

Biden's voter registration executive order is targeted by GOP : NPR

[npr.org/2024/06/30/nx-s1-5005001/biden-voter-registration-executive-order](https://www.npr.org/2024/06/30/nx-s1-5005001/biden-voter-registration-executive-order)

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Republicans are turning Biden's voter registration order into a partisan flash point

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Heard on [All Things Considered](#)



[Hansi Lo Wang](#)



A sign saying "Register & vote!" is on display at the King County elections office in Renton, Wash., in 2020.

Jason Redmond/AFP via Getty Images

In these final months before this fall's election, Republican officials are ramping up attacks on [a three-year-old executive order](#) President Biden issued to try to get more eligible voters signed up to cast ballots.

The order calls for federal agencies to promote voter registration and participation in ways that are “consistent with applicable law.” Many election experts see the effort as a worthwhile attempt to take advantage of the regular interactions eligible voters have with the government and address long-standing barriers to the ballot, including those facing people of color, those with disabilities, those in federal custody and those serving overseas in the U.S. military.

“It is our duty to ensure that registering to vote and the act of voting be made simple and easy for all those eligible to do so,” the 2021 order says.

But now, as the Democratic president faces reelection, his order has sparked growing pushback from the right, most recently congressional subpoenas to agency directors from the GOP-controlled House Administration Committee and an attempt by a group of Republican state lawmakers in Pennsylvania to get the U.S. Supreme Court to take up a dismissed lawsuit over the order.

Backed with no substantial evidence, GOP lawmakers and state election officials, along with right-wing activists, have launched a barrage of claims that the Biden administration is using this order to overstep the federal government’s role in elections, garner more Democratic voters and register non-U.S. citizens, who cannot legally vote in federal elections.

“This Executive Order is another attempt by the Biden Administration to tilt the scales ahead of 2024,” Republican Rep. Bryan Steil of Wisconsin, chair of the House Administration Committee, said this month in a press release referencing “Bidenbucks,” what has become shorthand for unsubstantiated allegations that the administration is misusing federal tax dollars to benefit Biden’s reelection campaign.



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Why there’s a long-standing voter registration gap for Latinos and Asian Americans

What the order has actually done, however, has not fully satisfied its supporters.

A few federal agencies have started new partnerships with states to help with voter registration, and others have released guides, mailers and updated websites. But it’s unclear how many new voter registration applications the order has yielded so far.

What the executive order says and has done

A main part of Biden's order builds on existing federal laws that have carved out roles for federal agencies in the process of signing up voters.

"It's a nudge encouraging federal agencies to do more to help people register," says Dan Tokaji, an election law expert, who serves as dean of the University of Wisconsin Law School. "Until recently, the complaints were really the federal government wasn't doing enough, not that they were doing too much to advance voter registration."

Under the National Voter Registration Act, states must designate U.S. military recruitment offices in their state as official voter registration agencies, which are required to distribute registration forms, help people fill them out and hand off completed forms to state election officials — all with restrictions on any partisan activity.

States can also partner with other local offices of the federal government to designate them as voter registration agencies.

"But there was no real fire under them to do that," Tokaji explains.

Since Biden's order, Kentucky and Michigan have announced voter registration designations for Veterans Affairs facilities in their states, and the White House has touted designations for a tribal university in Kansas and a tribal college in New Mexico operated by the Department of the Interior's Bureau of Indian Education. Michigan has also said it's made an agreement to send state election officials to register eligible voters at local outreach events organized by the U.S. Small Business Administration.



In December 2023, Michigan Gov. Gretchen Whitmer, a Democrat, designated the Detroit Veterans Affairs Medical Center, shown here in 2014, as a voter registration agency in the state.

Paul Sancya/AP

Why Republicans are attacking it

Partisan fights over voting policy have intensified since former President Donald Trump's administration, and Biden's order has become the latest target for Republican critics.

The order directed federal agencies to submit to the White House strategic plans on how they can promote voter registration and participation. While some of those plans were made public after Freedom of Information Act requests by right-wing activist groups, many GOP officials have slammed the administration for a lack of transparency.

West Virginia Secretary of State Mac Warner recently led a group of GOP state election officials in a friend-of-the-court brief to the Supreme Court for the lawsuit challenging the constitutionality of the order. In March, U.S. District Judge Jennifer Wilson, a Trump appointee, dismissed the lawsuit after finding that the Republican state lawmakers who brought it do not have legal standing, or the right to sue.

Still, in an April press release, Warner called Biden's order "Federal overreach."

“West Virginia will emphatically not give up our State’s duty to register voters in a nonpartisan manner to the Federal Government, nor will we accept voter registration forms collected by Federal agents,” Warner’s statement declared.

The state has not announced any partnerships with federal offices on voter registration since the order’s release. But asked by NPR whether Warner considers U.S. military recruitment offices — from which West Virginia is required to accept completed forms — as “Federal agents,” Michael Queen, a spokesperson for Warner, clarified in an email that “West Virginia will follow all state and federal laws concerning the acceptance of voter registration forms.”



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Jeff Dean/AP

Claims about Biden’s order “federalizing” the voter registration process leave out key context from the National Voter Registration Act, says Justin Levitt, a professor at Loyola Law School of Loyola Marymount University in Los Angeles, who, before leaving the Biden administration in 2022, helped carry out the executive order as the White House’s senior policy adviser for democracy and voting rights.

