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Voter Registration

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Before an eligible individual can vote in a US federal, state, or local election, they must register with the relevant authorities, usually at the county or municipal level. *Voter registration* is used to compile lists of eligible voters and is a prerequisite to voting in forty-nine of the fifty states. North Dakota is the only state that does not require it, allowing residents to simply present valid identification at polling stations instead.

Throughout the 2010s, state legislatures considered and passed laws to make registration either easier or harder, depending on the majority party in power, and both main political parties as well as many activist groups increased registration drives. However, in 2021 the number of laws restricting the right to vote increased sharply, with nineteen states passing thirty-four laws restricting access to voting that year alone. As of January 2022, more than two-hundred fifty bills with more stringent voter registration requirements had been proposed in twenty-four states just weeks into the 2022 legislative session. In addition, thirty-four bills to ease voter registration had been proposed in twelve states.

Main Ideas

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- Voter registration is the process by which citizens eligible to vote are entered into the voting rolls. Voter registration is implemented by the states and is a legal requirement in all states except North Dakota.
- Voter registration requirements can be controversial as they have been used to restrict access to voting for Black and other minority voters.
- Voter registration laws can make it easier or more difficult to register to vote. Laws facilitating easier access include preregistration before turning eighteen, online registration, and same-day registration allowing a voter to register at the polling place during early voting or on Election Day.
- Restrictive voter registration laws include eliminating election day registration and laws banning or discouraging voter registration drives.
- Automatic registration occurs when eligible voters interact with state agencies such as those that issue driver's licenses and identification cards. Under such policies, potential voters opt out of registration rather than opting in.
- The Rising American Electorate, or RAE, refers to a cohort of younger and minority citizens that make up the majority of the potential electorate. Activists targeted the RAE demographic voter registration and turnout in the 2016 and 2020 elections.

Background

Voter registration is a contentious issue because it has historically been used to suppress rather than enable voters. Though registering voters is ostensibly done to prevent election fraud and protect the integrity of elections, it can also be a bureaucratic obstacle making it more difficult for some eligible voters to participate in elections. Despite the ratification of the Fifteenth Amendment in 1870, which affirmed citizens' right to vote regardless of "race, color, or previous condition of servitude," intimidation and registration requirements such as poll taxes and literacy tests were used during the Jim Crow era (1877–1965) to prevent Black Americans from exercising voting rights.

In the 1890s, for example, Mississippi began compelling voters to prove their ability to read as part of the registration process. Though African American citizens in Mississippi had low literacy rates at the time, prospective Black voters would often be asked to read highly technical or complex passages, while white voters would be given simple, straightforward sentences. Registration officials, who were always white, unilaterally decided whether a would-be voter passed this literacy test. As a result of such policies and other tactics to prevent Black voters from registering, the majority were excluded from registration, and the percentage of voting-

age African Americans registered to vote decreased dramatically throughout the South following the end of Reconstruction (1865–1877). In Mississippi, the percentage of registered Black men dropped to less than 6 percent in 1892.

The US Constitution grants responsibility for administering the voting process to the states, which enables states to pass laws that may disenfranchise voters. However, the Constitution also protects citizens' voting rights through the Fifteenth, Nineteenth (in which women gained the right to vote), Twenty-fourth (banning poll taxes in national elections), and Twenty-sixth (reducing the voting age to eighteen) Amendments. Additional federal laws were passed to prevent states from applying policies that interfere with these rights.

The Voting Rights Act of 1965, enacted to ensure compliance with the Fifteenth Amendment throughout the South, authorized federal oversight of elections in districts where voter registration among racial minorities was below 50 percent. The law banned literacy tests and called for investigations in poll taxes and other tactics that suppressed minority voter registration in the South. The effect on voter registration was immediate and significant. In Mississippi alone Black voter registration rose from 6.7 percent of the population in 1965 to 59.8 percent in 1967. Of the original thirteen Southern states targeted, all but four had more than 50 percent of Black voters registered by 1967.

Amendments to the Voting Rights Act in 1970, 1975, and 1982 as well as several federal court rulings addressed additional discriminatory state and local and voting policies. In *Shelby v. Holder* (2013), the Supreme Court ruled that part of the Voting Rights Act was unconstitutional, specifically the that requires voting districts receive to federal approval before enacting new voting policies. Voting rights advocates have widely criticized the ruling and has since campaigned for legislation that would provide more comprehensive voter protections.

Federal efforts to eliminate barriers to voter registration were bolstered by the National Voter Registration Act (NVRA) of 1993. Commonly referred to as the Motor Voter Act, one of the NVRA's main provisions compels Department of Motor Vehicles (DMV) offices in forty-four states and the District of Columbia to provide voter registration services. The mandate also applies to some state and local social services and disability offices. The NVRA also introduced standardized voter registration forms, which can be processed by mail, rather than requiring in-person registration.

State Laws and Policies

While national-level statutes regulate some aspects of the voter registration process, states retain significant latitude in setting their own policies. States have traditionally offered voters the opportunity to register through party-affiliated voter registration drives, local election offices, state agencies that offer public assistance services, and sanctioned third-party organizations such as the League of Women Voters. Some states also provide additional options, such as online registration, same-day registration, and preregistration. Deadlines also vary, with some states requiring voters to register at least thirty days before the election date and others allowing registrants to enroll as late as Election Day.

