



January 28, 2019

# ACRU Election Integrity Bulletin

## LEAD STORY

### Trump Administration Asks Supreme Court to Review Census Citizenship Case

The Trump administration is asking the Supreme Court to hear a case on including a citizenship question on the 2020 census. Last week, federal Judge Jesse M. Furman of the Southern District of New York ruled the Census Bureau could not ask about citizenship. The judge ruled the question would lead to undercounting illegal residents and Hispanics. On Tuesday, the Trump administration moved to bypass the appeals courts, and take the issue straight to the Supreme Court, given the urgency to prepare the U.S. Census. The case would normally be appealed to the U.S. Court of Appeals for the 2nd Circuit. “Time is of the essence,” Hans von Spakovsky, senior legal fellow with *The Heritage Foundation*, told *The Daily Signal*. “It takes a long lead time to print the millions of census forms.” He noted bypassing the regular appeals process is a very rare request and very rarely granted.

<https://www.dailysignal.com/2019/01/22/trump-administration-asks-supreme-court-to-review-census-citizenship-case/>

## FEDERAL

### WSJ: Harvesting Democratic Votes

Democrats in Congress are making election reform their top legislative priority, and we’ve criticized it as a majority protection act. To understand why, consider that Democrats are trying to do for the country what they’ve done with election laws in California. The biggest score for Democrats is a separate 2016 law pushed heavily by unions that legalized what’s known as ballot harvesting. This allows any person—union activists, canvassers, community organizers, campaign staff—to show up at homes and collect mail ballots on behalf of voters. Fred Whitaker, chairman of the Orange County GOP, has estimated that an extraordinary 250,000 mail-votes were dropped off on Election Day thanks to harvesting. All of this is carefully designed to enhance Democratic turnout. California law also creates opportunity for fraud and coercion. Voters in a 2017 special election for an open seat in the California state Assembly reported activists harassed them at their doors to fill out ballots for specific candidates and hand them over. This creates opportunities for harvesters to “help” voters complete their ballots, or even pay to finish them, and it’s easy for the unscrupulous to lose ballots they think may go for the wrong candidate. This is why ballot harvesting is illegal in many states, or at least limited to drop-offs by family members.

<https://www.wsj.com/articles/harvesting-democratic-votes-11547856541>

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## Washington Examiner: Nancy Pelosi Is Trying to Federalize California's Bad Election Laws

Speaker Nancy Pelosi, D-Calif., has made a gargantuan overhaul of election law, campaign finance, and ethics rules the top priority of House Democrats. Contrast this move with the Republicans in 2017—the Democratic Party and its allies understand there is a difference between winning elections versus big idea debates. H.R. 1, her proposal, is not likely to clear the Senate, but that's not the point. It is a marketing document intended to broach the idea of federalizing some progressive state policies while trying to squeeze more conservative locales into adopting them as well. Taken as a whole, the only saving grace to the bill is that it does not contain a prosecution shield for noncitizens who are automatically registered to vote—something California has done. This bill also comes with the benefit of already exhibiting critical failures in the laboratories of bad ideas, like California and others. But automatic voter registration and relaxed voter roll maintenance standards are not a threat to the proponents, if they know how to massage the chaos before a big election.

<https://www.washingtonexaminer.com/opinion/op-eds/nancy-pelosi-is-trying-to-federalize-californias-bad-election-laws>

bringing them to polling places before or on Election Day. People who don't mail in their ballots would be able to vote at a polling place but would have to wait in line and go through the same process as other in-person voters. The committee passed SB1046 on a 4-3 party-line vote, with Republicans supporting it and Democrats in opposition.

<https://www.azmirror.com/2019/01/24/senate-committee-votes-to-ban-voters-from-dropping-off-early-ballots/>

## California: Former City Council Candidate Pleads No Contest to Voter Fraud

A candidate for Bakersfield's city council in last year's election has pleaded no contest to fraudulent voting in connection with his 2016 run for mayor, according to court records. Gilberto De La Torre stood accused of fraudulently signing and submitting his brother's and another person's voter mail-in ballots during the mayoral election. He entered the no contest plea late last month, and in June is scheduled for a hearing in which the charge will be dismissed as long as he abides by the terms of the agreement.

