



# The 611 Project

April, 2024

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# The Issue of Non-Citizen Voting in 2024

In 2021, under Executive Order 14019, the Biden Administration weaponized all agencies of the federal government to push voter registration in populations where eligibility statuses cannot be effectively tracked, like students, prisoners, and non-citizens.<sup>1</sup>

Then, they abandoned the borders. In just the last three years, over 10,000,000 illegal aliens have been added to the federal dole.<sup>2</sup>

And now, with a recent letter from Senate Democrats pleading with President Biden to grant citizenship, it is critical to address the possibility that another Executive Order could be coming before November, offering amnesty and citizenship to this carefully groomed voting bloc.<sup>3</sup>

The immigration issue has many implications for Americans. Specifically, on the issue of election integrity, the likelihood of non-citizens voting in 2024 stands to have negative consequences for our republic, including:

- **Further denigrating trust in the integrity of our electoral system and processes,** leading to an increase in disaffected voters and decreased turnout among citizens, as people doubt the impact of their vote and lose faith in the system.
- **Election Outcomes:** Depending on the scale and distribution of such illegal voting, it could potentially alter the outcomes of closely contested races.
- **Legal and Political Repercussions:** Discovery of widespread non-citizen voting would likely lead to legal challenges to the election results, possibly resulting in recounts, investigations, and litigation. This could delay the certification of election results and the transition of power. Politically, this would stoke polarization and animosity.

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1. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/07/executive-order-on-promoting-access-to-voting/>

2. <https://www.cbp.gov/newsroom/stats/nationwide-encounters>

3. <https://www.judiciary.senate.gov/imo/media/doc/DURBIN,%20SENATE%20DEMOCRATS%20URGE%20PRESIDENT%20BIDEN%20TO%20TAKE%20EXECUTIVE%20ACTION%20TO%20PROVIDE%20RELIEF%20FOR%20UNDOCUMENTED%20IMMIGRANTS.pdf>

- **International Implications:** Such an event could also have implications for how the United States is perceived internationally, particularly regarding its ability to self-govern and its commitment to the rule of law. It could be used by adversaries to question the legitimacy of U.S. foreign policy, especially in matters related to the promotion of governance abroad.

This report delves into the increasingly urgent issue of non-citizen voting in the United States, a matter that strikes at the core of our system of governance and challenges the integrity of our electoral system. At its heart, the problem revolves around the Biden administration's policies and practices that encourage voter registration among those who are not eligible to vote. This situation is further complicated by the significant influx of illegal aliens over recent years, a development that raises serious questions about the sanctity and fairness of our electoral processes.

The implications of non-citizen voting are vast and multifaceted, affecting not just the outcomes of elections but also the very foundation of American citizenship and the principles of American institutions.

By exploring this topic, the report aims to shed light on the mechanisms that may enable non-citizen voting, the implications of such practices at individual, state, and national levels, and the broader consequences for election outcomes and electoral legitimacy.

Through this work, we seek not only to understand how we arrived at this juncture but also to consider potential solutions that can reinforce the integrity of our electoral system, ensuring that it remains a true and fair expression of the will of the American people.

## What are the Implications?

The issue of non-citizen voting in the United States is deeply consequential to not only the integrity of the nation's electoral system, but the future of the country. Failure to protect US elections from illegal non-citizen voting directly conflicts with constitutional and legal principles that reserve participation rights for U.S. citizens. It risks undermining election integrity, potentially influencing outcomes and public policy in ways that may not reflect the citizenry's will.

Failure to protect U.S. elections could also significantly undermine public trust in the process, as the perception of non-citizen influence on election results may lead to decreased confidence in the fairness and legitimacy of American institutions.

# How did We Get Here?

## A Public Policy Timeline

- **1970s:** The number of first-generation immigrants in the United States in 1970 was approximately 9.6 million. This figure represents the total number of people residing in the U.S. who were not citizens at birth, including naturalized citizens, lawful permanent residents, certain legal nonimmigrants, those admitted under refugee or asylee status, and unauthorized immigrants.<sup>4</sup>
- **1980s and 1990s:** Data for the exact number of non-citizens in the U.S. during the 1980s and 1990s is not readily available. However, it's noted that the immigrant population continued to grow during these decades. For reference, in 1980, the first-generation immigrant population was 6.2% of the U.S. population, and by 1990, it had increased to 8.2%.<sup>5 6</sup>
- **1993: National Voter Registration Act (NVRA) -** The National Voter Registration Act (NVRA) of 1993, also known as the “Motor Voter Act,” signed into law by President Bill Clinton sets forth guidelines for voter registration in federal elections, including documentation requirements and the ability for states to use mail-in and agency-based registration processes. While it did not address the need for documentary proof of citizenship (DPOC), it mandates attestation under penalty of perjury for voter eligibility, limiting states’ ability to impose DPOC requirements for federal elections. Despite legal challenges, some states have attempted to require DPOC for state and local elections, leading to a bifurcation in voter registration systems in places like Arizona, although such systems have faced legal scrutiny.<sup>7</sup>
- **1996: Illegal Immigration Reform and Immigrant Responsibility Act of 1996 -** The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) brought significant changes to the Immigration and Nationality Act (INA), becoming effective on April 1, 1997. The legislation aimed to address issues related to illegal immigration by strengthening enforcement measures both at the border and within the United

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4. <https://www.migrationpolicy.org/programs/data-hub/charts/immigrant-population-over-time>

5. <https://www.pewresearch.org/hispanic/2020/08/20/facts-on-u-s-immigrants/>

6. <https://www.pewresearch.org/hispanic/2020/08/20/facts-on-u-s-immigrants/>

7. <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra>

States. President Bill Clinton, who signed the bill into law, described it as a means to enhance the rule of law by cracking down on illegal immigration without penalizing legal residents. IIRIRA made it a criminal offense for a non-citizen to vote in a federal election. This, however, does not apply to those who have resided in the United States as non-citizen U.S. nationals or permanent residents while they were under the age of 16 years, and both of their parents are U.S. citizens.<sup>8</sup>

- **2000-2010:** By 2000, the number of first-generation immigrants was about 11.4% of the U.S. population. This trend of growth continued in the following decade.<sup>9</sup>
- **Title 18 of US Code regarding Voting by Aliens, Section 611 amendment C, passed in 2000,** introducing “citizenship as a state of mind”. The amendment affirms that aliens are not penalized for voting under certain conditions. The amendment refers to citizenship for children of U.S. citizens (in the case of adoptions), if they permanently resided in the U.S. prior to age sixteen, and if they believe they are U.S. citizens. Legal experts we spoke with were unclear as to whether all three criteria must be met in order to qualify, or if only the “state of mind” clause is sufficient.<sup>10</sup> The Department of Justice’s Immigration Services Division Field Operations Policy Memorandum 86, lays out a path for Procedures for Handling Naturalization Applications of Aliens Who Voted Unlawfully or Falsely Represented Themselves as U.S. Citizens by Voting or Registering to Vote, which clarifies the necessity of all three criteria. Time will tell whether or not this is put to the test.<sup>11</sup>
- **2013 - Arizona v. Inter Tribal Council of Ariz. Inc (June 17, 2013):** The Supreme Court of the United States ruled that Arizona’s law requiring proof of citizenship for voter registration was preempted by the National Voter Registration Act of 1993 (NVRA). The NVRA mandates that states must “accept and use” a federal form for voter registration, which asks applicants to affirm their citizenship under penalty of perjury but does not require documentary evidence of citizenship. The Court found that the NVRA’s requirement for states to accept the federal form as sufficient for voter registration superseded Arizona’s additional evidence-of-citizenship requirement. The ruling affirmed the principle that when federal and state laws conflict on matters of election administration, federal law prevails, emphasizing the balance between state responsibilities

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8. [https://www.law.cornell.edu/wex/illegal\\_immigration\\_reform\\_and\\_immigration\\_responsibility\\_act](https://www.law.cornell.edu/wex/illegal_immigration_reform_and_immigration_responsibility_act)

