



**STATEMENT OF BRAD ASHWELL  
FLORIDA STATE DIRECTOR OF ALL VOTING IS LOCAL  
THE LEADERSHIP CONFERENCE EDUCATION FUND**

**COMMITTEE ON HOUSE ADMINISTRATION  
SUBCOMMITTEE ON ELECTIONS  
U.S. HOUSE OF REPRESENTATIVES  
HEARING ON “VOTING IN AMERICA: ACCESS TO  
THE BALLOT IN FLORIDA”**

**MAY 25, 2022**

Chairman Butterfield, Ranking Member Steil, and members of the subcommittee: My name is Brad Ashwell and I am the Florida state director for All Voting is Local (AVL). Thank you for the opportunity to testify today on the current state of voting rights and ballot access in Florida.

All Voting is Local was launched in 2018 as a campaign of The Leadership Conference on Civil and Human Rights, a coalition of more than 230 national organizations working to build an America as good as its ideals. The Leadership Conference was founded in 1950 and has coordinated advocacy efforts on behalf of every major civil rights law since 1957, including the Voting Rights Act and subsequent reauthorizations.

At AVL, we work to eliminate needless and discriminatory barriers to voting before they happen, to build a democracy that works for all of us. We now have a presence in eight states with a recent history of discrimination in voting: Arizona, Florida, Georgia, Ohio, Michigan, Nevada, Pennsylvania, and Wisconsin.<sup>1</sup> Since 2018, All Voting is Local staff have been based in Florida. Personally, I have been working to ensure the freedom to vote in Florida through different roles since 2001.

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<sup>1</sup> More information is available at [www.allvotingislocal.org](http://www.allvotingislocal.org).

My comments today will address the dangerous, burdensome, and unnecessary barriers to the ballot facing Florida's voters of color and other citizens, which not only threaten to silence voters but also imperil our democracy. I will discuss the deeply troubling trends in Florida legislation after the 2020 election, which unfortunately mirror other states around the country that have been aimed at limiting, rather than protecting, the freedom to vote. I will discuss several problems we are currently seeing on the ground flowing from those policies as well as problems we are anticipating in elections this year.

In 2020, amid a pandemic, massive disinformation campaigns intended to silence voters at the polls, and unprecedented challenges to election administration, a record number of Floridians — 4.6 million — successfully voted by mail in the face of the COVID-19 pandemic. Over 1.2 million Black and Hispanic voters cast their ballots by mail in the 2020 presidential election.<sup>2</sup> The use of vote-by-mail (VBM) drop boxes was also very popular. A survey of the Florida Supervisors of Elections (SOE) by their association with 62 of the 67 counties responding found that 1.4 million or about 31 percent, nearly one-third, of the mail ballots returned were returned by drop boxes.<sup>3</sup> Counties that had more Black VBM voters also had greater ballot drop box usage rates, suggesting that Black voters used drop boxes more frequently than voters of other races.<sup>4</sup>

Voting by mail has been a mainstay in Florida for two decades, with voters from both major political parties successfully making their voices heard in this manner. In fact, Floridians have been able to vote by mail for any reason since 2002. The VBM process was used more frequently by Black and Hispanic voters in 2020 than in previous elections. Black voters cast ballots by mail in 2020 at twice the rate as they did in 2018 and 2016. Twice as many Hispanic voters cast mail ballots in 2020 compared to 2018 and almost twice as many had cast mail ballots in 2020 compared to 2016. Well over twice as many Black and Hispanic voters voted by mail in 2020 in contrast to the 2012 presidential election as well.<sup>5, 6, 7</sup>

While our state leaders should have attempted to build on, if not maintain, these successes, we have seen them do exactly the opposite — pursuing legislation that will make it harder to vote by

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<sup>2</sup> AVL Report: Casting, Rejecting, Curing Vote-by-Mail Ballots in Florida's 2020 General Election. [https://225egw40g2k99t0ud3pbf2ct-wpengine.netdna-ssl.com/wp-content/uploads/2021/03/031121\\_FL\\_VBM-Report\\_final.pdf](https://225egw40g2k99t0ud3pbf2ct-wpengine.netdna-ssl.com/wp-content/uploads/2021/03/031121_FL_VBM-Report_final.pdf) (pg10, chart)

