



Florida Advisory Committee to the U.S. Commission on Civil Rights

Florida Voting Rights Following Recent Amendments to the Election Code

Following the 2020 general election, due in part to unsubstantiated claims about widespread voter fraud in that election, the Florida legislature adopted SB 90¹ and SB 524² to amend various provisions of the state's election code.

In January of 2022, the Florida Advisory Committee to the U.S. Commission on Civil Rights adopted a proposal to study these amendments and their impact on voting rights in the state. This study took place as a follow up to the Committee's October 2020 report entitled "Voting Rights and Voter Disenfranchisement in Florida."³ The Committee's updated 2023 report⁴ examines civil rights concerns raised about SB 90 and SB 524 and assesses them in the context of the state's first experience with these statutes during the 2022 midterm elections.

What did SB 90 do?

Prior to SB 90's adoption, state law already allowed voters to return vote-by-mail ballots to **dropboxes**. SB 90 tightened requirements on the use of these dropboxes, specifying among other requirements that (1) dropboxes only be made available at "permanent" election branch offices; (2) dropboxes only be used during early voting hours; and (3) dropboxes must be monitored continuously, in person by an employee while they are accessible. Elections supervisors would be subject to up to \$25,000 in civil penalties if staff stepped away from a dropbox even momentarily in violation of this provision.

With respect to the work of **third-party voter registration** organizations, SB 90 imposed new requirements that these groups send all voter registration forms either to the correct Supervisor of Elections for each voter's county, or to the Department of State within 14 days of receiving them. The legislation included substantial penalties for third-party voter registration groups that either mistakenly sent registration materials to

Key Points:

- Florida's 2020 presidential election, held in the midst of the global COVID-19 pandemic, resulted in over 11 million votes cast, few complaints of long lines, and historic low rates of vote-by-mail rejections.
- Following the 2020 general election the legislature adopted SB 90 and SB 524 to amend various provisions of the election code.
- The U. S. District Court for the Northern District of Florida blocked several of SB 90's provisions, finding that the legislature had enacted the law for racially discriminatory reasons.
- The U.S. Court of Appeals for the Eleventh Circuit rejected the district court's rulings and allowed these provisions to take effect during the 2022 midterm elections.
- Despite the new restrictions SB 90 imposed, limited data did not show an immediate decline in voter registration or turnout during the 2022 midterm elections.
- Concerns remain regarding restrictions governing the use of ballot drop boxes, new rules governing third party voter registration and ballot collection groups, and potential intimidation of legally authorized voters resulting from prosecutions within the newly established Office of Election Crimes and Security. These matters should be closely monitored during future elections.

¹ Ch. 2021-11, 2021 Fla. Laws 242.

² 2022 Fla. Laws 549, ch. 2022-73 (Apr. 27, 2022, effective date July 1, 2022).

³ Report available at: <https://shorturl.at/djuzI>

⁴ Report available at: <https://shorturl.at/BGJU7>

the wrong Supervisor of Elections, or sent them after the 14-day deadline.

SB 90 also specified that elections supervisors may not send a **vote-by-mail ballot** to voters without an express request, except for voters with disabilities, overseas voters, and local referenda, and reduced the period under which such requests were valid for—from 4 years to 2.

Finally, SB 90 imposed **new voter identification requirements** for voters requesting a vote-by-mail ballot; **restricted socialization activities** in voting areas (including “line warming” activities such as handing out water, fans, snacks, chairs, ponchos, and umbrellas to voters); and **barred any person from distributing, requesting, collecting, delivering, or possessing more than two vote-by-mail ballots**, except for ballots from immediate family members (prohibiting third-party groups from collecting vote-by-mail ballots and returning them to election officials). Previously, any person involved in collecting or delivering vote-by-mail ballots was prohibited only from accepting any “pecuniary benefit” for the service.

What did SB 524 do?

SB 524 established an **Office of Election Crimes and Security** within the Department of State. The Secretary of State’s office was responsible for such investigations prior to SB 524; this new legislation required the Secretary to place greater emphasis on such responsibilities by establishing an office that focuses solely on them. Advocates raised concern that prosecuting people for good-faith mistakes or even negligence in exercising their right to vote can substantially burden the exercise of that fundamental right.

SB 524 also establishes that county supervisors of elections must **update their voter registration lists annually** rather than biennially, and **requires greater interagency coordination** to ensure voter registration database’s accuracy. Finally, SB 524 **prohibits municipalities from adopting ranked-choice voting; enhances penalties for “ballot harvesting”** activities from a misdemeanor to third-degree felonies; and requires the Department of State to develop a plan to require additional identification when returning vote-by-mail ballots to confirm their identity.

Recommendations (*selected*)

The Committee recommends that the Florida Legislature consider the following modifications to SB 90 and SB 524:

Ballot Dropboxes

- Consider whether continuous live monitoring of video cameras at dropbox locations may be an adequate substitute for in-person staffing.

Third Party Registration

- Reduce penalties for inadvertent or isolated violations of registration-related requirements by third party voter registration groups acting in good faith.

Vote-by-mail Ballots

- Monitor and publicly disclose data regarding vote-by-mail ballot rejections, expired vote-by-mail ballot requests, and address verification efforts.

Line-Warming Activities

- Include specific provisions to allow private line relief efforts such as food and water distribution and chairs. Require restroom access where feasible at polling places where long lines are reasonably expected.

Office of Election Crimes and Security

- Require the Office to focus on identifying widespread or systemic fraud; focus specialized efforts on cybersecurity to protect voter registration rolls, voting equipment, and election-related computer systems.

Voter List Maintenance Requirements

- Implement proactive verification efforts to ensure that updating voter registration rolls does not inaccurately remove eligible voters.

Communicating Changes in Election Law

- Evaluate proposed changes in election law to ensure they will not improperly make voting more difficult, particularly for members of historically marginalized communities.

The United States Commission on Civil Rights maintains 56 Advisory Committees, one for each state and territory, and the District of Columbia. Each committee is composed of citizen volunteers familiar with local and state civil rights issues. The members assist the Commission with its factfinding, investigative, and information dissemination functions.

This policy brief is the work of the Florida Advisory Committee to the U.S. Commission on Civil Rights. The brief may rely on testimony, studies, and data generated from third parties. Advisory reports are reviewed by Commission staff only for legal sufficiency and procedural compliance with Commission policies. The views, findings, and recommendations expressed in this report are those of a majority of the Florida Advisory Committee, and do not necessarily represent the views of the Commission, nor do they represent the policies of the U.S. Government. For more information, please contact Melissa Wojnaroski at mwojnaroski@uscrr.gov or 202-618-4158.