revised the requirements governing the placement and supervision of secure drop boxes for the return of vote-by-mail ballots to ensure their proper and uniform use.⁷ SB 90 required drop boxes to be geographically located, to the extent practicable, to ensure that all voters have an equal opportunity to cast a ballot. The law also required drop box locations to be fixed at least 30 days before an election and allowed them to be moved only to comply with the law. Most significantly, SB 90 required drop boxes to be continuously monitored by an election worker during the normal early voting hours of operation, the time when the drop boxes are permitted to be accessible to voters. Ultimately, SB 90 ensures the uniformity and security of drop boxes across the state. As will be discussed below, Florida's drop box rules are nothing short of reasonable, for they fall well within the mainstream of other states' laws.

States' use of drop boxes is a recent phenomenon. In the 2016 presidential election, about 16% of voters nationwide used drop boxes, but they were concentrated in states such as Washington, Oregon and Colorado, where almost all voters cast absentee ballots.⁸ The trend to allow voters to return their absentee ballots via drop box was predominantly fueled by the COVID-19 pandemic, as many jurisdictions across the country for the first time provided voters with expanded access to mail voting due to the extenuating circumstances.⁹ While

³ *League of Women Voters of Florida v. Lee*, Compl. at 38 (May 6, 2021), available at: <https://www.democracydocket.com/wp-content/uploads/sites/45/2021/05/Florida-Filed-Complaint-1.pdf>.

⁴ See Fla. Stat. § 101.69 (2021); 2021 Fla. Sess. Law Serv. Ch. 2021-11.

⁵ See Fla. Stat. § 101.69(2) (2019); 2019 Fla. Sess. Law Serv. 2019-162.

⁶ See Allison Ross, *Late guidance from Florida's elections chief could affect counties' plans for mail ballot drop boxes*, TAMPA BAY TIMES (Oct. 16, 2020), available at: <https://www.tampabay.com/news/florida-politics/elections/2020/10/16/late-guidance-from-floridas-elections-chief-could-limit-use-of-mail-ballot-drop-boxes/>; see also *League of Women Voters of Florida, Inc. v. Lee*, ___ F.Supp.3d ___, 2022 WL 969538, 92-94 (N.D. Fla. 2022).

⁷ 2021 Fla. Sess. Law Serv. Ch. 2021-11.

⁸ Pam Fessler, *Ballot Drop Boxes Become Latest Front In Voting Legal Fights*, NPR.org (Aug. 11, 2020), available at: <https://www.npr.org/2020/08/11/901066396/ballot-drop-boxes-become-latest-front-in-voting-legal-fights>.

⁹ *Changes to election dates, procedures, and administration in response to the coronavirus (COVID-19) pandemic*, BALLOTPEDIA (Nov. 19, 2020), available at: [https://ballotpedia.org/Changes_to_election_dates,_procedures,_and_administration_in_response_to_the_coronavirus_\(COVID-19\)_pandemic_2020](https://ballotpedia.org/Changes_to_election_dates,_procedures,_and_administration_in_response_to_the_coronavirus_(COVID-19)_pandemic_2020). This memo does not examine the use of drop boxes by states under an emergency declaration; it only examines and accounts for where states statutorily prescribe or do not prescribe drop boxes.



many states moved to codify the use of drop boxes into law after the 2020 election, concern about the lack of meaningful safeguards for drop boxes gave rise to a separate trend of states also clarifying their drop box laws to provide greater protections in future elections.¹⁰

However, even with these recent trends, only half of states, including Florida, statutorily provide some means by which voters may return their completed ballots to a designated drop box.¹¹ Twenty-six states, including Florida, currently authorize ballot drop boxes by statute, and many of these states only did so very recently.¹² It is worth noting that eight of these states conduct their elections entirely by mail.¹³

Fourteen of these states, including Florida, statutorily *require* the use of drop boxes.¹⁴ The remaining 12 states authorize election officials to establish drop boxes but do not require them.¹⁵ The infrequently acknowledged truth is that half of states do not statutorily allow election officials to establish drop boxes.

