

Ballot Collection in the 2020 Elections

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Abstract:

The coronavirus pandemic heightened the importance of ballot collection in 2020, as a record number of people voted absentee and many were unable or uncomfortable with the risk posed by leaving their home to return their ballots. Ballot collection refers to the practice of third-party individuals gathering and submitting completed absentee ballots for other voters. Ballot collection can provide a convenience for all voters who cast mail ballots, and it can provide a solution for mail voters with disabilities or other challenges that make going to a post office, mail box, or election site particularly difficult. This memo surveys the debate about ballot collection, the state laws regulating it, and the litigation regarding ballot collection laws and practices in the 2020 general election.

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I. Introduction

In the wake of an election with a [record number](#) of absentee ballots, every aspect of the mail balloting process has garnered renewed attention. Most voters of mail ballots deposit their ballots into mailboxes or drop boxes or deliver them to polling places or election offices. In the 2020 general election, as in prior elections, some mail voters gave their completed ballots to family members, friends, or other third parties who delivered them on their behalf. The coronavirus pandemic increased the salience and importance of the rules concerning such third-party ballot collection, because many people were unable or unwilling to leave their homes to deposit their ballots themselves.

The practice of ballot collection (which is sometimes pejoratively called “ballot harvesting”) has led to debate over how best to balance voter access and convenience with election security and integrity. In 2020, as in past years, partisans argued about the chain of custody in ballot delivery and the potential for election fraud. This policy debate also spilled over into the courtroom during the 2020 election season, as plaintiffs in several states litigated the topic of ballot collection laws and practices. This report reviews the general parameters of the debate around ballot collection, the specific allegations of fraud in ballot collection during the 2020 election, the various state statutory requirements governing ballot collection in 2020, and the many lawsuits on the topic in 2020.

II. The Debate Over Ballot Collection or “Harvesting”

As with so many issues concerning mail balloting, the different policies surrounding the collection and return of mail ballots became topics of polarized debate. Those who saw third-party assistance as helpful in granting greater accessibility to voters often refer to the practice as “community ballot collection.” Those who opposed the practice called it “ballot harvesting.” As the parties’ positions in litigation attested to, Democrats in 2020 generally favored the practice, while Republicans generally opposed it.

Supporters of third-party collection of ballots maintained that the practice was critical for voters who had difficulty returning their ballots in person or through the mail. This was particularly true for voters in [rural areas](#) or [Native Americans living on reservations](#), where the nearest post office, mailbox, or ballot drop box might be far away from their residence. For voters who lacked cars and did not have regular postal service to their residence, having a third party collect and return their ballots could be critical in getting ballots to an election official in time to

be counted. The coronavirus pandemic exacerbated many of these concerns, especially for individuals vulnerable to respiratory diseases who faced increased risks when leaving the house or taking public transportation. Even though many states expanded mail-in voting due to the coronavirus pandemic, ballot collection was still an important option for individuals who feared that the postal system might delay or lose their ballots.

[Opponents of ballot collection](#) contended that the practice increased the likelihood of voter fraud or intimidation. Once the ballot left the voter's hand, the voter had no control over what the third party ballot collector might do with the ballot—revote it, tamper with it, destroy it, or fail to deliver it on time. Critics pointed to a 2018 [high-profile ballot collection](#) violation in North Carolina's Ninth Congressional District. There, a campaign consultant was [indicted](#) for [improperly handling](#) absentee ballots by having people other than the voters to whom absentee ballots had been issued mark or sign as witnesses for voters they had never met. With respect to voter intimidation, opponents of ballot collection [cited instances](#) where third-party ballot collectors have "strong-armed" voters, pressuring them to complete and hand over their absentee ballots.

