



WRITTEN STATEMENT OF
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For a Hearing on

Examining Potential Updates to the NVRA

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Introduction

Chairwoman Lee, Ranking Member Sewell, and Members of the Subcommittee, thank you for the opportunity to testify before you today.

Established in 1965, the ACLU Voting Rights Project (“VRP” or “the Project”) has worked to protect the gains in political participation won by voters of color since the passage of the 1965 Voting Rights Act. Since its inception, VRP has litigated hundreds of voting rights cases and has vigorously and successfully challenged efforts to suppress voting or to dilute minority voting strength.

The Project’s mission is to build and defend an accessible, inclusive, and equitable democracy free from racial discrimination. It has three guiding principles: (1) all Americans should be eligible to vote; (2) voting should be free and easy; and (3) all people should count equally. The Project has active cases in more than a dozen states, spanning every region of the country. Its recent docket includes more than sixty lawsuits to protect voters during the 2020 and 2024 elections; two U.S. Supreme Court cases challenging the first Trump Administration’s discriminatory census policies;¹ multiple challenges to discriminatory legislative maps, including three recent U.S. Supreme Court cases involving congressional redistricting maps;² challenges to voter purges and documentary proof of citizenship laws; and challenges to other new legislation restricting voting rights in states including Florida, Georgia, New Hampshire, Mississippi, Montana, South Carolina, and Texas.

As Director of VRP, I lead the Project’s strategic litigation efforts to secure voting access and fair representation. I have litigated numerous cases challenging improper purges and barriers to voter registration, including *League of Women Voters Education Fund v. Trump*,³ a current challenge to President Trump’s Executive Order 14,248 which seeks, among other things, to mandate a documentary-proof-of-citizenship requirement on the federal voter registration form that a federal district court has permanently enjoined;⁴ *MOVE Texas v. Whitley*,⁵ a successful challenge to a Texas discriminatory voter purge program; *Common Cause Indiana v. Lawson*, a successful challenge to an unlawful purge program in Indiana;⁶ *Fish v. Schwab*, which successfully challenged a Kansas documentary-proof-of-citizenship requirement that had

¹ *Department of Commerce v. New York*, 588 U.S. 752 (2019) (successfully challenging an attempt to add a citizenship question to the 2020 Census); *Trump v. New York*, 592 U.S. 125 (2020) (challenging the exclusion of undocumented immigrants from the population count used to apportion the House of Representatives).

² *Louisiana v. Callais*, No. 24-109 (U.S. argued Mar. 24, 2025, reargued Oct. 15, 2025) (defending Louisiana’s congressional map, which contains two majority-Black districts as part of compliance with the Voting Rights Act); *Alexander v. South Carolina State Conf. of the NAACP*, 602 U.S. 1 (2024) (unsuccessfully challenging South Carolina’s congressional map as an unconstitutional racially gerrymandered map); and *Allen v. Milligan*, 599 U.S. 1 (2023) (successfully challenging Alabama’s congressional map as unlawfully diluting Black voting power under Section 2 of the Voting Rights Act).

³ No. 1:25-cv-00946-CKK (D.D.C. filed Apr. 1, 2025).

⁴ *League of United Latin Am. Citizens v. Exec. Off. of the President*, No. 1:25-cv-00946-CKK, 2025 WL 3042704 (D.D.C. Oct. 31, 2025).

⁵ No. 5:19-cv-00171 (W.D. Tex. filed Feb. 22, 2019).

⁶ 481 F. Supp. 3d 799 (S.D. Ind. 2020), *aff’d*, *League of Women Voters of Ind. v. Sullivan*, 5 F.4th 714 (7th Cir. 2021).

blocked over 30,000 eligible Kansans from registering to vote;⁷ and *Husted v. A. Philip Randolph Institute*, a challenge to an Ohio list-maintenance program.⁸

Everyone agrees that voter-list maintenance—when done responsibly—is both appropriate and necessary for sound election administration. Proper maintenance, however, involves not only removing ineligible registrants, but also ensuring that eligible voters are not erroneously purged. Inaccurate and selective purge programs can result in “persons who are legitimately registered” being excluded from the rolls, which risks disenfranchisement and “unnecessarily places additional burdens on the registration system because persons who [were] legitimately registered must be processed all over again.”⁹ A voter’s name appears on the rolls “only because a voter took the trouble to put it there.”¹⁰ “[I]n a representative democracy, in which the voice of the people is essential to the legitimacy of our governing institutions,” states should not “undo that work without good reason.”¹¹

The National Voter Registration Act of 1993 (“NVRA”) strikes this balance well. It has expanded registration access for millions of Americans while giving states ample tools to maintain accurate rolls. But too often, states have gone beyond what the NVRA contemplates—engaging in overzealous, sloppy, or poorly-timed purges that sweep in eligible voters. These programs have been abused “to keep certain groups of citizens from voting,”¹² and there is a “long history of such list cleaning mechanisms which have been used to violate the basic rights of citizens.”¹³ Too often, voters arrive at the polls only to discover they have been removed from the rolls and cannot cast a ballot that will count.

My written statement today addresses four topics. First, I explain why the NVRA has succeeded in expanding registration while helping states maintain accurate rolls. Second, I describe how some states have engaged in aggressive purges that rely on flawed data and dubious methodologies, underscoring why the NVRA’s safeguards—particularly the pre-election quiet period—remain critical. Third, I discuss unsuccessful efforts by activist groups to pressure election officials into more aggressive purges based on exaggerated claims and unreliable data. Finally, I discuss policies that would expand voter registration access and improve voter roll accuracy, and explain why a documentary proof-of-citizenship requirement would burden eligible voters while solving no real problem.

I. The Success of the NVRA

Congress passed the NVRA in 1993, more than 30 years ago, with bipartisan support. This landmark piece of legislation has expanded access to the ballot for millions of Americans

⁷ 957 F.3d 1105 (10th Cir. 2020), *cert denied*, 141 S. Ct. 965 (2020).

⁸ 584 U.S. 756 (2018).

⁹ S. Rep. No. 103-6 (1993), at 18.

¹⁰ *Common Cause Ind. v. Lawson*, 937 F.3d 944, 962 (7th Cir. 2019).

¹¹ *Id.*

¹² H.R. Rep. No. 103-9 (1993), at 2.

¹³ S. Rep. No. 103-6 (1993), at 18.

and enhanced voting opportunities for every eligible American citizen, while ensuring states and localities maintain accurate voter rolls. The purposes of the NVRA are:

- (1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;
- (2) to make it possible for Federal, State, and local governments to implement this law in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;
- (3) to protect the integrity of the electoral process; and
- (4) to ensure that accurate and current voter registration rolls are maintained.¹⁴

The NVRA is an amazing success. It allows eligible voters to simultaneously register to vote when they apply for or renew a driver's license or interact with other government agencies, and requires states to offer voters mail-in registration opportunities. According to state reports to the Election Assistance Commission, in recent years, an average of more than 50 million people annually register or update their voter registration through NVRA-established processes.¹⁵

In addition to successfully expanding access to voting, the NVRA requires states to take specific steps to ensure that their voter registration rolls remain accurate and current. It directs states to conduct “a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters.”¹⁶ The procedures the NVRA prescribes for list-maintenance programs reflect Congress's intent to carefully balance the goals of increasing voter participation by protecting eligible voters from administrative errors and ensuring voter roll accuracy.

For example, the NVRA requires that election officials take steps to ensure the accuracy of registration rolls by conducting general programs to remove voters who die or become ineligible, as provided by state law, by reasons of criminal conviction or mental incapacity.¹⁷ Additionally, the NVRA requires that state election officials conduct general programs flagging voters who may have become ineligible because of a change of residence, which state election officials can satisfy by conducting regular reviews of voter registration rolls against change-of-address information from the Postal Service and sending confirmation notices.¹⁸ All of this follows safeguards, at the outset, that require voters to provide sufficient information under penalty of perjury for election officials to assess their eligibility, including their citizenship.¹⁹

These NVRA processes only establish a floor for the steps election officials must take to ensure voter-roll accuracy. Election officials may take additional steps to ensure accuracy so long as they follow basic safeguards to protect eligible voters' rights. The NVRA requires, for

¹⁴ 52 U.S.C. § 20501(b).

