

2020 GENERAL ELECTION:

Counting Votes & What to Expect on Election Day



ALTHOUGH Election Day is on November 3 this year, the general election is already well underway. In every state voters are already casting their ballots and millions of votes have already been cast. Turnout is unprecedented and as states have worked to make voting safe in light of the pandemic, we have seen no major disruptions at the polls during early voting. This report reinforces Democrats' call to encourage Americans to vote, and it summarizes what to expect on Election Day.





I. Vote, and vote early

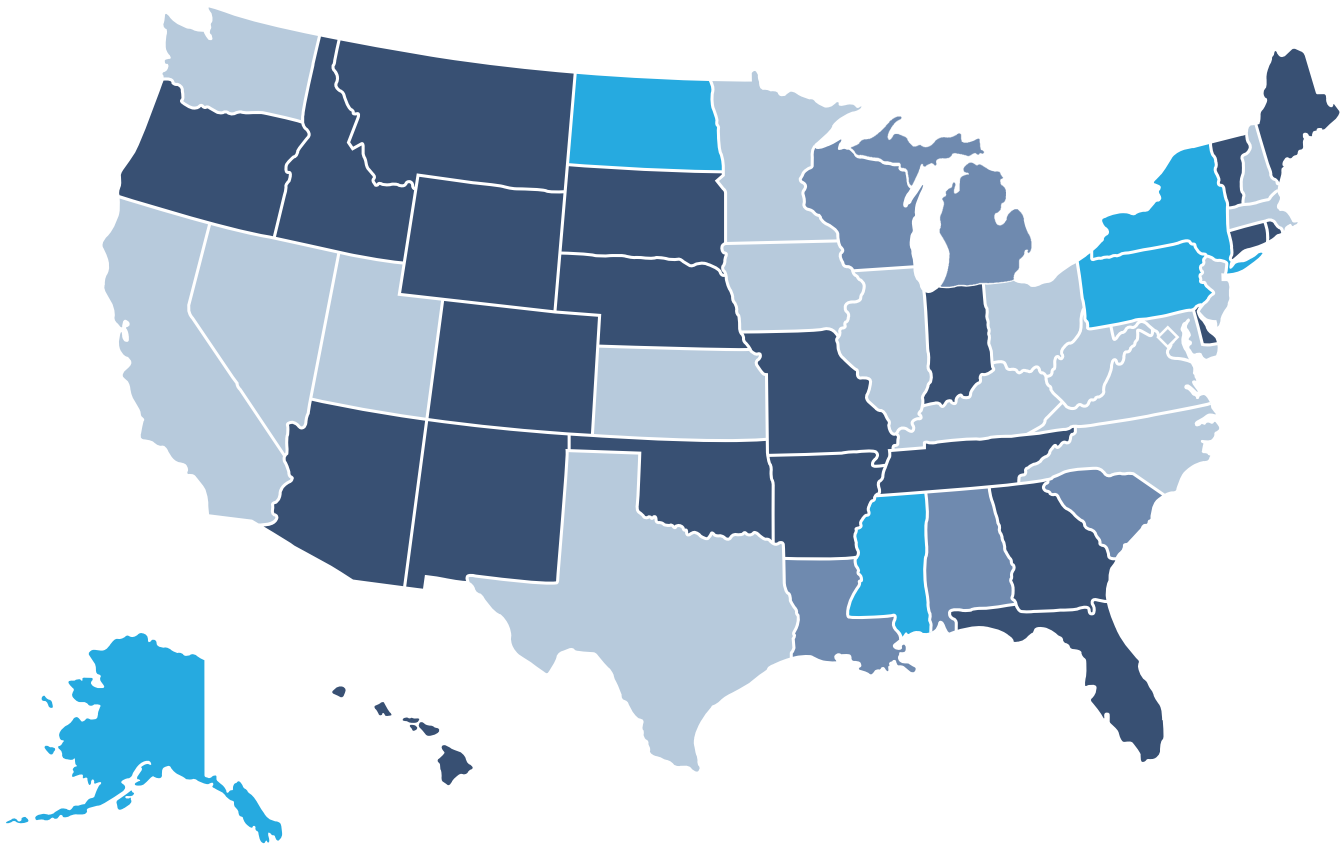
- In a democracy, citizens should not have to risk their health or their lives in order to cast their vote. Given the pandemic, there will be a huge increase in mail-in ballots. We urge voters to cast their ballots as early as possible, and we will fight to ensure that every vote is counted.
- Despite the President's false claims, according to the leading election experts in our country, voter fraud is nearly nonexistent. The integrity of the election process is strong and election officials across the country are working around the clock to ensure that all votes are counted and counted accurately.
- It is unfortunate that President Trump and his allies are attempting to stoke fear and chaos. The American people should be aware of these efforts, but must understand that they are nothing more than disinformation.
- Democrats support free and fair elections.



