



July 16, 2021

The Honorable Amy Klobuchar
Chairwoman
Committee on Rules and Administration
U.S. Senate
Washington, DC 20510

The Honorable Roy Blunt
Ranking Member
Committee on Rules and Administration
U.S. Senate
Washington, DC 20510

Dear Chairwoman Klobuchar & Ranking Member Blunt:

As part of the July 19, 2021, Senate Rules Committee’s upcoming field hearing in Georgia, **“Protecting the Freedom to Vote: Recent Changes to Georgia Voting Laws and the Need for Basic Federal Standards to Make Sure All Americans Can Vote in the Way that Works Best for Them,”** we write to provide the views of the Southern Poverty Law Center (SPLC) Action Fund. We ask that this statement be included as part of the official hearing record.

The SPLC Action Fund is dedicated to fighting for racial justice alongside impacted communities in pursuit of equity and opportunity for all. We work primarily in the Southeast United States where we have offices in Alabama, Georgia, Florida, Louisiana, Mississippi, and Washington, D.C. The SPLC Action Fund promotes policies and laws that will eliminate the structural racism and inequalities that fuel oppression of people of color, immigrants, young people, women, low-income people, and the LGBTQ+ community.

I lead a team of legal, organizing, and technical experts working to empower voters and eliminate disenfranchisement and discrimination in voting in the Deep South—primarily Alabama, Georgia, Florida, Louisiana, and Mississippi. Launched in early 2019, [SPLC’s Voting Rights Practice Group](#) works in collaboration with community partners and organizers to engage and mobilize voters, restore voting rights to people with felony convictions, pursue electoral policy reforms, and bring litigation to challenge unconstitutional and discriminatory voting practices. Our efforts include expanding access to the ballot, ensuring equal access to the ballot—including efforts around the 2020 Census and redistricting—election administration, and community outreach and engagement.¹ In partnership with the Community Foundation of Greater Atlanta, we launched [Vote Your Voice](#)—an initiative in which we are investing up to

¹ Southern Poverty Law Ctr., Voting Rights, <https://www.splcenter.org/our-issues/voting-rights> (last visited Feb. 19, 2021).

\$30 million in nonpartisan, nonprofit voter outreach organizations in our focus states to increase voter registration and participation among people of color.²

On March 10, the SPLC released a report entitled [*Overcoming the Unprecedented: Southern Voters' Battle Against Voter Suppression, Intimidation, and a Virus*](#), which explored barriers voters faced during the 2020 election season in Alabama, Georgia, Florida, Louisiana, and Mississippi, including polling place consolidations and restrictions on voting opportunities.³ The following statement reviews and expands upon the report's findings.

On March 29, 2021, SPLC and its co-counsel [filed suit](#) to stop Georgia's burdensome and racially discriminatory voter suppression law, which, among other restrictions, severely limits drop boxes for absentee ballots and the use of mobile voting units. Drop boxes and mobile voting units have been used to address a shortage of accessible and secure polling locations that previously resulted in long lines of voters at existing and traditional polling locations.⁴

On June 14, 2021, SPLC and its co-counsel [filed suit](#) to challenge a Florida law that, among other things, requires groups engaged in voter registration activities to provide misleading information to voters that the organization "might not" submit the voter's registration application on time and to direct voters to the state's online registration portal.

The need for bold, transformational federal democracy reform is urgent.

VOTER SUPPRESSION IS ALIVE & WELL IN THE DEEP SOUTH

What is clear from our work in the Deep South over the last 50 years—and the work of our sister organizations dating back to the passage of the Voting Rights Act of 1965 (VRA)—is that efforts to disenfranchise Black people and historically marginalized communities are alive and well. The 2020 election season, in which election officials in many southern states failed to protect voters and their loved ones during a deadly pandemic, revealed not only deep faults in our electoral system, but also the resilience and dedication of voters in the Deep South. Only through bold, decisive action can lawmakers ensure that voters are protected from efforts to exclude them from the political process.

This is especially urgent in the Deep South, where voters have been without the full protections of the Voting Rights Act for nearly eight years and state legislatures in 2021 are further rolling back access to the ballot.

² Southern Poverty Law Ctr., Vote Your Voice, <https://www.splcenter.org/vote-your-voice> (last visited Feb. 19, 2021). The Vote Your Voice campaign seeks to: empower communities of color by aiding them in their fight against voter suppression; support Black- and brown-led voter outreach organizations often ignored by traditional funders; support and prototype effective voter engagement strategies; and re-enfranchise returning citizens despite intentional bureaucratic challenges.

³ Southern Poverty Law Ctr., *Overcoming the Unprecedented: Southern Voters' Battle Against Voter Suppression, Intimidation, and a Virus* (2021), https://www.splcenter.org/sites/default/files/splc_vr_report_overcoming_the_unprecedented_mar_2021.pdf.

⁴ On May 24, 2021, Plaintiffs filed an amended complaint: https://www.splcenter.org/sites/default/files/documents/083_ame_et_al_fac.pdf.