III. Ballot Collection Allegations in the 2020 General Election

Disputes over ballot collection flared up in a small number of states during the 2020 election season. The few allegations of fraud due to ballot collection, and the tenuous nature of some of the allegations, suggested that ballot collection fraud was not a widespread problem. There were three broad categories of allegations: (1) misuse of drop boxes by voters; (2) misuse of drop boxes by partisan organizations; and (3) partisan officials being paid to manipulate and deliver absentee ballots.

A. Drop box misuse by voters

The Republican Party alleged that ballot collectors routinely dropped off multiple ballots at ballot drop boxes, in violation of Pennsylvania state law. In Northampton County, Pennsylvania, the county GOP said its volunteers, while monitoring the county's four ballot drop boxes from a distance, witnessed about 10 cases of people dropping off multiple ballots, [according to](#) the county Republican Party chairwoman, Lee Snover. Snover posted photos of what appeared to be voters dropping off bags of ballots, in violation of Pennsylvania's restrictive ballot collection laws that do not permit third-party ballot collection. In Philadelphia County, the Trump

campaign [videotaped](#) voters dropping off two or three ballots at a time. In response, the city solicitor for Philadelphia noted that, while third-party delivery is generally prohibited, “voters who require assistance delivering their ballot may appoint an agent to do so.” County executives, along with Pennsylvania Attorney General Josh Shapiro, also reiterated that dropping off another person’s ballot was illegal.

B. Drop box misuse by election officials

The major conflict over drop box misuse occurred in early October in California, where state and county-level Republican parties [set up](#) more than 50 unofficial drop boxes, labeled them as “official” “secure ballot dropoff location[s],” and indicated they were “approved and bought by the GOP.” The drop boxes were placed in Los Angeles, Fresno, and Orange counties. The California Republican Party argued that these drop boxes were effectively the same as in-person ballot collection and, therefore, complied with California’s ballot collection law. California law permitted anyone to collect and submit another voter’s ballot. Opponents of the GOP drop boxes, including California Attorney General Xavier Becerra, argued they were illegal because California law prohibited unofficial, unauthorized drop boxes and because they constituted fraudulent solicitation of votes.

California Secretary of State Alex Padilla sent a [cease-and-desist letter](#) to the California Republican Party, warning that he would pursue legal action if the Republican Party did not comply by October 15. The California Republican Party said it would not comply with the cease-and-desist order, but it did agree not to use unstaffed or unsecured ballot drop boxes. Padilla [decided](#) not to take further action and said that he would continue to monitor the Republican Party’s activities and proceed with an investigation, if necessary. On October 21, when some social media posts showed that the drop boxes were still wrongly marked as “authorized” or “official,” Padilla and state Attorney General Becerra sought a subpoena, seeking information about voters whose ballots had been collected at the unauthorized drop boxes. A California court [denied](#) the attorney general’s motion to expedite the lawsuit, and Becerra voluntarily [dismissed](#) the lawsuit because he said his office was able to ensure through other means that the ballots dropped in the Republican boxes had been delivered to election officials. The California Republican Party blamed the misleading signage on its drop boxes on “overzealous” volunteers and said the improper signage was quickly taken off the drop boxes.

C. Manipulating and delivering absentee ballots

Opponents of ballot collection argue that laws permitting ballot collection open the door for individuals to collect large numbers of ballots and tamper with or alter them. In Texas, [state law](#)

allowed absentee voters to have their ballots returned by a family member, roommate, or, in the case of a person with a disability, a person designated as their voting assistant. In [in re Hotze, plaintiffs](#), a group of Republican voters, party officials, and political nominees, petitioned the Texas Supreme Court for a [writ of mandamus](#) to invalidate a Harris County clerk's decision to allow voters to drop off completed absentee ballots to 11 county clerk annexes. In the [petition](#), the plaintiffs submitted affidavits from two private investigators who said they had documentation that two Democratic campaign operatives were collecting blank absentee ballots and ordering others to complete the ballots, pretending to be other people, including dead people, homeless people, and nursing home residents. The claims were unsupported by any evidence other than the affidavits, and the Texas Supreme Court [denied](#) the writ of mandamus without comment.