<sup>3</sup> Florida Supervisors of Elections vote-by-mail drop box Survey of SOEs after the 2020 election. [https://docs.google.com/spreadsheets/d/1t-0luSNku5z7Rcrb\\_ZnyCvtTc7bkz0sk/edit#gid=2094891178](https://docs.google.com/spreadsheets/d/1t-0luSNku5z7Rcrb_ZnyCvtTc7bkz0sk/edit#gid=2094891178)

<sup>4</sup> Plaintiff's trial brief in *LWV v. Lee*. <https://drive.google.com/file/d/1NNHPHZ8IMkd1v-AgNzmTKHM1xSunwoGZ/view> (pgs 186-192)

<sup>5</sup> AVL Report: Casting, Rejecting, Curing Vote-by-Mail Ballots in Florida's 2020 General Election. [https://225egw40g2k99t0ud3pbf2ct-wpengine.netdna-ssl.com/wp-content/uploads/2021/03/031121\\_FL\\_VBM-Report\\_final.pdf](https://225egw40g2k99t0ud3pbf2ct-wpengine.netdna-ssl.com/wp-content/uploads/2021/03/031121_FL_VBM-Report_final.pdf)

<sup>6</sup> ACLU of Florida Report: Let Florida Vote. [https://www.acluf.org/sites/default/files/field\\_documents/aclu\\_of\\_florida\\_report\\_-\\_let\\_florida\\_vote.pdf](https://www.acluf.org/sites/default/files/field_documents/aclu_of_florida_report_-_let_florida_vote.pdf)

<sup>7</sup> ACLU of Florida Report: Vote-By-Mail Ballots Cast in Florida. [https://www.acluf.org/sites/default/files/acluf\\_-\\_vote\\_by\\_mail\\_-\\_report.pdf](https://www.acluf.org/sites/default/files/acluf_-_vote_by_mail_-_report.pdf)

mail by creating additional identification requirements, new limits to voter assistance with mail ballots, and dramatic reductions in drop box accessibility.

Like other politicians around the country, Florida's Governor Ron DeSantis and the Florida legislature have used the Big Lie perpetuated by Donald Trump and his supporters to adopt voting restrictions based on falsehoods and disinformation. In February of 2021, the governor announced that he would pursue restrictions on VBM and drop boxes.<sup>8</sup> Again, in 2022, our governor and legislative leaders announced that they would pursue yet another package of restrictive voting measures, including the creation of a new election police force, despite the fact that legislators in Florida have not pursued significant changes to the election code in election years.

Instead of pursuing policies that ensure all Floridians have an equal opportunity to vote, state leaders, fueled by lies and conspiracy theories, have increasingly tried to corrupt the nonpartisan running of elections for their own gain. The current legislature's efforts to shape nonpartisan election processes in an effort to consolidate their own power has created a toxic environment where legislation incorporates little to no feedback from election administrators who, despite their best efforts, are given little to no opportunity to provide input until after these bills have been written. This is a crisis of government and indeed of our democracy. The disastrous result is more barriers to the ballot that will disproportionately burden voters of color.

## **Issues Impacting Voter Access**

### ***Establishing the Office of Election Crimes and Security***

The centerpiece of legislation passed earlier this year is the creation of a dangerous new elections police unit called the Office of Election Crimes and Security. The secretary of state is to appoint the director for the office, which will have 15 full-time staff. It will use non-sworn investigators to conduct investigations and inquiries into any "election irregularities," a term that lawmakers refused to define. In addition, the office will oversee the voter fraud hotline at the Department of State. The governor, in consultation with the Florida Department of Law Enforcement (FDLE), will also appoint at least one special officer to conduct election-related investigations in each of FDLE's operational regions. They are budgeted for 10 FDLE agents this year.

This office builds on a long dark history in Florida of voter intimidation through the use of law enforcement and poses a severe threat to free and fair access to the ballot. It is also completely unnecessary. Since 2020, there have been a handful of instances of election misconduct prosecuted — all of which were investigated, and the perpetrators were held accountable in a

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<sup>8</sup> Florida Politics Article: Ron DeSantis, Blaise Ingolia announce proposal for sweeping changes to Florida Election laws.

