

July 12, 2021

Dear Senator:

The Southern Poverty Law Center (“SPLC”) Action Fund calls for the support and immediate passage of both the For the People Act (S. 2093) and the John R. Lewis Voting Rights Act to protect the fundamental right to vote and the health of our democracy. Voting rights are under attack in states across the country, particularly in the Deep South. Yet instead of protecting the right to vote when it is under attack, the Supreme Court just upheld harmful and discriminatory practices that hurt voters across America and weakened a vital tool in protecting equal voting rights. It is more vital than ever for Congress to pass these complementary pieces of legislation to safeguard our democracy, and we urge you to support the will of the people by passing this legislation using any means necessary, up to and including abolishing the filibuster.

For over three centuries now, the might of the federal government has been relied upon to secure, protect, and expand voting rights, especially for Black Americans in the Deep South. The Fifteenth Amendment was passed by Congress in 1869, over fierce opposition, guaranteeing Black suffrage.¹ Finally, Black men could vote and exercised the franchise, in some states outnumbering the white electorate. Many held elected office.² But when Reconstruction ended in 1876, white southerners responded viciously to this period of Black enfranchisement by enacting literacy tests, poll taxes, targeted felony disenfranchisement laws, and a campaign of racial terror to continue to uphold white supremacy for almost a century.

Increasing awareness of racial discrimination and the violence and terror Black people faced, along with the demands of Civil Rights organizations, led Congress to intervene by passing several civil rights legislative measures, including the Voting Rights Act of 1965 (VRA). The backlash from state officials began almost immediately and continues today. Southern white politicians resented the Section 5 preclearance requirement immensely. The first post-VRA elections were held in Alabama and required the deployment of Department of Justice (DOJ) lawyers to both combat voter intimidation and to litigate claimed ballot box irregularities.³ Efforts to avoid preclearance eventually became more sophisticated: after the 1970 census, every state covered by preclearance submitted redistricting plans—each of which the DOJ found were discriminatory in totality or part.⁴ Discriminatory redistricting plans persisted, however, and between 1998 and 2013, eighty-six laws were blocked by the Section 5 preclearance process.⁵

¹ Alex Cohen & Willfred U. Codrington, III, *The Promise and Pitfalls of the 15th Amendment Over 150 Years*, Brennan Ctr. for Justice (Feb. 3, 2020),

<https://www.brennancenter.org/our-work/analysis-opinion/promise-and-pitfalls-15th-amendment-over-150-years>

² *Id.*

³ Ari Berman, *Give Us the Ballot: The Modern Struggle for Voting Rights in America* 50 (2015).

⁴ *Id.* at 102.

⁵ The Brennan Ctr. for Justice, *Shelby County: One Year Later* (June 24, 2014),

https://www.brennancenter.org/our-work/research-reports/shelby-county-one-year-later#_edn1.

The VRA was reauthorized four times, with overwhelming bipartisan Congressional support, under Presidents Nixon, Carter, Regan, and George W. Bush.⁶

Despite bipartisan support during each reauthorization in Congress, the VRA has remained under attack by state and federal officials who seek to restrict the right to vote, particularly for voters of color, during the 21st century. In 2013, the Supreme Court invalidated the formula for determining which jurisdictions with a history of racial discrimination—mostly in the Deep South—obtain “preclearance” to change any voting laws in *Shelby County, Alabama v. Holder*. This rendered Section 5 unenforceable and, as predicted by the late Justice Ruth Bader Ginsberg in her *Shelby County* dissent, states that previously required preclearance immediately began passing racially discriminatory and burdensome voting laws.⁷ Post-*Shelby County*, as SPLC Action has previously noted, “[i]n the Deep South, Black, Latinx, and Indigenous voters face a series of racist, systematic barriers to voting, including long lines and closed polling places, overbroad and discriminatory purges of registered voters, and overt voter intimidation.”⁸