9. <https://www.pewresearch.org/hispanic/2020/08/20/facts-on-u-s-immigrants/>

10. <https://www.law.cornell.edu/uscode/text/18/611>

11. <https://www.aila.org/aila-files/DE2ACCB1-1327-49A5-BADB-AA144750DC63/05030768.pdf>

and federal authority in regulating electoral processes.<sup>12</sup>

- **2014 - Obama grants legal status to 5 million illegal immigrants (November 20, 2014):** In an expansive set of executive orders, President Obama announced that the White House would give legal status and work permits to 5 million immigrants in the United States illegally.<sup>13</sup>
- **2010-2020:** In 2017, out of the U.S. foreign-born population, approximately 45% were naturalized citizens, 27% were lawful permanent residents, 6% were temporary lawful residents, and 23% were unauthorized immigrants. The total foreign-born population in 2018 was estimated to be around 45.3 million.<sup>14</sup>
- **Biden Halts Border Wall Construction (January 20, 2021):** On his first day in office, President Biden signed a proclamation terminating the national emergency declaration used to fund the border wall, effectively halting further construction.
- **Biden Revoked Executive Order 13769, “Protecting the Nation from Foreign Terrorist Entry into the United States” (January 20, 2021):** President Biden signed an executive order that revoked the travel ban on several predominantly Muslim and African countries, often referred to as the “Muslim Ban”.
- **Biden Preserved and Fortified DACA (January 20, 2021):** On the same day, Biden signed an executive order to preserve and fortify the Deferred Action for Childhood Arrivals (DACA) program.
- **Proposing a Pathway to Citizenship (January 20, 2021):** Biden proposed an immigration bill, which included a “pathway to citizenship” for millions of illegal immigrants.
- **Biden Extended Temporary Protected Status (TPS) (January 2021-April 2022):** The administration extended TPS for nationals of certain countries - including Venezuela, Haiti, El Salvador, Honduras, Nicaragua, Nepal, and Sudan, Myanmar, Syria, Somalia, Sudan, and Cameroon.
- **Changes to ICE Enforcement Priorities (January and February 2021):** The Biden Administration issued numerous changes to the protocols and guidelines for Immigration and Customs Enforcement (ICE), deviating greatly from the national security-focus

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12. <https://www.law.cornell.edu/supremecourt/text/12-71>

13. <https://thehill.com/people/barack-obama/>

14. [https://en.wikipedia.org/wiki/Immigration\\_to\\_the\\_United\\_States](https://en.wikipedia.org/wiki/Immigration_to_the_United_States)

approach of the Trump administration.<sup>15</sup>

- **Biden Ended the Migrant Protection Protocols, aka the “Remain in Mexico” Policy (February 2021):** The Biden Administration began processing the entry of migrants who had been waiting in Mexico under the Migrant Protection Protocols (MPP), commonly known as the “Remain in Mexico” policy. However, this policy saw legal challenges and court orders that affected its status throughout 2021.<sup>16</sup>
- **Biden signed Executive Order 14019 “Promoting Access to Voting” (March 7, 2021)** This order was aimed at increasing voting access and participation for “all American citizens, particularly those facing historical or systemic barriers to voting.” The order directed federal agencies to explore and implement ways to expand opportunities for citizens to register to vote and to obtain information about, and participate in, the electoral process. This includes modernizing federal websites like Vote.gov, improving accessibility for people with disabilities, and providing multilingual voter registration and election information.<sup>17</sup>
- The Executive Order also encouraged nonpartisan voter registration efforts, particularly in services that engage with the public. For instance, it includes inviting nonpartisan organizations to register voters at the end of naturalization ceremonies and providing nonpartisan election information to service members.
- **Additionally, the Biden Administration made changes to asylum laws (dates vary) including<sup>18</sup>:**
  - **Revising Asylum Eligibility Rules:** The Biden Administration reversed several Trump-era policies that restricted eligibility for asylum based on a history of gang involvement, violence / criminality or domestic abuse.
  - **Terminating Asylum Cooperative Agreements:** The Biden Administration ended the Asylum Cooperative Agreements with Central American countries (Guatemala, Honduras, and El Salvador). These agreements allowed the U.S. to send asylum seekers to these countries to seek protection there instead under certain circumstances.

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15. <https://policeissues.org/ICE%20memo%20021821.pdf>

16. <https://www.pbs.org/newshour/politics/biden-administration-ends-trump-era-remain-in-mexico-policy>

17. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/07/executive-order-on-promoting-access-to-voting/>

18. <https://www.cliniclegal.org/press-releases/proposed-new-rules-will-gut-asylum-process-closing-path-protection-violence-and>



- **Changing Expedited Removal Policies:** The Biden Administration has also made changes to policies around expedited removal, a process that allows certain migrants to be deported rapidly if deemed appropriate.
- **Refugee Admissions:** The Biden Administration has increased the annual cap on refugee admissions
- **Invasion on the Southern Border**
  - The policies listed above have led to an immigration system that is profoundly broken. Today, we are seeing the worst border crisis on record in the U.S. Customs and Border Patrol's history as a result.
  - In November 2023 alone, over 240,000 people crossed the southern border<sup>19</sup>
  - Over 8 million border crossings have taken place since President Biden took office through 2023, with numbers continuing to climb.<sup>20</sup>
  - More than 85,000 unaccompanied minors are unaccounted for as of April 2023. Border Patrol agents estimate that number to now be over 100,000.<sup>21</sup>
  - Communities across the U.S. are forced to drain their resources to account for increased crime and homelessness due to the migrants residing within our borders.
  - **IMPORTANT:** Border security is national security, and the current vetting process puts both Americans' safety and their VOTING RIGHTS at significant risk. When a person crosses the border and cannot provide any physical identification, they are asked to verbally provide a name, birthdate, and country of origin. **If the information provided is not found in Border Patrol's databases, our government accepts this information as their true identity and issues them an identification card, further cementing this potentially false identity.**

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19. <https://www.cbp.gov/newsroom/stats/nationwide-encounters>

20. <https://www.politifact.com/factchecks/2024/jan/11/ron-desantis/debate-fact-check-ron-desantis-misleading-claim-th/>

21. <https://www.foxnews.com/politics/biden-admin-pressed-85000-unaccounted-migrant-children-released-us-forced-labor-allegations>

# Lawfare and Legal Loopholes

Lawfare, the strategic use of legal systems and lawsuits to achieve political ends, has compromised the integrity of election systems by fostering distrust, delegitimizing electoral outcomes, and diverting resources from fair election administration to legal battles. Our election laws, additionally, are full of “non-citizen loopholes” that create ambiguity where there should be none. To the extent that it is happening, our elections, and our confidence in electoral results and institutional integrity are impacted.

The cases are numerous, so we’ve selected some of the most glaring cases as examples.

## Lawfare Supports Non-Citizen Voting: Case Study Texas

A series of legal settlements directly impacting non-citizen voting and election integrity resulted from the state of Texas’ attempt to notify counties about non-citizens voting in local elections.

In 2019, Texas officials attempted to identify potential non-citizen voters by comparing voter rolls with data from the Texas Department of Public Safety, which oversees driver’s licenses and identification cards. This effort resulted in the issuance of notices to counties regarding individuals on the voter rolls who were flagged as potential non-citizens.

However, the initiative faced significant controversy and legal challenges from leftwing political organizations, such as *Mi Familia Vota* and other NGO groups. Those organizations used hyperbolic fear campaigns and lawfare to cast doubt about the accuracy of the data used for comparison, the potential for eligible voters to be mistakenly identified, the process for individuals to challenge their status, and the overall potential for voter suppression.

These legal challenges led to a settlement with the State. As a result, there were limitations applied to the methods used for data comparison and collaboration with agencies like the Department of Motor Vehicles (DMV) to verify citizenship status. The State agreed to use no data source other than the DMV to verify citizenship status, ceding all other available data outlets that would have offered a more thorough assessment.