The laws in 18 states simply do not explicitly authorize the use of absentee ballot drop boxes explicitly. *See* Alaska Code §§ 15.20.061, 15.20.081(e); Ariz. Rev. Stat. § 16-548(A); Ark. Code § 7-5-411; 15 Del. Code § 5507; Idaho Code § 34-1005(1); La. Rev. Stat. § 18:1308(B);¹⁶ Mont. Code § 13-13-201(2)(e); N.H. Rev. Stat. § 657:17(I); N.Y. Election Law § 8-410; N.C. Gen. Stat. § 163-231(b), (c); N.D. Cent. Code § 16.1-07-09; Ohio Rev. Code § 3509.05(A); 25 Pa. Stat. § 3146.6(a); S.C. Code § 7-15-385; S.D. Codified Laws § 12-19-7; W. Va. Code § 3-3-5(f); Wis. Stat. § 6.87(4)(b)(1); Wyo. Stat. § 22-9-113. At least one of these states, Pennsylvania, found that the use of drop boxes was permissible even though its statute is silent on the issue. *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345, 361 (Pa. 2020) (“[T]he Election Code should be interpreted to allow county boards of election to accept hand-delivered mail-in ballots at locations other than their office addresses including drop-boxes.”); 25 Pa. Stat. § 3146.6(a).

¹⁰ *See e.g.*, Georgia: SB 202 (2021), Iowa: SF 413 (2021), Missouri: HB 1878 (2022), Texas: SB 1 (2021).

¹¹ *Ballot Drop Box Definitions, Design Features, Location and Number*, NCSL (Feb. 14, 2022), available at: <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-9-ballot-drop-box-definitions-design-features-location-and-number.aspx>.

¹² Cal. Elec. Code §§ 3025.5, 4005; Colo. Rev. Stat. § 1-7.5-107(4)(b)(i)(a); Conn. Gen. Stat. § 9-140b(c); Fla. Stat. § 101.69(2)(a); Ga. Code § 21-2-382; Haw. Rev. Stat. § 11-109(d); 10 Ill. Comp. Stat. 5/19-6; Ind. Code § 3-11-10-24(f)-(h); Iowa Code 53.17(1)(c); Kan. Stat. § 25-1124(a); Ky. Rev. Stat. § 117.086; 21-A Me. Rev. Stat. § 754-A(D); Md. Code, Election Law, § 2-304(C); 54 Mass. Gen. Laws § 92(a); Mich. Comp. Laws § 168.761d; Minn. Stat. § 203B.082; Neb. Rev. Stat. § 32-960; Nev. Rev. Stat. § 293.269921; N.J. Stat. § 19:63-16.1; N.M. Stat. 1978 § 1-6-9(E); Ore. Rev. Stat. § 254.470(6)(b); R.I. Gen. Laws, 1956, § 17-20-22.1; Utah Code § 20A-5-403.5; 17 Vt. Stat. § 2543a; Va. Code § 24.2-707.1; Wash. Rev. Code § 29A.40.170.

¹³ California, Colorado, Hawaii, Nevada, Oregon, Utah, Vermont, and Washington. *States With All-Mail Elections*, NCSL (Feb. 2, 2022), available at: <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-18-states-with-all-mail-elections.aspx>.

¹⁴ Cal. Elec. Code §§ 3025.5, 4005, 2 CA Code of Regs §§ 20132-37; Colo. Rev. Stat. § 1-5-102.9; Fla. Stat. § 101.69; Ga. Code § 21-2-382, SB 202 (2021); Ky. Rev. Stat. § 117.086(2)(c), HB 574 (2021); Md. Code, Election Law, § 2-304(C), SB 683 (2021); Neb. Rev. Stat. § 32-960; Nev. Rev. Stat. § 293.269921; N.J. Stat. § 19:63-16.1; Ore. Rev. Stat. § 254.470; R.I. Gen. Laws, 1956, § 17-20-22.1; Utah Code § 20A-5-403.5, HB 313 (2022); Va. Code § 24.2-707.1, Ch. 522 of 2021 Laws (SB 1245); Wash. Rev. Code § 29A.40.170.