II. In some states, we may not know the winner on Election Night. That's OK.

- This year we know that in some states vote totals on election night might not give us a complete picture of who will win when all the votes are counted.
- Election experts warn that because this year a higher percentage of Republicans are voting in-person, while more Democrats are requesting mail-in ballots, early vote counts that don't include many absentee ballots may create the false appearance that Republicans are ahead.
- President Trump's rhetoric indicates he may exploit this illusion and claim victory for himself, then falsely claim that there is "massive fraud" in mail-in ballots that have not yet been counted or reported.
- Some states are working to reduce the opportunity to undermine our elections in this way by reporting how many outstanding absentee ballots remain uncounted.
- Americans should be prepared to reject misinformation and be patient about results in places where counting ballots may take longer.
- States have different rules regarding the date by which election officials must receive ballots. About half of the states require absentee ballots to be received by Election Day, and about half allow them to be received later if they are postmarked by Election Day.
- It can take time to process absentee ballots. Some states start this process well before Election Day as ballots come in, but other states have rules that prevent officials from beginning to process ballots until Election Day or the day before.

STATES CAN BE DIVIDED INTO FOUR GROUPS BASED ON HOW THEY PROCESS BALLOTS



<p>GROUP 1: States that require ballots to be received on or before Election Day and allow early processing of ballots -- vote totals on election night will include many absentee ballots.</p>	<p>Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia¹, Hawaii, Idaho, Indiana, Maine², Missouri, Montana, Nebraska, New Mexico, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Vermont, Wyoming</p>
<p>GROUP 2: States that allow ballots to be received after Election Day and allow early processing of ballots -- vote totals on election night will include some absentee ballots.</p>	<p>California, DC, Illinois, Iowa, Kansas, Kentucky, Massachusetts, Maryland, Minnesota, Nevada, New Jersey, New Hampshire, North Carolina, Ohio, Texas, Utah, Virginia, Washington, West Virginia</p>
<p>GROUP 3: States that require ballots to be received on or before Election Day and little or no advanced processing -- vote totals on election night will include some absentee ballots.</p>	<p>Alabama, Louisiana, Michigan, South Carolina, Wisconsin</p>
<p>GROUP 4: States that allow ballots to be received after Election Day and little or no advanced processing -- vote totals on election night will include few or no absentee ballots.</p>	<p>Alaska³, Mississippi, New York³, North Dakota, Pennsylvania</p>

1. Under Georgia law for the two Seante races on the ballot, if no candidate wins 50 percent of the vote, there is a runoff election.
2. Maine uses ranked choice voting for all federal races, which could increase the time it takes to tabulate results.
3. These states allow for advanced processing, but prohibit the tabulation of absentee ballots until after Election Day.

- It is important to note that in states with very close elections, there may be delays in reporting the final results.
- Also, this report will be updated to include information on the territories that was not immediately available, and will be continually updated based on changes to state election procedures.



III. Voter Intimidation is Illegal

- Experts do not expect widespread voter intimidation and violence, but any attempts to suppress the vote will not be tolerated.
- Federal law (18 U.S. Code § 594, 52 U.S.C. § 20511) is clear: it is illegal to intimidate, threaten, or coerce anyone in order to interfere with their right to vote.
- Official poll watchers can play a legitimate role in ensuring the integrity of our elections, but most states have regulations to make sure that voters are not intimidated.
- Some states require poll watchers to be officially appointed by a party, limit the number of poll watchers allowed at a polling location, restrict the reasons that ballots can be challenged, and require sworn affidavits from those who challenge votes.