The decision to collaborate with the DMV was unfortunately the wrong response to a political-motivated controversy resulting from the *Mi Familia Vota v. Abbott* case as well as several other lawsuits, which are listed below. Some of these lawsuits included:

- **Mi Familia Vota v. Abbott:** Mi Familia Vota, along with the League of United Latin American Citizens (LULAC) and a group of Texas voters, filed a lawsuit in 2020 challenging an order issued by Texas Governor Greg Abbott. The order limited the number of ballot drop-off locations to one per county, regardless of size or population density<sup>22</sup>.

Mi Familia Vota argued that this order disproportionately affected voters in larger, more densely populated counties, particularly minority and low-income communities, making it more difficult for them to access ballot drop-off locations and effectively cast their votes. They contended that this restriction infringed upon the voting rights of Texas residents.

The case was initially decided in favor of Governor Abbott's order by the Fifth Circuit Court of Appeals. However, the ruling was challenged, and the case went to the U.S. Supreme Court. The Supreme Court ultimately declined to hear the case, effectively leaving the Fifth Circuit's decision in place. This meant that Governor Abbott's order limiting ballot drop-off locations remained in effect for the 2020 election.

The case highlighted ongoing debates over voting rights, access to the ballot, and the implementation of election procedures, particularly in the context of the 2020 presidential election, which saw significant voter turnout and heightened scrutiny of election processes across the United States.

- **LULAC v. Whitley:** The League of United Latin American Citizens (LULAC) filed a lawsuit challenging the voter roll purge initiated by Texas Secretary of State David Whitley in January 2019. The lawsuit alleged that the purge targeted naturalized citizens and violated their voting rights. The case resulted in a settlement agreement, with the state agreeing to rescind the voter roll purge and revise its procedures for identifying non-citizen voters.<sup>23</sup>
- **Martinez Fischer v. Whitley:** Texas State Representative Trey Martinez Fischer filed a lawsuit against Secretary of State David Whitley and Attorney General Ken Paxton challenging the voter roll purge. The lawsuit argued that the purge unfairly targeted naturalized citizens and violated their constitutional rights. This case was also resolved through a settlement agreement, leading to the rescission of the purge and revisions to the state's procedures for voter list maintenance.<sup>24</sup>

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22. <https://casetext.com/case/mi-familia-vota-v-abbott-1/case-summaries>

23. [https://static.texastribune.org/media/files/411c7f760b0b2b79a159b2390ef3f939/Voter\\_rolls\\_settlement\\_agreement.pdf](https://static.texastribune.org/media/files/411c7f760b0b2b79a159b2390ef3f939/Voter_rolls_settlement_agreement.pdf)

24. <https://law.justia.com/cases/federal/district-courts/texas/txndce/4:2022cv00520/363827/16/>

- **MOVE v. Whitley:** This lawsuit, filed by a coalition of voting rights groups, challenged the voter roll purge initiated by Secretary of State David Whitley. The lawsuit alleged that the purge disproportionately targeted naturalized citizens and violated federal voting rights laws. Similar to the other cases, this lawsuit resulted in a settlement agreement and revisions to the state’s voter list maintenance procedures.<sup>25</sup>

## Foreign Interference?

A loophole of which many Americans are unaware, but nonetheless has a significant impact on our federal elections is the fact that in many states, U.S. citizens who were born abroad – *and have never resided in the United States* – can register to vote through the Uniformed and Overseas Citizens Voting Act (UOCAVA).. According to the Federal Voting Assistance Program’s website, the following states allow these citizens to vote absentee<sup>26</sup>:

### Alaska

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Alaska is eligible to vote as a federal voter and may vote for federal offices only.

### Arizona

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last registered to vote in Arizona is eligible to vote in Arizona.

### California

A U.S. citizen who has never resided in the U.S., who has not previously registered to vote in another state, and whose parent or legal guardian was a California resident when they were last living in the U.S., is eligible to vote in California.

### Colorado

A U.S. citizen who has never resided in the U.S. and has a parent, legal guardian, spouse or civil union partner that was last domiciled in Colorado is eligible to vote in Colorado.

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25. <https://www.aclutx.org/en/cases/move-texas-civic-fund-v-whitley>

26. <https://www.fvap.gov/citizen-voter/reside>

**Connecticut**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Connecticut is eligible to vote as a federal voter and may vote for federal offices only.

**Delaware**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Delaware is eligible to vote as a federal voter and may vote for federal offices only.

**District of Columbia**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in the District of Columbia is eligible to vote in District of Columbia.

**Georgia**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last registered in Georgia is eligible to vote in Georgia.

**Hawaii**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Hawaii is eligible to vote in Hawaii.

**Illinois**

A U.S. citizen who has never resided in the U.S. and has an Active Duty parent/legal guardian who was last domiciled in Illinois is eligible to vote in Illinois in all elections.

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian (not on Active Duty) who was last domiciled in Illinois is eligible to vote in Illinois for federal offices only.

**Iowa**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Iowa is eligible to vote in Iowa.

**Kansas**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Kansas is eligible to vote in Kansas.

**Kentucky**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Kentucky is eligible to vote in Kentucky.

**Maine**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Maine is eligible to vote in Maine.

**Massachusetts**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Massachusetts is eligible to vote in Massachusetts.

**Michigan**

A U.S. citizen who has never resided in the U.S. and has a parent, legal guardian or spouse that was last domiciled in Michigan is eligible to vote in Michigan as long as he or she has not registered or voted in another state.

**Minnesota**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Minnesota is eligible to vote as a “federal voter” and may vote for federal offices only.

**Montana**

A U.S. citizen who has never resided in the U.S., and has a parent that was last registered in Montana, is eligible to vote in Montana as long as he or she has not registered or voted in another state.

**Nebraska**

A U.S. citizen who has never resided in the U.S. and has a parent that was last registered in Nebraska is eligible to vote in Nebraska as long as he or she has not registered or voted in another state.

**Nevada**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Nevada is eligible to vote in Nevada as long as he or she has not registered or voted in another state.

**New Hampshire**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in New Hampshire is eligible to vote in New Hampshire.

**New Jersey**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in New Jersey is eligible to vote in New Jersey.

**New Mexico**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in New Mexico is eligible to vote in New Mexico.

**New York**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in New York is eligible to vote as a federal voter and may vote for federal offices only.

**North Carolina**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in North Carolina is eligible to vote in North Carolina.

**North Dakota**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in North Dakota is eligible to vote in North Dakota.

**Ohio**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Ohio is eligible to vote in Ohio.

**Oklahoma**

A U.S. citizen who has never resided in the U.S., and has a parent or legal guardian who was last domiciled in Oklahoma, is eligible to vote in Oklahoma using the parent's or guardian's last address in Oklahoma.

## **Oregon**

A U.S. citizen who has never resided in the U.S. is eligible to vote if they intend to reside in Oregon, have a parent, legal guardian, or spouse that is a military or overseas voter under Oregon law, and that parent, legal guardian, or spouse last resided in Oregon.

## **Rhode Island**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Rhode Island is eligible to vote as a federal voter and may vote for federal offices only.

## **South Carolina**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last resided in South Carolina is eligible to vote in South Carolina.

## **South Dakota**

A U.S. citizen who has never resided in the U.S. and has a parent, legal guardian or spouse that was last domiciled in South Dakota is eligible vote in South Dakota as long as he or she has not registered or voted in another state.

## **Tennessee**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was who domiciled in Tennessee is eligible to vote in Tennessee.

## **Utah**

A U.S. citizen who has never resided in the U.S. and has a parent, legal guardian, spouse, or domestic partner who was last domiciled in Utah, is eligible to vote as a “federal voter” and may vote for federal offices only.

## **Vermont**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Vermont is eligible to vote in Vermont.



**Virginia**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Virginia is eligible to vote in Virginia as long as he or she has not registered or voted in another state.

**Washington**

A U.S. citizen who has never resided in the U.S., and has a family member who was last domiciled in Washington, is eligible to vote in Washington.

**West Virginia**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in West Virginia is eligible to vote in West Virginia.

**Wisconsin**

A U.S. citizen who has never resided in the U.S. and has a parent or legal guardian that was last domiciled in Wisconsin is eligible to vote as a federal voter and may vote for federal offices only.