At the end of September, ballot collection critics in Minnesota [cited](#) videos of a man driving around Minneapolis, appearing to be illegally delivering dozens of completed absentee ballots. Project Veritas, a right-wing organization that promoted the video, alleged that the man was paid by a representative in the U.S. House to harvest those ballots. However, the Stanford Internet Observatory's Election Integrity Partnership [concluded](#) that the video was part of a "coordinated elite disinformation campaign." Indeed, the original footage of the video was produced when Minneapolis had permitted individuals to collect more than the statutory limit of three ballots. The man in the video also [denied](#) that he filled out the ballots or altered them in any way.

IV. State Rules on Ballot Collection

Laws and regulations governing the collection of ballots vary significantly by state and tend to revolve around two issues: (1) who is allowed to assist voters by collecting and returning their ballots; and (2) how many voters can a third party help via ballot collection. Some states have additional restrictions on ballot collection, and many states include exclusions or exceptions to the general regulations. For a list of state-specific regulations, please refer to this [table](#) (although recent changes in states, such as Florida, may not be reflected there).

A. Who can assist with ballot collection?

Ballot collection rules vary by state. Four states (Alabama, Nevada, Oklahoma, and Pennsylvania) ban ballot collection by third parties altogether, allowing no one but voters themselves to drop off their ballots. Eleven states (Alaska, Arizona, Georgia, Massachusetts, Michigan, Missouri, New Hampshire, New Mexico, North Carolina, Ohio, and Texas) allow a

family member, friend, caregiver, or member of the voter’s household—some allow all four—to drop off an absentee ballot on behalf of a voter.

Seven states (California, Colorado, Connecticut, Indiana, Maine, Oregon, and Tennessee) permit additional third parties—outside of immediate family members or caregivers—to assist with ballot collection. For instance, [Indiana](#) permits a “person designated as the attorney for the voter” to collect a voter’s ballot. [Connecticut](#) permits police officers to collect ballots. [California](#) allows voters to “designate another person to return the ballot,” without requiring a ballot collector to have any specific relationship to the voter.

Some states impose additional restrictions on who can collect and deliver an absentee ballot. Virginia and Washington, D.C., for instance, allow third-party ballot collection only in emergency or extenuating circumstances, such as disability, illness, or accident. While [Virginia](#) issued official guidance explicitly stating that contracting COVID-19 was a valid excuse for third-party ballot collection in 2020, the District of Columbia was silent on the matter. Three states (California, North Dakota, and Maine) explicitly prohibit compensation for delivering a ballot on behalf of a voter.

Finally, the laws in 13 states (Delaware, Idaho, Hawaii, Kentucky, Mississippi, New York, Rhode Island, Utah, Vermont, Washington, Wisconsin, Wyoming, and West Virginia) do not explicitly specify who can collect ballots; third-party ballot collection is neither explicitly prohibited nor explicitly protected by state regulations.

B. Limits on the number of ballots collected

In addition to regulations concerning who can deliver a ballot on a voter’s behalf, many states restrict how many ballots an authorized individual may deliver on behalf of other voters. Eleven states (Arkansas, Colorado, Georgia, Louisiana, Maine, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, and West Virginia) explicitly limit the total number of ballots an authorized individual may deliver on behalf of voters. Delivery limits range from no more than one ballot, as in [Louisiana](#), to no more than 10 ballots, as in [Colorado](#) and [Georgia](#). Limits on how many ballots a notary public can notarize in one election range from three ballots, the limit in [New Jersey](#), to 20 ballots, the limit in [Oklahoma](#). The remaining states that allow for third-party ballot collection do not specify or restrict the number of ballots a third party may deliver or notarize on behalf of voters.