<https://floridapolitics.com/archives/405105-ron-desantis-blaise-ingolia-announce-sweeping-election-reform-proposal/>

timely and lawful manner by already existing mechanisms for addressing election law violations. Further, it imposes an extraordinary burden on taxpayers, in the amount of \$2.5 million, which should instead be used to fund improvements to our elections in real tangible ways, such as better training and coordination among agencies.

Most disturbing of all is the fact that this new office lacks guardrails which could lead to the politicization of election security at a time when distrust among voters in the system is high. The office can initiate investigations and may investigate claims submitted by anyone anonymously. Nothing is preventing the office from being used for political purposes, even the fact that cases must be handed over to the state attorney for prosecution. The office or those overseeing it could announce an investigation at a decisive moment in an election cycle and alter the outcome. We are extremely concerned that the office could also be used to target voter registration groups and local election officials for purely partisan purposes to thwart participation or upend election results themselves.

### ***Restrictive Vote-by-Mail Identification Requirements***

Florida's S.B.90, a sweeping anti-voter measure passed into law on May 3, 2021, imposed a preposterous new requirement that voters include identification on VBM requests — a Florida driver's license number, Florida state identification card number, or the last four digits of a voter's social security number. This additional hurdle for voters was already needlessly burdensome, but the bill also required that SOEs match the identification submitted by the voter before validating the request. The problem is election officials do not have that data on file for all voters. The Department of State admitted in court that as of May 2021, 622,998 registered voters in the Florida Voter Registration System did not have a driver's license, state identification number, or social security number on file with the FVRS. 587,207 Florida voters had no identification on file with the state; 92,032 had an incomplete driver's license on file; 2,258 had a driver's license on file that started with a number instead of a letter; 1,125 had a social security number on file that ended in four zeros, totaling 681,481 voters with no ID or an invalid ID on file.<sup>9</sup>

Data in counties points to similar devastating consequences for voters. Broward County's SOE received 73,000 VBM requests with no matchable identifiers on file last fall before the CD20 special election. The office mailed those voters — many of them seniors — informing them that they could not match the ID submitted, but only about 10 percent responded. Lake County's SOE told a state Senate committee earlier this session that he sent notices to about 11,000 Lake County voters who did not have the required numbers on file. He said that he heard back from only 5,000 of those voters. Earlier this year, the Leon County SOE testified in court that about 31,000 voters in Leon County have only one of the three required forms of identification on file.

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<sup>9</sup> Plaintiff's trial brief in *LWV v. Lee*.

<https://drive.google.com/file/d/1NNHPHZ8IMkd1v-AgNzmTKHM1xSunwoGZ/view>

If one of those voters submits one of the other two forms of allowable ID that are not on file, their request will not be confirmed. Additionally, the Orange County SOE found 13,000 voters whose files did not include the identification data. Many of these voters were senior voters who had registered before they were required to provide this identifying information.

Making matters worse, the law does not require local officials to contact the voter if they are unable to confirm their ID. Some SOEs have indicated in conversations that they may not be able to undertake this outreach if they are too busy. The Division of Elections has not shown any intention to contact voters encouraging them to update or submit additional ID information that is not on file. However, some SOEs are either contacting voters or planning to do so as they are unable to confirm VBM requests with ID information they have on file — a task that will require additional expenses for staff time and notices that will be printed and mailed to voters.

### ***Criminalizing Vote-by-Mail Assistance***

Following the 2020 election, Florida legislators fueled by lies and conspiracy theories focused on criminalizing efforts to assist voters who need help returning their VBM ballots. S.B.90 made it a misdemeanor for anyone to return VBM ballots other than their own; their immediate family members (not including nieces, nephews, aunts, and uncles); and two additional ballots. S.B.524, signed into law on April 25, 2022, elevated the penalty for violating this law from a misdemeanor to a third-degree felony. This not only criminalizes Floridians who help other voters deliver their VBM ballots but also punishes them by taking away their right to vote if found guilty of violating this law. Many voters seek assistance from pastors, rabbis, neighbors, or extended family members when it comes to turning in their VBM ballots. If one of them mistakenly turns in more than two ballots in addition to their own and any direct family members, they could be prosecuted for a third-degree felony and lose their civil rights, even if they did not intend to violate the law.

