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Voting Rights Act



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The **National Voting Rights Act of 1965** (42 U.S.C. § 1973–1973aa-6)^[1] outlawed discriminatory voting practices that had been responsible for the widespread **disenfranchisement** of **African Americans** in the **United States**. Echoing the language of the **15th Amendment**, the Act prohibited states from imposing any "voting qualification or prerequisite to voting, or standard, practice, or procedure ... to deny or abridge the right of any citizen of the United States to vote on account of race or color."^[2] Specifically, Congress intended the Act to outlaw the practice of requiring otherwise qualified voters to pass **literacy tests** in order to register to vote, a principal means by which Southern states had prevented African-Americans from exercising the franchise.^[3] The Act was signed into law by **President Lyndon B. Johnson**, a **Democrat**, who had earlier signed the landmark **Civil Rights Act of 1964** into law.

The Act established extensive federal oversight of elections administration, providing that states with a history of discriminatory voting practices (so-called "**covered jurisdictions**") could not implement any change affecting voting without first obtaining the approval of the **Department of Justice**, a process known as **preclearance**. These enforcement provisions applied to states and political subdivisions (mostly in the **South**) that had used a "device" to limit voting and in which less than 50 percent of the population was registered to vote in 1964. Congress has amended and extended the Act several times since its original passage, the most recent being the 25-year extension signed by President **George W. Bush**.

The Act is widely considered a landmark in civil-rights legislation, though some of its provisions have sparked political controversy. During the debate over the 2006 extension, some **Republican** members of Congress objected to renewing the preclearance requirement (the Act's primary enforcement provision), arguing that it represents an overreach of federal power and places unwarranted bureaucratic demands on Southern states that have long since abandoned the discriminatory practices the Act was meant to eradicate.^[4] Conservative legislators also opposed requiring states with large Spanish-speaking populations to provide bilingual ballots.^[5] Congress nonetheless voted to extend the Act for twenty-five years with its original enforcement provisions left intact.^[6]

Background

Further information: **Disfranchisement after the Civil War**

The **13th Amendment**, ratified in 1865 after the **Civil War**, abolished and prohibited slavery and secured a minimal degree of citizenship to former slaves. The **14th Amendment**, ratified in 1868, granted citizenship to all people "born or naturalized in the United States," and included the **due process** and **equal protection** clauses. This amendment failed to explicitly prohibit vote discrimination on racial grounds.

The prohibition of voting rights discrimination on the basis of race, color, or previous condition of slavery was first codified by the **15th Amendment** to the **Constitution** in 1870. Soon after the end of **Reconstruction**, starting in the 1870s, Southern Democratic legislators found other means to deny the vote to blacks, through violence, intimidation, and **Jim Crow laws**.

From 1890 to 1908, 10 Southern states wrote new constitutions with provisions that included **literacy tests**, **poll taxes**, and **grandfather clauses** that permitted otherwise disqualified voters whose grandfathers voted (thus allowing some white illiterates to vote), some with the aim and effect of re-imposing racially motivated restrictions on the voting process that disfranchised blacks. Although the **15th Amendment** established particular voting rights, and gave **Congress** the authority to enforce those rights and regulate the voting process, state provisions applied to all voters and were upheld by the **Supreme Court** in early litigation, from 1875 (*United States v. Cruikshank*) through 1904. In practice, the provisions had dramatically adverse effects on voting by blacks. During the early 20th century, the Supreme Court began to find such provisions unconstitutional in litigation of cases brought by African Americans and poor whites. States reacted rapidly in devising new legislation to continue disfranchisement of most blacks and many poor whites. Although there were numerous court cases brought to the Supreme Court, through the 1960s, white Democrats in the South effectively disfranchised most blacks.

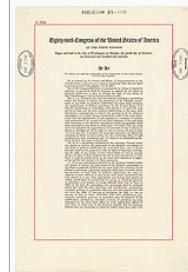
In 1909, the **National Association for the Advancement of Colored People** (NAACP) was created with the mission to promote blacks' civil rights, including to "secure for them impartial suffrage." The NAACP's success was limited: although they did achieve important judicial rulings by the Supreme Court and some legislative successes, Southern legislators quickly devised alternate ways to keep many southern blacks disfranchised through the early 1960s.

