

FALL 2017



# LET PEOPLE VOTE

**ACLU**

## Ensuring Justice at the Ballot

### Making our Democracy Accessible to All

**V**irginia has a long and troubled history with voting rights. Virginia is the fifth worst state in the nation at disenfranchising its citizens and, worse, the unfair, disproportionate impact on the African-American community is increasing. It is time we made clear that the right to vote is essential to a healthy democracy, and it belongs to the people. It is not a privilege to be used by the government to reward or punish its people.



Courtesy credit: Kathryn  
Gamble-Special to the  
Register /ACLU



**Defenders of liberties, have  
you liked and followed us on  
social media?**



<https://www.facebook.com/acluofvirginia/>



<https://twitter.com/ACLUVA>



<https://www.instagram.com/acluva/>

# Proposals for Reform



## 1. *Guaranteeing the Right to Vote*

All citizens should be able to exercise their fundamental right to vote without restriction. It is time we made clear that the vote is inherent to citizenship, the essential building block of civic life in our democracy, and it belongs to the people, not the government they elect.

In order to guarantee the right to vote for all Virginians, we must enact a concise constitutional amendment that:

- (1) repeals current discriminatory limits on the right to vote; and
- (2) inserts an affirmative right to vote in Virginia that cannot be abridged by law.

## 2. *No-Excuse Absentee Voting*

We also need to repeal our outdated excused-based absentee voting laws that allow only certain classes of voters to vote by absentee ballot, while prohibiting all other voters from using the same process.

The time has come to recognize that all voters in our democratic society should be able to vote by absentee ballot without being required to provide the government with an excuse for doing so. It is imperative that Virginia promote fair, free, and accessible elections by enacting true reform that allows every citizen to have an equal voice in our democracy.



# Guanranteeing the Right to Vote

**Voting in America is an “entitlement” not a privilege.** The right to vote is fundamental to our democracy, and it must be treated as irrevocable. It is not a privilege like a driver’s license. The right to vote ought to be treated the same as other fundamental rights in our democracy, such as freedom of religion or speech. The act of voting is “perhaps the most politically expressive activity” that any one individual can do in our democracy.

In America, every vote is supposed to count. Enshrining a guaranteed right to vote in Virginia’s constitution would ensure that all citizens have their voice heard in our democracy and on the laws that govern them. Further, a guaranteed right to vote would incentivize elected officials to be more accountable to all of us.



## DISFRANCHISEMENT

**Virginia is the fifth worst state in the nation for felony disenfranchisement.** The disenfranchisement rate for all Virginians is 7.8 percent, as more than 500,000 people cannot vote. Today, nearly 22 percent of African-Americans in Virginia are permanently banned from voting, or one in every five. As the disproportionate representation of African-Americans in the criminal justice system has grown, so has impact on disenfranchisement rates.

Permanently stripping the right to vote from people at the time of a felony conviction is dehumanizing and adds to the isolation from the society and the laws that govern

them. When the government denies the right to vote to anyone, it tells them they are lesser Americans. When people are told that they are less than full citizens, it hinders rehabilitation, which is counterintuitive to the goals of the criminal justice system. If we want to rehabilitate people convicted of crimes, most of whom return to their communities to be safe and productive citizens, we should encourage civic participation while incarcerated and after release. Experts have found that lower recidivism rates may result from voting and have stated “voting appears to be a part of a package of pro-social behavior that is linked to desistance from crime.”

**As evidenced by Virginia history and reform efforts, getting one's vote back is challenging.**

The governor has the sole discretion to restore the right to vote and the process is often confusing because of the lack of notice provided by the government, incorrect information given by local officials, and constantly changing eligibility criteria and requirements.

In Virginia, it is no longer okay to allow government to decide who gets to vote. Every citizen in Virginia,

including those incarcerated, are governed by the same laws. If every citizen is governed by the same laws, it stands to reason that everyone should have the right to vote in choosing who represents them. All citizens should be able to exercise their fundamental right to vote without restriction. Full citizenship requires the ability to have a voice in government.