### ***Increasing Requirements for Vote-by-Mail Requests***

In 2021, legislators seizing to act on conspiracy theories proposed that VBM ballot requests on file — which were submitted in record numbers in 2020 — would be canceled or reset. There is no question that this effort was completely partisan in nature. Text messages from State Senator Joe Gruters, who also happens to be the chairman of the Republican Party, to State Representative Blaise Ingoglia, who carried S.B.90's house companion bill (H.B. 7041) during the legislative session, expressed it would be "devastating" not to "reset" Florida's mail ballot requests after the 2020 cycle, forcing voters to make the requests again in 2022 instead of allowing them to stand for two cycles. Gruters told Ingoglia that "we cannot make up that ground," and added that the "Trump campaign spent 10 million" but "could not cut down the

(Democratic party's) lead."<sup>10</sup> It is clear that legislators were placing their party above countless Floridians who wanted to participate in democracy.

Ultimately, lawmakers reached a compromise to prevent the cancellation of mail ballot requests until after the 2022 election. But the damage has already been done. This has caused significant confusion for voters and third-party groups who communicate with voters. It also has created a significant cost for SOEs who will have to educate voters after the election in November that their mail ballot requests will no longer be on file and that they will be required to resubmit their request every year instead of every other year.

### ***Election Interference and Increased Risk of Protested Ballots***

Other aspects of the anti-voter legislation S.B.90 also set the stage for more upending of the canvassing process. The law makes it possible for aggressive efforts by bad-faith actors to protest mail ballots before and during the canvassing board process where mail ballots and provisional ballots are reviewed by a three-person canvassing board one by one and either authenticated or rejected. The bill created a new form of observers who represent a political party or candidate campaign and may observe the duplication or remaking of damaged ballots so that they may still be counted as well as the signature review for mail ballots by the county canvassing boards to verify voter's identities. These new observers are allowed to inspect mail ballots, certificates, envelopes, and ballot cure affidavits with corresponding comparison signatures. They are allowed to do this all pre-canvass, and they can submit protests to challenge the authenticity of VBM ballot signatures.

We fear that this new process will allow bad-faith actors to systematically protest or challenge ballots in a coordinated way, particularly closer to Election Day when there is less time for voters to cure ballots. In Florida, voters may cure a mail ballot with a signature problem until 5 p.m. on the second day after the election. Another immediate concern is the lack of uniformity in how each county's SOE is approaching or implementing this new law. What exactly observers are allowed to see, how closely they can observe the canvassing board, and security protocols vary significantly by county.

### ***More Restrictions on Vote-by-Mail in 2023***

S.B.524, passed earlier this year, requires the Florida Department of State to submit a report and recommended bill language to the governor and legislature by February 1, 2023, on how to require additional identification on VBM ballots and how the state can solicit that identification information from voters. In essence, this was the most contentious fight initially during the 2022 session, and it largely was punted to the 2023 session. Many advocates, as well as SOEs,

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<sup>10</sup> Herald Tribune Article: Records show efforts to gain partisan advantage through election law billed as security measure. <https://www.heraldtribune.com/story/news/politics/elections/2021/09/21/records-show-florida-gop-efforts-ua-se-election-law-partisan-edge/8417869002/>

demanded that the legislature not move forward with this proposal since Floridians could see the impacts of such restrictions happening in real-time over in Texas where a similar law requiring voter identification on return VBM ballots led to thousands of rejections.<sup>11</sup>

### ***Restricting Vote-by-Mail Drop Boxes***

In 2020, ballot drop boxes were wildly successful, popular, secure, and effective. Ballot drop boxes are designed to allow voters the freedom to vote in the manner they choose and ensure equity for voters with disabilities. But newly adopted restrictions threaten to rob voters of that freedom and impose onerous burdens on all voters, particularly those with disabilities. While SOEs still must offer drop boxes at their main and branch offices as well as all early voting sites, the boxes now must be monitored in person by an employee of the SOE's office. If a ballot drop box is found unattended, the SOE risks a fine of \$25,000. Many SOEs believe they need to have additional staff monitoring each box in case a staffer has to take a bathroom break. No additional funds were appropriated by the state for this requirement, and the use of private funds or donations was prohibited by S.B.90. This staffing requirement along with other new rules has led many SOEs to reduce the number of drop boxes compared to what they offered in 2020.