Following the 1964 election, a variety of civil rights organizations banded together to push for the passage of legislation that would ensure black voting rights once and for all. The campaign to bring about federal intervention to prevent discrimination in voting culminated in the voting rights protests in Selma, Alabama, and the famous **Selma to Montgomery marches**. Demonstrations also brought out white violence, and Jimmie Lee Jackson, James Reeb, and **Viola Liuzzo** were murdered. President **Lyndon B. Johnson**, in a dramatic joint-session address, called upon Congress to enact a strong voting rights bill. Johnson's administration drafted a bill intended to enforce the 14th and 15th Amendments, aiming to eliminate various previously legal strategies to prevent blacks and other minorities from voting.

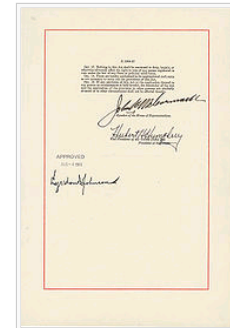
Legislative history

The Act was sent to Congress by President Johnson on March 17, 1965. The Senate passed the bill on May 11 (after a successful **cloture** vote on March 23); the House passed it on July 10. After differences between the two bills were resolved in conference, the House passed the Conference Report on August 3, the Senate on August 4. President Johnson signed the Act on August 6, 1965.

Voting Rights Act of 1965 89th United States Congress



| | |
|-----------------------|--|
| Long title: | — |
| Introduced by: | — |
| Dates | |
| Date passed: | August 3, 1965 (House of Representatives) August 4, 1965 (Senate) |
| Date signed into law: | August 6, 1965 |
| Amendments: | 1970, 1975, 1982, 2006 |



Final page of the Voting Rights Act, signed by President Johnson, the President of the Senate, and the Speaker of the House

Vote count

The two numbers in each line of this list refer to the number of representatives voting in favor and against the act, respectively.

Senate: 77–19

Democrats: 47–17

Republicans: 30–2

House: 333–85

Democrats: 221–61

Republicans: 112–24

Conference Report:

Senate: 79–18

Democrats: 49–17

Republicans: 30–1

House: 328–74

Democrats: 217–54

Republicans: 111–20



President [George W. Bush](#) signs the reauthorization of the Voting Rights Act as lawmakers look on.

Periodic renewal

Some temporary sections of the Voting Rights Act (none involving the outlawing of poll taxes or literacy tests, which are permanently banned)^[7] have been renewed four times and remain in force. These provisions were renewed in 1970, 1975, 1982, and 2006. In the 1982 action, [Congress](#) amended the Act to make some sections (including section 2) permanent while renewing the remainder (including section 5) for 25 years, until (July 1, 2007).

In July 2006, 41 years after the Voting Rights Act passed, renewal of the temporary provisions enjoyed bi-partisan support. However, a number of [Republican](#) lawmakers acted to amend, delay or defeat renewal of the Act for various reasons. One group of lawmakers led by [Georgia](#) congressman [Lynn Westmoreland](#) came from some preclearance states, and claimed that it was no longer fair to target their states, given the passage of time since 1965 and the changes their states had made to provide fair elections and voting. Another group of 80 legislators supported an amendment offered by [Steve King](#) of [Iowa](#), seeking to strip provisions from the Act that required that translators or multilingual ballots be provided for U.S. citizens who do not speak English.^[8] The "King letter" said that providing ballots or interpreters in multiple languages is a costly, unfunded mandate.

The bill to renew the Act was passed by the [U.S. House of Representatives](#), 390-33, with support from Republican House leadership, led by [Judiciary Committee Chairman F. James Sensenbrenner, Jr.](#). The [U.S. Senate](#) passed the bill 98-0.^[9] This bill renewed the Act for another 25 years.

President [George W. Bush](#) signed the bill in a morning ceremony on the South Lawn of the White House on July 27, 2006, one year in advance of the 2007 expiration date. The audience included members of the families of slain civil rights leader Dr. [Martin Luther King Jr.](#) and [Rosa Parks](#). Also in attendance were the Revs. [Al Sharpton](#) and [Jesse Jackson](#), NAACP Chairman [Julian Bond](#) and other prominent [African Americans](#).^[8]

Criticisms

Preclearance

Some municipalities singled out in the Act for their practices in the 1960s, are still required by law to receive federal permission for certain changes to election law or changes in venue.^[9] These nine Southern states and mostly Southern counties have complained that the practices banned by the Act disappeared long ago and further compliance with the mandates of the Act are a costly nuisance and an "unfair stigma" to their towns.^[6] As an example of the federal bureaucracy involved, Georgia Rep. [Jack Kingston](#) said, "If you move a polling place from the [Baptist](#) church to the [Methodist](#) church, you've got to go through the Justice Department."^[5]