# Do Non-Citizens Vote?

**Yes.** The fact is, non-citizens are voting in America. Nonpartisan organization Just Facts recently released a report featuring current data, along with an enhanced version of a stress-tested methodology from a scholarly journal, establishing that about 10% to 27% of non-citizen adults in the U.S. are now illegally registered to vote. These rates are potentially high enough to overturn the will of the American people in major elections, including congressional seats and the presidency.<sup>27</sup>

The circumstances under which it occurs include:

**Misunderstanding or Lack of Information:** Some non-citizens may not fully understand the laws regarding voting rights in the U.S. They might mistakenly believe that they are eligible to vote if they pay taxes, have a green card, or have been in the country for a certain length of time. Misinformation or a lack of clear information can lead to non-citizens unknowingly registering to vote and participating in elections. This confusion is supported by the numerous organizations that mail out voter registrations and absentee ballot request forms.

**Errors in Voter Registration Processes:** Non-citizens might be inadvertently registered to vote through errors in the voter registration process. For example, when applying for a driver's license or state ID, a non-citizen could easily be registered to vote or might not understand the significance of the question due to language barriers or clerical errors.

**Assuming Eligibility Due to Local Laws:** In some jurisdictions within the U.S., non-citizens are allowed to vote in local elections (such as school board elections or town meetings) under specific conditions. This could lead to confusion about their eligibility for other types of elections, such as state or federal elections, where non-citizen voting is not permitted.

**Intentional Illegal Voting:** Non-citizens can intentionally vote in elections knowing they are not eligible. This could be motivated by a strong desire to influence election outcomes or by a misunderstanding of the legal consequences.

**Misrepresentation or Fraud:** Non-citizens might deliberately misrepresent their citizenship status to register and vote in elections. This is a form of voter fraud, which is illegal and subject to severe penalties.

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27. [https://www.justfacts.com/news\\_non-citizen\\_voter\\_registration](https://www.justfacts.com/news_non-citizen_voter_registration)

## What are the different classifications of an American citizen?

An American citizen is generally defined in the following ways:

- **Birth in the United States:** Under the principle of “jus soli,” anyone born in the United States or in a U.S. territory is automatically a U.S. citizen, regardless of the citizenship status of their parents. This includes children born in all 50 states, Washington D.C., and U.S. territories, although the specifics can vary for territories.
- **Birth Abroad to U.S. Citizen Parents:** Children born outside of the United States to at least one U.S. citizen parent usually acquire U.S. citizenship at birth. However, certain conditions must be met, such as the U.S. citizen parent having lived in the United States for a specific period before the child’s birth.
- **Naturalization:** This is the process by which a non-U.S. citizen voluntarily becomes an American citizen. It involves meeting residency and legal requirements, demonstrating knowledge of English and U.S. civics, and taking an oath of allegiance to the United States.
- **Adoption by U.S. Citizens:** Children who are adopted by U.S. citizen parents can acquire U.S. citizenship, though specific requirements and processes must be met and followed.
- **Derived Citizenship:** In some cases, children automatically become U.S. citizens when their parents naturalize. The specific rules depend on the age of the child and the marital status of the parents, among other factors.
- **By Legislation:** Occasionally, Congress passes laws that grant citizenship in specific humanitarian or political circumstances. Notable cases have included:
  - **Indian Citizenship Act of 1924:** This act granted U.S. citizenship to all Native Americans born in the United States. Before this act, citizenship for Native Americans was limited, and many were not considered citizens despite being born in the U.S.<sup>28</sup>
  - **Nationality Act of 1940:** This act revised and consolidated previous nationality laws. Among other provisions, it allowed foreign-born children of American mothers and alien fathers to acquire U.S. citizenship, under certain conditions, if the mother had lived in the U.S. before the child’s birth.<sup>29</sup>

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28. <https://www.archives.gov/files/historical-docs/doc-content/images/indian-citizenship-act-1924.pdf>

29. [https://ballotpedia.org/Nationality\\_Act\\_of\\_1940](https://ballotpedia.org/Nationality_Act_of_1940)

- **Immigration and Nationality Act of 1952 (McCarran-Walter Act):** This legislation revised and codified earlier immigration and nationality laws. It included provisions that allowed certain non-citizens to acquire citizenship under specific conditions, such as service in the U.S. armed forces during a designated period of hostilities.<sup>30</sup>
- **Cuban Adjustment Act of 1966:** This act allowed Cuban natives or citizens living in the U.S. to become permanent residents and eventually U.S. citizens. This was a response to the large number of Cubans entering the U.S. due to political instability in Cuba.<sup>31</sup>
- **Child Citizenship Act of 2000:** This act automatically grants U.S. citizenship to foreign-born children (under the age of 18) adopted by U.S. citizens, provided certain conditions are met, including that the child resides legally in the U.S. with the U.S. citizen parent.<sup>32</sup>
- **Special Legislation for Military Service Members:** Over the years, Congress has passed various laws allowing non-citizens serving in the U.S. military during times of war or hostilities to expedite their naturalization process.

## Who are considered Non Citizens in the United States?

**This group includes several different categories of people:**

- **Lawful Permanent Residents (LPRs):** Often referred to as “green card” holders, these individuals are legally authorized to live and work in the United States on a permanent basis. They are not U.S. citizens, but they have many of the same rights, such as the ability to work and own property. However, they cannot vote in federal elections and are subject to different rules regarding travel and residency.
- **Nonimmigrant Visa Holders:** This group includes people who are in the U.S. temporarily for a specific purpose, such as tourists, students, or those on work visas. They must abide by the terms of their visas, which typically include restrictions on employment and duration of stay.
- **Refugees and Asylees:** Refugees are people who have been forced to flee their home

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30. <https://2001-2009.state.gov/r/pa/ho/time/cwr/87719.htm>

31. <https://guides.loc.gov/latinx-civil-rights/cuban-adjustment-act>

32. <https://www.congress.gov/bill/106th-congress/house-bill/2883>

country due to persecution, war, or violence, and have been accepted into the U.S. Asylees are similar but have applied for protection after arriving in the U.S. Both groups have permission to live and work in the U.S. and may apply for permanent residency after a certain period.

- **Temporary Protected Status (TPS) and Deferred Enforced Departure (DED):** These are temporary immigration statuses provided to individuals from certain countries affected by severe conditions, such as natural disasters or ongoing armed conflict. TPS and DED do not lead to permanent residency but allow individuals to live and work in the U.S. for a designated period.
- **Deferred Action for Childhood Arrivals (DACA) Recipients:** These are individuals who were brought to the U.S. illegally as children. DACA provides temporary protection from deportation and eligibility for a work permit but does not constitute legal status.
- **Undocumented Immigrants:** These are individuals who reside in the U.S. without legal authorization. This can include those who entered the country without inspection or those who overstayed their visas. They are not legally allowed to work in the U.S. and can be subject to deportation.
- **Other Temporary Visitors:** This includes individuals on various other temporary visas, like those for cultural exchange, temporary agricultural workers, or intra-company transfers.

## What is Non-Citizen Voting?

Non-citizen voting refers to the practice of jurisdictions allowing individuals who are not citizens of a country to participate in its elections. In the context of the United States, this is a significant issue due to the foundational principle that voting rights are reserved for U.S. citizens.

Non-Citizen voting poses significant challenges to the goal of election integrity for several reasons:

- **Legal and Constitutional Concerns:** The U.S. Constitution and election laws limit voting rights to U.S. citizens. Allowing non-citizens to vote could be seen as conflicting with these legal principles.
- **Representation and Sovereignty:** Voting is a key component of representation in the American system of government. Allowing non-citizens to vote imposes on national sovereignty and the principle that the nation should be governed by its citizens.

- **Impact on Election Outcomes and Public Policy Direction:** Non-citizens interests and perspectives have at times conflicted with those of American citizens. Their participation in elections could potentially influence the outcome in ways that might not reflect the will of the citizenry.
- **Security and Verification Challenges:** Ensuring that only eligible voters participate in elections is critical for election integrity. Adding non-citizens to the voter rolls can complicate the process of verifying voter eligibility.
- **Public Trust and Perception:** Allowing non-citizens to vote could affect public trust in the electoral system. If citizens believe that non-citizens are influencing election outcomes, it could lead to decreased confidence in the process and in American institutions.