During the most recent 2020 election season, in addition to a deadly pandemic that disproportionately affected people of color, voters in our five Southern states—Alabama, Florida, Georgia, Louisiana, and Mississippi—faced election administration problems, voter suppression, voter intimidation, and the spread of disinformation.⁹ Much of the South has failed to adopt no-excuse absentee voting, early voting, and automatic voter registration. In many states, in-person voting was the only available option in the midst of a once-in-a-century public health crisis.¹⁰

Black and Brown voters nevertheless overcame these hurdles and showed up in record numbers. In response, state legislatures around the country have introduced over 400 bills this year alone making it more difficult to cast a ballot.¹¹ Supporters falsely assert these changes are necessary to protect the integrity of elections, which is a lie built on the longstanding false narrative of widespread voter fraud in our elections. In the post-VRA United States, there has never been evidence that voter fraud happens regularly, is widespread, or has been outcome-determinative for election results at any level of office. This highlights the error of the Supreme Court’s holding in *Shelby County* and further demonstrates the urgency of implementing legislation to protect voters from officials seeking to restrict the vote.¹²

⁶ United States Dep’t of Justice, History of Federal Voting Rights Laws, <https://www.justice.gov/crt/history-federal-voting-rights-laws> (last visited July 12, 2021).

⁷ Brennan Ctr. for Justice, The Effects of *Shelby County v. Holder* (Aug. 6, 2018), <https://www.brennancenter.org/our-work/policy-solutions/effects-shelby-county-v-holder>.

⁸ SPLC Action Fund, Statement for the Record, Committee on Rules & Administration hearing on S. 1, the “For the People Act” (Mar. 23, 2021), <https://www.splcactionfund.org/sites/default/files/SPLC%20AF%20Statement%20Senate%20Rules%20Cmte%20For%20the%20People%20Act%20Mar%202024.pdf>.

⁹ Southern Poverty Law Ctr., Overcoming the Unprecedented: Battle Against Voter Suppression, Intimidation, and a Virus (Mar 2021), <https://www.splcenter.org/20210316/overcoming-unprecedented-southern-voters-battle-against-voter-suppression-intimidation-and>.

¹⁰ *Id.*

¹¹ Brennan Center for Justice, Congress Could Change Everything (Mar. 6, 2021), <https://www.brennancenter.org/our-work/research-reports/congress-could-change-everything>.

¹² SPLC Action Fund, Statement for the Record, Committee on Rules & Administration hearing on S. 1, the “For the People Act,” *supra* note 8.

In early July, the Supreme Court diluted an already gutted VRA with its decision in *Brnovich v. DNC* by creating more obstacles to challenging discriminatory voting laws and policies, including discriminatory laws imposed on people trying to cast their ballot and have their vote counted. This ruling ensures that election officials—especially in the Deep South—will continue to attempt to place more barriers in front of voters of color trying to cast their ballot. Congress must step in to protect voters.

SPLC Action urges you to enact the updated For the People Act of 2021 (S. 2093) and the forthcoming John R. Lewis Voting Rights Act to protect our democracy and ensure voting rights. These historic pieces of legislation represent a transformative vision for our democracy and ensures access to the ballot box, while protecting against voter suppression. The **For the People Act of 2021**, as originally written, would:

- **Restore voting rights.** Restore voting rights for people with felony convictions in federal elections, re-enfranchising approximately 4.7 million voters nationwide.¹³ Reforming felony disenfranchisement has bipartisan support: in November 2018, 65 percent of Florida voters cast their ballots to restore the right to vote for more than 1.4 million people¹⁴ and in 2018, a law passed in Louisiana with bipartisan support to re-enfranchise thousands of Louisianans with past felony convictions.
- **Modernize and standardize voter registration.** Modernize America’s voter registration system and improve access to the ballot box by establishing automatic voter registration (AVR), same-day registration (SDR), and online registration for federal elections, while ensuring that all registration systems are inclusive and accessible for people with disabilities.¹⁵ These reforms are especially important in the Deep South where, for example, Mississippi has no online registration and Florida, Mississippi, Alabama, and Louisiana lack AVR as well as SDR.
- **Make redistricting fair.** Ensure that people choose their representatives, not the other way around, by requiring states to draw congressional districts using independent, bipartisan redistricting commissions that reflect the demographic diversity of the region. It would establish fair redistricting criteria and ensure compliance with the VRA to safeguard voting rights for communities of color. The Deep South states have been the subject of dozens of lawsuits challenging racially discriminatory redistricting plans.
- **End prison-based gerrymandering.** Require the U.S. Census Bureau to count people who are incarcerated at their last-known residence, not the prison where they are housed. The current practice is to count incarcerated people as living in the communities where they are incarcerated, entitling those communities to a larger share of legislative seats and government resources. But most incarcerated people have little or no connection to the communities where they are incarcerated and typically return to their home

¹³ The Sentencing Project, 6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, 2016, at 14, <https://www.sentencingproject.org/wp-content/uploads/2016/10/6-Million-Lost-Voters.pdf>.

¹⁴ Southern Poverty Law Ctr., Battle for the Ballot: Two Black Women Fight Back Against Voter Suppression in FL (Mar. 16, 2021), <https://www.splcenter.org/news/2021/03/16/battle-ballot-two-black-women-fight-back-against-voter-suppression-florida>.

¹⁵ Southern Poverty Law Ctr., Voting Rights Impaired: Alabama Man Fights Voting Suppression of People with Disabilities (Mar. 16, 2021), <https://www.splcenter.org/news/2021/03/16/voting-rights-impaired-alabama-man-fights-voter-suppression-people-disabilities>.

communities upon release. Prison-based gerrymandering also has a demonstrable racial impact given the disproportionate impact of the criminal justice system on the Black community and the placement of prisons in majority-white counties. Ending this discriminatory and unconstitutional practice would restore political power to the communities where it belongs.

- **Modernize absentee ballot systems.** Implement no-excuse absentee ballots for federal elections and remove all existing barriers like witness, photo ID, or notarization requirements. Make it easier to request and receive an absentee ballot by requiring online access to applications, as well as prepaid postage, secure drop boxes, and polling place drop-off.¹⁶ It also requires that absentee ballots in federal elections be accessible for voters with disabilities. It requires that any ballots mailed by election day but received within 10 days after election day shall be counted. Finally, it would ensure that absentee ballots are more likely to be counted by providing voters with notice of, and an opportunity to cure, deficiencies such signature match errors. Each of these provisions improves access to absentee ballots in SPLC Action’s focus states in at least one way.
- **Combat voter purges.** Address the Supreme Court’s troubling 2018 decision in *Husted v. A. Philip Randolph Institute*, which allowed Ohio to conduct massive purges from its voter rolls based on nonvoting. Such practices disproportionately target marginalized voters. Voting should not be a “use it or lose it” right. Laws such as the one in *Husted*, were introduced in states like Mississippi during the 2021 legislative session, threatening to remove voters who choose not to vote. These laws are contrary to the letter and spirit of the National Voter Registration Act and threaten to remove voters who have not moved, but just chose not to vote, which is their right.
- **Create a federal holiday and ensure early voting and polling place notice.** Make Election Day a federal holiday. It would also require at least 15 consecutive days of early voting in federal elections. The bill would also require that voters be given a minimum of seven days’ notice if the state decides to change their polling place location. In states like Alabama and Mississippi, where there is no early voting, these provisions would provide voters crucial access to the ballot.