¹⁵ See U.S. Election Assistance Comm'n, *Voter Registration Table 2: Total Registration Transactions Processed by Source*, https://www.eac.gov/sites/default/files/2025-07/2024_EAVS_Report_508.pdf, p. 162–169 (June 2025).

¹⁶ 52 U.S.C. § 20507(a)(4).

¹⁷ 52 U.S.C. § 20507(a).

¹⁸ 52 U.S.C. § 20507(c).

¹⁹ 52 U.S.C. §§ 20504(c), 20506(a).

example, that before a voter can be removed from the rolls because they may have moved, officials must send a confirmation notice asking for their current address.²⁰ If the voter does not respond, they may be removed only after two consecutive federal election cycles in which they do not vote.²¹ Waiting for two cycles before removing voters from the registration rolls as part of this process is necessary because response rates to these confirmation mailers are low, with many voters presumably missing a piece of mail or forgetting to respond.²² Additionally, many voters often must miss or skip elections for reasons unrelated to eligibility, including conflicting schedules, business, illness, or disability.²³ This longer period of time protects most voters from being removed solely for essentially failing to vote, which is a core principle of the NVRA.²⁴

The NVRA also creates a 90-day “quiet period” before federal elections to prevent last-minute removals from the registration rolls. The quiet period is only 90 days in advance of federal elections,²⁵ which means that states typically have 555 days between federal elections to conduct their list-maintenance programs. This is a considerable amount of time, which usually includes an entire uninterrupted calendar year and more than half of the following election year. And the NVRA specifically permits certain removals during this 90-day period: voters can be removed if officials confirm that a voter has died or has become ineligible under state law by reason of criminal conviction or mental incapacity,²⁶ or if a voter affirmatively requests removal.²⁷

Election officials are meeting these requirements while still engaging in significant list-maintenance work. In 2023 and 2024, they sent almost 40 million NVRA confirmation notices to voters asking whether voters had moved.²⁸ This means that 19.5% of registered voters received an NVRA confirmation notice.²⁹ During the same period, officials removed more than 21 million voters as part of their efforts to ensure the accuracy of their registration rolls.³⁰ This confirms both the success of the process and the need for the NVRA’s safeguards: almost 1 million voters who received confirmation notices ultimately confirmed that they had not moved and were properly registered at their address.³¹ The NVRA works well, both by increasing the number of

²⁰ 52 U.S.C. § 20507(d)(1).

²¹ 52 U.S.C. § 20507(b).

²² U.S. Election Assistance Comm’n, *Voter Registration Table 4: Voter List Maintenance — Confirmation Notices* https://www.eac.gov/sites/default/files/2025-07/2024_EAVS_Report_508.pdf, p. 183 (June 2025).

²³ U.S. Census Bureau, *Table 10. Reasons for Not Voting, by Selected Characteristics: November 2024*, https://www2.census.gov/programs-surveys/cps/tables/p20/587/vote10_2024.xlsx.

²⁴ 52 U.S.C. § 20507 (b)(2).

²⁵ 52 U.S.C. § 20507(c)(2)(A).

²⁶ 52 U.S.C. § 20507(c)(2)(B).

²⁷ *Id.*

²⁸ U.S. Election Assistance Comm’n, *Voter Registration Table 4: Voter List Maintenance—Confirmation Notices*, https://www.eac.gov/sites/default/files/2025-07/2024_EAVS_Report_508.pdf, p. 180 (June 2025).

²⁹ *Id.*

³⁰ U.S. Election Assistance Comm’n, *Voter Registration Table 5: Voter List Maintenance — Removal Actions* https://www.eac.gov/sites/default/files/2025-07/2024_EAVS_Report_508.pdf, p. 186 (June 2025).

³¹ U.S. Election Assistance Comm’n, *Voter Registration Table 4: Voter List Maintenance — Confirmation Notices* https://www.eac.gov/sites/default/files/2025-07/2024_EAVS_Report_508.pdf, p. 180 (June 2025).

eligible citizens who register to vote in federal elections and by helping states keep accurate and current voter registration rolls.

II. Improper Voter Purges

Even though the NVRA gives states many tools to maintain accurate and current voter rolls, states and localities have still engaged in aggressive voter purges—sometimes in violation of the NVRA’s voter protections. Proponents often frame these efforts as ordinary enforcement of existing eligibility requirements and necessary to combat voter fraud, even though, as discussed later, voter fraud is exceedingly rare. Too often, these purges are unnecessary and harmful, creating precisely the risks Congress sought to prevent with the NVRA: that purge programs can be abused “to keep certain groups of citizens from voting”³² and “violate the basic rights of citizens.”³³

Overzealous, sloppy, and poorly timed purges remove eligible voters from the rolls, especially when purges rely on outdated or inaccurate data, flawed methodologies, or dubious proxies—such as stale DMV records that fail to reflect a voter’s subsequent naturalization. These troubling practices often disproportionately sweep in, and ultimately disenfranchise, voters of color. The examples that follow illustrate these harms and show why the NVRA’s safeguards—and in particular the pre-election quiet period—are so critical: they prevent voters from being purged too close to an election to permit corrective action, mitigating the risks that eligible voters arrive at the polls only to discover they have been removed and cannot cast a ballot that will count.

A. Alabama

On August 13, 2024, Alabama Secretary of State Wes Allen announced a voter purge targeting alleged noncitizens by directing county registrars to remove anyone who had *ever* been issued a “noncitizen identification number” by the Department of Homeland Security.³⁴ Secretary Allen acknowledged that this would sweep in naturalized citizens with the right to vote, who would then need to complete an additional verification process in order to vote.³⁵ Even so, he still referred everyone on this overbroad list to the state Attorney General for possible investigation and prosecution.³⁶

³² H.R. Rep. No. 103-9 (1993), at 2.

³³ S. Rep. No. 103-6 (1993), at 18.

³⁴ See Ala. Sec’y of State, *Secretary of State Wes Allen Implements Process to Remove Noncitizens Registered to Vote in Alabama*, <https://www.sos.alabama.gov/newsroom/secretary-state-wes-allen-implements-process-remove-noncitizens-registered-vote-alabama> (last accessed Dec. 6, 2025); Ala. Sec’y of State, Press Release, *Secretary of State Wes Allen Implements Process to Remove Noncitizens Registered to Vote in Alabama* (Aug. 15, 2024), <https://perma.cc/QE266LGD> (as issued).

³⁵ *Ala. Coal. for Immigrant Just. v. Allen*, No. 2:24-cv-01254-AMM, 2024 WL 4510476, at *1 (N.D. Ala. Oct. 16, 2024) (noting that Allen “admitted that his purge list included thousands of United States citizens (in addition to far fewer noncitizens)”).

³⁶ See *id.*

Civil rights organizations, individual voters, and the U.S. Department of Justice sued.³⁷ One of the program’s central flaws was its timing: Secretary Allen announced it just 84 days before the election—squarely within the NVRA’s quiet period. A federal court enjoined the program as an NVRA violation, finding that Allen “blew the deadline.”³⁸ The court further found that the list was highly inaccurate since “more than 2,000 of [] 3,251 voters” originally identified were wrongly included, meaning Alabama implemented a program with a known error rate of “well more than 50 percent.”³⁹

Although Alabama’s program contemplated that naturalized citizens could prove their citizenship and restore their rights, this process did not resolve obvious concerns. For one, no other class of voter was subject to this unnecessary burden. For another, the process—notifying voters flagged for removal, allowing voters time to verify their citizenship, and having state officials confirm it—takes considerable time to complete. When systematic removals take place shortly before an election, even such a process may result in eligible voters being kept off the rolls on Election Day. The NVRA’s quiet period is designed precisely to ameliorate these risks.

