



**SOUTHERN  
COALITION**  
for SOCIAL JUSTICE



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## **Voting Rights Organizations File Federal Lawsuit to Ensure North Carolina Holds Fair, Safe Elections in November**

DURHAM, N.C. — On behalf of Democracy North Carolina, the League of Women Voters of North Carolina and six individual voters, the Southern Coalition for Social Justice, Fair Elections Center and pro bono counsel from law firm WilmerHale have filed a lawsuit demanding North Carolina take the necessary steps to guarantee a fair, safe election in November, given the likelihood that the state and the country will still be experiencing the effects of the COVID-19 pandemic.

Defendants of the suit, filed in the U.S. Middle District of North Carolina, include the North Carolina State Board of Elections, the North Carolina Department of Transportation and the North Carolina Department of Health and Human Services as well as leaders of the three organizations in their official capacities.

“This public health crisis has endangered the machinery of our democracy by threatening massive disruptions in election administration, especially in a presidential election year that was on track for exceptionally high registration and turnout,” the lawsuit states.

“Many states have already taken drastic measures to counteract the spread of COVID-19 and ensure that eligible voters can cast their ballots safely. North Carolina, however, has failed to act; it has not altered its statutory electoral scheme in order to allow for safe and accessible voting. As a result, without this Court’s timely intervention, millions of North Carolinians will likely either lose their right to vote or be forced to compromise their health in order to access the franchise.”

Addressing both absentee ballot and in-person voting concerns, this lawsuit is believed to be one of the most comprehensive filed nationwide as numerous organizations seek to ensure that voters can cast their ballots without risking their personal health in the midst of a pandemic.

“Under the current law, North Carolina’s elections are not designed to facilitate safe voting during a public health crisis, and the General Assembly has failed to promptly address the situation,” said Allison Riggs, chief voting rights counsel and interim director of the Southern Coalition for Social Justice. “While November may still seem like it’s a long way off, we do not have time to wait. Action must be taken immediately or North Carolina voters will be forced to choose between their health and exercising their constitutionally protected right to vote.”

“North Carolina is unprepared to hold a presidential election during a pandemic, as the State Board of Elections' repeated pleas to the Legislature have revealed,” said Jon Sherman, Fair Elections Center senior counsel. “The state is sorely lacking in vital safeguards and precautions for both mail-in and in-person voters to safely cast a ballot. With an expected ten-fold increase in absentee ballots this fall and fast-approaching deadlines for printing those ballots, there is zero time to waste.”

Though the general election is still more than five months away, many of the changes needed to guarantee a safe election will take months to implement, requiring governments to take action now. Among the specific challenges facing North Carolina’s upcoming general elections outlined in the lawsuit are:

- **Limited ability to register new voters.** The COVID-19 pandemic and related stay-at-home orders have already impacted voter registration efforts. In addition to the cancellation of in-person registration drives, the ability of individuals to access printers, postage and state agencies such as the Department of Motor Vehicles to register by mail or in person significantly impacted voter registrations. January 2020 saw a 162 percent increase in registrations compared with January 2016; however, April 2020 saw a 50 percent decrease compared to the same time period.
- **Rules around requesting and using a vote-by-mail absentee ballot.** While North Carolina allows all voters to vote by mail if they choose, many of the laws governing the practice make it challenging to do so. For example, an absentee ballot must be requested, yet requests are not allowed by phone, email or online. A law passed in 2019 restricts who can assist voters who may be blind, disabled or unable to read and write with making that request.

When casting an absentee ballot, voters must have the signature of two witnesses over the age of 18 or a notary, a requirement that could force voters to break quarantine or social distancing measures. North Carolina is one of just three states that requires two witnesses and one of only 12 that requires any witnesses or a notary signature to cast an absentee ballot.

North Carolina also does not have a process in place to allow voters to appeal if their absentee ballot is thrown out as invalid, meaning potentially thousands of votes could fail to be counted with no legal remedy.

- **Creating a safe environment for in-person voting.** While more people are expected to vote by mail this year, in-person voting will likely remain the method of choice for most North Carolinians. However, several current policies will make it challenging to create a safe environment. With most of the state’s poll workers over the age of 60, many of them have already expressed concern about working in November. A decline in the number of poll workers could lead to a reduction in the number of precincts, requiring people to wait longer to cast their ballots. Local boards of election need more ability to recruit and train workers and assign them where they are needed.

North Carolina also needs to permit more flexibility in the scheduling of early voting sites, allowing more sites to be open during the busiest times.

Many of these same challenges and remedies were outlined to the governor and the North Carolina General Assembly in a letter from North Carolina Board of Elections Director Karen Brinson Bell on March 26. While the General Assembly has passed other COVID-related legislation, it has not taken up any bills related to conducting safe elections during the pandemic.

In the suit, the plaintiffs ask the Court to take immediate action on a number of items in advance of November’s election including:

- Waiving the requirement that voter registration applications be submitted at least 25 days before the election.
- Making it easier to request and submit an absentee ballot, including waiving the witness requirement and allowing absentee ballots to be requested via phone, email or online.
- Creating a process for absentee ballots to be submitted in a manner other than by mail, such as contactless drop boxes where they could be delivered.
- Making in-person voting safer, including loosening restrictions on poll worker recruitment, creating greater flexibility in early voting sites and providing personal protective equipment to all precinct workers.

“Democracy North Carolina has a long-standing history of working to increase voter participation throughout the state. While COVID-19 has significantly disrupted many aspects of our lives and our society — especially for Black and Brown voters in many parts of our state — we cannot afford to let this pandemic negatively impact this fall’s elections,” said Tomas Lopez, executive director of Democracy NC. But elections take time to plan and voters need certainties, and so we’ve turned to our courts to do what our legislature has yet to do: act quickly to remove barriers and expand voting access so that North Carolina voters don’t have to risk their health to participate in their democracy

“Under the current system, North Carolina voters will be making some tough decisions in November, not just on who to vote for, but on if they are willing to risk their health to cast their

ballot at all," said Jo Nicholas, president of the League of Women Voters of North Carolina. "The League of Women Voters remains committed to ensuring every eligible individual has the ability to cast their vote in a safe and efficient manner."

Read the complaint at: <https://bit.ly/3cUrAcc>

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*The Southern Coalition for Social Justice, founded in 2007, partners with communities of color and economically disadvantaged communities in the South to defend and advance their political, social, and economic rights through the combination of legal advocacy, research, organizing and communications. Learn more at [southerncoalition.org](http://southerncoalition.org) and follow our work on [Twitter](#) and [Facebook](#).*

*Fair Elections Center is a national nonpartisan and non-profit voting rights and election reform organization based in Washington, DC whose mission is to use litigation, public education and advocacy to remove barriers to registration and voting, and to improve election administration.*

*Wilmer Cutler Pickering Hale and Dorr LLP (WilmerHale) provides legal representation across a comprehensive range of practice areas that are critical to the success of its clients. The law firm's leading Intellectual Property, Litigation/Controversy, Regulatory and Government Affairs, Securities, and Transactional Departments participate in some of the highest-profile legal and policy matters. With a staunch commitment to public service, the firm is renowned as a leader in pro bono representation. WilmerHale is 1,000 lawyers strong with 13 offices in the United States, Europe and Asia. For more information, please visit [www.wilmerhale.com](http://www.wilmerhale.com).*