¹⁵ *See* Conn. Gen. Stat. § 9-140b(c); Haw. Rev. Stat. § 11-109; § 11-1, § 11-B, § 11-I; 10 Ill. Comp. Stat. 5/19-6; Ind. Code § 3-11-10-24, SB 398 (2021); Iowa Code § 53.17, SF 413 (2021); Kan. Stat. § 25-1124(a); 21-A Me. Rev. Stat. § 754-A(D); 54 Mass. Gen. Laws § 92(a); Mich. Comp. Laws § 168.761d; Minn. Stat. § 203B.082, Minn. R. 8210.3000 Subp. 9; N.M. Stat. 1978, § 1-6-9; 17 Vt. Stat. § 2543a.

¹⁶ Louisiana effectively prohibits drop boxes for absentee ballots being hand delivered by someone other than the voter, the U.S. Postal Service, or commercial courier. Under such circumstances, “the registrar shall require that the person making such delivery sign a statement, prepared by the secretary of state, certifying that he has the authorization and consent of the voter to hand deliver the marked ballot.” *Id.*



Insofar as some of the above-mentioned 18 states may have implemented ballot drop boxes in practice, they are operating under “ambiguous” statutes, with “competing interpretations . . . on this issue [being] reasonable.” *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d at 360. In *Boockvar*, the Pennsylvania Supreme Court ultimately concluded the Pennsylvania statute permitting voters to “deliver [their mail ballots] in person to [the] county board of election” authorized the use of drop boxes, but only in light of the legislative intent underlying the broader bill enacting this provision into law, which was “to provide electors with options to vote outside of traditional polling places.” *Id.* at 361. However, for the reasons explained elsewhere in this brief, there is no general mandate under the U.S. Constitution or the VRA for Florida or any other state to expand voting in this manner. Therefore, absent the particular circumstances the Pennsylvania Supreme Court found in *Boockvar*, these other states are free to ban the use of ballot drop boxes in light of their statutes’ silence on this issue. *See, e.g., Teigen v. Wisconsin Elections Comm’n*, ___ N.W.2d. ___, 2022 WL 2565599 (Wis. 2022) (holding Wisconsin law did not authorize the Wisconsin Elections Commission to authorize municipal clerks and local election officials to establish absentee-ballot drop boxes).

Perhaps most significant is how the laws in the six remaining states effectively *prohibit* the use of absentee ballot drop boxes:

- **Alabama** requires absentee voters to “forward [their ballot] by United States mail to the absentee election manager *or hand it to him or her in person.*” Ala. Code 1975 § 17-11-9 (emphasis added).
- **Mississippi** requires voted absentee ballots to be “deposit[ed] [] in the post office or some government receptacle provided *for deposit of mail* so that the absent elector’s ballot will be *postmarked.*” Miss. Code § 23-15-631(1)(c) (emphasis added).¹⁷
- **Missouri** recently enacted legislation precluding the use of absentee ballot drop boxes in elections. Mo. Rev. Stat. § 115.291(5), HB 1878 (2022).
- **Oklahoma** requires voters to return their absentee ballots in person to “provide proof of identity” to elections officials. 26 Okla. Stat. Ann. § 14-108(C).
- **Tennessee** does not permit in-person delivery of absentee ballots, but rather provides that the “voter shall [] mail the ballot” and that elections officials shall process ballots upon “receipt by mail of the absentee ballot.” Tenn. Code § 2-6-202(e), (g).¹⁸
- **Texas** statutorily bars the use of unmanned drop boxes for the return of absentee ballots and only allows for voters to return their ballots by dropping them off at their polling locations or via U.S. mail so long as their ballots arrive before the close of polls on Election Day. Tex. Elec. Code § 86.006(a-1);^{19 20}

¹⁷ Emily Wagster Pettus, *Mississippi unlikely to ease its strict election laws*, CLARION-LEDGER (Apr. 11, 2021) (“Mississippi does not have drop boxes.”), available at: <https://www.clarionledger.com/story/news/politics/2021/04/12/mississippi-strict-election-laws-early-voting-absentee-ballots-analysis/7164366002/>.