## THE SOLUTION

### Pass a constitutional amendment that:

1. **Repeals discriminatory restrictions** on the right to vote; and
2. **Inserts an affirmative right to vote** without restriction for every Virginian who is a U.S. citizen at least 18 years of age. This amendment makes it clear that every citizen has an equal voice in Virginia and can participate in our democracy without restriction.

### Amending the constitution is a difficult process in Virginia. Here is what has to happen:

1. A proposal must first pass the House of Delegates and the Senate.
2. After an intervening election of the House of Delegates, the identical wording of the proposed amendment must pass both chambers a second time.
3. The amendment must be approved by Virginia voters by referendum.



# No-Excuse Absentee Voting

**Virginia's excuse-based absentee voting law does not let all voters participate.** The law unfairly privileges some classes of voters over others and gives them a special right. Voting in the Commonwealth should be equally and uniformly accessible to every voter, no matter the method. Every voter should be given an equal opportunity to vote absentee in-person or by mail for any reason or none should be accorded this opportunity.



No-excuse absentee voting makes sense in modern-day society and recognizes the constraints of our busy lives. No-excuse absentee voting allows all voters in our democracy to exercise their fundamental right to vote in a more accessible and convenient method.

## EQUAL OPPORTUNITY

**The General Assembly has approved 19 excuses that allow voters to vote by absentee ballot in Virginia.** A voter must state an approved excuse and sign the application under penalty of a felony if false information is provided. The law gives some voters preferential treatment over others who also may not be able to vote easily on Election Day for other, unapproved reasons. Every voter should be able to vote by absentee ballot equally.

The problem with our excuse-based system is that it elevates some classes of voters over others, which inherently is unfair. It gives only some voters the “privilege” to vote before Election Day, in-person or by mail. Some reform efforts have sought to allow no-excuse absentee

voting for people wanting to vote absentee in-person only but not to those wanting to vote by mail. The problem with limiting no-excuse absentee voting to people casting ballots in-person, however, is that many qualified voters may be excluded from participating based upon a lack of readily accessible transportation, geography, income status, physical disabilities, or the constraints of modern-day life on individuals and families.

Voting in the Commonwealth should be equally and uniformly accessible to every voter, no matter the method. Every voter should be given an equal opportunity to vote absentee in-person or by mail for any reason or none should be accorded this opportunity.

**In addition to treating Virginia voters differently depending on who they are or where they live, Virginia's excused-based absentee voting law threatens privacy rights by mandating that qualified voters disclose personal information for some approved excuses.** For example, if a voter is pregnant (an approved excuse) and wishes to vote by absentee ballot, they must apply and disclose their pregnancy status to election officials – perhaps even

before they have shared such private information with family and friends. The absentee ballot and the excuses given are a public record available for anyone to see, and no systems are in place to keep the application secure.

No absentee ballot voter should have to disclose personal information to the government (and, potentially, any member of the public) to exercise their right to vote.

**Absentee voting should be universally available to all Virginia voters by both in-person and by-mail methods.** No-excuse absentee voting is not a novel, untested concept in elections. Voting by no-excuse absentee ballot has been successful nationwide. Thirty-seven states and the District of Columbia (including three states that conduct all-mail elections), offer absentee voting in-person and/or early voting without having to provide an excuse. Twenty-seven states and the District of Columbia offer no-excuse absentee voting by mail. Only 20 states, including Virginia, still require voters to provide an approved excuse to vote by absentee ballot.

No-excuse absentee voting makes elections more accessible and improves voter participation and retention. No-excuse absentee voting is another way people in our democracy can fairly participate, a common-sense reform that makes our democracy more accessible.