Shelby County, Ala. v. Holder, Brnovich v. Democratic National Committee & the Onslaught of Voter Suppression in Its Wake

The single most devastating moment for voters in the last decade was the misguided 2013 Supreme Court decision in *Shelby County, Ala. v. Holder*, which demolished the heart of the Voting Rights Act of 1965. The decision rendered Section 5 unenforceable, releasing states and localities with histories of racial discrimination in voting from the requirement to receive federal approval before making any new voting changes.⁵ Of SPLC Action’s focus states, all but Florida were covered by Section 5 in full, and Florida was covered in part. In the nearly eight years since the *Shelby County* decision, Congress has been unable to pass a new coverage formula.⁶ And the onslaught of discriminatory and burdensome voting changes that have been documented—some of which were challenged in court—not only demonstrate the errors of the *Shelby County* majority in getting rid of Section 5’s protections, but also reveal the urgency of passing a new coverage formula to protect voters from officials who seek to restrict, not protect, the vote. This past term, the Supreme Court dealt another devastating blow to voters. In *Brnovich v. Democratic National Committee*, the Supreme Court severely weakened Section 2 of the Voting Rights Act,⁷ a key provision upon which the SPLC and other legal advocates relied to challenge laws and practices that operate to deny the right to vote to Black and other historically disenfranchised voters after *Shelby County* rendered Section 5 inoperable. *Brnovich* strips Section 2 of the broad categories of protections Congress installed in its 1982 amendments to the Voting Rights Act to account for the increasingly prevalent facially-neutral laws that disproportionately suppress voting access for people of color—including the types of laws at issue in the *Brnovich* case itself. With two watershed opinions in less than a decade, the Supreme Court moves dangerously close to shutting the door on legal recourse for voter suppression and discrimination. Congress must act urgently to protect voting rights and course-correct the Supreme Court from this destructive path.

The SPLC Action Fund urges the 117th Congress to prioritize swift introduction and passage of the John R. Lewis Voting Rights Act (H.R. 4).⁸ The only remedy for the harm caused by the loss of Section 5 is to restore the full power of the Voting Rights Act and revive the federal government’s ability to block proposed voting practices that will harm voters before they occur. The John R. Lewis Voting Rights Act would restore Section 5 by ensuring the new coverage formula speaks to “current conditions,” in compliance with the *Shelby County* ruling. Additionally, SPLC Action urges Congress to address the misguided opinion in *Brnovich* by reinstating and clarifying through legislation the broad power of Section 2 in protecting against racial discrimination in voting.

⁵ *Shelby Cty., Ala. v. Holder*, 570 U.S. 529 (2013).

⁶ PBS News Hour, *House passes bill to restore key parts of Voting Rights Act*, Dec. 6, 2019, <https://www.pbs.org/newshour/politics/house-passes-bill-to-restore-key-parts-of-voting-rights-act>.

⁷ *Brnovich v. Democratic Nat’l Comm.*, No. 19-1257, 594 U.S. __ (2021).

⁸ The John Lewis Voting Rights Advancement Act (H.R. 4), was passed in the House during the 116th Congress in 2019.

Between the reauthorizations of the VRA in 1982 and 2006, the DOJ blocked more than 700 proposed voting changes because of their discriminatory impact; more than 100 changes in Alabama were blocked from 1969 to 2008.⁹ More than 800 additional proposed changes were altered or withdrawn voluntarily after the DOJ requested additional information.¹⁰ When a misguided majority of the Supreme Court invalidated the coverage formula for Section 5, the late Justice Ruth Bader Ginsburg wrote in her dissent:

The sad irony of today’s decision lies in its utter failure to grasp why the VRA has proven effective. The Court appears to believe that the VRA’s success in eliminating the specific devices extant in 1965 means that preclearance is no longer needed. With that belief, and the argument derived from it, history repeats itself.¹¹

As Justice Ginsburg predicted, history has repeated itself. In fact, much of the progress gained by enforcement of Section 5 has been rolled back.¹² Indeed, within a day of the *Shelby County* decision, Texas implemented a racially discriminatory photo ID law, and North Carolina passed a voter suppression law that a federal court later ruled targeted Black voters with “almost surgical precision.”¹³ Since the decision, advocates, journalists, and voters have attempted to track the many and varied voting changes that have occurred in previously covered states and localities. In SPLC Action’s five focus states, these changes range from discriminatory registration requirements and closures of polling places to illegal purges of registered voters and discriminatory election and redistricting plans.¹⁴

In February 2020, we published the report [*Alive and Well: Voter Suppression and Election Mismanagement in Alabama*](#).¹⁵ It analyzed the impact of Alabama’s lack of early voting, onerous restrictions on absentee voting, confusing felony re-enfranchisement procedures, lack of adequate public education, poorly trained poll workers, and other obstacles and failures.

Alabama is the epicenter of the struggle for voting rights: Bloody Sunday in Selma was the catalyst for the passage of the VRA and nearly 50 years later just up the road in Shelby County, a case began that would strike down the VRA’s most effective provision. Following the *Shelby County* decision, Alabama implemented a photo voter ID law despite documented evidence that

⁹ Southern Poverty Law Ctr., *Alive & Well: Voter Suppression & Election Mismanagement in Alabama* 9 (Feb. 10, 2020), https://www.splcenter.org/sites/default/files/splc_voter_suppression_in_alabama_report.pdf.

¹⁰ *Id.*

¹¹ *Shelby Cty., Ala. v. Holder*, 570 U.S. 529, 592 (2013) (Ginsburg, J., dissenting).