WHAT IS VOTER INTIMIDATION?

According to the ACLU, examples of voter intimidation include:

- Aggressively questioning voters about their citizenship, criminal record, or other qualifications to vote, in a manner intended to interfere with the voters' rights
- Falsely presenting oneself as an elections official
- Spreading false information about voter requirements, such as an ability to speak English, or the need to present certain types of photo identification (in states with no such requirement)
- Displaying false or misleading signs about voter fraud and the related criminal penalties
- Other harassment, particularly toward non-English speakers and voters of color




Background on Election Procedures in Presidential and Senate Battleground States



ALABAMA

Alabama is one of the 16 states that ordinarily requires voters to give an excuse for voting by mail, but it is among the 11 states allowing all voters to request a mail-in ballot due to the pandemic. Voters must request mail-in ballots at least 5 days before Election Day. They must be postmarked 1 day before Election Day and received by noon on Election Day. The state does not allow the processing of mail-in ballots to start until Election Day. Mail-in ballots must include two witness signatures or be notarized. Voting rights groups have filed suit to block the witness requirements. On September 30, a district court judge ruled that voters over 65 and people with underlying conditions that made them susceptible to COVID-19 did not need to have witness signatures on their ballots. On October 13, the 11th Circuit overturned the district court decision. Alabama does not offer early voting, but voters can fill out absentee ballots in-person at certain locations.

ALASKA



All voters can cast ballots by mail. Voters must request mail-in ballots at least 10 days before Election Day. They must be postmarked by Election Day and received within 10 days after Election Day. Mail-in ballots can be processed upon receipt, but elections officials cannot begin tabulating absentee ballots until 7 days after Election Day. Normally, mail-in ballots must be signed by a witness. However, on October 12, the Alaska Supreme Court upheld a lower court decision blocking the requirement for the general election this year. Early voting in Alaska runs from 15 days before Election Day until the day before Election Day.



ARIZONA

In Arizona, mail-in ballots must be requested at least 11 days before the election and received by 7 p.m. on Election Day. More than 75 percent of Arizona's approximately 4.1 million registered voters have permanently signed up to receive mail-in ballots. In the August primary, more than 80 percent of the ballots cast were sent in or cast before Election Day. Ballots began being mailed out to voters on October 7. Early in-person voting started on October 7, 27 days before Election Day. A large number of those who don't vote by mail tend to still vote early. The state allows for the early processing of mail ballots 14 days before the election. The state allows voters to cure mismatched and missing signatures (the latter due to litigation this year).



COLORADO

Colorado is one of 5 states that conducted elections predominantly by mail even before the pandemic. All registered voters are automatically mailed a ballot. Ballots must be received by 7 p.m. on Election Day. Colorado begins processing ballots upon receipt and begins tabulating them on October 19. Drop boxes are also widely available. In 2016, 73% of voters returned their ballots to a drop box.



FLORIDA

All voters can cast ballots by mail. They must be requested at least 10 days before Election Day and received by Election Day. The state can start processing mail-in ballots on September 29. In 2018, 31 percent of ballots were cast by mail. For the August primary, nearly 4 million voters cast ballots, almost 1 million more than in 2016. Approximately 2.3 million of those votes were cast by mail. This was also the largest primary turnout in 18 years. While early voting varies across the state, it must begin at least 10 days before Election Day and end 3 days before Election Day.

The restoration of voting rights to individuals with felony convictions has been a major focus this year in Florida. In November 2018, voters approved an amendment to the state's constitution that restores voting rights to individuals with prior felony convictions once they have completed "all terms of" their sentence. On June 28, 2019, Governor DeSantis signed a law that defined "all terms of" a sentence to include the payment of all court costs, fees, and fines. After plaintiffs challenged the constitutionality of the new law, in May 2020, a district court barred the state from enforcing the law. The state appealed to the U.S. Court of Appeals for the 11th Circuit, which on July 1, 2020, granted their request to have the full court hear the case and put the district court's ruling on hold until a final decision on the appeal could be made. On July 8, 2020, plaintiffs asked the U.S. Supreme Court to reinstate the district court's ruling in time for the state's August primary election, but the justices declined to intervene, with Justices Sotomayor, Ginsburg, and Kagan dissenting. On September 11, 2020, the Court of Appeals overturned the district court's decision and reinstated the state's fee-paying requirement.