¹⁸ Tenn. Sec’y of State, Absentee Voting Frequently Asked Questions¹⁸ (“Can I hand deliver my ballot to the election office? No. You must return your ballot by mail (USPS, FedEx, UPS, etc.)”), available at: <https://sos.tn.gov/products/elections/absentee-voting>.

¹⁹ Jolie McCullough, *Texas counties will be allowed only one drop-off location for mail-in ballots, state Supreme Court rules*, THE TEXAS TRIBUNE (Oct. 27, 2020) (“Texas does not have drop-off boxes for absentee ballots, as do some other states. Instead, to drop off a mail-in ballot in person at any location, voters must present an approved form of identification to a poll worker . . .”) (emphasis added), available at: <https://www.texastribune.org/2020/10/27/texas-voting-elections-mail-in-drop-off/>.

²⁰ Texas recently passed Senate Bill 1, which made this prohibition on drop boxes explicit in statute where it was previously ambiguous. *See* SB 1 (2021). This clarification is currently being challenged. *See La Unión Del Pueblo Entero, et al., v. Abbott*, 5:21-CV-0844-XR (W.D. Tex. 2021).



Clearly, Florida cannot somehow be magically violating the law when SB 90 does something that 24 other states do not even statutorily authorize—and 6 of these states prohibit: provide voters the opportunity to return their mail ballots via drop box.

In considering whether to allow voters to return their mail ballots to designated drop boxes, states must weigh the desire for voters to easily return their mail ballots with the security risk created when this option is abused. States that permit the use of drop boxes, therefore, often establish various safeguards to ensure drop boxes can be readily used by voters without being abused by bad actors or in danger due to honest mistakes. These various safeguards include mandating or recommending that drop boxes be continuously monitored by staff or video camera and/or limiting the authority of election supervisors to supersede what statute prescribes—*e.g.*, preventing supervisors from establishing 24-hour drop boxes where statute does not authorize them.²¹ States employ various means to achieve this balance.

Like Florida, several other states only allow drop boxes at election offices and polling locations.²² Over a dozen states, including Florida, require drop boxes to be monitored by video surveillance and/or election workers.²³ Almost every state, including Florida, that offers voters the opportunity to return their ballots to a designated drop box requires drop boxes to be physically secured to prevent tampering and bad actors.²⁴ Clearly SB 90 did not thrust Florida into some no man's land in terms of drop box protections. Rather, SB 90 presents reasonable and meaningful limitations to ensure accessibility without compromising the integrity of the process.

If SB 90's limitations on drop boxes are improper, the laws in a majority of other states are invalid as well.

Ballot Harvesting (Third Party Ballot Collection)

*Claim: S.B. 90's limitation on ballot harvesting poses an unconstitutional "barrier to the franchise for voters with disabilities," leading to "outright disenfranchisement."*²⁵

In efforts to expand ways in which voters may return their absentee ballots, many states allow voters to solicit the help of someone else to return their absentee ballot. When states provide this option, they often enact safeguards and limitations to prevent fraud, voter coercion, and undue influence by persons assisting voters.

²¹ *Ballot Drop Box Definitions, Design Features, Location and Number* (Feb. 14, 2022), available at: <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-9-ballot-drop-box-definitions-design-features-location-and-number.aspx>.

²² Ariz. Rev. Stat. § 16-548; Fla. Stat. § 101.69(2)(a); Ga. Code § 21-2-382(c)(1); Iowa Code § 53.17(1)(c); 21-A Me. Rev. Stat. 752-B(3) (must obtain prior approval from the Secretary of State to place at other locations).