¹² P.R. Lockhart, *How Shelby County v. Holder upended voting rights in America*, Vox, June 25, 2019, <https://www.vox.com/policy-and-politics/2019/6/25/18701277/shelby-county-v-holder-anniversary-voting-rights-suppression-congress>.

¹³ See Brennan Ctr. for Justice, *The Effects of Shelby County v. Holder* (Aug. 6, 2018), <https://www.brennancenter.org/our-work/policy-solutions/effects-shelby-county-v-holder>.

¹⁴ See, e.g., *id.*; Vann R. Newkirk II, *How Shelby County v. Holder Broke America*, July 10, 2018, <https://www.theatlantic.com/politics/archive/2018/07/how-shelby-county-broke-america/564707/>; Sam Levine & Ankita Rao, *In 2013 the supreme court gutted voting rights—how has it changed the US?*, June 25, 2020, <https://www.theguardian.com/us-news/2020/jun/25/shelby-county-anniversary-voting-rights-act-consequences>.

¹⁵ Southern Poverty Law Ctr., *Alive and Well: Voter Suppression and Election Mismanagement in Alabama* (Feb. 10, 2020), <https://www.splcenter.org/20200210/alive-and-well-voter-suppression-and-election-mismanagement-alabama>.

Black and low-income voters are less likely to possess an acceptable ID as compared to white voters.¹⁶ The state then closed 31 driver’s license offices in predominantly Black counties, which made it even more difficult for voters to obtain acceptable photo ID. The state eventually reopened the offices, but only after intense public pressure to reverse its decision.¹⁷

States and local jurisdictions across the South have continued to implement discriminatory and burdensome laws, policies, and practices since the *Shelby County* decision.¹⁸ Some of these laws have been challenged in court, but the breadth of potentially harmful voting changes—known and unknown—taking place since *Shelby County*—cannot be overemphasized.¹⁹

Because so many harmful and discriminatory voting changes have been implemented in the years since *Shelby County*, Congress must also prioritize passage of the For the People Act (S. 2093/H.R. 1). The For the People Act, which passed the House on March 3, 2021, will implement structural democracy reforms to protect and strengthen the right of all citizens to vote and participate in our political processes.

Americans from All Parties, Ideologies, & Regions Support Reforms To Allow Safe, Easy, & Equitable Access to the Fundamental Right To Vote

In May 2021, the SPLC released the results of a [national poll](#) of 1000 representative voters in the United States, conducted by Tulchin Research, finding widespread support for nationwide standards for voting as well as for passing federal legislation H.R. 1, the For the People Act.²⁰ The poll found that in 2020, voters utilized a diverse set of voting methods, including voting by mail (30%), in-person on election day (27%), in-person early before election day (26%), by drop-box (10%), and in-person by absentee ballot before election day (8%). And voters *strongly* prefer (80%) to continue using the voting method they used in 2020 in future elections.

The poll also found that voters strongly support (67%) the For the People Act, including its key elements:

- 67% support guaranteeing voters in every state at least two weeks of early voting access;
- 69% support placing voter registration centers on high school and college campuses;
- 69% support preventing states from removing eligible registered voters from voting rolls;

¹⁶ Am. Compl., *Greater Birmingham Ministries v. State of Alabama*, 2:15-cv-02193-LSC (N.D. Ala May 3, 2016), <https://www.naacpldf.org/wp-content/uploads/Greater-Birmingham-Ministries-v.-Alabama-Amended-Complaint.pdf>.

¹⁷ Bryan Lyman, *Alabama Will Reopen Closed DMV Offices in Black Counties*, Oct. 20, 2015, <https://www.governing.com/topics/politics/drivers-license-offices-will-reopenon-limited-basis.html>.

¹⁸ See, e.g., Wendy Weiser & Max Feldman, Brennan Ctr. for Justice, *The State of Voting 2018* (June 5, 2018), https://www.brennancenter.org/sites/default/files/2019-08/Report_State_of_Voting_2018.pdf; Jonathan Brater, et al., Brennan Ctr. for Justice, *Purges: A Growing Threat to the Right to Vote* (2018), https://www.brennancenter.org/sites/default/files/2019-08/Report_Purges_Growing_Threat.pdf.

¹⁹ NAACP Legal Defense & Educational Fund, Inc., *Democracy Diminished: State & Local Threats to Voting Post-Shelby County, Alabama v. Holder* (updated Nov. 13, 2020), <https://www.naacpldf.org/wp-content/uploads/State-local-responses-post-Shelby-11.12.20-final.pdf>.

²⁰ The full memo is available here: https://www.splcenter.org/sites/default/files/tulchin-final-memo_to-press.pdf.

- 70% support placing secure drop-boxes in every voting precinct;
- 82% support ensuring voting access to voters with disabilities; and
- 85% support ensuring that there are enough voting locations so wait times never exceed 30 minutes.