Finally, evidence adduced in litigation related to Alabama’s purge program sheds light on another unfortunate reality of voter purges: their disproportionate impact on voters of color. As one expert testified, most naturalized citizens living in Alabama—and therefore most of those targeted by Allen’s purge program—are people of color.⁴⁰

B. Virginia

1. 2022 Purge

In October 2022, the Virginia Department of Elections (“ELECT”) conducted a purge of voters, targeting people who had lost the right to vote due to a purported criminal conviction.⁴¹ Under Virginia law, people convicted of felonies automatically lose the right to vote, though they can later apply for rights restoration.⁴² ELECT reported identifying nearly 11,000 voters who

³⁷ *See id.*

³⁸ *Id.* at *1.

³⁹ *See* Mot. Hr’g Tr., *Ala. Coal. for Immigrant Just. v. Allen*, Nos. 2:24-cv-01254-AMM, 2:24-cv-1329-AMM, at 13:9-12 (N.D. Ala. Oct. 16, 2024), *available at* https://campaignlegal.org/sites/default/files/2025-03/10.16.2024.AMM_Vote_.pdf.

⁴⁰ *See* Expert Report of Daniel A. Smith, *Ala. Coalition for Imm. Justice v. Allen*, No. 2:24-cv-1254-AMM, ECF No. 74-1, ¶ 90 (N.D. Ala. Oct. 11, 2024), *available at* <https://campaignlegal.org/sites/default/files/2025-03/074-1%20Expert%20Report.pdf>.

⁴¹ *See* Ben Paviour, *Virginia Inspector General Says Voter Removals Were Accidental*, Va. Pub. Media (Dec. 18, 2023), <https://www.vpm.org/news/2023-12-18/virginia-elections-voter-purge-2023-inspector-general-report>.

⁴² Va. Const. art. 2, § 1. The ACLU of Virginia and co-counsel are actively challenging the legality of Virginia’s felony disenfranchisement regime. *See King v. Youngkin*, 122 F.4th 539 (4th Cir. 2024) (affirming in relevant part the denial of Virginia’s motion to dismiss). Virginia appealed the denial of its motion to dismiss to the Supreme Court, and ACLU VRP co-authored the successful brief in opposition to certiorari. *See O’Bannon v. King*, 145 S. Ct. 2815 (2025). Litigation is ongoing.

had previously had their rights restored but were later purportedly convicted of a new felony and removed them from the rolls.⁴³

That number proved wildly inflated. Many voters were flagged for removal not because they had new felony convictions, but because of probation violations—such as missing a court date or probation check-in—which are not felonies and do not therefore trigger disenfranchisement under Virginia law.⁴⁴ ELECT’s system nonetheless treated these violations as new felony convictions and flagged voters for removal.

After first denying any wrongful removals, ELECT acknowledged that it had disenfranchised eligible Virginians, but claimed that its error affected “fewer than 300” voters and all had been restored.⁴⁵ In reality, both claims were wrong. The ACLU of Virginia continued receiving complaints from voters who still could not vote after the alleged reinstatements. Plus, the actual number of canceled registrations was much higher: Virginia later admitted—less than two weeks before Virginia’s November 2023 General Election—that it wrongfully removed an estimated 3,400 voters from the rolls without any lawful basis.⁴⁶ Even the revised figure is almost certainly an undercount, as there is evidence of other erroneous removals of voters based on alleged prior convictions.⁴⁷

2. 2024 Purge

In August 2024, Virginia Governor Glenn Youngkin announced that Virginia would “scrub” its voter rolls, targeting alleged noncitizens who he claimed had “maliciously attempted to register.”⁴⁸ That same day, he issued an executive order directing officials to use driver’s license data to identify and cancel the registrations of suspected noncitizens.⁴⁹ The order required daily updates to the voter rolls, including the removal of people who could not confirm their

⁴³ Va. Dept. of Elections, *Annual List Maintenance Report Sept. 1, 2022 – August 31, 2023*, at 10, <https://www.elections.virginia.gov/media/formswarehouse/maintenance-reports/2023-List-Maintenance-Report.pdf>.

⁴⁴ See Va. Code Ann. § 19.2-306.1.

⁴⁵ Laura Vozzella, *Warner, Kaine Urge DOJ to Probe Gov. Youngkin’s ‘Purge’ of Voter Rolls*, Wash. Post (Oct. 10, 2023), <https://www.washingtonpost.com/dc-md-va/2023/10/10/warner-kaine-doj-virginia-voter-rolls/>.

⁴⁶ Ben Paviour, *Virginia Reinstates Nearly 3,400 Voters After Accidental Purge*, DCist (Oct. 27, 2023), <https://dcist.com/story/23/10/27/virginia-accidental-voter-purge-affected-thousands/>.

⁴⁷ The ACLU has identified examples of voters who were removed due to non-existent felony convictions, not just those with probation violations. See, e.g., Ben Paviour, *Virginia State Police prepares election ‘watch team’ for voter removals*, Va. Pub. Media (Nov. 6, 2023), <https://www.vpm.org/news/2023-11-06/virginia-state-police-prepares-election-watch-team-for-voter-removals> (identifying one individual who was erroneously removed from the rolls in September despite never having been charged with a felony, and another individual who was removed from the rolls last year due to a misdemeanor charge which, like a probation violation, is not disqualifying under Virginia law).

⁴⁸ Governor of Va., *Governor Glenn Youngkin Issues Executive Order to Codify Comprehensive Election Security Measures to Protected Legal Voters and Accurate Counts* (Aug. 7, 2024), <https://www.governor.virginia.gov/newsroom/news-releases/2024/august/name-1031585-en.html>.

⁴⁹ Commonwealth of Virginia Office of the Governor, Exec. Order No. 35, *Comprehensive Election Security Protecting Legal Voters and Accurate Counting* (Aug. 7, 2024), available at <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/eo/EO-35-Comprehensive-Election-Security-Ensuring-Legal-Voters-and-Accurate-Counting---vF---8.7.24.pdf>.

citizenship with the state Department of Motor Vehicles.⁵⁰ It directed that any identified alleged noncitizens would receive notice that their registrations were flagged for removal and that they would have 14 days to verify their citizenship.⁵¹

In practice, the purge program removed citizens from the rolls—indeed, “a large portion” of the 1,600 individuals removed under the program were eligible to vote.⁵² The purge program required county officials to use state DMV data to flag a registrant’s foreign birth or another “non-citizen transaction” indicating they were not a citizen.⁵³ However, this data is often very out-of-date, sometimes by as many as twenty years.⁵⁴ It therefore may not reflect that a noncitizen who was born outside the United States or once had a “non-citizen” transaction with the DMV later became naturalized and thus eligible to vote.⁵⁵ Predictably, this meant that eligible voters were removed from the rolls, including voters who had verified their citizenship repeatedly on other government forms, including their voter registrations.⁵⁶ Thus, this program spent state resources using stale data to attempt to duplicate efforts that had already been undertaken to assess voter eligibility, erroneously disenfranchising hundreds of eligible voters.

Governor Youngkin’s purge underscores the dangers caused by last-minute voter purges—and why the NVRA prohibits them. The NVRA bars systematic removals within 90 days of a federal election because purges close to an election present a serious risk of disenfranchising eligible voters before they have a reasonable chance to get back on the rolls.⁵⁷ Governor Youngkin issued his executive order on August 7, 2024, exactly 90 days before the November 2024 election. His order directed election officials to remove voters on a daily, rolling basis, in clear violation of the statute’s 90-day “quiet period.”⁵⁸ Civil rights groups and the U.S. Department of Justice sued to halt the purge program,⁵⁹ and on October 25, 2024, a federal court enjoined the program and ordered the State to restore all registrations canceled under it.⁶⁰ The court found that officials did not truly know whether those removed were noncitizens and that eligible voters had, in fact, been unlawfully purged—without being informed of that fact.⁶¹

⁵⁰ *Id.* at 4.