C. Other ballot collection measures to address fraud

Some states impose additional restrictions on ballot collection to reduce the likelihood of voting fraud, such as the possibility that a person collects ballots but then fails to deliver them. In [Oregon](#), no one may collect ballots within 100 feet of any building that is officially designated for ballot drop off. Third-party ballot collectors are also prohibited from establishing a location to collect voted ballots *unless* the third party displays a sign stating: “NOT AN OFFICIAL BALLOT DROP SITE.” These measures are designed to prevent voters from dropping their ballots off at a location they mistakenly believe is an official voting location.

Some states have adopted measures to ensure that ballot collectors do not fraudulently obtain or tamper with voters’ ballots. For example, 13 states (Arkansas, Illinois, Iowa, Kansas, Louisiana, Maryland, Minnesota, Montana, Nebraska, New Jersey, North Dakota, South Carolina, and South Dakota) require authorization—often by voter signature—to collect and drop off ballots on behalf of the voter. [South Dakota](#) takes a different approach, requiring that ballot collectors directly notify the election supervisor of the precinct for each voter from whom they collect a ballot. [Nebraska](#) prohibits a candidate or anyone serving on a candidate’s campaign committee from serving as a ballot collector, unless the person is a member of the voter’s family. This ostensibly reduces the likelihood that a ballot collector would be incentivized to tamper with the ballot.

Some states attach criminal penalties to aspects of ballot collection in order to deter voter fraud. For instance, in four states (Arizona, North Carolina, Oklahoma, and Texas), an unauthorized third party who collects and delivers a ballot on behalf of a voter commits a felony. [Texas](#) explicitly makes it a felony to collect ballots “with intent to defraud the voter or the election authority.”

D. Statutory changes to ballot collection laws in light of COVID-19

In response to the extenuating circumstances surrounding the coronavirus pandemic, a couple of state legislatures relaxed their ballot collection or drop-off laws. For instance, Illinois [modified](#) its election law, permitting election officials to “establish secure collection sites for the postage-free return of vote by mail ballots.” In Nevada, the legislature repealed its criminal prohibition on ballot collection and [permitted](#) voters to authorize third parties to return their ballots. While statutory changes to ballot collection laws have not been widespread, court orders relaxing ballot collection laws in light of the pandemic have been more commonplace. These court orders and lawsuits are discussed below.

V. Lawsuits Over Ballot Collection Laws

Ballot collection has been, not only a contentious talking point and legislative issue but, the subject of litigation over the legality and constitutionality of various ballot collection statutes. Cases were brought by different parties in different states, with the [Republican](#) and [Democratic](#) parties often intervening. Some plaintiffs challenged restrictions on ballot collection, while others challenged the lack of restrictions. Litigants ground their claims on a variety of state and federal statutes and have reached a variety of outcomes..

A. Challenges to laws restricting ballot collection

Plaintiffs who support ballot collection have challenged restrictions on the practice. Among the claims they have raised are:

- **Claims that ballot collection restrictions violate the right of free speech and association.** Plaintiffs raised claims under both the First Amendment and various state constitutional provisions, arguing that collecting ballots constitutes protected political speech, like urging citizens to register to vote and distributing voter registration forms.
 - Defendants responded that there is nothing inherently expressive or communicative about receiving a voter's completed ballot and delivering it to the proper location.
- **Claims that ballot collection restrictions violate equal protection under the Fourteenth Amendment.** Plaintiffs argued that these restrictions on ballot collection and delivery deny equal protection because they have a discriminatory purpose or impact on voters of different ages or voters of different social, racial, and economic backgrounds.
 - Defendants responded that ballot collection restrictions must be evaluated under a "rational basis" review standard and should be struck down as a violation of equal protection guarantees only if they are not rationally related to a legitimate governmental purpose. Here, defendants argued that ballot collection restrictions *are* rationally related to the government's interest in preserving the integrity of elections and preventing voter fraud.
- **Claims that ballot collection restrictions violate various federal statutes.** Plaintiffs argued that prohibitions on ballot collection violate Title II of the Americans with

Disabilities Act and § 504 of the Rehabilitation Act. They argued the restrictions discriminate against and fail to provide reasonable accommodations to persons with disabilities. Litigants also argued that restrictions violated the Voting Rights Act (VRA) because they failed to provide sufficient voting assistance. The VRA provides that “[n]o voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State...in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” Plaintiffs argued that ballot collection restrictions unduly burden Hispanic, African-American, and Native American voters.