As 2020 Elections & COVID-19 Pandemic Showed, Deep South Electoral System Needs Repair

Efforts to suppress the political participation of voters of color, younger voters, new citizens, voters with disabilities, and voters who are low-income are widespread. Elected officials resist commonsense reforms that would make voting simple and accessible to all, including online voter registration, no-excuse absentee voting, early voting, and automatic voter registration. In much of America, in-person voting on Election Day is no longer the most common voting method. In SPLC Action’s focus states, it remains the only option for millions of people. In the Deep South, Black, Latinx, and Indigenous voters face a series of racist, systemic barriers to voting, including long lines and closed polling places, overbroad and discriminatory purges of registered voters, and overt voter intimidation.

Restrictions on Opportunities To Vote During the Pandemic

Curtailing voters’ choices about where, when, and how they vote would suppress participation during a simple election year. During the 2020 election season, amid the COVID-19 pandemic, these policies made voting a potentially deadly act for voters, their families, and their communities. Without early and absentee voting options, thousands of voters would need to gather at the polls on Election Day—often in small local churches, libraries, and community centers where it is impossible to practice social distancing. The pandemic turned the most common and accessible method of voting in the Deep South into a public health threat.

Restrictive voting policies also compounded existing inequities in voting access between white and Black citizens. People of color—Black people, in particular—have been disproportionately affected by COVID-19, suffering more hospitalizations and deaths than other populations.²¹ Voting in person was a risk for everyone in 2020, but it was an even greater one for Black Americans.

For the 2020 election cycle, each of SPLC Action’s focus states needed significant changes to their election processes to create a safe and accessible voting experience, though some had more work to do than others. Both Florida and Georgia already had no-excuse absentee voting, but they needed to make the application process more accessible and to prepare for an enormous increase in absentee voting. Alabama, Mississippi, and Louisiana do not offer no-excuse absentee voting, and all three states have unnecessary, burdensome requirements that make absentee voting risky for those who do qualify. Reforms approved easily in one state sparked strong opposition in others. Alabama’s secretary of state allowed voters who feared COVID-19

²¹ Ctrs. for Disease Control & Prevention, Hospitalization and Death by Race/Ethnicity, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html> (last updated Feb. 12, 2021).

exposure at the polls to vote absentee using an existing excuse but failed to remove other hurdles and had a policy that banned curbside voting.²² In Louisiana, Republicans in the state legislature vehemently opposed even modest expansions to absentee voting.²³ And in Mississippi, most voters do not qualify to vote absentee, but those who do must seek out a notary not once, but twice to cast their absentee ballot. Overall, every state did something, but no state did enough to ensure voters were not asked to choose between their health and their vote in 2020. With co-counsel, the SPLC represented Black voters, high-risk voters, voters with disabilities, membership organizations, and voter engagement organizations to ensure that voters in [Alabama](#),²⁴ [Mississippi](#),²⁵ and [Louisiana](#)²⁶ were not disenfranchised.

Not only was casting a ballot dangerous, but election administrators also faced new challenges.²⁷ Election officials had to quickly evaluate and modify standard election procedures to reduce the risk of spreading COVID-19. County election offices and polling places were often not large enough to accommodate social distancing and were inappropriate to use during a pandemic. Additional funding from the CARES Act helped facilitate some of this work, but the strain on officials was still immense. In just a few months, they had to reevaluate every piece of the election system, all during one of the highest-profile elections in recent memory.

Ballot Curing & Rejection

After a ballot is cast, it may still be held as challenged or rejected by election officials for a variety of reasons and may not be immediately counted. Absentee ballot rejections were particularly important during the 2020 election, because people across the country voted by absentee ballot at extraordinary rates, many for the first time. In states like Georgia, where voters historically have less experience voting by mail, absentee ballot rejections were especially common. For instance, election officials rejected 11,818 absentee ballots in Georgia's June 2020 primary election, and voters of color were disproportionately represented among them.²⁸ Nearly 20% of those ballots were rejected for a missing signature.²⁹ Another nearly 10% were rejected

²² Press Release, Alabama Sec'y of State, Secretary of State Issues New Guidance on Absentee Voting for November 3 General Election (July 20, 2020), <https://www.sos.alabama.gov/newsroom/secretary-state-issues-new-guidance-absentee-voting-november-3-general-election>.

²³ Sam Karlin, *Louisiana Mail-In Voting Would Be Rolled Back in November Under New Proposal*, The Advocate, Aug. 17, 2020, https://www.theadvocate.com/baton_rouge/news/politics/elections/article_2dbba520-e08e-11ea-b613-6f79f9be0dc20.html.

²⁴ Southern Poverty Law Ctr., *People First of Alabama, et al. v. John Merrill, et al.*, <https://www.splcenter.org/seeking-justice/case-docket/people-first-alabama-et-al-v-john-merrill-et-al> (last visited Feb. 22, 2021).

²⁵ Southern Poverty Law Ctr., *Parham v. Watson*, <https://www.splcenter.org/seeking-justice/case-docket/parham-v-watson> (last visited Feb. 22, 2021).

²⁶ Southern Poverty Law Ctr., *Telisa Clark, et al. v. John Bel Edwards, et al.*, <https://www.splcenter.org/seeking-justice/case-docket/telisa-clark-et-al-v-john-bel-edwards-et-al> (last visited Feb. 22, 2021).

²⁷ Letter from Don Davis, Judge of Probate of Mobile County, Alabama, to Secretary of State John Merrill, (May 4, 2020),

²⁸ See Kevin Morris, Brennan Ctr. for Justice, *Digging into the Georgia Primary* (Aug. 24, 2020), <https://www.brennancenter.org/our-work/research-reports/digging-georgia-primary>.