## Non-Citizens Voting by Election

- **Federal Elections:**
  - **Arizona said the quiet part out loud - The rule is you have to check residency in state and local elections, the corollary is they're NOT going to check in federal elections.** In Arizona, there is a distinction between “full ballot” voters and “federal only” voters. “Full ballot” voters, who participate in local, state, and federal races, must provide proof of citizenship. Those who do not provide such proof **but still attest to being citizens (and this cannot be verified by the state) can become “federal only” voters**, allowing them to vote only in federal races.<sup>33</sup>
  - The controversy involves Arizona’s adoption of a two-tiered voter registration system, allowing “federal-only” voters to register without providing documentary proof of citizenship (DPOC). These voters are eligible to vote only in federal races, not state or local ones. It’s a system that enables non-citizens to vote in federal elections.
  - The debate in Arizona touches on broader national issues regarding election integrity, voter access, and the balance of power between state and federal authorities in regulating elections. The increase in “federal-only” voters in Arizona raises questions about the effectiveness and implications of the state’s two-tiered system.

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33. <https://thehill.com/regulation/court-battles/4500289-arizona-law-proof-citizenship-vote-not-discriminatory/>



- **State Elections**

- As of June 2023, only seven states specified that non-citizens **may not** vote in state and local elections: Alabama, Arizona, Colorado, Florida, Louisiana, North Dakota, and Ohio.<sup>34</sup>

- **Municipal Elections**

- As of June 2023, the District of Columbia and municipalities in fourteen states allowed non-citizens to vote in some or all local elections or posing no clear impediments to municipalities passing their own non-citizen voter qualification laws<sup>35</sup>:

- Arkansas
- California
- Colorado
- Illinois
- Maryland
- Nevada
- New Jersey
- New Mexico
- Ohio
- Oklahoma
- Rhode Island
- South Dakota
- Washington
- Wisconsin

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34. [https://ballotpedia.org/Laws\\_permitting\\_non-citizens\\_to\\_vote\\_in\\_the\\_United\\_States#State\\_constitutions\\_on\\_suffrage\\_and\\_citizenship](https://ballotpedia.org/Laws_permitting_non-citizens_to_vote_in_the_United_States#State_constitutions_on_suffrage_and_citizenship)

35. <https://www.verifythis.com/article/news/verify/elections-verify/non-citizen-allowed-vote-local-elections-some-municipalities/536-c688a57f-ec61-4949-b8c5-1490093a5968>

# State Electoral Practices

Each state adopts their own practices and procedures for conducting separate state and local elections, within the bounds of the US Constitution.

## State Citizenship Requirements

In the United States, the requirement for states to verify citizenship for voters in federal elections is not uniformly mandated across all states, largely due to the decentralized nature of the U.S. electoral system. And while there are federal laws that set standards for voter registration and requirements that indirectly relate to citizenship verification, there are no truly enforceable mandates to verification.

There is no clearly defined standard that we can anchor to at both the state and federal levels that clearly define what a legal voter is. There are additional complications from state of mind considerations, including if an individual believes they are a citizen, they're not legally liable for a fraudulent vote, and overseas.

- **National Voter Registration Act of 1993 (NVRA):** Also known as the “Motor Voter Act,” the NVRA requires states to offer voter registration opportunities at motor vehicle departments and certain other public offices. It requires applicants to affirm their citizenship through a checkbox and signature under penalty of perjury but does not require states to independently verify the citizenship status of applicants.<sup>36</sup>
- **Help America Vote Act of 2002 (HAVA):** This act requires states to ask for a driver’s license number or the last four digits of a Social Security number at the time of registration for new voters registering by mail who do not have a state identification (This issue discussed in greater detail below in “The Circuitous Nature of the Records” section of this handbook). This can serve as an indirect method of verifying eligibility, however it is not a direct citizenship check.<sup>37</sup>
- **State Laws:** Some states have enacted their own laws requiring proof of citizenship for voter registration. These laws can require individuals to provide documentation proving their citizenship status when they register to vote. However, these laws vary signifi-

36. <https://www.congress.gov/bill/103rd-congress/house-bill/2>

37. <https://www.congress.gov/107/plaws/publ252/PLAW-107publ252.pdf>



cantly from state to state and have sometimes been subject to legal challenges on the grounds that they could disenfranchise eligible voters.

- **Legal Challenges and Controversies:** Efforts by some states to require proof of citizenship for voter registration have been controversial and have faced legal challenges. Critics argue that such requirements can disproportionately affect minority groups, young voters, and the elderly, potentially disenfranchising eligible voters. Proponents argue they are necessary to prevent non-citizen voting. Outcomes have been inconsistent.
- **Federal Elections vs. State and Local Elections:** The requirements discussed primarily apply to federal elections. For state and local elections, the rules can vary even more widely, with some jurisdictions having experimented with allowing non-citizens to vote in certain local elections (e.g., school board elections) under specific circumstances.

The balance between ensuring the integrity of elections and protecting the voting rights of eligible citizens is a contentious issue in U.S. politics. The lack of a uniform standard for citizenship verification across states reflects this tension, as well as the broader challenges of managing a decentralized election system with varying state laws and practices.

At present, the only consistent deterrent to non-citizen voting is the threat of perjury as a deterrent involves complex legal, psychological, and socio-political dimensions. Here are several factors that might explain why the threat of perjury might not always serve as an effective deterrent to non-citizens considering voting illegally:

- **Lack of Awareness:** Some non-citizens might not be fully aware of the legal implications of voting in elections where they are not eligible. The lack of understanding about what constitutes perjury or the specific laws regarding voting rights can lead to unintentional illegal voting.
- **Misunderstanding of Eligibility:** In some cases, non-citizens might believe they are eligible to vote due to misunderstandings or misinformation regarding their rights, especially in jurisdictions with complex residency and citizenship requirements.
- **Mistakes in Voter Registration Processes:** Sometimes, non-citizens are mistakenly registered to vote due to errors in the voter registration process. If these individuals receive voting materials and believe their registration is valid, they might vote without realizing they are committing a crime.
- **Low Perceived Risk of Detection:** Non-citizens might assess the risk of being caught and prosecuted for illegal voting as low, especially in jurisdictions where enforcement is perceived to be lax or where instances of prosecution for such offenses are rare.

- **Political and Social Motivations:** For some non-citizens, the desire to influence election outcomes or participate in civic life might outweigh the fear of legal consequences. This can be particularly true in communities where political engagement is highly valued or in situations where the stakes of a particular election are perceived as very high.
- **Confidence in Legal Protections:** Non-citizens who have access to legal resources or who believe in the effectiveness of legal defenses might be less deterred by the threat of perjury charges. They may believe that they can successfully challenge any prosecution or mitigate the consequences.
- **Moral or Ethical Considerations:** Some non-citizens might justify their voting on moral or ethical grounds, believing that their contribution to the democratic process is justified despite the legal prohibitions. This can be influenced by their personal experiences, political beliefs, or the belief in a broader definition of community membership that includes non-citizens.
- **Ineffective Communication of Legal Penalties:** If the potential legal consequences of non-citizen voting are not effectively communicated to immigrant communities, the deterrent effect of laws against perjury and illegal voting may be weakened.

Trust in electoral outcomes is not just about the credibility of the elections themselves but about the health and sustainability of the nation as a whole, where citizens can freely express their will, and governments can govern with authority and legitimacy.

## State Constitutions' Definitions of Citizenship, Regarding Voting

State	Constitutional Language
Alaska	Every citizen of the United States...
Alabama	Only a citizen of the United States...
Arkansas	...any person may vote in an election of this state who is a citizen of the United States...