It is also vital to pass the **John Lewis Voting Rights Act (JRLVRA)** which was developed in response to the Supreme Court’s 2013 decision in *Shelby County v. Holder*.¹⁷ Under the VRA, preclearance prevented states—mostly in the Deep South—with histories of voter suppression, including murderous violence against would-be voters, from making voting law changes unless those changes were cleared by federal authorities. The JRLVRA modernizes the VRA’s formula for preclearance by ensuring the new coverage formula speaks to “current conditions” in voter suppression efforts meaning a state would be covered if it had fifteen or more voting rights violations during the previous 25 years or ten or more voting rights violations during the previous 25 years if the state committed one of the violations. The bill also requires any changes to voting to be publicly announced at least 180 days before an election, as well as expands government

¹⁶ Southern Poverty Law Ctr., *Stuck In the Mail: Georgia’s Voter’s Absentee Ballot Never Gets Counted* (Mar. 16, 2021), <https://www.splcenter.org/news/2021/03/16/stuck-mail-georgia-voters-absentee-ballot-never-gets-counted>.

¹⁷ Brennan Ctr. for Justice, *How to Restore and Strengthen the Voting Rights Act* (Jan. 28, 2021), <https://www.brennancenter.org/our-work/research-reports/how-to-restore-and-strengthen-voting-rights-act>.

authority to monitor jurisdictions where there is a substantial risk of discrimination at the polls to guarantee voting rights for all citizens.¹⁸ Two-thirds of voters nationwide support this bill.¹⁹

The For the People Act passed the House in Spring of 2021,²⁰ but Senate Republicans recently blocked this essential legislation from advancing to debate in the Senate.²¹ The filibuster is not a ‘guardrail of democracy.’ Instead, it is being used as a weapon to further destabilize our democracy and harm voters. Indeed, maintaining the filibuster is just one more effort to block civil rights legislation, despite the broad support from the majority of voters across political parties, in an effort to entrench and continue white supremacy.

The Republican party of today refuses to engage in bipartisan deliberation and policymaking and repeatedly derails legislative action. But make no mistake, it is not an exaggeration to assert that the future of voting rights still rests with this Congress and action is required to strengthen our democracy by ensuring the right to vote.

Before the 1965 Voting Rights Act was passed, President Lyndon B. Johnson said, “At times history and fate meet at a single time in a single place to shape a turning point in man’s unending search for freedom. So it was at Lexington and Concord. So it was a century ago at Appomattox. So it was last week in Selma, Alabama.”²²

Fate and history meet again in 2021 and this Congress must act now to safeguard democracy by guaranteeing all eligible voters access to the ballot box.

SPLC Action Fund demands Congress respect and represent the will of the people by passing the John Lewis Voting Rights Advancement Act and the For the People Act to fully restore the Voting Rights Act.

Respectfully,



Margaret Huang
President and CEO

¹⁸ Nicholas Riccardi, *The Difference Between Democrats 2 Voting Bills*, Associated Press, June 8, 2021, <https://apnews.com/article/donald-trump-voting-racial-injustice-bills-voting-rights-1c5847d0454f98ed2f9529afc3d1559d>

¹⁹ Southern Poverty Law Ctr., New SPLC Poll: Two-Thirds of Voters Support Passage of “For the People” Act (May 6, 2021), <https://www.splcenter.org/news/2021/05/06/new-splc-poll-two-thirds-voters-support-passage-people-act>.

²⁰ Southern Poverty Law Ctr. Action Fund, HR 1 Will Strengthen Our Democracy: Up to Senate to Make it Law (Mar. 3, 2021), <https://www.splactionfund.org/press-center/splc-action-fund-hr-1-will-strengthen-our-democracy-senate-make-it-law>.

²¹ Southern Poverty Law Ctr. Action Fund, Filibuster Being Weaponized to Further Destabilize Our Democracy and Harm Voters (June 23, 2021), <https://www.splactionfund.org/press-center/splc-action-fund-filibuster-being-weaponized-further-destabilize-our-democracy-and-harm>.

²² Ari Berman, Give Us the Ballot: The Modern Struggle for Voting Rights in America, *supra* note 3, at 25.