⁵¹ *Id.*

⁵² See Jahd Khalil, Margaret Barthel, *Federal Judge Issues Order to Pause Virginia Voter Purge*, Va. Pub. Media (Oct. 25, 2024), <https://www.vpm.org/news/2024-10-25/glenn-youngkin-patricia-giles-jason-miyares-susan-beals-lawsuit>.

⁵³ *Id.*

⁵⁴ See Pls.’ Mem. of L. in Supp. of Prelim. Inj., *Va. Coal. for Immigrant Rts. v. Beals*, No. 1:24-cv-01778-PTG-WBP, ECF No. 26-1, at 8 (E.D. Va. Oct. 15, 2024).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ See 52 U.S.C. § 20507(c)(2).

⁵⁸ Commonwealth of Virginia Office of the Governor, Exec. Order No. 35 at 3–4.

⁵⁹ See *Va. Coalition for Imm. Rights v. Beals*, No. 1:24-cv-01778 (E.D. Va. Oct. 7, 2024); *United States v. Virginia*, 1:24-cv-01807 (E.D. Va. Oct. 11, 2024).

⁶⁰ See *Va. Coal. for Immigrant Rts. v. Beals*, No. 1:24-cv-01778-PTG-WBP, 2024 WL 4577983 (E.D. Va. Oct. 25, 2024).

⁶¹ See *Va. Coal. for Immigrant Rts. v. Beals*, No. 24-2071, 2024 WL 4601052, at *1–2 (4th Cir. Oct. 27, 2024).

Virginia appealed, seeking a stay of the preliminary injunction pending appeal. The Fourth Circuit largely denied the request, agreeing with the district court that the State’s program violated the NVRA.⁶² However, the State appealed again, and on October 30, the Supreme Court stayed the injunction in an unsigned and unreasoned order.⁶³

C. Texas

In January of 2019, the Attorney General of Texas, Ken Paxton, tweeted alarming news: a “VOTER FRAUD ALERT,” claiming that nearly 100,000 registered voters in Texas had supposedly been identified as noncitizens.⁶⁴ Texas Governor Greg Abbott thanked Attorney General Paxton and the Texas Secretary of State for “uncovering and investigating this illegal vote registration.”⁶⁵ President Trump jumped in, claiming on social media that 58,000 noncitizens had voted in Texas.⁶⁶

None of this was true. As the Texas Tribune reported, within a week, after lists of alleged registered noncitizens were sent to Texas counties, “the number of registered voters flagged by the state began to plummet” on cursory inspection.⁶⁷ In Harris County, approximately 30,000 voters were flagged as noncitizens, but more than half of them were confirmed naturalized citizens.⁶⁸ After culling these and hundreds of duplicates, Harris County was left with about 12,000 possible registered noncitizens. When officials conducted a random audit, they found no noncitizens, so they declined to take further action.⁶⁹

The ACLU and the ACLU of Texas, along with a coalition of other civil rights organizations, sued to stop the purging of voters based on an inaccurate match process. Just three months after questioning the citizenship of almost 100,000 registered voters, Texas “agreed to end a review of the voter rolls for supposed noncitizens that was flawed from the start.”⁷⁰ The State only settled after a federal court found that the Secretary of State “created [a] mess” and that Texas engaged in “ham-handed and threatening correspondence” with flagged voters which,

⁶² *Id.*

⁶³ *See Beals v. Va. Coal. for Immigrant Rts.*, No. 24A407, 2024 WL 4608863 (U.S. Oct. 30, 2024).

⁶⁴ Ken Paxton, Twitter, Jan. 25, 2019, *available at* <https://x.com/kenpaxton/status/1088898595653386240>.

⁶⁵ Greg Abbott, Twitter, Jan. 25, 2019, *available at* https://x.com/gregabbott_tx/status/1088918898643271680?lang=en.

⁶⁶ Donald J. Trump, Twitter, Jan. 27, 2019, *available at* <https://x.com/realDonaldTrump/status/1089513936435716096>.

⁶⁷ Alex Ura, ‘Someone Did Not Do Their Due Diligence’: How An Attempt To Review Texas’ Voter Rolls Turned Into A Debacle, *Tex. Trib.* (Feb. 1, 2019), <https://www.texastribune.org/2019/02/01/texas-citizenship-voter-roll-review-how-it-turned-boondoggle/>.

⁶⁸ *See id.*

⁶⁹ Niraj Chokshi, *Federal Judge Halts ‘Ham-Handed’ Texas Voter Purge*, *N.Y. Times* (Feb. 28, 2019), <https://www.nytimes.com/2019/02/28/us/texas-voter-rolls.html>.

⁷⁰ Alex Ura, *Texas Will End Its Botched Voter Citizenship Review and Rescind Its List of Flagged Voters*, *Tex. Trib.* (April 26, 2019), <https://www.texastribune.org/2019/04/26/texas-voting-rights-groups-win-settlement-secretary-of-state/>.

the court said, “exemplifie[d] the power of government to strike fear and anxiety and to intimidate the least powerful among us.”⁷¹

D. Florida

In May 2012, just before primary voting, Florida officials launched an aggressive campaign to purge purported noncitizens from the voter rolls. As in other states, those officials created a list using driver’s license information, identifying nearly 182,000 people as potential noncitizens.⁷² After further review, that number shrank to 2,625 voters who officials claimed were ineligible to vote.⁷³ The Secretary of State then sent this list to county election officials, directing them to require each flagged voter to provide proof of citizenship within 30 days and to remove anyone who did not respond.⁷⁴ But even the 2,625 figure quickly collapsed when officials rechecked the list. They found that the number of noncitizens allegedly registered to vote was much lower (207 people), and, in the end, only 85 people were removed from the rolls as suspected noncitizens.⁷⁵

The ACLU of Florida and other civil rights groups sued to stop the purge; one lawsuit brought an NVRA claim, arguing that Florida implemented its program too close to the primary election, during the NVRA quiet period.⁷⁶ The Eleventh Circuit agreed, finding that the program ran afoul of the NVRA.⁷⁷ The court explained:

In the final days before an election ... the calculus changes. Eligible voters removed days or weeks before Election Day will likely not be able to correct the State’s errors in time to vote. This is why the 90 Day Provision strikes a careful balance: It permits systematic removal programs at any time *except* for the 90 days before an election because that is when the risk of disfranchising eligible voters is the greatest.⁷⁸

Even though relatively few voters were ultimately removed from the rolls, thousands of U.S. citizens were wrongfully flagged as ineligible and threatened with removal. Because many

⁷¹ Order Denying Mot. to Dismiss, *Tex. League of United Latin Am. Citizens v. Whitley*, No. 5:19-cv-00074-FB (W.D. Tex. Feb. 27, 2019), ECF No. 61 at 1, 4.

⁷² Gary Fineout, *Nearly 200,000 Florida Voters May Not be Citizens*, NBC Miami (May 11, 2012), <http://www.nbcmiami.com/news/local/Nearly-200000-Florida-Voters-May-Not-Be-Citizens-151212725.html>.

⁷³ *Id.*

⁷⁴ See Rachel Weiner, *Florida’s Voter Purge Explained*, Wash. Post (June 18, 2012), https://www.washingtonpost.com/blogs/the-fix/post/floridas-voter-purge-explained/2012/06/18/gJQAhvNIV_blog.html?utm_term=.f9e1842173a2.

⁷⁵ See Amy Sherman, *Homeland Security Warned that the SAVE Database is not Foolproof Way to Verify the Voter Rolls, LWW says*, PolitiFact: Fla. (Oct. 30, 2013), <http://www.politifact.com/florida/statements/2013/oct/30/league-women-voters-florida/league-women-voters-says-homeland-security-warned-/>.