- Defendants argued that ballot collection restrictions do not unduly burden the right to vote under the meaning of federal statutes because these restrictions are, at most, minimally burdensome on voters. Defendants emphasized that voters have alternative ways to submit their ballots, including vote-by-mail and ballot drop boxes, both of which make voting widely accessible.

B. Challenges to laws permitting or expanding ballot collection

Plaintiffs who oppose ballot collection challenged laws that permitted or expanded the practice, raising the following claims:

- **Claims that laws that permit ballot collection violate the fundamental right to vote.** Plaintiffs raised these claims under the First and Fourteenth Amendments and under various state constitutional provisions. Plaintiffs argued that permitting ballot collection causes voter-dilution (because fraudulent votes will be counted in with valid votes) and direct disenfranchisement (because some ballot collectors will fail to deliver some ballots).
 - Because plaintiffs were often seeking preliminary injunctions against these permissive ballot collection laws—laws that extended the authority to collect and deliver ballots beyond the voter’s family or household members—defendants emphasized that plaintiffs needed to show a substantial likelihood of irreparable harm if the preliminary injunction was not granted. Defendants argued that plaintiffs had no basis for concluding that any alleged fraud or irreparable harm was likely to occur and, therefore, plaintiffs failed to meet their burden of proof for a preliminary injunction.

- **Claims that laws permitting ballot collection violate equal protection under the Fourteenth Amendment.** In states that permit ballot collection for specific cohorts of voters, such as senior citizens, plaintiffs argued that the state must grant the right to vote on equal terms, that it cannot value one person’s vote over that of another. Such laws, they argued, make it easier for some groups to vote than others and, thus, violate the equal protection clause of the Fourteenth Amendment to the U.S. Constitution.
 - Defendants responded that laws permitting ballot collection should receive “rational basis” review. Defendants argued that state legislatures have a rational basis to adopt these measures as a means of enfranchising voters who might have justifiable health concerns if they voted at in-person polling locations. They argued that state legislatures have the right to strike the appropriate balance among concerns about election integrity, public health, and voter access.

VI. Court Decisions on Ballot Collection in 2020

A. Courts that ruled in favor of ballot collection

- [*Driscoll v. Stapleton, No. DA 20-0477 \(Mont. Sup. Ct. 2020\)*](#) - The Montana Supreme Court in late September ruled in favor of ballot collection proponents, granting a preliminary injunction through the 2020 election against Montana’s restrictions on ballot collection. The restrictions had permitted ballot collection only “by certain persons, including election officials, postal workers, or the voter’s family members, household members, caregivers, or acquaintances.” The court found no evidence “of voter fraud or ballot coercion, generally or as related to ballot-collection efforts.”
- [*Western Native Voice v. Stapleton, No. DV-2020-377 \(Mont. Dist. Ct., Yellowstone Cnty. 2020\)*](#) - A Montana state court ruled in favor of various Native American tribes seeking a permanent injunction against a state law that prohibited ballot collection unless the ballot collector fell into one of six categories of exemption and the law’s limitation on the number of ballots a ballot collector could accept and deliver to no more than six ballots. The court held that the law unduly burdened Native American tribes because Native Americans, living on geographically isolated reservations, systematically lacked access to regular mail service, preventing many from being able personally to mail or drop off their voted ballots. The court also ruled that there was “no basis to support the limit of six ballots per collector.”

