

# The Freedom to Vote Act

Key Provisions

# Facilitating Voter Registration

- Requires states to establish a system of automatic voter registration (AVR) for federal
- States must allow pre-registration of any citizen 16 years or older, so that they can vote in federal elections as soon as they turn 18.
- State must make voter registration available online to the public
- Must establish same day voter registration
- The Freedom to Vote Act makes it a federal crime for anyone—public official or private citizen alike—to prevent a person from registering to vote.

# Protecting the Freedom To Vote Early

- Requires states to hold at least 14 consecutive days of early in-person voting, including two weekends, with polls open for at least 10 hours on each early voting day.
- Early voting polling places must be accessible to rural voters, students on college campuses and via public transportation.
- Election officials must begin processing and scanning early vote ballots—but not tabulating them—during the in-person early voting period no later than 14 days before the election.

# Expanding the Freedom To Vote by Mail

- The Freedom to Vote Act ensures that voters can vote by mail, without an excuse or other qualification required.
  - States may not require voters to provide additional copies of identification documents to obtain or cast a mail-in ballot, nor can they require voters to have their ballots notarized or signed by a witness.
  - States must allow voters to apply online for a mail-in ballot.
- Requires each jurisdiction to provide in-person, secured and clearly labeled ballot drop boxes for voters to return their absentee ballots in person.

# Expanding the Freedom To Vote by Mail(cont)

- Requires states to create a permanent early voting list by requiring them to treat an application to vote by mail as valid for all subsequent federal elections unless the voter is no longer registered to vote in the state or affirmatively opts out for future elections.
- Mail-in ballots must be accepted and counted if they are postmarked by Election Day and received within seven days of Election Day.
- States must begin processing and scanning mail-in ballots at least 14 days prior to Election Day but may not begin tabulating those ballots until the close of polls on Election Day.
- States may not restrict who can distribute absentee ballot applications.
- States are required to develop or adopt a system to enable voters to track their absentee ballots online.

# Reforming the Role of the U.S. Postal Service in Elections

- The Freedom to Vote Act directs the U.S. Postal Service (USPS) to ensure any ballot it carries is processed by and cleared from any postal facility or post office on the same day it is received.
  - Completed mail-in ballots must be carried free of postage, and all other election mail must be carried as first-class mail.
- USPS must appoint an election mail coordinator at each area and district office and cannot make operational changes that would restrict delivery of election mail within the 120 days leading up to a federal election.

# Establishing More Equitable Polling Places

- States must provide sufficient resources to establish fair and equitable polling place waiting times, and ensure no voter waits longer than 30 minutes to vote.
- States must provide voters with notice if their polling place has changed since the last election.
- The Freedom to Vote Act authorizes financial grants to states for recruiting and training poll workers and instructs the Election Assistance Commission (EAC) to distribute uniform guidance on poll worker recruitment, training and retention.
- The bill prohibits states from restricting donations of food and nonalcoholic beverages to people outside a polling place.

# Counting Provisional Ballots Fairly

- The Freedom to Vote Act requires provisional ballots cast within the same county where the voter is registered or eligible to vote to be counted for all elections in which the voter is eligible to vote, regardless of whether the provisional ballot was cast at the voter's assigned precinct or polling place.
- States must establish uniform and nondiscriminatory standards for issuing, handling and counting provisional ballots.



# Increasing Access for Voters with Disabilities

- States must establish a single website accessible to voters with disabilities containing information on voter registration, voter assistance and voting rights for voters with disabilities and older voters, information about accessibility of polling places, and guidance, online resources, and training for election officials and poll workers.
- States must ensure that all polling places are accessible to voters with disabilities and consider in-person alternatives to address long wait times at in-person polling places, such as curbside voting, mobile polling sites or an expedited line for voters with disabilities and older voters.
- Voting systems, including ballot marking devices and voter-verifiable paper ballots, must be accessible for individuals with disabilities and preserve the same opportunity for access, participation, privacy and independence as for other voters.
- The Freedom to Vote Act establishes additional protections for voters who are subject to guardianship.

