

Voting Laws Roundup 2018

As the year begins, voting legislation continues to be a significant subject of state legislators' attention. As of January 19 – when we completed an initial round of legislative bill tracking – 39 states and Washington, D.C., had opened their regular legislative sessions. North Carolina's legislature is meeting in a special session.¹

This year so far, legislators have introduced at least **16 bills restricting access in eight states**.² In addition, **35 restrictive bills in 14 states carried over** from last year's sessions.³ **New Hampshire** has been responsible for an outsize share of the restrictive legislation introduced in 2018, in part because 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 **144 bills expanding access to the franchise in 22 states**.⁴ In addition, **263 expansive bills in 23 states and Washington, D.C. carried over** from last year's sessions.⁵ Notably, **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](#).

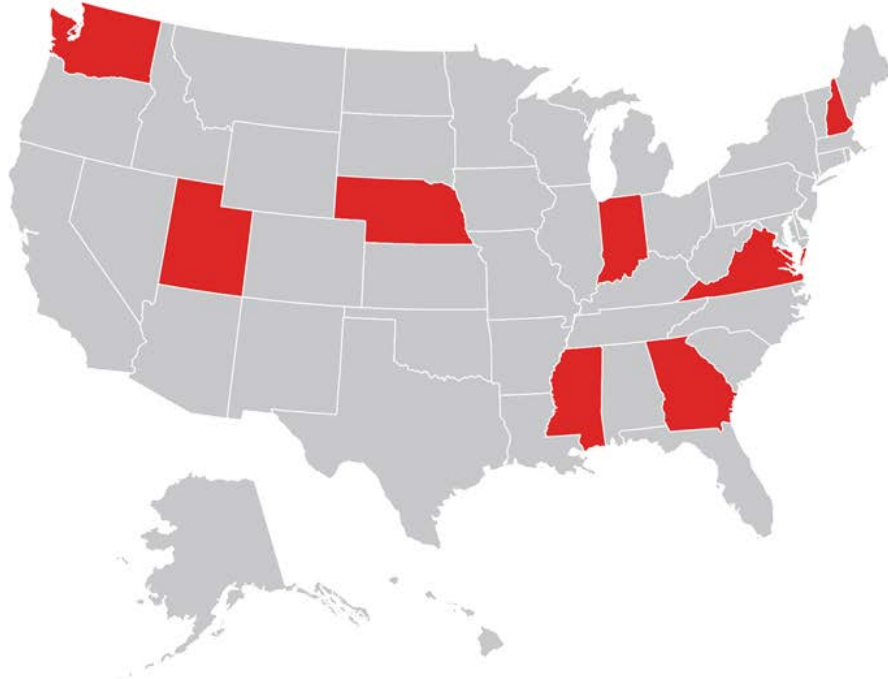
These bill counts do not capture all efforts to restrict or expand access to the vote – there is significant action occurring outside of statehouses. For example, Floridians are close to qualifying a referendum for the ballot that would end the state's lifetime disqualification for those who have been convicted of a felony, 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, **six states**⁶ have introduced bills related to **election security**, and **four 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 January 19, 2018, legislators had introduced at least 16 bills restricting access in eight 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:

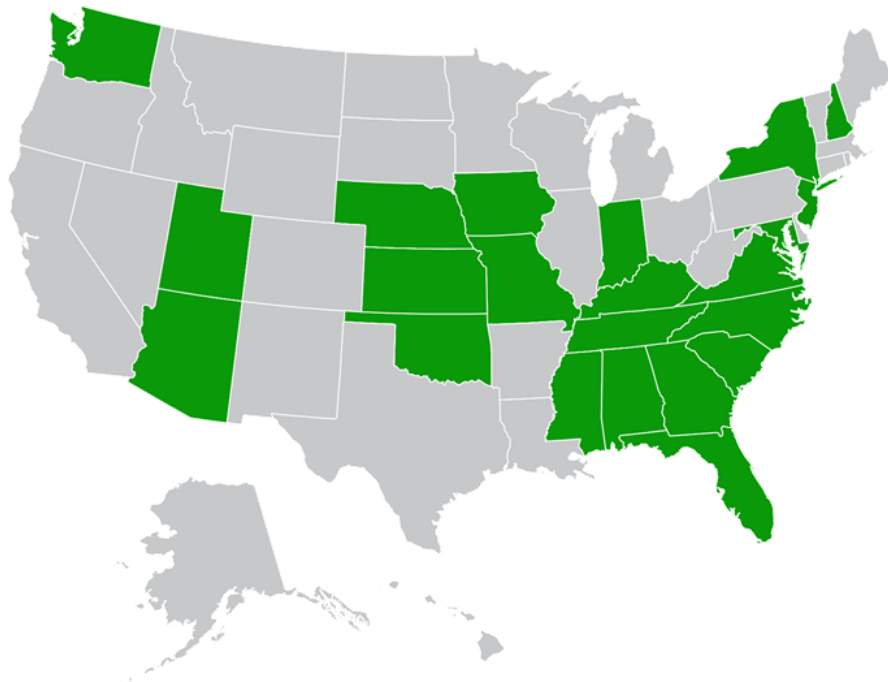
- **Voter ID (*Two states*)**. Nebraska has introduced a bill imposing photo ID requirements in order to vote, and New Hampshire has introduced a bill making its voter ID law more restrictive.
- **Registration Restrictions (*One state*)**. Virginia has introduced a bill making it more difficult for prospective voters to register, and it has also introduced a bill to limit voter registration mobilization efforts.
- **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 in certain circumstances.
- **Absentee Voting (*Two states*)**. Nebraska and Virginia have introduced bills restricting access or increasing burdens related to absentee voting.
- **List Maintenance (*Four states*)**. Indiana, 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 January 19, legislators had introduced at least 144 bills expanding access to the franchise in 22 states. Remarkably, **Virginia** accounts for **more than one quarter** of the expansive bills introduced thus far this session. In addition, we are seeing **significant momentum** to implement **automatic voter registration** in **New Jersey**.