²³ Fla. Stat. § 101.69(2)(a); Ga. Code § 21-2-382(c)(1); Iowa Code § 53.17(1)(c)(4); Ky. Rev. Stat. § 117.086(2)(c); 21-A Me. Rev. Stat. § 752-B(5); Md. Code, Election Law, § 2-305(A); Mich. Comp. Laws 168.761d(4)(c); Minn. Stat. § 203B.082; N.J. Stat. § 19:63-16.1(b)(2)(a); N.M. Stat. 1978, § 1-6-9(E); R.I. Gen. Laws, 1956, § 17-20-22.1(b); Utah Code § 20A-5-403.5(1)(d); 17 Vt. Stat. § 2543a(d)(2).

²⁴ Cal. Elec. Code §§ 3025.5(b), 4005(1)(B); Conn. Gen. Stat. § 9-140b(c); Fla. Stat. § 101.69(2)(a); Ga. Code § 21-2-382(c)(1); Haw. Rev. Stat. § 11-109; Illinois, 10 Ill. Comp. Stat. 5/19-6; Iowa Code § 53.17(1)(c)(3); Ky. Rev. Stat. § 117.086(2)(c); 21-A Me. Rev. Stat. § 752-B(4); Md. Code, Election Law, § 1-101(D-1); Mich. Comp. Laws 168.761d(3)-(4), 168.764a; Minn. Stat. § 203B.082; Neb. Rev. St. § 32-960(2); Nev. Rev. Stat. 293C.26321(5); N.J. Stat. § 19:63-16.1(b)(2)(a); N.M. Stat. 1978, § 1-6-9; R.I. Gen. Laws, 1956, § 17-20-22.1(a); 17 Vt. Stat. § 2543a(d)(3).

²⁵ *Florida NAACP v. Lee*, Compl. at 51 (May 6, 2021), available at: <https://www.democracydocket.com/wp-content/uploads/sites/45/2021/05/Florida-Voting-Law-Complaint-1.pdf>.



Seventeen states do not impose any parameters around who can return a voter's completed absentee ballot, giving rise to acute ballot integrity concerns.²⁶ Thirty-two states, in varying degrees, limit both who may handle or return a voter's completed ballot and the number of completed ballots a person may return.²⁷ Sixteen of these states—including Florida—allow absentee ballots to be returned only by the voter's family member, household member, or caregiver.²⁸ Sixteen of these states permit anyone to return the voter's completed ballot so long as the voter designates the collector as his or her agent.²⁹ Of these 31 states, 10—including Florida—limit the number of ballots an agent may return on behalf of voters and four limit how long an agent may possess these ballots before returning them to election officials.³⁰ Alabama stands alone in allowing only the voter to return his or her absentee ballot.³¹

Prior to S.B. 90, Florida already limited the number of completed absentee ballots a person could return each election cycle to two ballots, not including the person's own.³² A person was permitted to collect and return any number of their immediate family members' ballots.³³

Section 32 of S.B. 90 did not change the aforementioned provisions, the law simply extended the two-ballot maximum to a person distributing, ordering, requesting, and collecting ballots.³⁴ With S.B. 90, Florida follows 10 other states that limit the number of ballots a person may return. Furthermore, Florida follows the vast majority of states that allow a family member to return the voter's absentee ballot.

Note: The United States Supreme Court's recent decision in *Brnovich v. Democratic National Committee* upheld Arizona's law limiting ballot harvesting.³⁵ Arizona's law was far more strict than Florida's, allowing only persons in close relationship to the voter – family, caregiver, guardian – to return the voter's completed ballot and making it a felony for unauthorized third parties to collect and return completed absentee ballots.³⁶ In doing so, the 6-3 Court solidified the ability of states to implement similar election integrity safeguards in light of the strong and entirely legitimate state interests of deterring potential fraud, protecting against undue influence, and improving voter confidence.³⁷

²⁶ *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options* (Feb. 17, 2022). See also Table 10: Ballot Collection Laws, NCSL (Jan. 6, 2022), available at: <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-10-who-can-collect-and-return-an-absentee-ballot-other-than-the-voter.aspx>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Chpt. 2021-11, Laws of Fla. at 27 (2021).