<b>Arizona</b>	No person shall be entitled to vote...unless such person be a citizen of the United States...
<b>California</b>	A United States citizen 18 years of age and resident in this state may vote
<b>Colorado</b>	Only a citizen of the United States...
<b>Connecticut</b>	Every citizen of the United States...
<b>Washington, D.C.</b>	N/A
<b>Delaware</b>	Every citizen of this State...
<b>Florida</b>	Only a citizen of the United States...
<b>Georgia</b>	Every person who is a citizen of the United States
<b>Hawaii</b>	Every citizen of the United States...
<b>Iowa</b>	Every citizen of the United States...
<b>Idaho</b>	Every male or female citizen of the United States...
<b>Illinois</b>	Every United States citizen...
<b>Indiana</b>	A citizen of the United States...
<b>Kansas</b>	Every citizen of the United States...
<b>Kentucky</b>	Every citizen of the United States...
<b>Louisiana</b>	Every person who is both a citizen of the state and of the United States...



<b>Massachusetts</b>	Every citizen...
<b>Maryland</b>	Every citizen of the United States...
<b>Maine</b>	Every citizen of the United States...
<b>Michigan</b>	Every citizen of the United States...
<b>Minnesota</b>	Every person 18 years of age or more who has been a citizen of the United States for 3 months...
<b>Missouri</b>	All citizens of the United States...
<b>Mississippi</b>	Every inhabitant of this state, except idiots and insane persons, who is a citizen of the United States of America...
<b>Montana</b>	Any citizen of the United States...
<b>North Carolina</b>	Every person born in the United States and every person who has been naturalized...
<b>North Dakota</b>	Only a citizen of the United States
<b>Nebraska</b>	Every citizen of the United States...
<b>New Hampshire</b>	All elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election...
<b>New Jersey</b>	Every Citizen of the United States...
<b>New Mexico</b>	Every person who is a qualified elector pursuant to the constitution and laws of the United States and a citizen thereof...
<b>Nevada</b>	All citizens of the United States...



<b>New York</b>	Every citizen shall be entitled to vote at every election...
<b>Ohio</b>	Only a citizen of the United States...
<b>Oklahoma</b>	Subject to such exceptions as the Legislature may prescribe, all citizens of the United States...
<b>Oregon</b>	Every citizen of the United States...
<b>Pennsylvania</b>	Every citizen... shall be entitled to vote at all elections...
<b>Rhode Island</b>	Every citizen of the United States...
<b>South Carolina</b>	Every citizen of the United States...
<b>South Dakota</b>	Every United States citizen...
<b>Tennessee</b>	Every person...being a citizen of the United States...
<b>Texas</b>	Every person...who is a citizen of the United States...
<b>Utah</b>	Every citizen of the United States...
<b>Virginia</b>	Each voter shall be a citizen of the United States...and “all elections ought to be and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage.”
<b>Vermont</b>	Every person...who is a citizen of the United States...
<b>Washington</b>	All persons of the age of 18 years or over who are citizens of the United States...
<b>Wisconsin</b>	Every United States Citizen...

<b>West Virginia</b>	The citizens of the state shall be entitled to vote
<b>Wyoming</b>	Every citizen of the United States...

# How Do States Safeguard Their Voter Rolls?

## S.A.V.E. Database

The Systematic Alien Verification for Entitlements (SAVE) program is administered by the U.S. Citizenship and Immigration Services (USCIS). It is designed to assist federal, state, and local benefit-issuing agencies, institutions, and licensing agencies in determining the immigration status of non-citizens who are applying for benefits<sup>38</sup>.

SAVE operates in compliance with several laws and regulations, including:

- **Immigration and Nationality Act (INA):** The INA establishes the legal framework for immigration law in the United States. It governs various aspects of immigration, including the entry, presence, and status of aliens in the country.
- **Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA):** This act imposes restrictions on the eligibility of non-citizens for certain federal benefits. It requires agencies administering such benefits to verify the immigration status of applicants using SAVE.
- **Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA):** IIRIRA introduced various provisions related to immigration law enforcement and benefits eligibility. It mandates federal, state, and local benefit agencies to verify the immigration status of applicants before granting benefits.

<sup>38</sup>. <https://www.uscis.gov/save/about-save/save-governing-laws>

- **Immigration Reform and Control Act of 1986 (IRCA):** IRCA enacted provisions related to employment verification, including the requirement for employers to verify the employment eligibility of their employees. SAVE supports this verification process by providing access to immigration status information.
- **The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA):** PRWORA is also known as the welfare reform act. It includes provisions regarding the verification of immigration status for individuals applying for certain federal benefits.

S.A.V.E. requires single-record lookup, with the state being required to know the status in order to confirm it. Though it is currently the best federal database available to the states, it is both insufficient and inefficient.

## ERIC Database

ERIC stands for the Electronic Registration Information Center. It is a non-profit organization that claims to help member states improve the accuracy of voter registration rolls and enhance election security. ERIC was founded in 2012 by The Pew Charitable Trusts, together with a group of states that served as governing members..

In 2023, Ohio made its exit from the program, joining states like Alabama, Florida, Iowa, Louisiana, Missouri, Ohio, Texas, Virginia and West Virginia.

It's current listing of state members is Alaska, Arizona, Colorado, Connecticut, Delaware, Georgia, Illinois, Kentucky, Maine, Massachusetts, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Washington, Wisconsin, and the District of Columbia

ERIC requires member states to reach out to “eligible but unregistered” voters (EBUs) based on lists compiled by the program itself. Records have revealed that during Virginia’s membership in ERIC, the partnership claimed deceased, relocated, or ineligible individuals as EBUs for taxpayer-funded outreach.

Records from other ERIC-member states have shown similar efforts or lack thereof. ERIC requires members to submit voter registration and driver’s license data to its central database to identify EBUs. However, there are concerns that individuals meeting EBU criteria may not want to be registered or may not be legally eligible to register.

Virginia launched an extensive effort before the 2020 presidential election to send registra-

tion reminder postcards to EBUs, with plans for a significant mailing effort termed a “refresh.” Additionally, Virginia agreed to share voter registration and turnout data related to EBUs with the Center for Election Innovation and Research (CEIR), which received significant funding from Mark Zuckerberg. David Becker, a former ERIC board member, is mentioned in connection with CEIR.

Virginia officials later found ineligible individuals in EBU mailings, including deceased persons, relocated individuals, and felons. Most ERIC states lack clear processes for filtering out ineligible persons from EBU lists.

ERIC’s Eligible but Unregistered program has led to ineligible individuals receiving registration instructions. This was verified by reports in Colorado, where non-citizens were mailed registration postcards before the 2022 general election.

## The Circuitous Nature of the Records

The bureaucratic loop between a Secretary of State and those federal agencies tasked with voter registration typically involves a series of state-led administrative steps and checks to ensure the accuracy and legitimacy of voter registration. The specific process can vary from state to state in the U.S., but generally, it includes the following elements:

- **Voter Registration Application:** Voter registration is released to the relevant state authority, which is often the Secretary of State’s office or a designated local election office.
- **Verification of Citizenship:** The application is reviewed. One key aspect of this review is verifying the applicant’s citizenship status. This is where the citizenship office or a similar agency may be involved. They may provide data or verification services to confirm that an applicant is a U.S. citizen eligible to vote.
- **Data Cross-Checking:** The information provided by the applicant, such as name, date of birth, and Social Security Number, which is provided by the Secretary of State’s office and found in the Secretary of State’s database.

## Federal Elections at the State Level

The National Voter Registration Act (NVRA) of 1993 imposes several limitations on states regarding voter registration for federal elections. These limitations aim to simplify the voter registration



process while also ensuring the integrity of the electoral process. Here's a detailed overview of the limitations placed on states by the NVRA<sup>39</sup>:

### 1. Voter Registration with Driver's License Applications

- **Minimum Information Requirement:** States can require only the minimum information necessary to prevent duplicate voter registrations and to assess applicants' eligibility.
- **No Duplicate Information:** Information required for the voter registration portion of a driver's license application must not duplicate information required for the driver's license portion.
- **Eligibility Attestation:** Applicants must sign an attestation under penalty of perjury that they meet the eligibility requirements, including citizenship. (NOTE: This is easily confused in those states that offer drivers' licenses to non-citizens.)
- **Penalty Notification:** The form must state the penalties for submitting a false voter registration application.