GEORGIA

All voters can cast ballots by mail. Mail-in ballots must be requested at least 4 days before Election Day and received by Election Day. The state can start processing mail-in ballots on September 15. In 2018, only 6 percent of ballots were cast by mail. The early voting period begins on the 4th Monday before the election and ends the Friday before. For the general election, the early voting period runs from October 12 to 30.

Earlier this year, the state's primary election was postponed to June 9, with the Secretary of State's office sending mail-in ballot requests to all voters. As of May 23, almost 1.5 million voters had requested ballots and state officials estimate that as many as half of voters will cast absentee ballots—compared with just 5 to 7 percent in a typical election. Early on the day of the primary, voters, poll managers, and elected officials reported problems with the state's new \$107 million voting system, predominantly in majority-black precincts. Throughout the day, there were long lines at polling locations. Before the election, many voters reported that they did not receive their absentee ballot, which forced them to go vote in-person.

There are elections for two U.S. Senate seats on the ballot. Under state law, if no candidate wins 50 percent of the vote, a runoff election must be held on January 5.



IOWA

All voters can cast ballots by mail. Mail-in ballots must be requested at least 1 day before Election Day if requested in-person or 10 days before if requested by mail. Ballots must be postmarked 1 day before Election Day and received within 6 days after. The state can start processing mail-in ballots on October 30, and tabulating on November 2. In 2018, 24 percent of ballots were cast by mail. Early voting began October 5, 29 days before Election Day.

For the primary, Secretary Paul Pate's office mailed an absentee ballot request form to all of the nearly 2 million registered voters. The primary broke state records for turnout and mail-in ballots made up nearly 80 percent of votes cast. A record number of voters have requested mail-in ballots for the general election – over 700,000 people. The state has made additional drop boxes available, but the Secretary of State limited them to being placed on county property.

KANSAS

All voters can cast ballots by mail. Voters must request a mail-in ballot at least 7 days before Election Day. They must be postmarked by Election Day and received within 3 days after Election Day. Mail-in ballots can be processed upon receipt. Early voting in Kansas varies by county but can start up to 20 days before Election Day and last until up to the day before Election Day.

KENTUCKY

Kentucky is one of the 16 states that ordinarily requires voters to give an excuse for voting by mail, but it is among the 11 states allowing all voters to request a ballot due to the pandemic. The deadline for requesting a mail-in ballot for the 2020 general election was October 9. Mail-in ballots must be postmarked by Election Day and received by 6 p.m. 3 days after Election Day. Mail-in ballots can be processed starting on October 1. Early voting in Kentucky runs from 21 days before Election Day to the day before Election Day.

MAINE

All voters can cast ballots by mail. The deadline for requesting a mail-in ballot is 3 days before Election Day. Mail-in ballots must be received by 8 p.m. on Election Day. Mail-in ballots can be processed starting on October 27. Voters can cast absentee ballots in-person from 30 days before the election until the Thursday before the election (October 29). Maine uses ranked choice voting for all federal races, which could increase the time it takes to tabulate results. It is also one of two states that splits its electoral votes by congressional district.



MICHIGAN

In Michigan, mail-in ballots must be requested at least 4 days before Election Day (1 day person) and be received by Election Day. The deadline had been extended due to litigation (*Michigan Alliance for Retired Americans v. Benson*), but on October 16, an appeals court overturned the ruling of a lower court, reinstating the original deadline. In 2018, Michigan voters approved a proposal to allow all voters to request an absentee ballot. But despite restrictions on who could request a mail ballot, in 2018, 24 percent of votes were cast by mail.

The Secretary of State's office mailed all voters absentee ballot applications for both the primary and general election. The Michigan legislature approved only one additional day for processing mail-in ballots, but the Secretary of State's office pressed for more. Ballots began being sent out to voters on September 24, and early in-person voting started on September 24.