<https://bit.ly/2B6sSA6>

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## STATES

### Arizona: Senate Committee Votes to Ban Voters from Dropping off Early Ballots

Nearly a quarter million Arizonans who dropped off their early ballots at polling places on Election Day in November would lose that ability in future years under a bill that passed its first legislative hurdle in a Senate committee on Thursday. The Senate Judiciary Committee passed three election-related bills sponsored by Sen. Michelle Ugenti-Rita, R-Scottsdale. One of those bills, Senate Bill 1046, would require voters who receive early ballots in the mail to return them only by mail, rather than

## Colorado: State Should Steer Clear of the Partisan Push for a National Popular Vote

The Colorado legislature is considering making Colorado the next state to award its Electoral College votes to the presidential candidate who gets the most votes nationwide. This is a blatantly partisan attempt to abolish the Electoral College through non-constitutional means. It should be stopped dead in its tracks. Of all the delusions in American politics, none are more seductive than majority rule. The latest symptom of our infatuation with majority rule is the “National Popular Vote” movement, or NPV. States who sign on for NPV agree to give their presidential electoral votes to whomever earns the most votes nationwide, regardless of the results within the state itself. The contract takes effect when states with at least 270 electoral votes (a majority of the electoral college) sign on. So far, 11 states and the District of Columbia, with 172 total votes, have agreed. Colorado Senate Bill SB19-042 would sign Colorado on to the deal. It’s not hard to see the blatantly partisan nature of the NPV movement. Who has signed on? The District of Columbia, where no Republican has ever won an electoral vote.

<https://bit.ly/2WncuUE>

## Florida: Secretary of State Resigns after Blackface Photos Surface

Florida’s newly appointed secretary of state resigned after years-old photos of him wearing blackface emerged. The photos were obtained by the *Tallahassee Democrat* and shown to Gov. Ron DeSantis’ office Thursday, according to the publication. The governor said in a statement hours later he had accepted Michael Ertel’s resignation. The photos showed Ertel dressed as a Hurricane Katrina victim in blackface at a Halloween party in 2005, two months after the hurricane hit New Orleans. “There’s nothing I can say,” Ertel said when asked about it.

<https://www.washingtonexaminer.com/news/florida-secretary-of-state-resigns-after-blackface-photos-surface>

## Iowa: Judge Strikes Down Part of Voter ID Law

An Iowa district court judge on Thursday struck down part of a voter identification law that made it more difficult for county auditors to tally absentee ballots submitted with missing information. Polk County District Court Judge Karen Romano said the provision that blocked county auditors from consulting a statewide voter database to fill in missing information on a voter’s absentee ballot violated existing state law. Other parts of the voter identification law, passed by the Republican-controlled state legislature in 2017, still stand. But the rest of the law faces other legal challenges.

<https://thehill.com/homenews/state-watch/426952-iowa-judge-strikes-down-part-of-voter-id-law>

## New Hampshire: Dems Denied Access to Voter Database in Lawsuit over Election Law

The state Supreme Court ruled on Thursday that the secretary of state does not have to provide a detailed voter database to the N.H. Democratic Party, the League of Women Voters and other plaintiffs in a lawsuit challenging Senate Bill 3, the new law on voter verification. A lower court had ordered release of the database to the plaintiffs, who claimed they needed certain information from it to make their case. “We conclude that the database is exempt from disclosure by statute, and we therefore vacate the trial court’s order,” the unanimous order of the five justices said. The case challenging SB 3 has been working its way through the courts for the past two years. The law, enacted in 2017, changed the procedures for proof of domicile when registering to vote. A trial in the case is expected to get under way later this year.