- [*Republican National Committee v. Benson*, No. 20-000191-MM \(Mich. Ct. Claims 2020\)](#) - At the end of September, plaintiffs sued the Michigan Secretary of State in state court, seeking declaratory relief that Michigan's ballot collection restrictions were valid and enforceable. The [complaint](#) acknowledged that the law was enjoined by the court in *Michigan Alliance for Retired Americans v. Benson* (described above), but it argued that a declaration of enforceability was needed to prevent fraud, ballot tampering, and voter intimidation. The court at the end of October dismissed the plaintiff's claims as moot.
- [*Democratic Congressional Campaign Committee v. Simon*, No. 62-CV-20-585 \(Minn. Dist. Ct., Ramsey Cnty. 2020\)](#) - A Minnesota state court granted a preliminary injunction against a state law restricting third-party ballot collectors to only three ballots each. The court found that the law would likely impose an unconstitutional burden on protected minorities' right to vote and right to free speech. The court also noted that "the effects of the COVID-19 pandemic will exacerbate the burden on those same affected classes of voters." The Minnesota Supreme Court [affirmed](#) the injunction with respect to the ballot collection restriction.
- [*Election Integrity Project of Nevada v. State of Nevada*, No. A-20-820510-C \(Nev. Dist. Ct., Clark Cnty. 2020\)](#) - Plaintiffs, opponents of ballot collection, sought a preliminary injunction against a new Nevada law that repealed a criminal prohibition against "ballot harvesting" and replaced it with new provisions that plaintiffs alleged "fail to adequately deter voter intimidation." The court denied the preliminary injunction, finding that the plaintiffs had put forward only "unfounded speculations regarding voter fraud."
- [*Cook County Republican Party v. Pritzker*, No. 1:20-cv-04676 \(N.D. Ill. 2020\)](#) - A U.S. district court in Illinois upheld a law that permits election officials to "establish secure collection sites for the postage-free return of vote by mail ballots." The court found that the creation of such drop sites "says nothing to change who may place the ballot in the drop box" and that plaintiff did "not demonstrate that Illinois faces the risk of illegal ballot harvesting or other fraud," as plaintiffs claimed.

B. Courts that ruled against ballot collection

- [*New Georgia Project v. Raffensperger* \(N.D. Ga. 2020\)](#) - A U.S. federal district court in Georgia denied relief to plaintiffs seeking a preliminary injunction against a state law that restricted ballot collection to the voter's family members. The court found that

Georgia’s interest in protecting election integrity outweighed the plaintiffs’ burden.

- [*Crossey v. Boockvar, No. 32-MAP-2020 \(Penn. Sup. Ct. 2020\)*](#) - The Pennsylvania Supreme Court upheld a state law banning ballot collection and held that “it has long been the law of this Commonwealth . . . that third-person delivery of absentee ballots is not permitted.”
- [*Democratic Congressional Campaign Committee v. Ziriax, \(N.D. Okla. 2020\)*](#) - A U.S. district court in Oklahoma found that the state’s ballot assistance law, which makes it a felony offense to assist more than 10 voters in returning sealed absentee ballots, constituted “no more than a minimal burden on a voter’s right to vote” and did not “prohibit or criminalize the plaintiffs’ speech, voter education efforts, or publications, or efforts to get out their members’ votes.”
- [*Michigan Alliance for Retired Americans v. Benson, \(Mich. 2020\)*](#) - A Michigan court of appeals [upheld](#) a state law that restricted ballot collection to specific third parties, such as family members and election clerks. The order reversed a lower state court ruling that had [enjoined](#) the law. The lower court observed that, “in ordinary times, the [ballot collection prohibition] likely poses no constitutional issue. These are not, however, ordinary times.”
- [*Middleton v. Andino, \(D.S.C. 2020\)*](#) - A U.S. district court in South Carolina upheld a law restricting ballot collection to the voter’s immediate family, holding that the law is “rationally related to the government’s interest in preserving the integrity of elections and preventing voter fraud.”
- [*American Federation of Teachers v. Gardner, No. 216-2020-CV-0570 \(N.H. Super. Ct., Hillsborough Cnty. 2020\)*](#) - A New Hampshire state court dismissed plaintiffs’ claim that the state’s ballot collection measure, which restricts ballot collection to family members and caretakers, violated the First Amendment. The court held that “the practice of collecting and delivering absentee ballots is not expressive conduct implicating the First Amendment.”
- [*Alliance for Retired Americans v. Dunlap, No. Ken-20-262 \(Me. Sup. Ct. 2020\)*](#) - The Maine Supreme Judicial Court [affirmed](#) the lower court’s denial of the plaintiffs’ request for a preliminary injunction against Maine’s ban on compensation for ballot collection and Maine’s requirement that some voters have witnesses if they wish to take advantage of ballot collection. In upholding these restrictions on ballot collection, the court found that voters are still afforded “fundamental fairness,” thanks to numerous alternatives

