



Tennessee Advisory Committee to the U.S. Commission on Civil Rights Civil and Voting Rights in Tennessee Part II: Access to Voting During the Pandemic

The first general elections amid the COVID-19 pandemic were held in 2020. Tennessee was not among the several states that modified their practices to increase voter accessibility during these unprecedented times. Such practices included revisions to absentee voting eligibility, creating online absentee ballot request sites, mailing absentee ballots to registered voters, providing prepaid postage, and installing secure ballot drop boxes in local districts.

Due to stringent voting requirements, Tennessee trails most states in voter registration and turnout. In 2020, fewer than 75 percent of Tennessee residents were registered to vote. Like other states, Tennessee published guidelines for local election commissions on managing election operations during the pandemic (Tennessee Election COVID-19 Contingency Plan). Despite voting challenges at the time, Tennessee reported a record-breaking turnout of 59.6 percent in the November 2020 election. However, voter turnout has since fallen and remains one of the lowest in the country. It is estimated that only 44.5 percent of the eligible population in Tennessee voted in the November 2022 election.

What specific barriers to voting were in place in Tennessee at the time?

Panelists noted that longstanding voting restrictions have had a significant impact on voter registration and turnout in Tennessee. Due to their rigid policies, the estimated eligible voting population regularly falls below the national average. For example, Tennessee has strict identification (ID) requirements; voters must have their ID at the polling place or present it to election offices within two days for the vote to be counted.

Tennessee offers online voter registration, but it is one of a few states with a 30-day registration deadline, the longest period permissible under federal law. Voter hotline calls in 2020 frequently included questions about the voter registration process, signaling confusion among voters regarding basic voting procedures.

Tennessee is the only state to prohibit the distribution of absentee ballot applications by anyone other than election commission employees; individuals convicted of this crime face a Class E felony. In 2020, voting rights advocates challenged the law. However, in 2023, the 6th Circuit Court of Appeals ruled that the law does not violate First Amendment rights. The state also requires absentee ballots

Key Points:

- Long-standing voting restrictions in Tennessee significantly impact voter registration and turnout, and the estimated eligible voting population regularly falls below the national average.
- Tennessee reported a record-breaking turnout in the November 2020 election, but voter turnout has since fallen and is one of the lowest in the country.
- Tennessee offers online voter registration, but it is one of a few states with a 30-day registration deadline.
- Tennessee requires absentee voters to meet rigid eligibility criteria.
- Tennessee disallows the distribution of absentee ballot applications, has strict ID requirements, and stringent voting policies for individuals with felony convictions

to be returned by mail with the appropriate postage (not hand-delivered, placed in drop boxes, or at polling locations) and received when polls close on Election Day.

Tennessee requires absentee voters to meet rigid eligibility criteria. This includes a state-approved health concern to justify casting an absentee ballot and requiring all first-time voters to vote in person, regardless of health status.

The state has strict policies for individuals with felony convictions to restore their voting rights. They must complete parole and probation, pay all outstanding legal financial obligations, and request a certificate of restoration form with multiple signatures. Tennessee is the only state requiring compliance with all child support payments before restoration.

Some counties face challenges with technology. Shelby County had outdated voting machines that compromised accessibility and usability, leading to legal action and the County withholding funds from the Election Commission.

How did Tennessee modify its voting procedures during the pandemic, contributing to the record-breaking turnout in 2020?

Despite a record voter turnout, Tennessee did not substantially ease voting practices during the pandemic. Unlike many states, it did not allow all voters to vote absentee during the 2020 general election.

Tennessee lawmakers acknowledged that individuals with active COVID-19 infection and those in quarantine due to virus exposure were eligible to vote absentee by state law. In November 2020, the state also authorized absentee ballots for qualified first-time voters. Legal action successfully allowed other groups to vote by absentee ballot. Any person with an underlying medical condition that increases the risk of virus contraction or severity of infection, and their caretakers, were deemed eligible for an absentee ballot. A temporary injunction also approved the fear of COVID-19 as a valid reason for an absentee vote in June 2020, but it was vacated in September 2020 by the Tennessee Supreme Court. These exceptions were not in effect for the November 2020 election.

Some counties, like Davidson County, worked with their local health department to develop innovative solutions for individuals with COVID-19 infection to vote safely in person. These measures included the provision of personal protective equipment, enhanced COVID-19 screening at polling places, separate polling times and places, and employing healthcare workers to assist these voters. The county increased public advertising of absentee voting and allowed a 14-day early in-person voting period, promoting flexibility for voters.

How did voting restrictions impact communities of color?

The criminalization of the distribution of absentee ballot applications by someone other than an election commission employee is based on concerns of voter fraud. However, some panelists argued that this law disproportionately impacts protected groups of people by imposing additional administrative barriers. Racial minorities use third-party registration services more than non-minorities, and older adults may lack the technology or skills to access and print the applications online. The law may also impede volunteers from helping these groups through the voting process out of fear of repercussions.

In 2020, panelists shared that counties with higher Black populations had fewer polling place locations and a general decrease in hours of availability; this negatively impacted their ability to access voting. For example, Shelby County is one of the most under-resourced counties in the state, and its residents have significant transportation issues, which increased travel times to polling places. Shelby

County faced a lawsuit in 2020 due to continually reducing access to voting locations, primarily in minority communities. Panelists suggested that areas with larger Latino populations were also more likely to have fewer poll workers.

Tennessee's strict ID requirements present challenges for a growing number of Tennesseans. Only 80% of 18-year-olds have a driver's license, and up to 25% of Black Americans lack a government-issued ID. In addition, 31 of Tennessee's 95 counties do not have a facility to process a photo ID.

Tennessee is one of only 11 states that require affirmative actions to restore voting rights after a felony conviction, which has a disproportionate impact on Black residents. Black Tennesseans make up 17 percent of the state's population but 40 percent of the prison population.

Recommendations (selected):

- 1.) The Tennessee General Assembly should:
 - Implement automatic voter registration
 - Decrease the 30-day registration deadline or implement same-day voter registration.
 - Allow the distribution of absentee ballot applications
 - Implement no-excuse absentee voting.
- 2.) The Tennessee Secretary of State should:
 - Increase the number of precincts and poll workers and keep polling locations open for longer to ensure equal access to polls for all citizens.
 - Create drop boxes or allow for hand delivery of absentee ballots
 - Evaluate voting processes to improve access to voting for protected groups.

The United States Commission on Civil Rights maintains 56 Advisory Committees. Each committee is composed of citizen volunteers familiar with local and state civil rights issues. The members assist the Commission with its fact-finding, investigative, and information dissemination functions.

This product is part of the Tennessee Advisory Committee's study on the Civil and Voting Rights in the state. This is one of two memorandums drawn from the report, focusing specifically on "Part II: Access to Voting During the Pandemic." This policy-oriented summary of the published report is intended to aid stakeholders seeking solutions to this complex issue. You can find the full report here: https://www.usccr.gov/files/2024-07/tn-report_voting-rights_2024.pdf.

The brief may rely on testimony, studies, and data generated from third parties. The views, findings, and recommendations expressed in this report are those of a majority of the Tennessee Advisory Committee, and do not necessarily represent the views of the Commission, nor do they represent the policies of the U.S. Government.