MINNESOTA

All voters can cast ballots by mail. Mail-in ballots must be requested at least 1 day before Election Day and postmarked by Election Day and received within 7 days after. The state can start processing mail-in ballots 14 days before Election Day. In 2018, 25 percent of ballots were cast by mail. The state allows for 46 days of early in-person voting, the most in the country. The state began mailing ballots on September 18th, the same day that early voting began. Election officials will begin processing ballots 14 days before the election due to legislation signed by Governor Walz in May. Due to the same consent decree, which extended the ballot deadline to 7 days after the election, the witness signature requirement will not be in effect for the general election. Minnesota law ordinarily prohibits an individual from assisting more than 3 individuals with completing or returning their ballots, but due to litigation, the Secretary of State's office is not allowed to enforce those limits during the pandemic. As of October 9, over 1.3 million Minnesotans had applied to vote by mail and over 600,000 of those ballots had been accepted.



MISSISSIPPI

In Mississippi, mail-in ballots must be postmarked by Election Day and received by November 10. Mississippi strictly limits who can vote by mail to those with an excuse related to age, health, work demands, temporary relocation for educational purposes, or military service. The state requires every absentee ballot to be notarized, with an exception for those with a disability who can return a ballot with a witness signature. In 2016, 102,915 Mississippi citizens voted by mail. Mississippi does not offer early in-person voting. Absentee ballots were made available to voters on September 21. The state begins processing ballots on Election Day.



MONTANA

All voters can cast ballots by mail. The deadline for requesting a mail-in ballot is 1 day before Election Day. Mail-in ballots must be received by 8 p.m. on Election Day. Montana begins processing mail-in ballots upon receipt and begins tabulating them on November 2. Voters can cast absentee ballots in-person from 30 days before Election Day until noon the day before Election Day. Montana's June primary was conducted almost entirely by mail, while in 2016 only 65 percent of ballots were cast by mail. 46 out of the state's 56 counties have chosen to send mail-in ballots to all registered voters for the general election. These counties mailed ballots to registered voters on October 9.



NEVADA

All voters can cast ballots by mail and the state mailed all voters a ballot for the primary and general elections. Ballots must be postmarked by Election Day and received within 7 days after. The state can start processing mail-in ballots on September 24 and start tabulating them on October 19. In 2018, 9 percent of ballots were cast by mail. The state allows for 13 days of early in-person voting.

On March 24, Secretary of State Barbara Cegavske announced that Nevada would mail ballots with prepaid postage to all active voters for the June 9 primary. On May 20, President Trump tweeted that the state was facilitating fraud by mailing ballots and threatened to withhold federal funds to the state. That same day Secretary Cegavske issued a response to the President stating that the decision to mail ballots was made lawfully and in response to the pandemic and that the state had safeguards in place to ensure the integrity of elections.

On August 4, the Trump campaign, the Republican National Committee, and the Nevada Republican Party filed suit against Secretary Cegavske (*Donald J. Trump for President v. Barbara Cegavske*) to block the state's expansion of mail-in ballot procedures and voting locations, including a requirement that officials count ballots received up to three days after Election Day, even if they lack a postmark. The Trump campaign alleged violations of federal election law and the Fourteenth Amendment, claiming that the changes make voting fraud inevitable and discriminated against rural voters. Secretary Cegavske asked the court to dismiss the case, stressing that the law makes only "modest changes" to respond to the COVID-19 pandemic and argued that allegations that mail-in voting leads to voter fraud are purely speculative, as there has been no evidence of voter fraud in states using mail-in voting. On September 21, the district court judge sided with Secretary Cegavske and dismissed the case on the grounds that the litigants lacked standing to bring their claims for relief and stated that their standing was "impermissibly generalized."



NEW HAMPSHIRE

New Hampshire is one of the 16 states that ordinarily requires voters to give an excuse for voting by mail, but it is among the 11 states allowing all voters to request a ballot due to the pandemic. On April 9, Governor Chris Sununu announced that the state will allow voters to cast mail-in ballots for elections this year if the coronavirus is still a factor. All voters were allowed to request mail-in ballots for the September primary and for the general election.

