

## Legal Sidebar

# As Midterm Election Approaches, State Election Laws Challenged

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As the November 4 election approaches, there have been several court challenges to state election laws. Depending on how the courts rule—and when—these cases could affect election administration in several states during the upcoming election.

For example, on October 1, the U.S. Court of Appeals for the 4<sup>th</sup> Circuit, on a 2-1 vote, issued a [ruling](#) that required North Carolina to restore same-day voter registration and the counting of out-of-precinct ballots in the upcoming election. The 4<sup>th</sup> Circuit found undisputed evidence demonstrating that these election laws were enacted to increase voter participation, that African American voters disproportionately utilized those electoral mechanisms, and that a North Carolina law, [House Bill 589](#), restricted those mechanisms. Therefore, the court determined that aspects of the law disproportionately impacted African American voters in violation of [Section 2](#) of the Voting Rights Act. Section 2 prohibits any voting qualification or practice that results in the denial or abridgement of the right to vote based on race, color, or membership in a language minority. The statute further provides that a violation is established if, “based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by [members of a racial or language minority group] in that its members have less opportunity than other members of the electorate to participate in the political processes and to elect representatives of their choice.” North Carolina is [seeking](#) a stay from the U.S. Supreme Court, where a ruling is expected at any time.

On September 22, a trial concluded in the U.S. District Court for the Southern District of Texas in a [case](#) where plaintiffs are challenging a Texas voter ID law, [Senate Bill 14](#). The law requires voters to show a form of government-issued identification that contains a photograph of the voter, including a driver’s license, election identification certificate or personal identification card issued by the Department of Public Safety (DPS), a U.S. military ID card, a U.S. citizenship certificate, a U.S. passport, or a license to carry a concealed handgun issued by DPS. Among other things, plaintiffs [argue](#) that the law dilutes and/or prevents the voting strength of minority voters in violation of [Section 2](#) of the Voting Rights Act. Observers [predict](#) a ruling will be issued prior to the November election, which might ultimately be appealed to the U.S. Supreme Court.

On September 29, the U.S. Supreme Court [ordered](#) a stay of a district court [order](#) that prevented reductions in early voting in Ohio. The district court had enjoined enforcement of a recently enacted state election law, [Senate Bill 238](#), and Secretary of State Directive [2014-17](#), which had reduced the period for early in-person voting, and ordered the restoration of additional hours for voting. The district court had determined that the bill and directive violate both the [Equal Protection Clause](#) of the 14<sup>th</sup> Amendment by burdening the fundamental right to vote, and [Section 2](#) of the Voting Rights Act by disproportionately burdening African American voters’ ability to participate effectively in the political process. On September 24, the U.S. Court of Appeals for the 6<sup>th</sup> Circuit [affirmed](#) the district court order. As a result of the Supreme Court staying the order, for this election, it appears that the recently enacted shorter period for voting will be in effect unless or until the State of Ohio files a cert. petition with the Supreme Court, and depending on how the Court responds. On September 29, the Ohio Secretary of State issued Directive [2014-30](#) outlining uniform days and hours for in-person absentee voting.

For further reading on the Voting Rights Act, see CRS reports, [Congressional Redistricting and the Voting Rights Act: A Legal Overview](#), and [The Voting Rights Act of 1965: Background and Overview](#).

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