³³ *Id.*

³⁴ *Id.*

³⁵ *Brnovich v. Democratic National Committee*, 19-1257, 2021 WL 2690267 (U.S. July 1, 2021), available at: https://www.supremecourt.gov/opinions/20pdf/19-1257_g204.pdf.

³⁶ *Id.*

³⁷ See *id.*



Absentee Ballot Application Verification

*Claim: S.B. 90's requirement that voters verify their identity by providing either their Florida driver's license number, Florida identification card number, or the last four digits of their Social Security number when requesting an absentee ballot unconstitutionally "imposes[s] burdens and barriers on the right to vote."*³⁸

Almost every state requires a voter to authenticate her absentee ballot application.³⁹ These measures help ensure that the voter requesting the absentee ballot is who she says she is and not someone else. Twenty-six states verify the information provided on the absentee ballot application against the voter's registration file.⁴⁰ Eleven states go further to also require the voter to sign the application to compare that signature to the one on the voter's registration record.⁴¹ Several other states have more stringent methods, such as requiring a notary signature, a witness signature, or a copy of the voter's identification.⁴²

Prior to S.B. 90, Florida was in the minority of states by having virtually no absentee ballot application verification procedures. Officials were required to mail an absentee ballot to any person who made a request in person or in writing without requiring anything more; a voter's signature was required only when the ballot was to be delivered to an address other than the one on file.⁴³

Section 7 of S.B. 90 now requires a voter to provide her Florida driver's license number, Florida identification card, or the last four digits of her Social Security number when requesting a mail ballot for verification.⁴⁴ While Florida's requirements now exceed the strength of most states' verification requirements for absentee ballot applications, Florida's laws are still well within the norm to advance an important objective.

Frequency of Requesting Absentee Ballots

*Claim: S.B. 90's requirement that voters request an absentee ballot every 2 years instead of 4 imposes an unconstitutional burden and barrier on the right to vote.*⁴⁵

Some states allow a voter's request to vote by mail for one election to apply to future elections as well, rather than requiring the voter to request a mail ballot for each election. Fifteen states allow voters to permanently receive mail ballots; however, 10 of these states restrict this option to elderly voters and voters with permanent disabilities.⁴⁶ The remaining 5 states allow any voter to elect to receive a mail ballot every election without

³⁸ Florida NAACP, Compl. at 28.

³⁹ See *How States Verify Absentee Ballot Applications*, NCSL (Mar. 15, 2022), available at: <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-8-how-states-verify-absentee-ballot-applications.aspx>. Only three states (Alaska, North Dakota, and Vermont) have no verification procedures in place for absentee ballot applications.

⁴⁰ *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options* (Mar. 15, 2022).

⁴¹ *Id.*

⁴² See *id.* Alabama, Kentucky, South Dakota, and Wisconsin require voters to include a copy of their ID with their application. Mississippi requires voters to have their requests notarized. South Carolina requires voters to sign an oath.

⁴³ Chpt. 2021-11, Laws of Fla. at 18 (2021).

⁴⁴ *Id.*

⁴⁵ Florida NAACP, Compl. at 28-29.