Ballots must be received by Election Day and the state does not offer early voting. Officials can start processing mail-in ballots on October 29. In 2018, 8 percent of ballots were cast by mail. For the September primary election, approximately 30 percent of ballots were cast by mail.



NORTH CAROLINA

In North Carolina, mail-in ballots must be requested at least 7 days before Election Day and postmarked by Election Day and received within 3 days after. In 2018, only 3 percent of votes were cast by mail. Of the state's over 7 million registered voters, over 1 million have requested a mail ballot. North Carolina was the first state to begin voting by sending out mail-in ballots on September 4 and early-in person voting began on October 15. Before the pandemic, voters were required to provide 2 witness signatures or have their ballot notarized, but litigation led to the lowering of the requirement to 1 witness signature.

A lack of a witness signature or other witness information has emerged as the leading cause of problems with verifying ballots, and it disproportionately affects Black voters. As of early October, Black voters cast 16 percent of overall ballots, but they accounted for 43 percent of the ballots classified as having incomplete witness information. Under a settlement agreed to by the North Carolina State Board of Elections (*North Carolina Alliance for Retired Americans v. North Carolina*) voters are able to fix the problem by returning an affidavit affirming under penalty of a felony that they actually filled out the original ballot. On October 15, a judge ruled that ballots without a witness signature could not be fixed, and only minor mistakes with a witness signature could be fixed. Nearly 1,000 ballots with incomplete witness information and other deficiencies have been set aside since at least October 3, under instructions from the state board to take no further action on their acceptance or rejection pending court rulings.

OHIO



All voters can cast ballots by mail. Mail-in ballots must be requested at least 3 days before Election Day, postmarked by the day before Election Day and received within 10 days after. The state can start processing mail-in ballots on October 6. In 2018, 21 percent of ballots were cast by mail. The state allows for 28 days of early in-person voting.

On March 16, the Ohio legislature postponed the primary and conducted the election almost entirely by mail after the Governor and top state health officials ordered the polls closed. Nearly 8 million voters received postcards with instructions for applying for a mail-in ballot. Election officials were overwhelmed as nearly 2 million voters requested absentee ballots in a short amount of time. Slow mail service worsened the delays. Thousands of voters did not get absentee ballots in time to vote by mail and were allowed to vote in-person at their county board of elections.

On August 12, Secretary of State Frank LaRose issued a directive that forces each county in Ohio to have only one drop box located at county boards of elections offices. On August 26, the Ohio Democratic Party and voting rights groups sued. On October 8, the district court ruled in favor of the Democratic groups, allowing more drop boxes. On October 10, 6th Sixth Circuit Court of Appeals issued a stay of the lower court order.

PENNSYLVANIA



In Pennsylvania, ballots have to be requested at least 7 days before Election Day and must be postmarked by Election Day and received within 3 days after (due to litigation). In October 2019, Governor Tom Wolf signed legislation into law that ensured all voters can request a mail ballot. In 2018, only 4 percent of votes were cast by mail.

As of September 14, voters have been able to fill out a mail-in ballot in-person at an “early voting location,” however these locations do not have voting machines. The state began sending ballots on September 19. The state has been at the center of many legal battles. In August, the Trump campaign was unable to show any evidence of voter fraud in court when ordered to by a Trump-appointed federal judge. On October 10, the same judge dismissed the case. In September, in response to a lawsuit, the Secretary of State’s office established a signature curing process. The Trump campaign and Republican officials have fought the expansion of mail voting, the extension of the mail-in ballot deadline, and availability of drop boxes. On September 17, the Pennsylvania Supreme Court ruled in favor of allowing drop boxes; allowing ballots to be returned up to three days after Election Day; and blocked a Republican effort to allow partisan poll watchers to be stationed in counties where they do not live. On September 28, the state’s Republican legislative

leaders asked the U.S. Supreme Court to stay only the decision to count mail-in ballots received after Election Day.

Pennsylvania has recently gained a lot of attention for its policy to disqualify ballots received without a required secrecy envelope – so-called naked ballots - while giving voters no recourse to fix the mistake. Election officials have warned that new enforcement of the longstanding rule, which was mandated by the state's Supreme Court, could result in the rejection of as many as 100,000 ballots statewide.