²⁹ *Id.*

based on a strict Georgia rule that allows election officials to reject absentee ballots when signatures do not appear to match the voter's signature on file.³⁰

As a result of lawsuits and advocacy, including by the SPLC and our partners, states including Georgia, Florida, Mississippi, and Louisiana now permit voters to “cure” their challenged or rejected ballots.³¹ Ballot curing provisions generally require election officials to notify the voter that their ballot has been challenged or rejected and provide the voter an opportunity to correct the ballot within a short period following the election. Such notices may never reach a voter due to mail delays or strains on county ballot processing, effectively negating the intended effect of notice and cure laws. Moreover, absentee ballot-tracking websites in Georgia and Florida are consistently unreliable, providing too-late updates of ballot rejections, which preclude a voter from taking timely corrective action. And Mississippi and Louisiana have no tracking systems at all.

To ensure voters received notice of their challenged or rejected ballots, the SPLC operated a call, text, and canvass program ahead of the 2020 general election and January 2021 runoff election in Georgia to provide information on how to cure their ballots. In the general election, the SPLC Ballot Curing Program called more than 3,000 voters in Georgia and Florida and texted 481 others. In the January runoff elections in Georgia, the SPLC Ballot Curing Program called 2,611 voters, texted 1,073, and knocked on 260 doors. These efforts and those of similar groups, helped to halve the absentee ballot rejection rate in the general election and January runoff election as compared to the rejection rates in the June primary.³²

Despite the decrease in rejection rates, voters faced significant obstacles in curing their ballots. Even if a voter received notice that their ballot was cured or challenged, many county election offices required a voter to take corrective action in person. Not only did the in-person requirement present a significant burden during the COVID-19 pandemic, particularly for elderly or immune-compromised voters who may have chosen to vote absentee to avoid exposure to the virus, but this requirement was also onerous for voters with physical disabilities, those who work, and those who have unreliable access to transportation. Further exacerbating these burdens was the short cure period in both Georgia and Florida. In Georgia, voters have three days following an election and in Florida only two.³³ State curing provisions are a step in the right direction, but they must be reformed to ensure every eligible voter's ballot is counted.

³⁰ *Id.*

³¹ O.C.G.A. §§ 21-2-386(a)(1)(C); 21-2-419(c); Fla. Stat. § 101.68(4).

³² Secretary of State of Georgia, Brad Raffensperger, also acknowledged the reduction in absentee ballot rejections was likely the result of extra-governmental group efforts to help voters cure their absentee ballots. *See* Georgia Sec'y of State, Number of absentee ballots rejected for signature issues in the 2020 election increased 350% from 2018,

https://sos.ga.gov/index.php/elections/number_of_absentee_ballots_rejected_for_signature_issues_in_the_2020_election_increased_350_from_2018.

³³ O.C.G.A. §§ 21-2-386(a)(1)(C); 21-2-419(c); Fla. Stat. § 101.68(4)(b).

Voters Need More Protection from Voter Suppression

2020 revealed how difficult it is for many people to register to vote, cast a ballot, and have their vote count. State and local officials who find it politically advantageous to suppress the political participation of certain groups have gone relatively unchecked for nearly eight years. According to the Brennan Center for Justice, between 2010 and 2020, state lawmakers from across the country introduced hundreds of measures that would make it harder to vote.³⁴ Overall, 25 states have implemented voting restrictions: 15 have more restrictive voter ID laws, 12 have laws making it harder for citizens to register and stay registered, 10 made it more difficult to vote early or by absentee ballot, and three made it harder to restore voting rights to people with past criminal convictions.³⁵

In the SPLC's focus states, these changes include burdensome photo ID laws in Alabama and Mississippi; a discriminatory and burdensome requirement to pay off legal financial obligations before voting in Florida; a discriminatory "signature match" law in Georgia, and polling place consolidations and closures in Black and Latinx communities across the region.³⁶ These restrictions around the country target voters of color. Seven of the 11 states with the highest Black turnout in 2008 have new voting restrictions in place.³⁷ Eight of the 12 states with the largest Hispanic population growth between 2000 and 2010 passed laws making it harder to vote. All this targeting is working. Black, Hispanic, and younger voters all report longer wait times than white and older voters.³⁸

In the face of a deadly pandemic and myriad barriers to registering, casting a ballot safely, and having their vote counted, voters in SPLC Action's focus states *still* managed to increase turnout during the 2020 general election.³⁹ Voters went to extreme, even life-threatening measures to ensure that their voices were heard. But voters' ability to overcome unnecessary, burdensome, and discriminatory hurdles to voting does not mean these hurdles can or should remain in place. Because for every voter who was able to vote, there are more who were prevented by voter suppression laws. Every eligible voter who desires to vote should face no barriers to doing so. In the Deep South, however, voters require protection from elected officials who disagree, like Secretary of State of Alabama, John Merrill, who has stated that "[j]ust because you turned 18 doesn't give you the right to do anything. If you're too sorry or lazy to get up off your rear and to go register and vote, or to register electronically, and then to go vote, then you don't deserve that privilege."⁴⁰

³⁴ Brennan Ctr. for Justice, *New Voting Restrictions in America* (updated Nov. 18, 2019), <https://www.brennancenter.org/sites/default/files/2019-11/New%20Voting%20Restrictions.pdf>.