# Restoring Access To Democracy for Justice- Involved Voters

- The Freedom to Vote Act fully restores the right to vote in federal elections to all voters with felony convictions upon completion of any term of incarceration associated with their felony conviction.

# Ensuring Accessible Voter Validation Measures

- States with voter validation requirements must permit the use of any document issued to the voter and containing the voter's name—such as federal or state-issued IDs, military or veteran IDs, university or college IDs and tribal IDs—to satisfy the state's voter ID requirement for in-person voting.
  - As an alternative, it permits the voter to accept a sworn affidavit made in the presence of an individual who has known the voter for at least six months as a valid form of identification.
- States with existing voter validation requirements must make available an identification card that satisfies the state's requirements to all registered voters, free of charge.
- The Freedom to Vote Act does not impose any new voter validation requirements in states that do not already have them.

# Guaranteeing Equitable Voter List Maintenance

- The Freedom to Vote Act prohibits “voter caging,” the practice of removing voters from the registration rolls based on an unreturned mailing.
- The bill prohibits states from deleting voters from the rolls based on the voter’s failure to vote in a prior election or failure to respond to election mail.
  - States are still permitted to remove voters who, according to objective and reliable state records, have died or moved out of the state.

# Establishing Legal Tools to Protect the Right To Vote

- The Freedom to Vote Act authorizes private parties to bring lawsuits for voting rights violations in federal court in the District of Columbia, as well as in the jurisdiction where the violation occurred.
- The bill strengthens legal standards for voting rights plaintiffs, making challenges to burdensome election laws and policies more likely to succeed.

# Making Election Day a Federal Holiday

- The Freedom to Vote Act establishes Election Day as a new legal public holiday.

## Election Security Limiting Partisan Interference with Election Administration

- The Freedom to Vote Act limits the ability of statewide election officials to suspend, remove or relieve local election administrators of duty, except for gross negligence, neglect of duty or malfeasance in office. It allows local election administrators to bring lawsuits challenging unlawful removal.

# Protecting Against Voter Intimidation, Misinformation and Interference

- The Freedom to Vote Act makes it a federal crime to intimidate, threaten or coerce an election official or election worker with the intent of impeding or interfering with their performance of their official duties or retaliate against them for performing those duties.
- The bill makes it a federal crime to attempt to harm or undermine public officials by publishing the personal information of an election worker or their immediate family with the intent to threaten, intimidate or incite violence from them.
- The Freedom to Vote Act prohibits the intentional production or distribution of false information about an election with the intent of impeding or preventing another person from exercising the right to vote in that election.



## Protecting Against Voter Intimidation, Misinformation and Interference(cont)

- It prohibits intentionally interfering with or preventing another person from voting, registering to vote or aiding another person to vote or register to vote and increases federal criminal penalties for existing voter intimidation crimes.
- The Freedom to Vote Act prohibits paying (or offering to pay) someone not to vote; federal law already prohibits paying (or offering to pay) someone to vote.
- It extends existing federal prohibitions on intimidation, threats and coercion against election workers and volunteers to include people processing or scanning ballots or tabulating, canvassing or certifying vote results.

## Protecting Against Voter Intimidation, Misinformation and Interference(cont)

- The Freedom to Vote Act prohibits anyone other than election officials from challenging a voter's eligibility unless the challenge is supported by personal knowledge of the voter's ineligibility, documented in writing and signed under penalty of perjury.
- The bill establishes a buffer rule, preventing partisan poll watchers from coming within eight feet of a voter or ballot at a polling location during any period of voting, including early voting, or within eight feet of a ballot at any time during the processing, scanning, tabulating, canvassing or certifying of voting results is occurring.