Some state-level registration policies are considered problematic, as they tend to impede some citizens from exercising their voting rights. For instance, most states with registration deadlines in advance of Election Day do very little to inform voters about these cutoff dates, and as a result, many otherwise eligible electors fail to register in time. States that allow online and same-day registration tend to have significantly higher voter participation rates, yet, as of 2021, eight states had not adopted online registration policies, and only twenty-one states and the District of Columbia allowed same-day registration.

The accuracy of state voter lists is an essential aspect of election integrity, but various factors can compromise it. Voters often move from one state to another without updating their voter registrations, and large numbers of inactive voters, including deceased individuals, remain on voting lists. While updating of voter rolls is essential, critics charge that states have used stringent voter roll maintenance requirements to remove eligible voters who may not discover their deregistration until they go to the polls and attempt to vote. In the 2010s, states significantly increased the number of voting roll purges. The Brennan Center, an independent organization that monitors US election laws, found that between 2014 and 2016, almost sixteen million people were removed from voting rolls, a 33 percent increase compared to the number of voters purged from 2006 to 2008. Significantly, the increases were highest in states with a history of discrimination in voting access. Georgia purged over three hundred thousand voters in October 2019 alone.

Online, Automatic, Same-Day, and Preregistration

As of 2022, forty-two states plus the District of Columbia allow voters to register online through secure, government-affiliated websites. In jurisdictions where it is offered, the online registration process is available to anyone with a state-issued identification card (ID) or driver's license. Supporters point to online registration's convenience and cost-cutting efficiency as major benefits, but critics note the inherent potential for security breaches.

Automatic voter registration is authorized in twenty-two states and the District of Columbia as of 2022. Under this system, eligible citizens are automatically registered to vote upon their first interaction with the state DMV, and previously registered voters are automatically re-added to voter rolls unless they specifically request to opt out. This significantly boosted registration rates in numerous states after implementation, according to a 2021 analysis by the Brennan Center. A 2019 study by the FiveThirtyEight website found that while overall turnout numbers increased where the system was introduced, the proportionate increase from automatically registered voters was lower than the turnout from voters who registered through traditional means. Some opponents object to automatic registration policies as infringing on individual liberties by putting the registration decision in the hands of the government. While automatic voter registration was included as a national requirement in the proposed Freedom to Vote Act, introduced in the Senate in 2021, at least one state has proposed ending automatic registration. The Georgia state legislature introduced a bill in 2021 and 2022 to replace automatic registration with a requirement that registrants must affirmatively opt in.

Same-day registration and Election-Day registration enable voters to complete their registrations at polling stations when they arrive to cast their ballots. Voters must present proof of residency, such as a paycheck or utility bill, and a valid piece of photo identification, such as a driver's license, passport, or state-issued ID. In some jurisdictions, valid photo ID can also double as proof of the voter's residency status. As of 2021, same-day registration on Election Day is available in nineteen states and the District of Columbia, while Montana and North Carolina have same-day registration during part of the early voting period, but not on Election Day itself. The National Conference of State Legislatures (NCSL) suggests that same-day registration improves voter turnout rates by an average of about 5 percent. However, its opponents contend that it is vulnerable to abuse and electoral fraud, as many states only verify the voter's registration after Election Day, by which time the voter's ballot has already been counted.

Preregistration options are available in the District of Columbia and all states (except North Dakota, which has no voter registration requirements). Under preregistration systems, prospective voters are eligible to register before their eighteenth birthday, so that they will automatically be able to participate in elections when they reach voting age. While some states specify a registration window ranging from six months to two years before the eighteenth birthday, other states allow preregistration for anyone who will be eighteen by the time of the next general election.

Critical Thinking Questions

- In what ways do you think the voter registration process would be affected if the federal government, rather than state governments, oversaw the voter registration process?
- What are some ways in which state laws have made registering to vote more difficult, and what are some policy changes that you think could simplify the registration process and make it more accessible?
- Under what circumstances, if any, do you think states should remove voters from voter rolls? Explain your answer.

Registration Pushes and the Rising American Electorate

The Rising American Electorate (RAE) demographic, a term used primarily among Democratic political strategists, includes young voters as well as people of color and unmarried women. According to the Voter Participation Center (VPC), the RAE includes approximately 150 million, or 64 percent, of eligible voters as of the 2020 presidential election. Of actual voters in the 2020 election, the RAE made up 57 percent, up from 53 percent in 2016. The VPC notes that while raw numbers rose significantly in turnout from this group, overall voter turnout for all groups was also very high, muting the effect of the RAE increase.

Until the 2018 midterm elections, those eligible to vote in the growing RAE demographic turned out at a lower rate than older voters. Significant efforts were made by VPC and other groups to target younger and minority voters with registration drives. In Georgia, Fair Fight Action and other voter groups worked to register previously unregistered minority voters, and some analysts credit this activity with helping President Joe Biden win a majority of votes in Georgia in 2020.

As voter registration activism has increased from both parties as well as nonpartisan organizations nationally, voter registration drives have become a target of restrictive legislation in the wake of the 2020 election. For example, a 2021 Kansas law made it a felony to impersonate an election official, but the standards under the law were vague enough that many organizations, including the League of Women Voters, suspended all voter registration drives for fear of running afoul of the law. In 2021, Montana passed a law banning voter registration drives on college campuses.

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