Bills to Expand Access to Voting in 2018



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Pro-voter reforms introduced this year include:

- **Automatic Voter Registration (12 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, Iowa, Maryland, Mississippi, Missouri, New Jersey, Oklahoma, 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 agencies providing public benefits to elections officials.
- **Additional Registration Reforms.**

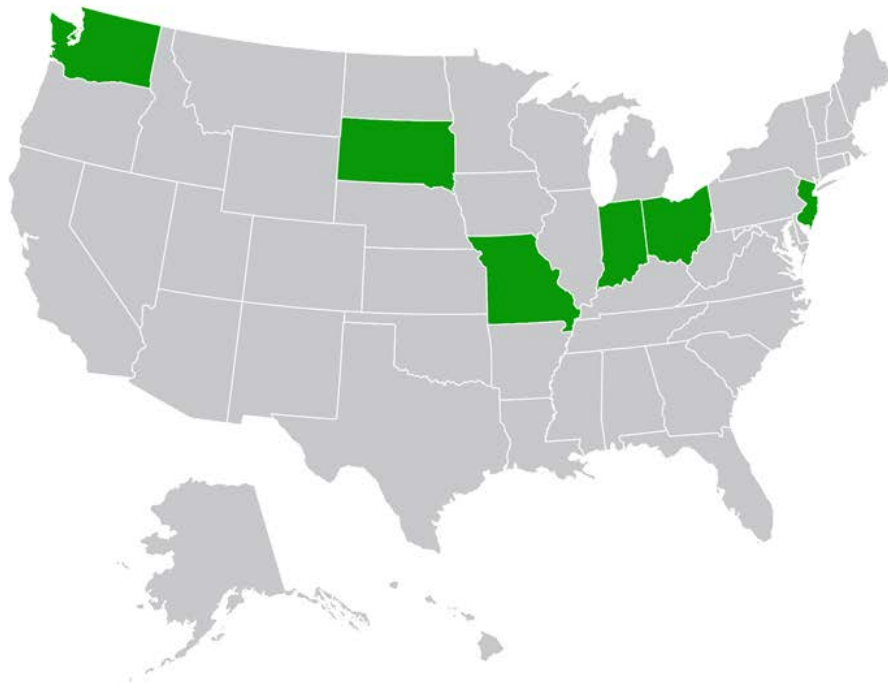
- **Same Day Registration (Seven states).** Alabama, Indiana, New Jersey, New York, Washington, and Virginia have introduced bills that would allow voters to register on Election Day. Tennessee has introduced a bill to allow voters to register on the same day that they vote, whether on Election Day or 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 (Three states).** Arizona, Tennessee, and Washington have introduced bills allowing voters to update their addresses on Election Day.
- **Registration Deadlines and Locations (Eight states).** Arizona, Indiana, Maryland, New Jersey, South Carolina, Tennessee, Washington, and Virginia have introduced reforms extending registration deadlines or adding registration locations or methods.
- **Rights Restoration (Seven states).** Alabama, Arizona, Florida, Mississippi, Nebraska, New Jersey, and Virginia have introduced bills restoring voting rights to individuals with criminal convictions.
- **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 (Seven states).** Arizona, Indiana, North Carolina, New Jersey, New York, Oklahoma, and Virginia have introduced bills expanding opportunities for absentee voting.
- **Voter ID (Three states).** Arizona, Indiana, and Virginia have introduced bills easing the burden of existing voter ID laws. In addition, Virginia has introduced legislation eliminating its photo ID requirements entirely.
- **Proof of Citizenship (One state).** Arizona has introduced a bill making it easier to establish proof of citizenship.
- **Provisional Ballots (Two states).** Arizona 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 (Five 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.
- **Military Voting (Two states).** Mississippi and New Jersey have introduced bills expanding access for military voters.
- **Student Voting (Three states).** Arizona, Maryland, and South Carolina 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 (One state).** New Hampshire has introduced a bill 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 (*Three states*).** Oklahoma, Virginia, and Washington have introduced bills permitting minors to pre-register to vote prior to their eighteenth birthdays.

Overview of Election Security Bills

Six 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



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These bills include the following:

- **Post-Election Audits of Voting Machines.**
 - Ohio has introduced a bill requiring a post-election audit comparing counts of paper ballots or the voter-verified paper record to voting machine totals.
 - 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, 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).
 - Missouri’s bill prohibits the purchase of new DREs starting January 1, 2019.
 - New Jersey’s bill provides that going forward, elections shall be conducted using district-based optical scan voting systems.
- 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.

- **Other Security.**

- 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.
- 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.

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 Georgia, Indiana, Mississippi, Nebraska, New Hampshire, Utah, Virginia, Washington.

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

⁴ Alabama, Arizona, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Maryland, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, South Carolina, Tennessee, Utah, 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 Indiana, Missouri, New Jersey, Ohio, South Dakota, Washington.

⁷ Georgia, Illinois, Minnesota, New York.

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.