# Strengthening Voting System Security and Adopting Voter-Verifiable Paper Ballots

- The Freedom to Vote Act requires the use of individual, durable, voter-verifiable paper ballots to be marked by the voter and presented to the voter for verification before being counted and preserved as the official record of the ballot. The voter-verifiable paper ballot may be scanned and counted by an optical scanner or other voting machine and must be used in any recount or audit of election results.
- The bill expands record-keeping and retention requirements for election materials to include electronic records and election equipment, in addition to paper records of a voter's cast ballot.

# Strengthening Voting System Security and Adopting Voter-Verifiable Paper Ballots(cont)

- The Freedom to Vote Act requires all states to conduct a post-election audit of their state's election outcomes using procedures defined by the state's chief election official and employing a manual review of some or all ballots cast in the election.
- The bill requires states to use voting machines manufactured in the United States to the extent practicable.
- It establishes a duty for campaigns and candidates to report certain contacts with foreign officials to the Federal Election Commission (FEC) and FBI, with criminal penalties for failure to report.

# Redistricting

- The redistricting provisions of the Freedom to Vote Act apply to all congressional maps drawn in the 2021-2022 redistricting cycle, regardless of whether the map is adopted before or after the legislation is enacted—except for the transparency and public participation requirements, which apply beginning with the 2030 redistricting cycle.
- Mid-decade redistricting is prohibited. Once a state adopts a new congressional map following the decennial census, the state may not draw a new map until the next census occurs or if a court requires the state to draw new maps to remedy a legal violation.
- Partisan gerrymandering is prohibited. States may not use redistricting plans drawn with either the intent or the effect of materially favoring or disfavoring any political party.

## Redistricting(cont)

- The Freedom to Vote Act authorizes legal claims challenging partisan gerrymandering, reversing the U.S. Supreme Court's 2019 decision in *Rucho v. Common Cause*.
- The Freedom to Vote Act sets forth new mandatory criteria for states to use when drawing congressional districts, including compliance with the U.S. Constitution's "one person, one vote" requirement by substantially equalizing total population among districts, protection of minority voters under the Voting Rights Act of 1965 and the expanded protections of this legislation and maintaining existing communities of interest and neighborhoods.
- The bill expands protections for minority voters under the Voting Rights Act, including by authorizing two or more politically cohesive minority groups to bring coalition claims challenging maps that dilute or diminish their voting power based on race.

## Redistricting(cont)

- It enhances transparency by requiring states to publish proposed maps and the data used to create them for the public free of cost and hold hearings before and after the release of plans to allow for public comment.
- The bill requires states to adopt final maps more quickly so that legal challenges can be concluded before the next election. It requires all courts hearing redistricting cases to expedite those cases to the greatest extent possible and authorizes them to establish interim maps while cases are pending.
- The Freedom to Vote Act authorizes legal challenges to congressional redistricting plans to be heard by a three-judge panel either in federal district court in the state's capital or in the District of Columbia, with the exception of partisan gerrymandering claims, which can only be brought in federal district court in the District of Columbia.

## Redistricting(cont)

- The bill designates the U.S. Court of Appeals for the D.C. Circuit as the venue for appeals from redistricting decisions, rather than allowing direct appeals to the U.S. Supreme Court. The U.S. Supreme Court will retain its authority to review the D.C. Circuit's decisions, but such review is discretionary, not mandatory.
- If a map is struck down by a court for intentional discrimination against racial or ethnic minorities or for intentional partisan gerrymandering, the court—not the state—will redraw the map to remedy violations.
  - If a map is struck down on nonintentional grounds, the court may develop its own remedial plan or give the state the first opportunity to remedy the violation, subject to the court's approval.