“States have to start the dance,” Levitt says, referencing how the federal law leaves it up to states’ discretion to designate federal offices as voter registration agencies, in addition to the required designations for military recruitment offices. And some states have chosen to do that “in order to make life a little bit more convenient for people seeking service from federal agencies,” Levitt adds.

Aside from claims that the administration is overstepping its authority, some Republican officials have also started linking Biden’s order to concerns about noncitizens voting in federal elections — a rare and illegal practice.

In March, Mississippi Secretary of State Michael Watson wrote to the Justice Department about new requirements for prisoners in the custody of the U.S. Marshals Service to be notified of the right to ask for voter registration information from the facility where they’re being held. Citing concerns that “this program could lead to the registration of illegal aliens in Mississippi,” Watson wrote it is “quite shocking” that the Biden administration “has chosen to expend tax dollars and vital law enforcement resources on a program that risks bloating state voter rolls with ineligible and non-citizen voters.”

Asked by NPR for any evidence that a noncitizen in the U.S. marshals’ custody was encouraged to illegally register to vote because of this new requirement, Watson did not directly respond, saying instead in a statement: “Witnessing the secrecy surrounding the White House, Department of Justice, and most every other federal agency from whom we have asked for answers, we, nor anyone else, have any idea how deeply imbedded Executive Order 14019 has become and who may or may not be acting on it.”



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1 in 10 eligible U.S. voters say they can’t easily show proof of their citizenship



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Republicans in Congress are trying to reshape election maps by excluding noncitizens

The addition of talking points about noncitizen voting to Republican critiques of Biden's order shows how it has become a "blank slate" for claims that risk undermining faith in elections, says Brendan Fischer, deputy executive director of Documented, an investigative watchdog group focused on threats to democracy, who has been tracking right-wing reaction to the order.

"There was nothing in the executive order that changed since it was issued in 2021. There's no evidence that I've seen that the executive order has resulted in noncitizens being registered to vote in any substantial numbers. But the messaging has shifted as the November 2024 election becomes closer and as immigration continues to be a major issue in the campaign," Fischer adds.

While Republicans criticize the order, voting rights groups want it to do more

Robyn Patterson, a White House spokesperson, said in a statement that GOP claims against the order are "baseless" and "brought by the very people who spread debunked lies about the 2020 elections and have used those same debunked lies to advance laws across the nation that make it harder to vote and easier to undermine the will of the people."

"The Biden-Harris Administration will continue working to protect the voting rights of every eligible American regardless of their political affiliation," Patterson added.

Many voting rights groups, however, say that some of the federal agencies have been slow to carry out the executive order's full intent.

In a [2023 progress report](#), a coalition of groups led by The Leadership Conference on Civil and Human Rights outlined recommendations for agencies that the organizations said could generate an additional 3.5 million voter registration applications a year.

One proposal is to add a question about voter registration to health insurance applications on HealthCare.gov — a move that Sara Lonardo, a spokesperson for the Department of Health and Human Services, says the agency "continues to actively explore" in time for the next open enrollment period, which is set to start Nov. 1, four days before voting ends for this year's general elections.



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Biden officials keep states waiting on expanding Medicaid voter registration

“I think all of the agencies could still do more to fulfill the letter and the spirit of the executive order,” says Leslie Proll, senior director of the voting rights program at The Leadership Conference.

Proll notes that “because it was a fairly novel idea that agencies look at their own programs and make sure that they are promoting voter registration, some of them took longer to get going in the process.”

“With the tsunami of voter suppression unleashed 11 years ago, when the Supreme Court's Shelby County decision gutted the hearts of the Voting Rights Act, it has become much harder for voters of color to register and, frankly, to stay registered to vote,” Proll adds. “And so this order does something in terms of trying to close that gap.”

Exactly how much progress the order has made, however, is murky.

In 2022, the White House announced two tribal schools operated by the Interior Department's Bureau of Indian Education — Haskell Indian Nations University in Kansas and the Southwestern Indian Polytechnic Institute in New Mexico — as the first federal programs to be designated by states as voter registration agencies under the National Voter Registration Act since Biden's order.

But asked by NPR for the numbers of completed registration forms collected by these programs, spokespeople for the Interior Department and the secretaries of state for Kansas and New Mexico did not provide any figures.

A statement from Whitney Tempel, a spokesperson for Kansas Secretary of State Scott Schwab, a Republican, however, noted that state election officials considered Haskell to be a voter registration agency long before Biden's order.

“The U.S. Department of Interior kept reaching out to the Governor and our office for a proclamation to deem the university a voter registration agency. This was simply a public relations strategy from the Biden administration,” Tempel said in an email, adding that “the 2022 proclamation didn't change anything, as Haskell University has been a voter registration agency for over 20 years.”

In response, Interior spokesperson Melissa Schwartz said in a statement that the department is “grateful” that both Kansas and New Mexico “engaged in productive conversations to provide documentation identifying the federal and state laws to designate voter registration agencies.”

Haskell University’s designation “comes with a great responsibility and honor,” Kansas Gov. Laura Kelly, a Democrat, says in [the proclamation for the school](#), “as voter registration is the foundation of our Democracy and electoral process.”

Edited by Benjamin Swasey.

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