Many counties went above and beyond the minimum requirements last cycle, taking advantage of the fact that they could provide drop boxes at locations that met the statutory requirements for early voting sites even if no early voting site was located there. While that option remains in law, many counties are simply not taking advantage of it this cycle due to the new staff requirements and the associated costs. Many SOEs also report that they will no longer offer 24-hour locations, which were very popular. This will impact voters who work irregular hours and juggle multiple jobs with family obligations. Many SOEs are no longer providing outdoor drop box options as well. This could be a concern if we see additional waves in the COVID-19 pandemic.

In addition, the bill eliminates the flexibility SOEs have to move or change drop box locations within 30 days prior to the election. This flexibility could be important in cases of emergencies. Finally, S.B.524, in 2022, changed the name of drop boxes to "Secured Ballot Intake Stations," a change in name only, which is already causing voter confusion and will require SOEs to change and reprint materials, change all of their signage, and change information on websites. All of this will lead to more voter confusion, less voter access, and added costs to SOEs.

### ***Restricting Third-Party Assistance***

Florida's politicians have also restricted voter assistance efforts, which voters of color frequently rely on to ensure access to the ballot. Data from Professor Dan Smith at the University of Florida found that one in 10 Black and Hispanic individuals who were registered to vote in Florida as of

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<sup>11</sup> Texas Tribune Article: At Least 18,000 Texas vote-by-mail ballots were rejected in the first election under new GOP voting rules. <https://www.texastribune.org/2022/03/11/texas-mail-in-voting-lawsuit/>

August 2021 registered through third-party voter registration groups (3PVROs).<sup>12</sup> Not surprisingly, our lawmakers have targeted these groups with unnecessary, burdensome restrictions.

S.B.90 created notification requirements designed to undermine the efforts of 3PVROs by forcing them to tell applicants that the 3PVRO might not deliver the application before the deadline to the SOE or Division of Elections. S.B.90 also required that 3PVROs deliver applications to the counties where the applicant resides, raising their costs of operation while creating logistical challenges. Then S.B.524 raised the aggregate fines that can be imposed on 3PVROs for turning in forms late or to the wrong county from \$1000 annually to \$50,000 annually. This appears to be an effort to impede the registration of voters of color.

Many of these same organizations also help voters forced to wait in long lines on Election Day, often in communities of color, by providing food and water. That too has been prohibited by recent laws. Our governor and lawmakers have also set out to make nonpartisan election protection all but impossible by extending the no-solicitation zone from 100 to 150 feet from the door of the polling place, and then by creating a second no-solicitation zone running from drop boxes, that are placed out away from the door in some cases to prevent conflicts between lines. They also gave landlords who lease property and those managing property leased to SOEs the ability to remove election monitors even if they are outside of either of those 150 feet lines.

Finally, new list maintenance processes created this year will lead to voters being removed from the rolls over time, and we are particularly concerned about a new ill-defined process targeting non-citizens through the use of the Department of Highway Safety and Motor Vehicles data, which has been historically flawed.

## **Conclusion**

Our democracy works best when every voter can make their voice heard. Election administration practices can and should be used to ensure that the freedom to vote belongs to all Americans. Yet, this is not the reality for millions of voters in Florida. Instead, recently adopted laws, policies, and practices establish barriers to voting and serve to disenfranchise hundreds of thousands of Floridians, particularly voters of color. In 2020, voters faced unprecedented challenges — including disinformation from the highest office in the land and the COVID-19 pandemic. Floridians deserve free and fair elections, not more restrictions on access to the ballot. Yet that is precisely what they have been subjected to. During the 2020 presidential election, Governor DeSantis touted Florida’s election process as the “gold” standard nationwide, but the breadth and depth of the voting restrictions now adopted by Florida’s lawmakers are establishing a new low when it comes to interfering with the right to vote. Instead, they should be searching

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<sup>12</sup> *LWW v Lee* Plaintiff’s trial brief. (pg 184).  
<https://drive.google.com/file/d/1NNHPHZ8IMkd1v-AgNzmTKHM1xSunwoGZ/view>



for ways to ensure voter accessibility and fund local election offices to address the needs of voters in their jurisdictions. We look forward to working with elected officials at all levels of government to ensure that elections are administered fairly and equitably so that every American — regardless of race, socioeconomic status, age, or ability — can make their voice heard. Nothing short of our democracy is at stake.

Thank you for your leadership on this critical issue.