# Campaign Finance Increasing Transparency To Combat Secret Spending

- The Freedom to Vote Act incorporates three major campaign finance reforms to improve transparency in our elections and counteract the effect of secret spending: The Democracy Is Strengthened by Casting Light on Spending in Elections (DISCLOSE) Act, the Honest Ads Act and the Spotlight Act.
- The Freedom to Vote Act mandates that an entity spending \$10,000 or more on campaign-related ads in an election cycle must disclose donors who have given \$10,000 or more to the entity during the cycle.
  - Donors who specify that their donation may not be used for campaign-related ads are exempted, and an entity may create a separate bank account to pay for all of its campaign-related ads, and then disclose only those who donate \$10,000 or more to that account.

# Campaign Finance(cont)

- The bill prevents the use of intermediary secret spending groups to evade these transparency requirements through a trace-back requirement. If over \$10,000 is passed from one entity to another before it is spent on campaign activity, each entity must track and report these transfers.
- Currently, reporting requirements only kick in when a group's ads expressly advocate for or against a candidate's election or are run shortly before the election. The Freedom to Vote Act closes this loophole by requiring disclosure when a group spends over \$10,000 running ads at any time that promote, attack, support or oppose a candidate.
- The Freedom to Vote Act shines a spotlight on large secretive political donations from LLCs and shell corporations by requiring that companies spending more than \$10,000 on campaign-related disbursements in an election cycle publicly disclose their beneficial owners so that election officials and the public can know who is behind the spending.

# Campaign Finance(cont)

- The bill requires online platforms with at least 50,000,000 unique monthly users to create a publicly available and publicly searchable archive of political ads. The archives must contain digital copies of advertisements mentioning candidates or pertaining to a national legislative issue of public importance, as well as information about audience targeting data, the total cost of the ad, the candidate, election or legislative issue the ad refers to and who purchased the ad.
- It expands the definition of “electioneering communications” to include paid internet ads. This means that spending on digital ads that name candidates and run close to Election Day would have to be reported to the FEC, even if they do not expressly advocate for or against a particular candidate’s election.
- The Freedom to Vote Act requires online platforms to make “reasonable efforts” to avoid selling political ads to foreign nationals and requires them to identify sponsors of political ads in a manner that ensures the information continues to be displayed when a viewer shares the ad with others on that platform.
- The bill restores the requirement that certain nonprofit organizations confidentially disclose information about donors who make substantial contributions to those groups to the IRS on their annual returns.

# Campaign Finance(cont) Improving Campaign Finance Oversight and Enforcement

- The Freedom to Vote Act expands the categories of activities that would cause an allegedly “independent” group, like a super political action committee (PAC), to be deemed a “coordinated” rather than an “Independent” spender, and thus have its spending subject to contribution limits and other restrictions.
- The bill strengthens the FEC’s enforcement process by requiring a majority vote of the Commission to shut down an investigation at the preliminary stages of the process and extends the statute of limitations for pursuing civil and criminal enforcement of federal campaign finance law from five to 10 years.

# Empowering Citizens To Engage in Democracy

- The Freedom to Vote Act creates a State Democracy Promotion Program to provide funds to states to improve their voting administration and infrastructure, including efforts to fulfill the requirements of this bill.
  - No funds can be used for any activity that would diminish the ability of any citizen to vote.
- No taxpayer funds will be used to pay for this program; instead, funds will be raised through fines paid to the federal government for certain criminal offenses and administrative

## Empowering Citizens To Engage in Democracy(cont)

- The bill creates a voluntary Democracy Credit Program under which states would provide qualified individuals a \$25 “Democracy Credit” that could be allocated as contributions to candidates for House elections in \$5 increments. The FEC is required to study how well the program helps to expand and diversify the pool of individuals who participate in the election process as donors and those who run for office.
- The Freedom to Vote Act creates a voluntary “small donor financing” program for House candidates that would amplify the voices of average Americans.
- The bill allows candidates who rely on a regular paycheck to use campaign funds to pay for certain everyday expenses, such as child care and health insurance premiums, encouraging a wider range of Americans to run for office, regardless of their wealth.