<https://bit.ly/2TgFSKD>

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## Ohio: Miami Co. Elections Director Fired after 6,000 Votes Go Uncounted

The Miami County Board of Elections voted Tuesday night to fire elections Director Beverly Kendall after state officials discovered that over 6,000 early votes went uncounted from the November 6 general election. Board members voted 3-1 to terminate Kendall, effective immediately. The Secretary of State's Office contacted the Board of Elections about the issue involving 6,288 votes on Dec. 20 after reviewing the election results. It was concluded that an incorrect shutoff of an early voting machine was to blame. Fisher said he and the board were re-assured all votes had been counted. Fisher said it wasn't until the Secretary of State's Office contacted them, that they realized the votes were not tallied. Members also voted to start an investigation into how the uncounted votes could have gone undetected for so long. They said there were various steps including an audit, where the issue should have been detected. Board of Elections Chairman Dave Fisher says the missing votes did not affect the outcome of any races or issues, and no recounts were triggered, but they did vote to approve an amendment to election results to reflect the corrected totals.

<https://bit.ly/2S4Y1wn>

## Texas: Illegal Immigrant Voted Using Fake ID, Report Says

An illegal immigrant living in Texas who used a stolen ID to vote at his local polling place received a prison sentence Thursday, according to reports. The suspect, identified as Enrique Salazar Ortiz, of Elmendorf, near San Antonio, will serve nearly three years. Salazar Ortiz, a native of Mexico, was convicted of making a false statement on a passport application, unlawful voting by an undocumented immigrant and aggravated identity theft, *the San Antonio Express-News* reported.

<https://fxn.ws/2WmgiWs>

## Texas: Election Official Says Nearly 100,000 Voters Aren't U.S. Citizens

The Texas Secretary of State says nearly 100,000 people on the state's voter rolls are not U.S. citizens. In an advisory today, Secretary of State David Whitley told voter registrars that the Texas Department of Public Safety has identified as many as 95,000 non-U.S. citizens who have a registration record attached to their name. The agency estimates as many as 58,000 of those people have voted "in one or more Texas elections." The Secretary of State's office notes that, while it can't enforce election law, it has shared the list of voters with the Texas attorney general's office and registrars across the state. In a statement after the announcement, Attorney General Ken Paxton said his office will work with the secretary's office to prosecute cases of voter fraud. "Every single instance of illegal voting threatens democracy in our state and deprives individual Texans of their voice," Paxton said. "We're honored to have partnered with the Texas Secretary of State's office in the past on voter initiatives and we will spare no effort in assisting with these troubling cases."

<https://bit.ly/2FV0jcY>

## Virginia: Voter ID Laws Remain Widely Popular as Governor Northam Seeks Repeal

During his "State of the Commonwealth" address earlier this month, Governor Ralph Northam (D) announced in his 2019 legislation package that he would work with the Democratic caucus in the Virginia General Assembly to repeal the law requiring voters to present a photo identification at the ballot box. Although progressives believe they hold the moral high ground insofar as they are "increasing access to the voting booth," what they fail to believe is that proposals to rescind the laws are widely unpopular across the U.S. Currently, Virginia is classified as a "strict photo ID" state, along with Georgia, Indiana, Kansas, Mississippi, Tennessee, and Wisconsin.

<https://therepublicanstandard.com/voter-id-laws-remain-widely-popular-as-governor-northam-seeks-repeal/>

## Virginia: Bill to Verify Voter Citizenship Advances out of Committee

When Senator Mark Peake (R-Lynchburg) first ran for office in 2015, he said Virginia needed more lawmakers focused on solving problems with common sense. This session, he's fighting for a bill which he says does exactly that. Peake introduced SB1038 to require voter registrars throughout Virginia to electronically verify the name, date of birth, and social security number of each voter against existing federal databases to confirm that every registered voter is a citizen of Virginia and the United States. Calling it a "very simple bill" and "very common sense", Peake urged the committee to pass the measure, which he said would strengthen election integrity in Virginia and help fight voter fraud. "I just kind of would like to make sure that people who are registered to vote in Virginia are actually Virginia citizens and the people they say they are," he said. Peake noted his legislation would cost less than a million dollars, contrasting the fiscal impact of the bill with the much larger sums of money spent every year on campaigns in Virginia. <https://therepublicanstandard.com/bill-to-verify-voter-citizenship-advances-out-of-committee/>