⁷⁶ See, e.g., *Mi Familia Vota Educ. Fund v. Detzner*, 891 F. Supp. 2d 1326 (M.D. Fla. July 27, 2012); *Arcia v. Detzner*, No. 12-22282-CIV-ZLOCH, 2012 WL 12845178, at *1 (S.D. Fla. Oct. 4, 2012), *rev’d and remanded sub nom.* 772 F.3d 1335 (11th Cir. 2014).

⁷⁷ See *Arcia*, 772 F.3d at 1346.

⁷⁸ *Id.*

of those swept into the State's purge efforts were naturalized citizens, the program disproportionately affected minority voters. An analysis conducted by the Miami Herald found that 87% of those the State identified as noncitizens were people of color and 58% were Hispanic.⁷⁹

E. Iowa

On October 22, 2024, just before the general election, Iowa Secretary of State Paul Pate sent county registrars a list of thousands of voters he claimed were noncitizens.⁸⁰ He directed registrars to distribute the names to precincts so poll workers could challenge ballots cast by anyone on the list.⁸¹ The list was compiled from State driver's license records, which are often years old and out-of-date, particularly as to someone's citizenship status.⁸² For example, one voter who registered in 2022 was flagged as a noncitizen based on information she provided to the Department of Transportation in 2000.⁸³

In total, Secretary Pate's list included 2,176 registered voters.⁸⁴ But his staff later admitted in litigation that at least 88% of those listed were eligible citizens.⁸⁵ Even so, Secretary Pate's directive required poll workers to challenge ballots cast by anyone on the list, even if they presented citizenship documentation or when poll workers knew they were eligible.⁸⁶ After the ACLU and ACLU of Iowa filed suit, Secretary Pate backed down from the mandatory language of his order and advised officials not to challenge ballots of voters that they knew to be citizens.⁸⁷

Although it was a directive to challenge ballots, rather than remove voters' registrations, Iowa's attempted purge demonstrates the need for a quiet period prior to an election. The program came just two weeks before Election Day, when early voting was already underway. Such a program on the eve of an election inevitably risks voter confusion, meritless challenges, and potential disenfranchisement.

⁷⁹ Sophia Lakin, Deputy Dir. Voting Rts. Project at ACLU, Testimony Before the H. Comm. on H. Admin., *Voting in America: The Potential for Voter List Purges to Interfere with Free and Fair Access to the Ballot* (May 6, 2021) at 13, available at HHRG-117-HA08-Wstate-LakinS-20210506.pdf, (citing *58 Percent of Voters Targeted in Noncitizen Hunt Are Hispanic. Whites, GOP Least Likely To Face Purge*, Miami Herald (May 13, 2012)).

⁸⁰ See Robin Opsahl, *Iowa Secretary of State Says 87 Noncitizens Voted in Elections*, Iowa Cap. Dispatch (Oct. 22, 2024), <https://iowacapitaldispatch.com/2024/10/22/iowa-secretary-of-state-says-87-noncitizens-voted-in-elections/>.

⁸¹ *Id.*

⁸² *Id.*

⁸³ See *Selcuk v. Pate*, No. 4:24-cv-00390-SHL-HCA, 2024 WL 5054961, at *8 (S.D. Iowa Nov. 3, 2024).

⁸⁴ *Id.* at *1.

⁸⁵ See Supplemental Decl. of Michael Ross, *Selcuk v. Pate*, No. 4:24-cv-00390-SHL-HCA, ECF No. 31-1, at 7 ¶ 36.

⁸⁶ See *Selcuk*, 2024 WL 5054961, at *7–8 (“[L]ocal officials are being directed to lodge a challenge to voter eligibility based on noncitizenship even if the officials have personal knowledge that the voters are United States citizens (or, at least, do not believe there is reasonable suspicion to conclude otherwise).”).

⁸⁷ See *id.* at *8.

III. Unsuccessful Efforts by Outside Groups to Force Aggressive Purges

The purges described above were initiated by state officials. But election officials have also faced pressure from outside groups seeking to force more aggressive list maintenance. These groups have challenged state and local list-maintenance programs, claiming that voter rolls are too “bloated” based on data that is outdated, unreliable, or wholly unverified. As with aggressive state-initiated voter purges, these claims are routinely overstated.

For example, in 2016 the American Civil Rights Union (ACRU) sued Broward County, Florida’s Supervisor of Elections, alleging she violated the NVRA by keeping “an implausible number of registered voters compared to eligible citizens,”⁸⁸ on voter rolls and claiming she should have used alternative data sources to more accurately count registered voters.⁸⁹ Civil rights groups intervened in support of the County Supervisor, arguing that ACRU’s claims risked prompting the removal of eligible voters from the rolls.⁹⁰

After the district court found against the plaintiffs, the Eleventh Circuit affirmed. It noted that the district court had conducted a full bench trial, heard extensive testimony on registration rates and list-maintenance tools, reviewed thousands of pages of evidence, and issued a detailed opinion in which it made “extensive findings of fact and conclusions of law.”⁹¹ As one example of claims the courts rejected, the Eleventh Circuit affirmed the district court’s conclusion that ACRU’s data purporting to show a suspiciously high registration rate in Broward County was misleading because, among other problems, it failed to account for population growth between 2012 and 2014 and may have excluded many properly registered voters, such as “college students, military personnel, and persons who reside only part of the year in South Florida.”⁹²

The Eleventh Circuit emphasized that while aggressive purging “could minimize the number of ineligible voters,” it also risked “remov[ing] eligible voters.”⁹³ It explained that while barring states from removing any registrants would guarantee that no eligible voters were mistakenly purged, it would also produce attendant “risks associated with inaccurate rolls.”⁹⁴ Still, the Eleventh Circuit affirmed the district court’s detailed findings that Broward County struck a reasonable balance under the NVRA with its list-maintenance practices, which included: requiring the Secretary of Elections to conduct systematic list maintenance using change-of-address information from USPS or “returned nonforwardable return-if-undeliverable mail,” *and* specific list maintenance in response to individualized information, including indications from election officials in other states, the Department of Highway Safety and Motor Vehicles, or “other sources” indicating that a voter had moved, as well as information from the Department of Health or Social Security Administration that a voter is deceased.⁹⁵ Finding these and the other

⁸⁸ *Bellitto v. Snipes*, No. 0:16-cv-61474-BB (S.D. Fla. Mar. 30, 2018), ECF No. 244 at 3 (citation omitted).

⁸⁹ *Id.* at 17.

⁹⁰ *Id.* at 3.

⁹¹ *Bellitto v. Snipes*, 935 F.3d 1192, 1197 (11th Cir. 2019).

⁹² *Id.* at 1208.

⁹³ *Bellitto*, 935 F.3d at 1198.

⁹⁴ *Id.*

⁹⁵ *Bellitto*, 935 F.3d at 1206.

practices that made up Broward County’s list maintenance sufficient ensured that overblown and flawed statistical allegations did not allow outside groups to force one twin aim of the statute to defeat the other.⁹⁶

Several additional examples are provided in my testimony before this Subcommittee in 2021.⁹⁷

IV. Strengthening—Not Undermining—Registration Access

Even though the NVRA has been extremely successful in expanding access to voter registration, there are potential improvements that could further strengthen that access, while improving the accuracy of the rolls. Any such changes must continue to carefully balance the twin goals of ensuring accurate voter rolls and increasing registration of eligible voters. Some proposed reforms would advance both goals; others would not.