³⁵ *Id.*

³⁶ *Id.* at 2.

³⁷ Craig Newmark & Brennan Center, *Why Is it So Hard to Vote in America? And What We Can Do to Fix It* (Mar. 28 2016), <https://www.brennancenter.org/sites/default/files/analysis/voting-in-america-infographic-FINAL.pdf>.

³⁸ *Id.*

³⁹ Drew Desilver, *Turnout soared in 2020 as nearly two-thirds of eligible U.S. voters cast ballots for president*, Pew Rsch. Ctr., Jan. 28, 2021, <https://www.pewresearch.org/fact-tank/2021/01/28/turnout-soared-in-2020-as-nearly-two-thirds-of-eligible-u-s-voters-cast-ballots-for-president/>.

⁴⁰ WSFA, *AL Secretary of State criticized for comments in voting rights documentary*, WSFA12 News, Nov. 3, 2016, <https://www.wsfa.com/story/33627690/al-secretary-of-state-criticized-for-comments-in-voting-rights-documentary/>.

Despite Secretary Merrill’s misguided and offensive statement, we know voting is a *right*, not a privilege. We need affirmative action to protect voters from state lawmakers and election officials that have felt empowered to burden, suppress, and discriminate against voters. The electorate is doing its part to stand up to voter suppression by organizing and voting; the federal government must act to ensure voters do not have to fight so hard to have a voice in their community.

BOLD ACTION REQUIRED TO PROTECT FUNDAMENTAL RIGHT TO VOTE & DEMOCRACY ITSELF

In September 2020, the SPLC Action Fund published its [Vision for a Just Future](#), an urgent, transformative action agenda for a more equitable and compassionate nation, including a call to expanding voting rights and promote voter engagement.⁴¹ It calls for the enactment of the For the People Act (S.1/H.R. 1), which includes several SPLC Action priorities, such as implementing automatic voter registration and same-day registration; restoring voting rights to people with felony convictions; making Election Day a national holiday; requiring early voting and expanding access to vote-by-mail; and redistricting reform. It also calls for enactment of the John R. Lewis Voting Rights Act (H.R. 4), which would restore federal preclearance protections to jurisdictions with a history of racial discrimination in voting and protect historically disenfranchised voters nationwide from practices that are likely to disenfranchise them.

Post-2020 Backlash in Southern Legislatures Demands Action to Protect Voters

The COVID-19 pandemic revealed how challenging or impossible it is for many to access their right to vote, especially post-*Shelby County*. But even in the face of widespread voter suppression tactics, voters produced record turnout and elected candidates dedicated to democracy reform. Many states have also introduced pro-voter bills. Unfortunately, pro-voter reforms have been slow in SPLC Action’s focus states. In fact, Alabama and Mississippi have resisted early voting and no-excuse absentee voting, even when voters demonstrated the demand for both during the 2020 election.

Six months into 2021, myriad voter suppression bills have been introduced in state legislatures across the South, and over 350 bills restricting voting rights have been introduced in state legislatures across the country.⁴² On March 25, **Georgia** Governor Brian Kemp signed into law SB 202, a 98-page voter suppression bill that includes, among other provisions: (a) an unnecessary restriction on the use of mobile voting units; (b) new and burdensome identification requirements that force a voter to provide identification or sensitive personal information when requesting and casting an absentee ballot; (c) a delayed and compressed time period for requesting absentee ballots; (d) limitations on the use of secure drop boxes as a means of returning absentee ballots; (e) a drastic reduction in early voting in runoff elections; (f) a cruel

⁴¹ SPLC Action Fund, *Vision for a Just Future: An urgent, transformative action agenda for a more equitable and compassionate nation* (Sept. 2020), https://www.splcactionfund.org/sites/default/files/SPLC-Vision-for-a-Just-Future_SEP24-2020.pdf.

⁴² Brennan Ctr. for Justice, *State Voting Bills Tracker 2021*, <https://www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021> (last updated Apr. 1, 2021).

and inhumane ban—with criminal penalties—on anyone who provides free food and water or other assistance, known as “line relief” or “line warming,” to Georgians who wait in line to vote; and (g) the complete disenfranchisement of some voters who cast out-of-precinct provisional ballots. Along with co-counsel, the SPLC has [filed suit](#) to stop this burdensome and racially discriminatory law.⁴³