Rep. [Lynn Westmoreland](#), R-Ga., said:

“ Congress is declaring from on high that states with voting problems 40 years ago can simply never be forgiven, that Georgians must eternally wear the [scarlet letter](#) because of the actions of their grandparents and great-grandparents. ... We have repented and we have reformed.”^[10] ”

Some who think that this federal oversight is discriminatory to these particular states have proposed that the oversight be extended to all 50 states or eliminated entirely.^[11]

The 2006 extension of the preclearance procedure has been challenged in a lawsuit, which was argued before the Supreme Court on April 30, 2009.^[12] The lawsuit was brought by a municipal water district in Texas, which elects members to a water board. The district does not register voters, nor has it been accused of discrimination. However, it wished to move the voting location from a private home to a public school; the preclearance procedure required it to seek approval from the Justice Department, because Texas is a covered jurisdiction under Section 5.^[13]

Multilingual balloting

The Act requires municipalities that receive requests for ballots in other languages to comply with the request. Rep. [Dana Rohrabacher](#) of [California](#) said of the Act, "What unites us? It's our language, the English language," and that the Act is "hurting America by making it easier not to learn English."^[10]

Gerrymandering

Some judges and proponents of racially drawn congressional districts have interpreted Section 5 of the Act as requiring racial [gerrymandering](#) in order to ensure minority representation.^{[14][15]}

Section 2

Section 2 contains a general prohibition on voting discrimination, enforced through federal district court litigation. Congress amended this section in 1982, prohibiting any voting practice or procedure that has a discriminatory result. The 1982 amendment provided that proof of intentional discrimination is not required. The provision focused instead on whether the electoral processes are equally accessible to minority voters.^[16] This section is permanent and does not require renewal.

On March 9, 2009, the U.S. Supreme Court ruled in [Bartlett v. Strickland](#) that the Voting Rights Act does not require governments to draw district lines favorable to minority candidates when the district has minorities as less than half of the population.^[17]