## THE SOLUTION

**Pass legislation that allows for no-excuse absentee voting by mail and in-person so that all voters can easily participate and our democracy is more accessible. In order to do that, here's what you need to do:**

1. Meet with your state delegate and Senator and ask them to sponsor and actively support legislation that will allow anyone to vote absentee for any reason.
2. Ask your general registrar and members of your local electoral board to take a public position in support of allowing all voters to vote absentee in-person or by mail without exception.
3. Write a letter to the editor of your local newspaper to raise public awareness about why no-excuse absentee voting makes our democracy stronger for all voters and protects the privacy of Virginians voting absentee.

# Virginia Let People Vote Campaign

## OVERVIEW

Under the backdrop of an ongoing assault on voting rights by the Trump Administration and its allies, the ACLU outlined state-by-state campaign goals and key strategies for volunteer activism that would allow those seeking to protect and advance voting rights to go back on offense. The campaign consists of location-specific calls to action in each of the 50 states and the District of Columbia. These calls to action fall within four themes: election reforms to update our voting system and make participation easier; counters to voter suppression schemes designed to block access to the ballot; voter restoration policies that give people who have served their time and are returning to their communities a chance to fully participate in society; and redistricting reforms to stop corrosive partisan gerrymandering.



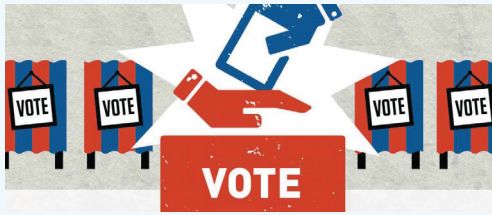
*On Oct. 1, members of the Richmond People Power group met at the ACLU of Virginia's office to watch the launch of the Let People Vote campaign.*

Let People Vote is a volunteer-led campaign where volunteer activists will drive change in their local communities and states, through diverse, grassroots actions. Using action plans developed by voting rights experts and experienced organizers, volunteers will contact their state representatives and elected officials, submit Letters to the Editor to their local newspapers, canvass and collect petition signatures, press their city councils to adopt local resolutions, and participate in countless other types of civic action.

To learn more about the Let People Vote campaign, including the Virginia-specific policy targets and action plans, and ways you can get involved, visit <https://vote.peoplepower.org/>.



# VIRGINIA'S CALL TO ACTION



In the period between now and the end of the legislative session in March, People Power activists/volunteers, with the support of the ACLU of Virginia, will be able to work independently with their teams and other teams to:

- **Organize and participate in community education** and outreach events in support of no-excuse absentee voting;
- **Meet with elected officials and their staff**, gather and deliver petition signatures, speak out at public meetings and town halls, organize protests, make phone calls, and send letters, in order to:
  1. Urge their state lawmakers to pass a no-excuse absentee voting bill;
  2. Urge their local officials, in particular election officials who run local elections, to release public statements in support of no-excuse absentee voting;
- **Gather petition signatures** in high-traffic public locations and at local events like farmers' markets, as well as canvass for these signatures by going door-to-door in your neighborhood discussing the importance of no-excuse absentee voting with members in your community;
- **Submit Letters to the Editor** (LTEs) to local newspapers, stressing the need to ease access to the ballot box by allowing no-excuse absentee voting;
- **Make phone calls to the Governor**, once a bill has been signed, to urge its prompt signing into law; and
- **Take other actions to promote this election reform** and voting rights more broadly, as determined by their People Power teams.

Dear Editor:

With complicated and confusing rules on absentee voting, Virginia continues to lag other states in promoting more open and accessible elections. Thirty-seven other states permit voters to vote early or by absentee ballot without having to provide an approved excuse and it has had great success.

No-excuse absentee voting has led to greater participation in elections, relieved long lines at the polls on Election Day, and accommodated our modern-day, busy schedules that require flexibility. It also relieves the stress on poll workers on Election Day and makes it less likely that mistakes will occur. In short, no-excuse absentee voting makes democracy more accessible for everyone to participate.

It's time for legislators to pass legislation that allows all voters to participate in our democracy equally. No-excuse absentee voting by mail and in-person contemplates our modern society and would allow more citizens' voices to be heard.