Despite an election that all state officials lauded as a national model of election security and efficiency, **Florida**’s legislature passed SB 90 the following month. Like Georgia’s SB 202, Florida’s SB 90 imposes new and unnecessary restrictions on mail-in and absentee voting and imposes onerous and costly new requirements on local elections officials. SB 90 is especially galling and suffused with discriminatory intent, because, unlike other Southern states, Florida had a robust tradition of absentee and mail-in voting and the legislature only moved to curtail it after voters of color, young voters, voters with disabilities, voters who are lower-income, and other infrequent or first-time voters successfully used it to vote safely during the COVID-19 pandemic. Specifically, SB 90: (a) requires local elections offices’ staff to monitor drop boxes in-person and imposes large fines for failure to do so; (b) restricts drop boxes so that they are only available during early voting hours or inside the office of a local supervisor of elections; (c) requires voters to renew their absentee ballot requests every calendar year; (d) limits who can deliver an absentee ballot on behalf of a voter; (e) imposes additional identification requirements for requesting absentee ballots; and (f) criminalizes line warming actions such as distributing water, chairs, umbrellas, or other assistance to voters waiting to cast their ballots with up to a year imprisonment. Despite having some of the most onerous third-party voter registration laws in the country, including the imposition of hefty penalties on groups that do not return voter registration forms on time, SB 90 additionally requires voter registration groups to provide misleading information to voters that the organization “might not” submit the voter’s registration application on time. Along with co-counsel, the SPLC has [filed suit](#) on behalf of voter registration organizations to challenge the provision of SB 90 that requires these groups to provide misleading information to voters.⁴⁴

In **Alabama**, the Governor signed a law banning curbside voting, a practice that is widely used throughout the country by older voters and voters with disabilities.⁴⁵ Though they ultimately failed, **Mississippi** introduced two harmful, discriminatory, and unreliable voter purge bills: one that would remove voters from the rolls who fail to vote for six consecutive years, and a second that would purge voters who fail to provide documentary proof of citizenship. And in Louisiana, Governor Edwards vetoed several anti-voting bills, including bills that would purge eligible voters from the rolls and reduce absentee voting access. These vetoes, however, may not withstand a likely override session.

Without the full protection of the VRA intercepting these laws, decisive federal action is needed to protect voters.

⁴³ First Amended Complaint, *Sixth Dist. African Methodist Episcopal Church v. Kemp*, Case No. 1:21-cv-01284-JPB (N.D. Ga. May 24, 2021), https://www.splcenter.org/sites/default/files/documents/083_ame_et_al_fac.pdf.

⁴⁴ Complaint, *Harriet Tubman Freedom Fighters, Corp. v. Lee*, Case No. 4:21-cv-00242-MW-MAF (N.D. Fla. June 14, 2021), https://www.splcenter.org/sites/default/files/documents/tubman_complaint.pdf.

⁴⁵ Mike Cason, *Curbside voting ban becomes Alabama law with Gov. Kay Ivey’s signature*, AL.com, May, 26, 2021, <https://www.al.com/news/2021/05/curbside-voting-ban-becomes-alabama-law-with-gov-kay-iveys-signature.html>.

The John R. Lewis Voting Rights Act (H.R. 4)

Restoring the VRA’s power by introducing and passing the John R. Lewis Voting Rights Act is the first step to remedying the harm caused by the loss of Section 5. Congress must revive the federal government’s ability to block proposed voting practices—including polling place changes and changes relating to how, when, and where people vote—that will harm voters *before* they occur. The John R. Lewis Voting Rights Act would restore Section 5 by ensuring that the new coverage formula speaks to “current conditions,” in compliance with the *Shelby County* ruling.

Any new coverage formula must respond both to the nationwide impact of voter suppression efforts and the depth and extent of recent efforts to disenfranchise voters of color and other vulnerable groups. The Voting Rights Advancement Act of 2019, which was passed by the 116th Congress in 2019 and on which the John R. Lewis Voting Rights Act will be based, accomplishes both goals. It was developed after extensive hearings that found significant evidence that barriers to voter participation persist for people of color and language-minority voters in Black, Asian American, Latinx, and Indigenous communities.

Specifically, H.R. 4:

- **Creates a new coverage formula that requires a finding of repeated voting rights violations.**
 - The look-back period is measured on a rolling basis to keep up with “current conditions,” so only states and localities with a recent record of racial discrimination in voting are covered.
 - States and localities that qualify for preclearance will be covered for 10 years, but if they establish a clean record during that period, they can be removed from coverage.
- **Establishes “practice-based preclearance,” a targeted process for reviewing voting changes in jurisdictions nationwide. The following practices would always be required to be precleared:**
 - Changes to the methods of elections (to or from at-large elections) in areas that are racially, ethnically, or linguistically diverse.
 - Reductions in language assistance.
 - Annexations changing jurisdictional boundaries in areas that are racially, ethnically, or linguistically diverse.
 - Redistricting in areas that are racially, ethnically, or linguistically diverse.
 - Reducing, consolidating, or relocating polling locations in areas that are racially, ethnically, or linguistically diverse.
 - Changes in documentation or requirements to vote or register.
- **Allows a federal court to order states or jurisdictions to be covered for results-based violations, where the effect of a particular voting measure is racial discrimination in voting and denying citizens their right to vote.**

- **Increases transparency by requiring reasonable public notice for voting changes.**
- **Allows the attorney general authority to request the presence of federal observers anywhere in the country where there is a serious threat of racial discrimination in voting.**
- **Revises and tailors the preliminary injunction standard for voting rights actions to recognize that there will be cases where there is a need for immediate preliminary relief.**

Introduction and passage of the John R. Lewis Voting Rights Act is a necessary and urgent step toward gaining back the achievements of the original Section 5 and preventing further erosion of the right to vote by elected officials determined to suppress the votes and political will of voters who do not vote for them.