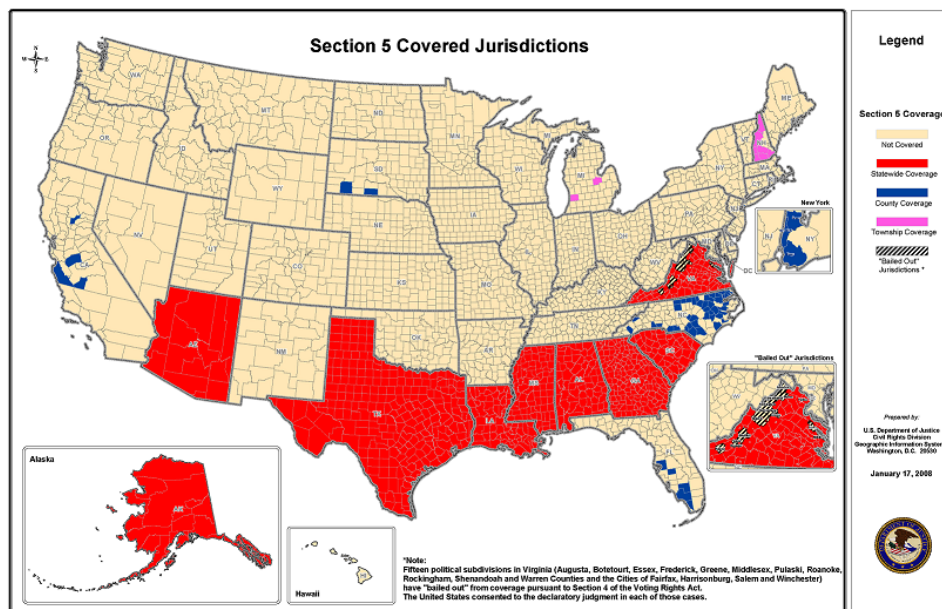
Preclearance

Section 5 of the Act requires that the [United States Department of Justice](#), through an administrative procedure, or a three-judge panel of the [United States District Court for the District of Columbia](#), through a [declaratory judgment](#) action "preclear" any attempt to change "any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting..." in any "covered jurisdiction." The Supreme Court gave a broad interpretation to the words "any voting qualification or prerequisite to voting" in [Allen v. State Board of Election](#), 393 U.S. 544 (1969). A covered jurisdiction that seeks to obtain Section 5 Preclearance, either from the [United States Attorney General](#) or the [United States District Court for the District of Columbia](#), must demonstrate that a proposed voting change does not have the purpose and will not have the effect of discriminating based on race or color. In some cases, they must also show that the proposed change does not have the purpose or effect of discriminating against a "language minority group." Membership in a language minority group includes "persons who are [American Indian](#), [Asian American](#), [Alaskan Natives](#) or of [Spanish heritage](#)." The burden of proof under current Section 5 jurisprudence is on the covered jurisdiction to establish that the proposed change does not have a retrogressive purpose.^[18]

Covered jurisdictions may not implement voting changes without federal Preclearance. The Justice Department has 60 days to respond to a request for a voting change. If the Justice Department or federal court rejects a request for Preclearance, the jurisdiction may continue the prior voting practice or may adopt a substitute and seek Preclearance for it. If the jurisdiction implements a voting change before the Justice Department denies Preclearance in contravention of the Act, the jurisdiction must return to the pre-existing practice or enact a different change.

Those states which had less than 50 percent of the voting age population voting in 1960 and/or 1964 were covered in the original act. (The average percentage of the voting age population participating in a presidential election then was in the mid-60s, instead of about 50 percent, as has occurred in 1996, 2000, and 2004.) In addition, some counties and towns that have been found in violation of section 2 have been added. Some counties in Virginia (see below) have since been found no longer to need Preclearance.

The [United States Commission on Civil Rights](#) recently reviewed the Justice Department Preclearance record and found that the percentage of DOJ objections to submitted changes has declined markedly throughout the 40-year period of the Act: from 5.5 percent in the first period to 1.2 percent in the second, and to 0.6 percent in the third. Over the last 10 years, the overall objection rate was so low as to be practically negligible, at less than 0.1 percent.^[19] The Commission's two Democratic members dissented from the report, charging that the Commission had "abandon[ed] the field of battle."^[20]



States

[Alabama](#)
[Alaska](#)
[Arizona](#)
[Georgia](#)
[Louisiana](#)
[Mississippi](#)
[South Carolina](#)
[Texas](#)

Virginia, except for eight counties: ([Augusta](#), [Frederick](#), [Greene](#), [Pulaski](#), [Roanoke](#), [Shenandoah](#), and [Warren](#)) and three independent cities ([Fairfax](#), [Harrisonburg](#), and [Winchester](#))

Counties

California: [Kings](#), [Merced](#), [Monterey](#), [Yuba](#)
Florida: [Collier](#), [Hardee](#), [Hendry](#), [Hillsborough](#), [Monroe](#)
New York: [Bronx](#), [Kings](#) (Brooklyn), [New York](#) (Manhattan)
North Carolina: [Anson](#), [Beaufort](#), [Bertie](#), [Bladen](#), [Camden](#), [Caswell](#), [Chowan](#), [Cleveland](#), [Craven](#), [Cumberland](#), [Edgecombe](#), [Franklin](#), [Gaston](#), [Gates](#), [Granville](#), [Greene](#), [Guilford](#), [Halifax](#), [Harnett](#), [Hertford](#), [Hoke](#), [Jackson](#), [Lee](#), [Lenoir](#), [Martin](#), [Nash](#), [Northampton](#), [Onslow](#), [Pasquotank](#), [Perquimans](#), [Person](#), [Pitt](#), [Robeson](#), [Rockingham](#), [Scotland](#), [Union](#), [Vance](#), [Washington](#), [Wayne](#), [Wilson](#)
South Dakota: [Shannon](#), [Todd](#)

Towns

Michigan: [Clyde Township](#) ([Allegan County](#)), [Buena Vista Township](#)
New Hampshire: [Rindge](#), [Millsfield](#), [Pinkham's Grant](#), [Stewartstown](#), [Stratford](#), [Benton](#), [Antrim](#), [Boscawen](#), [Newington](#), [Unity](#)

Bail out



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The term "bail out" refers to the process by which covered jurisdictions may seek exemption from Section 5 coverage. In order to bail out, a covered jurisdiction needs to obtain a declaratory judgment from the District Court for the District of Columbia. The 11 Virginia jurisdictions not covered by Section 5 Preclearance requirements have all successfully "bailed out."^{[[citation needed](#)]}