A. Expanding Access and Improving Accuracy

Congress can take steps to expand registration access while also improving the accuracy of voter rolls. The Freedom to Vote Act (“FTVA”, introduced as H.R. 11 in the 118th Congress, includes several proven, state-tested measures that would do both. These include:

Online voter registration: Almost all states and the District of Columbia now offer online voter registration, but roughly eight states do not provide it to all eligible voters.⁹⁸ The FTVA would require every state to implement online voter registration. Online voter registration improves registration access, particularly for younger voters⁹⁹--and also improves accuracy,¹⁰⁰ since most online systems require applicants to enter consistent identifying information—such as full names and current addresses—allowing potential voters to correct mistakes before their applications are even submitted.

⁹⁶ *Id.* at 1198.

⁹⁷ Lakin Testimony, *supra* note n.79, at 16–18.

⁹⁸ National Conference of State Legislatures, *Online Voter Registration* (Updated January 23, 2025), <https://www.ncsl.org/elections-and-campaigns/online-voter->; Voting Rights Lab, *Standard Registration Process*, <https://tracker.votingrightslab.org/issues/standard-registration-process?law=57>.

⁹⁹ See Holly Ann Garnett & Peter Miller, *Registration Innovation: The Impact of State Laws on Voter Registration and Turnout* (last visited Dec. 9, 2025), <https://esra.wisc.edu/wp-content/uploads/sites/1556/2020/11/garnett.pdf> (finding that online registration increases registration and turnout); Ruby Belle Booth et al., *New Restrictions on Voter Registration Are Likely to Harm Young Voters*, Tufts Circle (July 15, 2025), <https://circle.tufts.edu/latest-research/new-restrictions-voter-registration-are-likely-harm-young-voters> (noting that, “in 2020, on average counties in states with online registration had a 10-point higher youth voter registration rate than those without the policy”); *Reforms Expand Access to Voter Registration in New York*, Brennan Ctr. for Just. (Aug. 16, 2012), <https://www.brennancenter.org/our-work/analysis-opinion/reforms-expand-access-voter-registration-new-york> (“young and minority voters are disproportionately likely to register online”).

¹⁰⁰ A. Gnaedinger, A. Chapman., E. Czuchna, *The Administrative Advantage: Online Voter Registration* (Apr. 2019), <https://www.commoncause.org/texas/wp-content/uploads/2025/05/OVR-Report-April-2019.pdf>.

Same-day voter registration: The FTVA would require all states to offer same-day voter registration, which 22 states and the District of Columbia have successfully adopted.¹⁰¹ Same-day voter registration lets eligible voters register and cast a ballot when they go to their polling place to vote—and allows voters to more easily correct and update their addresses when they cast a ballot, which helps election officials have accurate information.

Automatic voter registration (“AVR”): The FTVA would require states to offer AVR through their departments of motor vehicles, a reform shown to significantly expand the number of registered voters.¹⁰² More than 23 states and the District of Columbia have adopted AVR.¹⁰³ Under AVR, eligible voters are automatically registered when they provide necessary information to a participating government agency, unless they opt out. While the NVRA already requires states to update the registrations of voters who report address changes to their motor vehicle agency,¹⁰⁴ many states have historically fallen short of full compliance with this provision.¹⁰⁵ States that have implemented some form of AVR, however, have seen significant gains in accuracy because address updates occur as part of the AVR process.¹⁰⁶

The FTVA also includes provisions that would strengthen protections for voters during general list-maintenance programs. While the NVRA already provides important safeguards, the FTVA would add further notice requirements. Specifically, it would require that any voter removed from the rolls receive notice within 48 hours explaining that they have been removed, the reason for the removal, and how they may contest it.

Additionally, one of the most significant steps Congress can take to help election officials expand registration access and protect the integrity of the electoral process is to increase federal funding for elections. Local election officials urgently need stable, meaningful, and consistent federal support.¹⁰⁷

B. Requirements That Would Burden Voters Without Solving Any Real Problem

Not all proposed changes to the NVRA would strike the careful balance the NVRA achieves. One proposal under consideration is the so-called Safeguard American Voter Eligibility Act (“SAVE Act”), which would require voters in all states to provide documentary

¹⁰¹ National Conference of State Legislatures, *Brief Same-Day Voter Registration* (Oct. 24, 2024), <https://www.ncsl.org/elections-and-campaigns/same-day-voter-registration>.

¹⁰² E. McGhee, J. Paluch, M. Romero, Public Policy Institute of California, *Do Registration Reforms Add New Voters or Keep Californians Registered* (March 2024), <https://www.ppic.org/publication/do-registration-reforms-add-new-voters-or-keep-californians-registered/>.

¹⁰³ National Conference of State Legislatures, *Summary Automatic Voter Registration* (July 21, 2025), <https://www.ncsl.org/elections-and-campaigns/automatic-voter-registration>.

¹⁰⁴ 52 U.S.C. § 20504(d).

¹⁰⁵ A. Taylor, S. Albert, Project Vote, *Change of Address and the National Voter Registration Act* (Nov. 2016), <https://www.projectvote.org/wp-content/uploads/Changes-of-Address-and-the-NVRA-November-2016.pdf>.

¹⁰⁶ Secure Elections Project, *How AVR Improves the Accuracy of Registration Lists* (2025), <https://www.secureelectionsproject.org/report/how-avr-improves-the-accuracy-of-registration-lists/>.

¹⁰⁷ See Southern Poverty Law Center, *Diverse Coalition Calls for \$825M in Federal Funding for Elections in FY26* (letter dated July 15, 2025), <https://www.splcenter.org/resources/policies/diverse-coalition-calls-for-825m-in-federal-funding-for-elections-in-fy26/>.

proof- of-citizenship in-person at the time of registration.¹⁰⁸ But the SAVE Act and any similar proposals for adding a documentary proof-of-citizenship requirement would not advance the NVRA’s goal of balancing accurate voter rolls with increased registration of eligible voters. Such changes are also unnecessary. Instead, they would impose substantial burdens on eligible voters while addressing no real problem. There is no evidence of pervasive or widespread voting by ineligible individuals, including noncitizens, and federal law already prohibits voting in federal elections by noncitizens.¹⁰⁹ Moreover, all registrants must already affirm their citizenship under penalty of law when registering to vote.

A documentary proof-of-citizenship requirement for federal registration would impose substantial and unnecessary burdens on millions of eligible Americans. Evidence consistently shows that tens of millions of citizens lack citizenship documents, cannot readily access them, or must undertake costly, time-consuming steps to obtain replacements. Congress understood these barriers when it passed the NVRA and expressly rejected a documentary proof-of-citizenship requirement for this reason. As detailed below, the experience of Kansas—one of the few states to adopt a documentary proof-of-citizenship rule—confirms that a documentary proof-of-citizenship requirement blocks eligible citizens from registering. For these reasons, a federal mandate would undermine the accessibility Congress sought to guarantee in the NVRA.

First, a significant share of eligible Americans either lack citizenship documentation altogether or cannot readily access it. Multiple high-quality studies have shown that roughly 2 percent of voting-age citizens lack documentary proof of citizenship, and more than 9 percent of voting age-citizens cannot easily access theirs even if they have one.¹¹⁰ State-level research places that figure even higher, estimating that 11 to 12 percent of eligible voters either lack the required documents or cannot locate them.¹¹¹ These tens of millions of Americans would face real barriers to voting under a documentary-proof requirement.

Passports illustrate the problem. Surveys show that less than half of voting-eligible adults—only 48 percent—have a valid passport.¹¹² Even among registered voters, the figure is just 56 percent, and many of those say theirs expired or does not match their legal name.¹¹³ Passport possession rates also vary widely by state, ranging from over 70% possession rates in New Jersey, California, Massachusetts, and New York, to under 25% in West Virginia and Mississippi.¹¹⁴ Birth certificates—the most common alternative—pose similar challenges. Some citizens never received an official state-issued birth certificate, and many cannot locate it: one

¹⁰⁸ See H.R. 22, 119th Cong. (2025).

¹⁰⁹ See 18 U.S.C. § 611.