The For the People Act (S.2093/H.R.1)

Because the John R. Lewis Voting Rights Act would not address all the harmful laws passed between the *Shelby County* decision and its enactment, the For the People Act (S.2093/H.R.1), introduced in the 117th Congress in 2020, is crucial in addressing the voter suppression from the last eight years. The For the People Act would roll back discriminatory practices that have harmed voters and citizens of color for decades, particularly in the Deep South. Among other important changes, it would:⁴⁶

Reform voter registration. It would modernize America’s voter registration system and improve access to the ballot box by establishing automatic voter registration (AVR), same-day registration (SDR), and online registration for federal elections, and ensuring that all registration systems are inclusive and accessible for people with disabilities. These reforms are especially important in the Deep South where, for example, Mississippi has no online registration and neither Florida, Mississippi, Alabama, nor Louisiana have AVR or SDR.

Reform & update absentee ballot systems. It would implement no-excuse absentee ballots for federal elections and remove all existing barriers like witness, photo ID, or notarization requirements. It would make it easier to request and receive an absentee ballot by requiring online access to applications, prepaid postage, and secure drop boxes and polling place drop-off. It would also require that absentee ballots in federal elections be accessible for voters with disabilities. Finally, it would ensure that absentee ballots are more likely to be counted by providing voters with notice of and an opportunity to cure deficiencies like signature match errors and requiring that any ballots mailed by election day but received within 10 days after election day shall be counted. Each of these provisions

⁴⁶ For a detailed annotation of the bill, see Brennan Center for Justice, Annotated Guide to H.R. 1, the For the People Act of 2019 (Apr. 13, 2020), <https://www.brennancenter.org/our-work/policy-solutions/annotated-guide-hr-1-people-act-2019>.

will improve access to absentee ballots in SPLC Action’s focus states in at least one way.

Combat voter purges. It would overturn the Supreme Court’s troubling 2018 decision in *Husted v. A. Philip Randolph Institute*, which allowed Ohio to conduct massive purges from its voter rolls based on nonvoting. Such practices disproportionately target marginalized voters. Voting should not be a “use it or lose it” right. Laws such as the one in *Husted* were introduced in states like Mississippi during the 2021 legislative session, threatening to remove voters who choose not to vote. These laws are contrary to the letter and spirit of the National Voter Registration Act and threaten to remove voters who have not moved, but just chose not to vote, which is within their right to do.

Create a federal holiday and ensure early voting and polling place notice. It would make Election Day a federal holiday. It would also require at least 15 consecutive days of early voting in federal elections. The bill would also require that voters be given a minimum of seven days’ notice if the state decides to change their polling place location. In states like Alabama and Mississippi, where there is no early voting, these provisions would provide voters crucial access to the ballot.

Rights Restoration. Restore voting rights for people with felony convictions in federal elections, re-enfranchising approximately 4.7 million voters nationwide.⁴⁷ Reforming felony disenfranchisement has bipartisan support; in November 2018, 65 percent of Florida voters cast their ballots to restore the right to vote for more than 1.4 million people, and in 2018, a law passed in Louisiana with bipartisan support to re-enfranchise thousands of Louisianans with past felony convictions.

Reform redistricting. It would ensure that people choose their representatives, not the other way around, by requiring states to draw congressional districts using independent redistricting commissions that are bipartisan and reflect the demographic diversity of the region. It would establish fair redistricting criteria and ensure compliance with the VRA to safeguard voting rights for communities of color. The Deep South states have been the subject of dozens of lawsuits challenging racially discriminatory redistricting plans.

End prison-based gerrymandering. It would require the U.S. Census Bureau to count people who are incarcerated at their last-known residence, not the prison where they are housed. The current practice is to count incarcerated people as living in communities where they are incarcerated, entitling those communities to a larger share of legislative seats and government resources. But most incarcerated people have no connection to the communities where they are incarcerated and typically return to their home communities upon release. Prison-based gerrymandering also has a demonstrable racial impact given the disproportionate impact of the criminal justice system on the Black community and the placement of prisons in majority-

⁴⁷ The Sentencing Project, 6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, 2016, at 14, <https://www.sentencingproject.org/wp-content/uploads/2016/10/6-Million-Lost-Voters.pdf>.

white counties. Ending this discriminatory and unconstitutional practice would restore political power to the communities where it belongs.

The For the People Act would significantly modernize federal elections around the country, especially in the Deep South, where voter suppression is the rule, not the exception. State legislators and officials have resisted commonsense reforms like online voter registration and automatic voter registration while advancing and maintaining voter suppression policies like felony disenfranchisement, restrictive photo ID laws, massive voter purges, and polling place closures.

Together, the John R. Lewis Voting Rights Act and the For the People Act represents a giant step forward in improving access to the ballot and preventing voter discrimination in the Deep South—the birthplace of the voting rights movement—where it is still much too hard to vote. **SPLC Action encourages swift passage of the For the People Act and swift introduction and passage of the John R. Lewis Voting Rights Act.**

Thank you for holding this hearing to address the critical need for democracy reform, especially in the Deep South, which has felt the loss of Section 5 of the Voting Rights Act most profoundly. We look forward to your continued leadership on this important matter and are eager to continue working with you toward a fairer electoral system for all.

Respectfully,



Nancy G. Abudu
Deputy Legal Director &
Interim Director of Strategic Litigation
SPLC Action Fund