## REDISTRICTING

### Maryland: Supreme Court Sets Date to Hear Maryland Congressional Gerrymandering Case

The U.S. Supreme court has set a date to hear oral arguments in Maryland's high-profile case centered on gerrymandering in the congressional voting districts map. The Supreme Court justices are scheduled March 26 to hear attorneys' arguments and provide Maryland officials with guidance on how to proceed with a court-ordered redrawing of the congressional map, according to a schedule made public Friday. In November, a panel of federal judges found that Maryland's map for the 6th Congressional District, which includes portions of Montgomery County into Western Maryland,

was drawn heavily in favor of Democrats. The case was brought by seven Republican plaintiffs who argued the map diluted their representation and violated their First Amendment rights. The case was brought by seven Republican plaintiffs who argued the map diluted their representation and violated their First Amendment rights.

<https://www.baltimoresun.com/news/maryland/politics/bs-md-supreme-court-oral-arguments-20190125-story.html>

### Michigan: Settlement Search by Secretary of State Raises Concerns from State Republicans

Michigan Secretary of State search for a settlement in a federal lawsuit claiming partisan gerrymandering in some districts has some Republicans raising ethical concerns. Jocelyn Benson, sworn in as Michigan's first Democratic Secretary of State since 1994, wants to settle a lawsuit against the state fielded by the League of Women Voters of Michigan. The suit, originally filed against former Republican Secretary of State Ruth Johnson, claims gerrymandering of 34 districts in the state helped Republicans garner control. The Michigan Republican Party said the move is not about saving taxpayer dollars. "We think this is an obvious partisan power grab by Jocelyn Benson along with former Michigan Democratic Party Chair Mark Brewer to basically redraw our state's maps to favor democrats in our state's 2020 election," Michigan Republican Party Deputy Communications Director Tony Zammit said. Zammit argued that Benson and Brewer were working together to draw the lines. Brewer is an attorney involved with the plaintiffs in the case. <https://wwmt.com/news/state/bensons-settlement-search-raises-concerns-from-michigan-gop>

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## Virginia: Court-Picked Redistricting Maps Could Favor Virginia Democrats

Democrats could have a better shot picking up seats in this year's legislative elections under a redistricting map that a U.S. District Court has selected for the Virginia House of Delegates. If enacted, the new map would place at least five Republican delegates in districts where a majority of voters chose Democrat Barack Obama in the 2012 presidential election—including the 66<sup>th</sup> House District represented by Republican Speaker of the House Kirk Cox. Democratic districts affected by the maps appear less likely to change hands based on those election results. In a statement issued shortly after the court's decision, Cox said that the maps chosen by the court aimed to give Democrats an advantage. "The (maps) selected by the Court target senior Republicans, myself included, without a substantive basis in the law," Cox said.

<https://www.delmarvanow.com/story/news/local/virginia/2019/01/25/court-picked-redistricting-maps-could-favor-virginia-democrats/2670300002/>

## Wisconsin: Court Delays Gerrymandering Trial for at Least Three Months

In a small setback for Democrats, a federal court Wednesday pushed back a gerrymandering trial slated for April, possibly until July. The panel of judges ruled, 2-1, to delay the trial until after the U.S. Supreme Court decides cases over election maps for North Carolina and Maryland. Those decisions are expected by June. "Holding a trial and taking full briefing in these cases before the Supreme Court decides (the other cases) would almost certainly lead to a significant waste of resources for the parties and the court," the majority wrote. The judges agreed Wednesday to put off trial but said they would allow discovery to continue in the case so a trial could be held soon after the Supreme Court renders its decisions. A date for a potential trial will be set later, but the judges suggested starting one July 22.

<https://www.jsonline.com/story/news/politics/2019/01/23/court-delays-wisconsins-gerrymandering-trial-least-3-months/2662569002/>