### 2. Use of Mail Voter Registration Form

- **Acceptance of Federal Form:** States must accept and use the national mail voter registration form developed by the U.S. Election Assistance Commission (EAC), in addition to any state-developed forms, provided they meet NVRA criteria.
- **Criteria for State Forms:** State-developed mail-in voter registration forms must require only necessary information for eligibility assessment and election administration, include an eligibility attestation requirement, and notify of the penalties for false applications.

### 3. Voter Registration Agencies

- **Designation of Agencies:** States must designate agencies for voter registration, including offices providing public assistance or services to individuals with disabilities, Armed Forces recruitment offices, and possibly public libraries, schools, or unemployment compensation offices among others.
- **Distribution of Forms:** These agencies must distribute either the Federal Form, the state mail-in voter registration form, or their own form approved by the state and meeting NVRA criteria.

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<sup>39</sup> <https://www.fec.gov/about/reports-about-fec/agency-operations/impact-national-voter-registration-act-1993-administration-federal-elections-html/>

#### 4. Limitations on Documentation for Federal Elections

- While the NVRA does not directly address Documentation Proof of Citizenship (DPOC) requirements, it has been interpreted through federal lawsuits and the U.S. Supreme Court to limit states' ability to require DPOC for federal election registration. Courts have generally found that attestation under penalty of perjury is sufficient for assessing voter eligibility for federal elections, preempting state DPOC laws under the Elections Clause of the U.S. Constitution.

#### 5. Challenges to State DPOC Laws

- Several states' attempts to impose DPOC requirements for federal elections have been successfully challenged as violating the NVRA. The courts have generally held that such requirements are preempted by the NVRA, with attestation under penalty of perjury deemed sufficient for eligibility assessment.

#### 6. Bifurcated Voter Registration Systems

- Despite federal limitations, states may bifurcate their voter registration systems, allowing DPOC requirements for state and local elections while adhering to NVRA requirements for federal elections. This means a voter who does not provide DPOC could be restricted to voting only in federal elections, depending on the state.

*The NVRA sets forth specific requirements and limitations on states regarding voter registration processes for federal elections to streamline registration, enhance voter participation, and maintain the integrity of the electoral process. **It restricts the imposition of additional documentation requirements, such as DPOC, without demonstrating necessity. This has led to legal challenges and modifications in state practices, particularly concerning DPOC requirements.***

# Complicating Factors

## Sanctuary States and Cities

In the United States, the laws regarding non-citizen in local elections voting vary by municipality, and they can be particularly nuanced in sanctuary jurisdictions. Sanctuary jurisdictions are local areas that have adopted policies limiting their cooperation with federal immigration enforcement. However, these policies do not directly relate to voting laws, which are governed by federal, state, and local regulations. Here are some key points to understand:

- **Federal Law:** Under federal law, only U.S. citizens are permitted to vote in federal elections (Presidential, Senate, and House of Representatives). This is a strict rule with no exceptions for non-citizens (with the exception of U.S. Code Title 18 Sec 611c).
- **State and Local Elections:** The rules for voting in state and local elections can differ from federal laws. While most states and localities also restrict voting to U.S. citizens, there are now a few exceptions. Some jurisdictions, particularly at the local level, may allow non-citizens to vote in specific elections, such as school board elections or other local matters. However, this is still not a common practice.
- **Sanctuary States & Cities Policies:** Sanctuary city policies generally focus on limiting local law enforcement's involvement in federal immigration matters. These policies do not typically extend to allowing non-citizens to vote in elections. However, they can be an indicator of the mindset of political leaders in a particular jurisdiction regarding ballot integrity and non-citizen voting.

Sanctuary States include: California, Colorado, Connecticut, Illinois, Massachusetts, New Jersey, New Mexico, New York, Oregon, Utah, Vermont, and Washington.

The complete list of Sanctuary States, Cities, and Counties can be found here.<sup>40</sup>

## Third Parties and Non-Government Organizations (NGO's), Funded by the United Nations and American Taxpayer Dollars

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40. <https://cis.org/Map-Sanctuary-Cities-Counties-and-States>

Budget documents from the United Nations, federal grant-tracking databases, and other public sources reveal that the State Department’s Bureau of Population, Refugees, and Migration (PRM) and the United States Agency for International Development (USAID) have allocated taxpayer funds to various religion-oriented non-governmental organizations (NGOs).

These NGOs, which include Catholic, Lutheran, and Seventh Day Adventist groups, were among those examined by the Center for Immigration Studies (CIS). The Center for Immigration Studies has made the list available for public scrutiny.<sup>41</sup>

Moreover, the State Department and USAID have also directed substantial funds to the main United Nations agencies overseeing the Latin America project, namely the UN High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM).

These agencies, in turn, distribute aid directly to migrants. According to USAspending.gov, a federal spending tracking database, the State Department’s PRM has provided approximately \$1.4 billion to the IOM in the past 12 months alone, marking a record high.<sup>42</sup>

Furthermore, it is the leading contributor to the UNHCR, which collaborates with 15 different UN agencies to distribute funds and aid across Latin America’s migrant trails. This aligns with the State Department’s commitment to the “2023-2025 Framework for Cooperation” with the UNHCR, supporting its objectives both financially and politically.<sup>43</sup>

The State Department has also been actively coordinating budget and planning strategies for its Latin America initiatives, including expanding refugee centers and managing an interest-free international travel loan program.

The State Department’s PRM, USAID, and various UN agencies perceive the direct allocation of American taxpayer funds to multilateral organizations as a means of providing ‘social and economic protection and risk reduction’ for stateless individuals compelled to leave their home countries, as described in the 2023 PRM grant to HIAS.

According to the State Department’s PRM website, their mission is to ‘promote U.S. interests by providing protection, easing suffering, and resolving the plight of persecuted and forcibly displaced people around the world.’<sup>44</sup> But a more critical interpretation of such direct Biden gov-

41. <https://cis.org/sites/default/files/2024-01/NGO%20list.pdf>

42. <https://www.usaspending.gov/recipient/472c2dc8-009a-30c6-7578-72bf109e7057-C/all>

43. <https://www.state.gov/wp-content/uploads/2023/06/2023-2025-PRM-UNHCR-Framework-Agreement-FINAL-Accessible-April-2023.pdf>

44. <https://www.state.gov/bureaus-offices/under-secretary-for-civilian-security-democracy-and-human-rights/bureau-of-population-refugees-and-migration/>



ernment infusions of taxpayer money — and operational closeness with the UN agency recipients — is that it hurts the country by easing the northward path for mainly economic immigrants who voluntarily make the journey knowing in advance that all of their basic needs will be provided for and that border policies virtually guarantee their entry and long-term stay.

The funding intervention raises the specter that Biden administration appointees in these government agencies, many hailing from NGOs like HIAS, engineered the catch-and-release policies that initially triggered the mass migration crisis in 2021, then arranged for taxpayer money to support the flows. (HIAS publicly lauded the 2021 nomination of DHS Secretary Alejandro Mayorkas, who served as a HIAS board member.<sup>45</sup>)

Some Republicans have proposed legislation to halt U.S. funding of the UN agencies and their NGO partners, but short of illumination about how it all works, the legislation has gained no traction.<sup>46</sup>

*Source: <https://cis.org/>*

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45. <https://hias.org/statements/hias-congratulates-board-member-alejandro-mayorkas-dhs-nomination/>

46. <https://www.congress.gov/bill/117th-congress/house-bill/6155>

# America at a Crossroads... or in a Web?

We would like to say that America sits at a crossroads today. But, perhaps it's more accurate to say that America is tangled in a web of bad public policy, aggressive administration, and overtly political litigation. This web was not spun overnight. Rather, it was cast one policy choice at a time; one lawsuit at a time; one Executive Order at a time, reflecting a series of deliberate and intentional shifts in the way we manage our election system and citizenship verification processes. This report meticulously charts these developments, from legislative milestones to pivotal lawsuits to state and local practices and administrative reforms, each layer adding depth to our understanding of how we arrived at this critical juncture.