¹¹⁰ D. Sunshine Hillygus, *Comment to Notice of Petition for Rulemaking, Election Assistance Commission* (Oct. 20, 2025) at 4, *available at* <https://www.aclu.org/cases/comments-on-petition-of-america-first-legal-for-rulemaking-before-the-election-assistance-commission?document=Comment-from-D-Sunshine-Hillygus-Professor-of-Political-Science-and-Public-Policy-Duke-University>.

¹¹¹ *Id.*

¹¹² See *id.* at 2–3.

¹¹³ See *id.* at 3.

¹¹⁴ Center for American Progress, *The SAVE Act Would Disenfranchise Millions of Citizens* (Jan. 31, 2025), <https://www.americanprogress.org/article/the-save-act-would-disenfranchise-millions-of-citizens/>.

study found that 17 percent of registered voters could not easily find theirs.¹¹⁵ Obtaining a replacement birth certificate often requires navigating confusing systems, paying fees, or traveling long distances, especially for rural or tribal residents.¹¹⁶ This is, in part, because birth certificates must be obtained at the state or local level, and required processes are different in every state.¹¹⁷ Naturalized citizens face even greater hurdles because replacing a certificate of naturalization is costly and slow.¹¹⁸

These data show that documentary proof-of-citizenship is not a routine document most people can readily produce. For many eligible Americans, it is an expensive, time-consuming obstacle to registering at all.

Kansas's experience confirms the problem. Kansas adopted a documentary proof-of-citizenship requirement that took effect in 2013.¹¹⁹ By March 2016, Kansas had rejected 12,717 voter registration applications and suspended another 5,655 because of the requirement.¹²⁰ The requirement also chilled many eligible Kansans from reapplying to register to vote after the State had initially rejected them.¹²¹ In just three years while it was in effect, the requirement, which a federal appeals court described as a “mass denial of a fundamental constitutional right,”¹²² blocked more than 31,000 new registrations—approximately “[e]ight percent of all voter registration applications” in the state.¹²³ The ACLU and ACLU of Kansas challenged the documentary proof-of-citizenship program under the NVRA, and another lawsuit asserted that the program violated the U.S. Constitution.¹²⁴

During the litigation, many disenfranchised citizens came forward with their stories. One was Donna Bucci, who had lived in Kansas for five years. After attempting to register at the DMV in August 2013, she believed she was registered,¹²⁵ but months later she received a notice saying that she could not vote if she did not provide documentary proof of her citizenship.¹²⁶ Ms. Bucci did not have the documents Kansas required, and obtaining a copy of her Maryland birth certificate would cost her \$24, which a federal court found “would be a financial burden for

¹¹⁵ See *id.* at 4.

¹¹⁶ See *id.* at 5.

¹¹⁷ Susan Pearson, *Comment for EAC proposed rule change* (Oct. 21, 2025) at 1, available at <https://www.regulations.gov/comment/EAC-2025-0236-114924>.

¹¹⁸ See D. Sunshine Hillygus, *Comment to Notice of Petition for Rulemaking, Election Assistance Commission* (Oct. 20, 2025) at 5.

¹¹⁹ ACLU of Kansas, *Comments in Response to America First Legal's Petition for Rulemaking* (Oct. 20, 2025) at 1, available at <https://www.aclu.org/cases/comments-on-petition-of-america-first-legal-for-rulemaking-before-the-election-assistance-commission?document=Comment-of-American-Civil-Liberties-Union-of-Kansas>.

¹²⁰ *Id.* (citing *Kobach*, 840 F.3d at 752).

¹²¹ *Id.* at 1–2.

¹²² *Fish v. Kobach*, 840 F.3d 710, 755 (10th Cir. 2016).

¹²³ *Fish v. Kobach*, 189 F. Supp. 3d 1107, 1136 (D. Kan. 2016)

¹²⁴ See *Fish v. Schwab*, 957 F.3d 1105 (10th Cir. 2020).

¹²⁵ ACLU of Kansas, *Comments in Response to America First Legal's Petition for Rulemaking* (Oct. 20, 2025) at 2 (citing *Fish*, 189 F. Supp. 3d at 1121).

¹²⁶ *Id.*

her.”¹²⁷ Kansas cancelled her voter-registration application in 2015, preventing her from voting in subsequent elections.¹²⁸ The experience discouraged her from trying to register again in the future.¹²⁹

Or consider Steven Wayne Fish. He was born on an Air Force Base in Chanute, Kansas that had since been decommissioned.¹³⁰ When he attempted to register at the DMV in 2013, he learned he needed citizenship documents.¹³¹ At the time, Mr. Fish did not know how to obtain a copy of his birth certificate and could not afford one,¹³² and as a result, the State denied Mr. Fish his right to vote in the 2014 election.¹³³

William Stricker III was likewise disenfranchised. He tried to register at a DMV office in 2013 but was told he lacked sufficient documentation to obtain a driver’s license and register to vote.¹³⁴ He returned with his social security card, out-of-state license, and utility bills¹³⁵—enough to prove his identity and obtain a driver’s license, but not enough to satisfy Kansas’s proof-of-citizenship requirement.¹³⁶ Unaware that he had not been registered, Mr. Stricker went to vote in 2014 only to learn that his name was not on the voter rolls.¹³⁷ He was never able to vote while Kansas’s documentary-proof-of-citizenship requirement remained in place.¹³⁸

All the while, noncitizen voting in Kansas was virtually nonexistent. Evidence at trial showed that *at most* “39 noncitizens ha[d] found their way onto ... voter rolls in the last 19 years,”¹³⁹ and the district court found that ““administrative anomalies”” could explain many—“or perhaps even most”—of them.”¹⁴⁰ By all accounts, Kansas’s attestation regime, under which voters swear to their citizenship rather than procure citizenship documents, had successfully prevented noncitizen voting. And between July 1, 2015, when the Secretary of State gained

¹²⁷ *Id.* There is a financial burden in obtaining replacement birth certificates no matter which state. See Susan Pearson, *Comment for EAC proposed rule change* (Oct. 21, 2025) at 1 (noting that “it can be expensive and administratively burdensome to obtain a certified copy of one’s birth certificate”).

¹²⁸ ACLU of Kansas, *Comments in Response to America First Legal’s Petition for Rulemaking* (Oct. 20, 2025), at 2 (citing *Fish*, 189 F. Supp. 3d at 1121–22).

¹²⁹ *Id.* (citing *Fish*, 189 F. Supp. 3d at 1122).

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Fish*, 957 F.3d at 1134 (internal quotation marks omitted).

¹⁴⁰ *Id.*; see also ACLU of Kansas, *Comments in Response to America First Legal’s Petition for Rulemaking* (Oct. 20, 2025) at 3 (describing that at the time the Kansas documentary-proof-of-citizenship program was enacted, only 0.002% of Kansas’s noncitizen residents had successfully registered to vote from 1999 to 2013).

independent authority to prosecute election crimes, and June 20, 2017, the office secured just one conviction of a noncitizen for voting.¹⁴¹

In light of these unjustifiable burdens on the right to vote, the Tenth Circuit held in 2020 that Kansas' documentary-proof-of-citizenship program violated both the U.S. Constitution and the NVRA.¹⁴²

Arizona's experience with documentary proof-of-citizenship requirements further shows that many eligible voters are unable to register and vote in federal elections when such documentation is mandated. Arizona became the first state to adopt a documentary-proof requirement for voter registration in 2005,¹⁴³ even though the legislature "did not establish that any noncitizens were registered to vote in Arizona."¹⁴⁴ After the U.S. Supreme Court held that the NVRA preempts Arizona's documentary proof-of-citizenship requirement for federal elections,¹⁴⁵ the State created a bifurcated system that allows individuals who have not provided citizenship documents to vote in federal, but not state or local, elections. As of January 2025, Arizona had more than 48,000 active federal-only voters¹⁴⁶—people whom election officials deemed eligible but who, because they did not provide documentary proof-of-citizenship at registration, could only vote in federal elections. Without the NVRA's protections, these eligible voters would most likely not be able to vote even in federal elections.