Before August 1984, this process required covered jurisdictions to demonstrate that the voting test that they used immediately before coverage was not used in a discriminatory fashion. The 1982 amendment included two significant changes. First, Congress provided that where a state is covered in its entirety, individual counties in that state may separately bail out. Second, Congress completely redesigned the bailout standard. The post-1984 bailout standard requires that a covered jurisdiction demonstrate nondiscriminatory behavior during the 10 years prior to filing and while the action is pending and that it has taken affirmative steps to improve minority voting opportunities.^{[[22](#)]}

No affirmative right to vote

While the title of the Voting Rights Act might imply that it established an explicit right to vote for President for U.S. citizens, there is no such federal right. However, the Voting Rights Act and three constitutional amendments that prevent discrimination in granting the franchise have established in United States Supreme Court jurisprudence that there is a "fundamental right" in the franchise, even though voting remains a state-granted privilege. However, states are given considerable leeway when it comes to this "fundamental right".

In *Bush v. Gore*, 531 U.S. 98 (2000), the Supreme Court noted that, "The individual citizen has no federal constitutional right to vote for electors for the President of the United States," a logical conclusion given the history of the [Electoral College](#). States do not have to extend suffrage to ex-felons, nor do they have to allow citizens to register and vote on Election Day.^{[[23](#)]} In 2008, the [Supreme Court](#) upheld voter ID laws, claiming that the states had an interest in deterring voter fraud.^{[[24](#)]} While the Supreme Court has stated that the right to vote and the right to be a candidate are connected, they have often upheld state laws that make it difficult for independent and minor party candidates to be included on the election ballot.^{[[25](#)]}

[Washington, D.C.](#), not being a state, has been granted only limited voting rights by Congress, which controls the District "in all cases whatsoever", according to the District Clause of the Constitution.^{[[26](#)]} U.S. Rep. [Jesse Jackson, Jr.](#) re-introduced [House Joint Resolution 28](#) in March 2005 to amend the U.S. Constitution and create a federal right to vote.^{[[27](#)]} The resolution had 60 co-sponsors as of October 2006.^{[[28](#)]}

See also

[Civil Rights Act of 1964](#)

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- ²⁶ ↑ *Reynolds v. Sims*, 377 U.S. 533 (1964) at 561-562: "Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaird manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized." Almost a century ago, in *Yick Wo v. Hopkins*, 118 U.S. 356 (1886) at 370, the Court referred to "the political franchise of voting" as "a fundamental political right, because preservative of all rights."
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United States Department of Justice Section 5 Covered Jurisdictions (Includes Map)

v · d · e

African-American Civil Rights Movement

Topics and events (timeline)

Albany Movement · Birmingham campaign · Black Power · *Brown v. Board of Education* · Civil Rights Act of 1964 · Civil Rights Act of 1968 · Emmett Till · Freedom Riders · Freedom Summer · Greensboro sit-ins · *Harper v. Virginia Board of Elections* · Little Rock Nine · March on Washington · Mississippi Freedom Democratic Party · Montgomery Bus Boycott · Poor People's Campaign · Selma to Montgomery marches · Twenty-fourth Amendment · **Voting Rights Act of 1965**

Activists

Ralph Abernathy · Victoria Gray Adams · Ella Baker · Stokely Carmichael · Shirley Chisholm · Vernon Dahmer · Annie Devine · Medgar Evers · James Farmer · James Forman · Fannie Lou Hamer · Dorothy Height · T. R. M. Howard · Jesse Jackson · Clyde Kennard · Coretta Scott King · Martin Luther King, Jr. · John Lewis · Viola Liuzzo · Malcolm X · Thurgood Marshall · Bob Moses · Rosa Parks · A. Philip Randolph · Bayard Rustin · Modjeska Monteith Simkins · Fred Shuttlesworth · Roy Wilkins · Whitney Young

Activist groups

Congress of Racial Equality · Leadership Conference on Civil Rights · NAACP · Operation Breadbasket · Southern Christian Leadership Conference · Student Nonviolent Coordinating Committee · National Council of Negro Women · National Urban League · Women's Political Council

Categories: 1965 in law | African American history | History of voting rights in the United States | United States congressional districts | United States federal civil rights legislation | United States federal election legislation | Great Society programs | Civil rights movement during the Lyndon B. Johnson Administration

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