⁴⁶ *States With Permanent Absentee Voting for All Voters, Voters With Permanent Disabilities and/or Senior Voters*, NCSL (Apr. 27, 2021), available at: <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-3-states-with-permanent-absentee-voting-for->



having to make additional requests in the future.⁴⁷ The vast majority of states either require the voter to request a mail ballot each election or impose practical limitations to confirm voters still desire to vote by mail, to ensure voters expect to receive a ballot by mail, to verify ballots go to actual, active voters, and to prevent a flood of idle ballots that can be taken advantage of by bad actors.⁴⁸

Prior to S.B. 90, Florida allowed a voter's request to vote by mail to apply to all elections through the end of the calendar year of the second ensuing general election for a total of four years.⁴⁹ Section 24 of S.B. 90 changed the law to allow one request to apply to all elections through the next general election for a total of two years.⁵⁰ This change leaves Florida among the more lenient states that allow a voter's request to vote by mail to apply to future elections.

Voter Solicitation

*Claim: S.B. 90's non-solicitation provision "impinge[s] upon voters' fundamental right to cast a ballot."*⁵¹

Every state has in place limitations on political activities in and around polling places while ballots are being cast. These limitations aim to protect the integrity of the electoral process by reducing pressure or undue influence on voters at the voting location. Thirty-seven states prohibit campaign materials, including signs, banners, and literature.⁵² Twenty-eight states directly prohibit influencing voters and soliciting votes.⁵³ Another 15 states prohibit campaign apparel, including buttons, stickers, and placards.⁵⁴ States usually ban these types of activities within 50-200 feet of a polling location.⁵⁵

Prior to S.B. 90, Florida prohibited political activity, including but not limited to soliciting votes, contributions, or petition signatures; distributing political or campaign materials, including leaflets and handouts; and selling items within 150 feet from a polling location.⁵⁶ Section 29 of S.B. 90 modified this statute to prohibit "engaging in any activity with the intent to influence or effect of influencing a voter" within 150 feet of a polling location or drop box.⁵⁷

The plain language of Section 29 of S.B. 90 still permits Good Samaritans, family members, caregivers, volunteers, or election workers to provide non-partisan assistance to voters within the 150-foot limit. The amendment also specifically authorizes election officials to provide items to voters in need. The only persons

[all-voters-voters-with-permanent-disabilities-and-or-senior-voters.aspx](#). See also *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options* (Mar. 15, 2022).

⁴⁷ See *id.* Excluding states that conduct their elections entirely by mail, the only states that permit voters to remain on a permanent mail voting list are Arizona, Maryland, Montana, Minnesota, New Jersey, and Virginia.

⁴⁸ See *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options* (Mar. 15, 2022). North Dakota, Oklahoma, and South Dakota allow a request for a mail ballot to remain in effect through the calendar year.

⁴⁹ Chpt. 2021-11, Laws of Fla. at 18 (2021).

⁵⁰ *Id.*

⁵¹ *Florida NAACP*, Compl. at 40.

⁵² *Electioneering Prohibitions*, NCSL (Apr. 1, 2021), available at: <https://www.ncsl.org/research/elections-and-campaigns/electioneering.aspx>.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Chpt. 2021-11, Laws of Fla. at 24-25 (2021).

⁵⁷ *Id.*



prohibited from doing so are those who intend to influence voters. Even with this expanded solicitation prohibition, Florida's electioneering prohibitions still mirror the majority of states that preclude the influencing of voters within a certain zone near the ballot booth.

Conclusion

Allegations that these provisions of Florida's S.B. 90 place an unconstitutional burden on the fundamental right to vote implies that the standard rules in an overwhelming number of states that implement similar provisions are invalid as well. Florida's recent reforms may put the state in the minority in terms of permitting the use of drop boxes, but Florida policies to limit ballot harvesting, to place regulations on third-party voter registration organizations, to provide reasonable options for voters to prove their identity, and to combat high-pressure electioneering near ballot booths are well within the mainstream. Even if some of these reforms go farther than other states with similar laws, some are more lenient. Ultimately, these reforms manifest Florida's efforts to maintain voter access while safeguarding fairness and honesty in elections. Ultimately, Florida's reforms are neither new nor unique; they are commonplace election safeguards that have been enacted and upheld for years across the country that seek to meaningfully protect voter participation while safeguarding election integrity.

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