These facts show that documentary proof-of-citizenship requirements have an undeniable chilling effect on registration—precisely the reason why Congress rejected such a requirement when it enacted the NVRA. During debate on the bill, Congress considered and declined proposals that would have allowed states to require documentary proof of citizenship. The Senate concluded that the NVRA "provides sufficient safeguards to prevent noncitizens from registering to vote," and the Conference Committee found that documentary proof was "not necessary or consistent with the purposes of this Act."¹⁴⁷ It also recognized that such a requirement would "effectively eliminate, or seriously interfere with, the mail registration program of the Act" and could "adversely affect the administration of the other registration programs."¹⁴⁸ These decisions reflect Congress's laudable motives to facilitate registration of eligible voters and prevent unnecessary barriers to their participation.

Congress was correct when it passed the NVRA, and nothing has since changed to alter that conclusion. Noncitizen voting was—and remains—exceedingly rare, and comprehensive

¹⁴¹ ACLU of Kansas, *Comments in Response to America First Legal's Petition for Rulemaking* (Oct. 20, 2025) at 3.

¹⁴² *See Fish v. Schwab*, 957 F.3d 1105, 1144 (10th Cir. 2020).

¹⁴³ ACLU of Arizona, *Re: Docket number EAC-2025-0236* (Oct. 20, 2025) at 1 & n.1, available at <https://www.aclu.org/cases/comments-on-petition-of-america-first-legal-for-rulemaking-before-the-election-assistance-commission?document=Comment-from-American-Civil-Liberties-Union-of-Arizona>.

¹⁴⁴ *Id.* at 7 n.17 (citing *Mi Familia Vota v. Fontes*, 129 F.4th 691, 704 (9th Cir. 2025)).

¹⁴⁵ *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1 (2013); *see also Mi Familia Vota*, 129 F.4th at 703.

¹⁴⁶ Ariz. Sec'y of State, *Federal Only Registrants as of January 2nd, 2025*, <https://perma.cc/8U2R-VFPG> (last visited July 10, 2025).

¹⁴⁷ *See* ACLU et al., *Comments in Response to America First Legal's Petition for Rulemaking* (Oct. 20, 2025) at 9–10 (quoting S. Rep. No. 103-6, at 11 (Feb. 25, 1993)).

¹⁴⁸ *See id.* at 10 (quoting H.R. Conf. Rep. No. 103-66, at 12-23).

studies and nationwide surveys have consistently confirmed as much.¹⁴⁹ This consensus is shared across the political spectrum. As the libertarian Cato Institute concluded, claims about largescale noncitizen voting fraud are “bogus.”¹⁵⁰ Simply put, “[n]oncitizens don’t illegally vote in detectable numbers.”¹⁵¹ For example, a Brennan Center study found that election officials, who oversaw the tabulation of 23.5 million votes, referred only an estimated 30 incidents of suspected noncitizen voting for further investigation or prosecution—meaning that *suspected* noncitizen votes accounted for just 0.0001 percent of the votes cast in those elections.¹⁵²

In sum, empirical evidence and real-world experience demonstrate that requiring voters to procure citizenship documents in order to register to vote would impose widespread, unnecessary barriers on them while providing negligible benefits.

Conclusion

There is no dispute that states and localities must keep their voter rolls accurate and up to date. But the integrity of our elections is not threatened by the phantom menace of widespread noncitizen voting—it is threatened by aggressive purge practices that wrongfully strike legitimate voters from the rolls and by unnecessary barriers to registration that prevent eligible Americans from getting on those rolls in the first place. Too often, these errors fall hardest on voters of color, voters with disabilities, and other communities that have long faced barriers to the ballot. The NVRA struck the right balance more than thirty years ago: expanding access to registration while giving states ample tools to maintain accurate rolls. That balance should not be undone by proposals—like documentary proof-of-citizenship mandates—that are premised on

¹⁴⁹ See, e.g., Lori Minnite, Ph.D., *The Politics of Voter Fraud* (2007), <https://perma.cc/HV86-PS44> (analyzing the first three years of a Justice Department initiative to uncover voter fraud ending in 2005, and finding only 14 convictions of noncitizens for voting); Justin Levitt, *The Truth About Voter Fraud*, Brennan Center for Justice (2007), <https://perma.cc/4DDC-54CC> (nationwide survey of a decade of news accounts and other complaints of noncitizen voting showed that allegations of noncitizen voting that prove unfounded are far more common than allegations that turn out to be true. Some of the exaggerated or baseless allegations highlighted in that study include: A 2005 investigation into 1,668 Washington residents with “foreign-sounding names” which turned up no noncitizens, and finding that even if one accepts all of the allegations of noncitizen voting as true, noncitizen voters would have accounted for between .0002 percent and .017 percent of the votes in the relevant jurisdiction); Michael Wines, *All This Talk of Voter Fraud? Across U.S., Officials Found Next to None*, N.Y. Times (Dec. 18, 2016), <https://www.nytimes.com/2016/12/18/us/voter-fraud.html> (surveying election and law enforcement officials in 49 states and the District of Columbia and identifying two *possible* instances of noncitizens voting out of 137.7 million voters nationwide); Phillip Bump, *There have been just four documented cases of voter fraud in the 2016 election*, Wash. Post (Dec. 1, 2016), <https://perma.cc/6H7W-YP9M> (compiling reports from the news-aggregation system Nexis to identify demonstrated cases of voter fraud and finding four demonstrated cases of any type of voter fraud, and no instances of noncitizens voting).

¹⁵⁰ Walter Olson, *The Right’s Bogus Claims About Noncitizen Voting Fraud*, Cato Inst. (Apr. 11, 2024), <https://www.cato.org/commentary/rights-bogus-claims-about-noncitizen-voting-fraud>.

¹⁵¹ Alex Nowrasteh, *Noncitizens Don’t Illegally Vote in Detectable Numbers*, Cato Inst. (Nov. 25, 2020), <https://www.cato.org/blog/noncitizens-dont-illegally-vote-detectable-numbers>.

¹⁵² Michael Waldman, President & CEO, Brennan Ctr. for Just., Testimony Before the H. Comm. on H. Admin., *American Confidence in Elections: Preventing Noncitizen Voting and Other Foreign Interference* (May 16, 2024), available at <https://www.brennancenter.org/our-work/research-reports/testimony-american-confidence-elections-preventing-noncitizen-voting-and>.

exaggerated claims and would impose real burdens on millions of eligible Americans while solving no genuine problems.

The United States continues to trail other developed democracies in voter participation—even as compared to recent election cycles when the country saw historic turnout.¹⁵³ As Chief Justice John Roberts wrote, “[t]here is no right more basic in our democracy than the right to participate in electing our political leaders.”¹⁵⁴ Our system is more representative, responsive, and accountable when more Americans have a voice, not fewer. Congress should reject measures that would weaken the NVRA’s protections—whether by erecting new barriers to registration or by stripping away safeguards that protect voters from wrongful purges. Instead, Congress should focus on proven reforms that expand access and improve accuracy and provide election officials with the stable, meaningful federal funding they need to administer elections effectively. That is how we build a democracy that endures.

I thank you again for the opportunity to testify before you and look forward to answering any questions that you have.

¹⁵³ See Tova Wang, *What Other Countries Can Teach Us About Turnout*, Inst. for Responsive Gov’t (Mar. 15, 2024), <https://responsivegov.org/research/what-other-countries-can-teach-us-about-turnout/>; States United Democracy Ctr., *Voter Turnout in American Elections Since 2000* (Sep. 25, 2025), <https://statesunited.org/resources/voter-turnout-since-2000/>.

¹⁵⁴ *McCutcheon v. FEC*, 572 U.S. 185, 191 (2014); see also *Reynolds v. Sims*, 377 U.S. 533, 555 (1964) (“The right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.”).