As we wake up to the reality of our position, it becomes evident that in order to rectify the vulnerabilities in our electoral system we're going to have to move quickly. Just as each policy and lawsuit has contributed to the current state of affairs, so too will each future decision and action serve to redefine the integrity of our elections and the sanctity of the American vote. Except those votes and those decisions will need to happen with some urgency.

Do Americans have the political will to turn this tide? Because we already have the tools and technology necessary. Which brings us to the "Real Big Lie" when it comes to American Elections...

## The Real "Big Lie" in American Elections

The advancement of data analytics and technology has effectively eliminated the barrier of tracking citizenship status, a critical component for ensuring both public safety and the integrity of electoral systems. In today's digital era, governments possess sophisticated tools for data collection and analysis, enabling precise identification and verification of individuals' citizenship.

When individuals enter the United States, whether over land borders or through ports of entry, they are immediately engaged with a sophisticated system designed to track and record their identity and citizenship status. At these entry points, technologies such as biometric scanning, advanced database systems, and AI-powered surveillance tools work in concert to accurately identify each



person.<sup>47</sup> This initial data capture is the cornerstone for maintaining a secure and efficient record of who is within the country's borders, distinguishing between citizens and non-citizens.

This capability is crucial not only for national security and public safety, but also for preserving the integrity of our elections. By leveraging these advanced technologies and data, the government can ensure that only eligible citizens are participating in the electoral process, thereby safeguarding against potential election fraud and maintaining public confidence in election outcomes.

Furthermore, the continuous development and improvement of data analytics and tracking technologies mean that there is no shortage of tools to effectively monitor and update this information. The use of these technologies in monitoring citizenship status is essential in upholding the trust in American institutions. It would demonstrate a commitment to both the safety of the populace and the sanctity of the ballot process.

In an era where the accuracy of information is increasingly under scrutiny, employing these advanced systems to track citizenship status is not just a matter of convenience but a fundamental aspect of maintaining the integrity and trust in our electoral system and broader American institutions.

So WHY has the Biden administration allowed this crisis, and LIED about the nation's ability to control it through data and technology? As Carl Jung said, "If you cannot understand why someone did something, look at the consequences—and infer the motivation."

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47. <https://www.cbp.gov/travel/biometrics>

# Solutions

1. **True the Vote is calling for Congress to immediately repeal or clarify Title 18 of US Criminal Code on Voting by Aliens, Section 611 amendment c, that allows anyone to vote without proof of citizenship in a federal election if they simply believe they are a citizen.**
2. In the interest of limiting foreign interference in American elections, Congress should also tighten up the loophole that allows individuals who were born abroad and have never lived in the United States to cast absentee ballots in federal elections.

## **Preventing non-citizen voting is crucial to maintaining the integrity of American elections.**

Therefore True the Vote recommends policy solutions that move our nation in the direction of:

### **Improved Voter Registration Verification:**

- **Public Policy:** Strengthen voter registration verification processes to ensure only eligible citizens are registered to vote.
- **Rationale:** Implement more robust methods to verify the citizenship status of individuals during the voter registration process. This could involve cross-referencing voter registration data with citizenship databases and enhancing collaboration between election authorities and relevant government agencies.

### **Use of Secure Identification for Voting:**

- **Public Policy:** Require secure forms of identification for voting to verify the citizenship status of voters.
- **Rationale:** Implement policies that mandate voters to present secure identification, such as a state-issued ID or passport, at the time of voting. This adds an additional layer of verification to confirm the citizenship of individuals casting their votes.

### **Regularly Updated and Shared Databases:**

- **Public Policy:** Establish and maintain regularly updated databases that track changes in citizenship status and share this information among relevant government agencies and election authorities.



- **Rationale:** Ensure that election officials have access to up-to-date information on individuals' citizenship status, allowing for timely and accurate verification during voter registration and at the polling place.

### **Public Awareness Campaigns on Voter Eligibility:**

- **Public Policy:** Launch public awareness campaigns to educate citizens about voter eligibility requirements and the consequences of non-citizen voting.
- **Rationale:** Enhance public understanding of the importance of voting eligibility criteria and the legal implications of non-citizen voting. Clear communication can deter ineligible individuals from attempting to vote and promote a culture of compliance with election laws.

### **Implementation of Citizenship Verification Protocols in States with Same Day Voter Registration Policies:**

- **Public Policy:** Implement citizenship verification protocols at polling places to confirm the eligibility of voters on Election Day.
- **Rationale:** Enforce procedures at polling places that include additional verification steps, such as checking citizenship documentation, to prevent non-citizen voting. This can serve as a safeguard against ineligible individuals attempting to cast ballots.

States with Same Day Voter Registration Policies are: California, Colorado, Connecticut, District of Columbia, Hawaii, Idaho, Illinois, Iowa, Maine, Maryland, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Mexico, North Carolina, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

## **A Call to Action**

In this critical hour, just as our Governors have stood up to defend our Southern Border, True the Vote is calling on our Secretaries of State to stand equally firm in defending the integrity of our elections by being vigilant in the effort to prevent non-citizen voting.

As we face a border crisis that has only intensified over the past four years, with a staggering over 10 million border crossings since President Biden took office, the responsibility of our Secretaries of State to uphold the integrity of our electoral system has never been more critical.

States should enhance measures to prevent non-citizen voting in federal elections by adopting

more stringent citizenship verification methods during voter registration and demanding access to all the relevant citizenship and alien databases being run by the federal government.

We must also raise awareness about, and be prepared to challenge, a potential Biden Executive Order extending asylum and citizenship to millions of migrants. This issue is not the fault of the migrant population. They are being used for political gain.

The right to vote is a cornerstone of our republic, reserved for citizens who legally hold this privilege. Diligently verifying voter registrations for citizenship status is not just a procedural duty; it is a crucial defense of the values that define our nation.

*Ever Onward.*

## Glossary of Terms

- **Executive Order:** A directive issued by the President of the United States that manages operations of the federal government.
- **Non-Citizens:** Individuals who are not citizens of the country in which they reside; in this context, referring to individuals within the United States who do not have U.S. citizenship.
- **Election Integrity:** The assurance that the process of an election is transparent, accurate, and fair, ensuring that all votes are counted correctly and that fraudulent voting does not occur.
- **Federal Dole:** A term referring to federal government benefits or welfare.
- **Illegal Aliens:** Individuals who enter or reside in a country without proper authorization under that country's immigration laws.
- **Voter Registration:** The process in which eligible citizens register or sign up to be able to participate in the electoral process.
- **National Voter Registration Act (NVRA):** A law enacted in 1993 to enhance voting opportunities for every American. The Act has made it easier for all Americans to register to vote and to maintain their registration.
- **Documentary Proof of Citizenship (DPOC):** Official documents that prove a person's citizenship, such as a passport or birth certificate.
- **Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA):** Legislation that addressed illegal immigration into the U.S. by implementing measures to enforce immigration laws, including provisions for the deportation of immigrants who commit crimes.
- **Deferred Action for Childhood Arrivals (DACA):** A U.S. immigration policy that allows some individuals with unlawful presence in the United States after being brought to the country as children to receive a renewable two-year period of deferred action from deportation and become eligible for a work permit.
- **Temporary Protected Status (TPS):** A temporary immigration status given to eligible nationals of designated countries experiencing environmental disaster, ongoing armed conflict, or extraordinary and temporary conditions.

- **Executive Order 14019:** An order aimed at promoting access to voting, signed by President Biden, which directs federal agencies to expand access to voter registration and election information.
- **Systematic Alien Verification for Entitlements (SAVE):** A program administered by U.S. Citizenship and Immigration Services that helps federal, state, and local benefit-issuing agencies, institutions, and licensing agencies determine the immigration status of applicants, ensuring that only entitled applicants receive benefits or licenses.
- **Electronic Registration Information Center (ERIC):** A non-profit organization that assists states in improving the accuracy of America's voter rolls and increasing access to voter registration for all eligible citizens.
- **Sanctuary Cities:** Cities in the United States that limit their cooperation with the national government's effort to enforce immigration law.