available to use in returning their ballots.

- [*Nielsen v. DeSantis*, \(N.D. Fla. 2020\)](#) - Florida voting groups sued the governor, challenging the prohibition on the use of paid organizers to assist voters with ballot collection. A U.S. district court in Florida denied the plaintiffs' request for a preliminary injunction, concluding they would not suffer irreparable harm before the impending trial. On the eve of the trial, the plaintiffs [dropped the lawsuit](#) in exchange for assurances that Florida would ensure that voters understood mail-in-voting options.
- [*American Women v. State of Missouri*, No. 20AC-CC00333 \(Mo. Cir. Ct., Cole Cnty. 2020\)](#) - Plaintiffs sued in Missouri state court, alleging that the state's "Ballot Collection Ban," which entirely prohibited individuals from helping voters return their completed ballots, was unconstitutional. At the end of October, the Missouri court held that the ban "clearly regulates conduct, not speech" and, therefore, was constitutional.

C. Pending decisions

- [*Arizona Republican Party v. Democratic National Committee*](#) - Individual voters in Arizona, along with the DNC, [sued](#) the Arizona secretary of state, challenging Arizona state law H.B. 2023, which imposed criminal penalties for assisting with ballot collection. A federal judge [upheld](#) the law after a trial, saying that it was, at most, minimally burdensome. In January 2020, a divided Ninth Circuit U.S. Court of Appeals, sitting *en banc* in [*Democratic National Committee v. Hobbs*](#), reversed, ruling that the law was enacted with discriminatory intent and adversely impacted thousands of Native American, Hispanic, and Black voters who had relied on third-party collection. The Arizona Republican Party filed a petition for certiorari to the U.S. Supreme Court on April 27, and the Supreme Court [granted certiorari](#) on October 2 for [two](#) related Arizona voting rights cases, which it consolidated. The Supreme Court stayed the Ninth Circuit decision pending appeal, heard oral argument in the case March 2, 2021, and is expected to rule later in 2021. Therefore, the law criminalizing ballot collection was in effect during the 2020 election, including the early voting period, and ballot collection was a criminal offense in Arizona. No reports or allegations have been found that voters engaged in ballot collection, even amidst these back-and-forth changes to the law.

VII. Conclusion

The debate over access and integrity in mail balloting has often focused on laws and practices relating to third-party ballot collection. As with many other features of American election administration, Democrats and Republicans have hardened their positions on ballot collection, both in their litigation posture and in their public criticism or support for the practice. While critics in 2020 pointed to chain of custody issues with mail ballots, particularly related to drop boxes, and a few possible isolated instances of fraud, there is no evidence of widespread fraudulent third party ballot collection in the 2020 election. Court resolution of pre- and post-election litigation relating to ballot collection laws and practices helped to clarify the applicable rules and mitigate voter confusion. Since the general election, legislators in [nine states](#) have proposed laws that would further restrict who can assist voters in returning their mail ballots. Based on these developments, it appears the issue of ballot collection is likely to prompt partisan responses for the foreseeable future.