# HOW WE FOUGHT FOR VOTING RIGHTS

## AT THE 2017 GENERAL ASSEMBLY

After the U.S. Supreme Court gutted the Voting Rights Act in 2013, Virginia passed a strict ID law that requires voters to present an approved, valid photo ID to vote, and legislators have not been shy about introducing other voter suppression bills. In addition, unlike other states, no meaningful reforms have passed the legislature. Virginia severely limits the ability to vote absentee, requiring an “excuse” in every case, and there is no state constitutional amendment recognizing the right to vote that would make voting more accessible and promote democratic ideals in Virginia. Here’s how we fought at the 2017 General Assembly to push back against regressive laws designed to further suppress the vote.

### BILLS WE OPPOSED THAT FAILED

#### **HB1598 - Voter registration; proof of citizenship required to register to vote in certain elections. (Cole)**

Because Virginia cannot legally impose this requirement in federal elections, this bill sought to create a separate system for state and local elections with additional requirements. A two-tiered registration and voting system would be impossible to efficiently administer, cost the taxpayers untold amounts of money to implement, and create confusion and long lines at election time. This was an ill-considered proposal that would have placed further barriers in the entrance to the voting booth without any reason, basis in fact or thought about the administrative and human costs. It was an effort to further suppress the vote in Virginia.

#### **SB 844 - Absentee voting; no-excuse in-person available 21 days prior to election. (Howell, J.)**

This bill would have allowed for any registered voter to vote by absentee ballot in person in any election in which they are qualified to vote without providing a reason or making prior application for an absentee ballot. The bill retained the current provisions for voting an absentee ballot by mail, including the application requirement and the list of statutory reasons. We oppose the excuse-based system and continue to be concerned about its effects and limitations. If Virginia limits no-excuse absentee voting to in-person

only, qualified voters may be excluded from participating based upon a lack of readily accessible transportation, geography, income status, and the constraints of modern-day individuals and families. The excuse-based system also continues to threaten the privacy of voters who vote by absentee ballot. All Virginia voters should have the ability to vote by absentee ballot either by mail or inperson without providing a reason.

#### **SJ223 - Constitutional amendment; qualification of voters and executive clemency**

This resolution sought to constitutionalize previously discarded obstacles to the right to vote. This measure would have continued to say anyone convicted of any felony at any time can never vote again unless they meet certain criteria and follow certain procedures to ask for their vote back. The right to vote would have been conditioned on full repayment of government fines, costs and user fees (including interest) – a modern day poll tax. In addition, the legislature would have been granted the ability to decide whether a felony is violent or nonviolent and to decide the terms on which people convicted of nonviolent felonies can get their vote back. Finally, it would have established specific criteria for the governor to follow in deciding whether to give a person convicted of a violent felony their vote back, including a requirement that a person wait five years after all fines, fees and costs are paid before even asking for the vote back.

# COMMUNITY ACTIVISTS, CHECK OUT OUR ADVOCACY TOOLKITS!

From voting rights and immigrants' rights to police practices and prosecutorial reforms, we have created a collection of advocacy toolkits to empower you in your grassroots activism efforts. Please visit our website at <https://acluva.org/en/resources/advocacy-toolkits> and take a look at these resources!

Courtesy credit: Allison Shelley /ACLU





AMERICAN CIVIL LIBERTIES UNION OF VIRGINIA  
701 E. Franklin Street, Suite 1412  
Richmond, VA 23219

NON-PROFIT  
ORGANIZATION  
U.S. POSTAGE  
**PAID**  
RICHMOND, VA  
PERMIT NO. 351

Nov.  
15

## MARK YOUR CALENDAR

*The deadline for individuals seeking nomination to the ACLU of Virginia's board of directors is **Nov. 15, 2017**. All submissions must include a statement of interest from the candidate and be submitted to [actlvab@acluva.org](mailto:actlvab@acluva.org).*