

# Opinion: Drawing lines and positions on the ‘Voting Wars’

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As we approach the 2018 and 2020 elections, there are knock-down drag-out battles being waged across the country between liberals who want to expand voting rights and conservatives who want to restrict them in the name of preventing alleged voter fraud. These battles involve contests in legislative chambers and courts over such issues as (1) ease of voter registration; (2) photo IDs of voters; (3) time and ease of casting ballots; (4) purging voter rolls; (5) disfranchisement of ex-felons; and (6) partisan gerrymandering.

## Election Day Registration (EDR)

To be eligible to cast a ballot in Florida, an otherwise eligible voter must register 29 days before an election. But in 13 states and the District of Columbia, an eligible voter can register and vote on Election Day: California, Connecticut, Colorado, Idaho, Iowa, Illinois, Maine, Minnesota, Montana, New Hampshire, Vermont, Wisconsin and Wyoming. The governor of Maine recently attempted to repeal that provision, but was overruled by the Legislature. The New Jersey Legislature passed such a bill in 2016, but it was vetoed by Governor Christie.

Those states use different methods of enforcement to prevent unauthorized voting. Some require the voter to submit a provisional ballot, which is not counted until residence and eligibility can be verified—which is not all that difficult or time-consuming in the digital age. Others allow voters to vote right on the machine, and rely on punishment for perjury to prevent fraud—on the theory that it is not worth five years in jail to cast a single ballot.

## Automatic registration

Ten states and the District of Columbia provide some type of automatic voter registration: It will be on the ballot in Nevada in November, after the governor vetoed the bill passed by the Legislature. Similar bills are pending in many other states. Automatic registration provides that when eligible voters sign up for a driver’s license, they are automatically placed on the voting rolls unless they opt out. Additionally, the National Voter Registration Act (NVRA) also requires that motor vehicle offices, as well as other public agencies, do the same; but that provision has been unevenly enforced.

## Photo ID requirements

Mainly in states where Republicans control the governorship and both houses of the legislature, laws require a voter to show a photo ID in order to cast a ballot. Democrats claim that these laws are aimed at non-white and young voters, largely Democratic constituencies, that are less likely

to have driver's licenses or other such IDs. That claim is backed up by the fact that in some states, like Texas, gun permits are accepted but student IDs are not.

Supporters of photo IDs claim they are necessary to prevent fraud. But independent studies reveal that impersonation at the polls, the only type of illegal voting that such laws can prevent, is extremely rare. The non-partisan Brennan Center at New York University found that an American will "more likely be struck by lightning" than impersonate another voter at the polls. Where voter fraud does exist, it is ballot-stuffing by election officials or by absentee balloting, which are not prevented by a photo ID requirement.

## **Time and ease of casting ballots**

Thirty-seven states allow voters to cast ballots over a number of days and not just on Election Day. In New York, Governor Cuomo has asked the Legislature to follow suit, but the proposal has been blocked by the State Senate Republican majority.

## **Purging voter roles**

Later this term, the Supreme Court will rule whether or not Ohio violated the National Voter Registration Act (NVRA) by removing a voter's name from the rolls for failure to vote in two successive elections. The NVRA forbids a state from removing names just because of failure to vote. But Ohio sends a notice to a voter who fails to vote in a single election, and removes that voter's name after a second failure if the voter fails to respond to the notice.

Larry Harmon skipped two elections, but went to vote against a proposal to legalize marijuana in 2015. His name was no longer on the rolls; but he swore he had never received any notice of possible removal. The Court will decide by June.

## **Partisan gerrymandering**

In a dozen states, legislative districts are drawn by non-partisan commissions. In the rest, all's fair in political map-making - unless the Supreme Court says otherwise this spring. Both parties are guilty; but since Republicans control the legislature and the state house in many more states following the 2010 census, maps swing mostly in their favor. The most crass current example is Wisconsin, where Democrats won 52 percent of the vote in the last legislative election, but only 33 of 99 seats.

The GOP just suffered a significant setback in Pennsylvania, courtesy of the Pennsylvania Supreme Court under the state constitution -- and thus inoculated from reversal by the Supreme Court of the United States. When SCOTUS decides the Wisconsin case this term, it will probably be up to Justice Kennedy to provide the tie-breaking vote.

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Meanwhile former President Barack Obama and his attorney general, Erik Holder, are leading a campaign to (1) support referenda in more states to require non-partisan districting and (2) elect more Democrats to state office in time for the 2022, the next round of state map-drawing.

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