SOUTH CAROLINA

South Carolina is one of the 16 states that ordinarily requires voters to give an excuse for voting by mail, but it is among the 11 states allowing all voters to request a ballot due to the pandemic. The deadline for requesting a mail-in ballot in-person is 4 days before Election Day for previously unregistered voters and 1 day before Election Day if the person is already registered to vote. Mail-in ballots must be received by 7 p.m. on Election Day. Mail-in ballots can be processed starting on October 27. Voters can cast absentee ballots in-person from October 5 to November 2.

South Carolina requires a witness signature on absentee ballots. In May, Democrats filed suit to block the witness requirement. On September 18, a federal district court judge issued an injunction blocking the witness requirement. A three-judge panel from the 4th Circuit blocked the injunction but the full appeals court reinstated it. On October 5, the U.S. Supreme Court stayed the 4th Circuit's decision. Ballots without a witness signature that were mailed before the Supreme Court's decision and received within 2 days after will still be counted.

TEXAS

Texas is one of only 5 states that is still requiring voters to give an excuse for voting by mail during the pandemic. Voters must request mail-in ballots at least 11 days before Election Day and they must be received by the day after Election Day. The state can start processing mail-in ballots on October 22, and tabulating them on October 30. In 2018, only 6 percent of ballots were cast by mail. Under the Texas Election Code, voters only qualify for mail-in ballots if they are 65 years or older, have a disability or illness, will be out of the county during the election period, or are confined in jail. In March, Governor Abbott delayed the state's primary runoffs from May 26 to July 14. On May 27, after a contentious legal battle, the Texas Supreme Court, made up entirely of Republican justices, ruled that the definition of disability did not qualify voters to cast ballots by mail during the pandemic. Even with the restriction on voting by mail, counties saw higher numbers of mail-in ballots cast for the primary and requests for the general election. Early voting started October 13 - this period was extended for the general election because of the pandemic.

On September 24, Governor Greg Abbott announced that all counties would only be allowed to have one ballot drop box. This means that Harris County (population 4.7 million), which contains Houston, would have to go from 12 drop boxes to one, and Travis County (population 1.2 million), which contains Austin, would have to go from 4 drop boxes to one. The order predominantly affects democratic counties. Harris County is the state's largest county by population and one of the most populous counties in the entire country. Abbott said in a statement that the order was made to enhance ballot security and would allow poll watchers to observe the in-person delivery of ballots. After voting rights groups filed suit against the state in federal court in Austin, a district court judge struck down the Governor's order on the limit for drop boxes on October 9. On October 12, a unanimous three-judge panel of Trump-appointed judges on the 5th Circuit Court of Appeals lifted

the district judge's preliminary injunction. On October 15, a state court ruled that the Governor does not have the authority to limit ballot drop boxes.

Republican officials have also tried to restrict curb-side voting in Harris County which is critical to ensuring elderly voters and voters with disabilities can cast their ballots. They were successful in stopping Harris County from sending out absentee ballot applications to registered voters.



WISCONSIN

All voters can request mail-in ballots and they must be requested at least 5 days before Election Day and received by Election Day for the general election. The state cannot begin processing mail-in ballots before Election Day, however local election officials have pledged to begin processing ballots in the early morning hours of November 3rd. In 2018, 6 percent of ballots were cast by mail. For the primary, the U.S. Supreme Court ruled that Wisconsin could not have a ballot deadline that would allow ballots to be received up to 6 days after the election, regardless of the postmark date. The Court ruled that instead, mailed ballots must be *postmarked* by Election Day and received within 6 days after.

Wisconsin has been the center of lawsuits focused on making it easier to vote by mail. This has included suits to extend the deadline for ballots and to eliminate the state's witness signature requirement. On October 8, a three judge panel for the 7th Circuit Court of Appeals blocked a district judge's ruling that would have extended the deadline for counting absentee ballots (*DNC v. Bostelmann*). A 2-1 panel sided with state Republicans and the Republican National Committee. In an unsigned opinion, the panel cited Supreme Court precedent that argued against judges changing voting rules near an election date. On October 13, Democrats asked the U.S. Supreme Court to intervene in the case.