

ARIZONA | A Democracy

Crisis in The Making

Arizona Legislation Increasing the Risk of Election Subversion

In the 21 months since the 2020 presidential election, legislatures across the country have moved to seize power from professional, non-partisan election administrators and to needlessly expose the running of elections to partisan influence and disruption. This effort increases the risk of a crisis in which the outcome of an election could be decided contrary to the will of the people. [This year alone](#), lawmakers across 30 states have introduced hundreds of new bills that increase the likelihood of election subversion, whether directly or indirectly. In some cases, the potential subversion is quite direct—for example, bills that give the legislature the power to choose a victor contrary to the voters' will. In others, the impact is less direct but still dangerous. Some bills would introduce dysfunction and chaos into the election system and could lead to delay, uncertainty, and confusion, all of which could provide cover for subversion. This factsheet spotlights the status of election subversion legislation and other efforts in Arizona.

[In our report on this trend](#), we analyzed legislation introduced in Arizona and determined whether they might fall into one of several types of proposals that increase the risk of election subversion. These categories include:

#1: Usurping control over election results.

A handful of states have considered bills that would give legislators direct or indirect control over election outcomes, allowing lawmakers to reject the choice of the voters. Although these proposals did not become law in 2022, that they are even being introduced indicates that legislatures are considering the option to overturn future elections. This raises obvious alarms for democracy.

As of July 31, we have found 3 bills in this category that were introduced this year in Arizona or carried over from last year.

- [HB 2476](#)
- [HB 2596](#)
- [HCR 2033](#)



#2: Requiring partisan or unprofessional “audits” or reviews.

Legislation proposing unprofessional or biased reviews of election results has surged in 2022. These bills call for procedures that are vague or subject to abuse, and in some cases hand the power to call for audits to political parties or the legislature. These bills threaten to call election outcomes perpetually into doubt. They would tie up election administrators and likely would amount to state-sponsored vehicles for disinformation.

As of July 31, we have found 6 bills in this category that were introduced this year in Arizona or carried over from last year.

- [HB 2596](#)
- [HB 2703](#)
- [HB 2777](#)
- [HB 2780](#)
- [SB 1603](#)
- [SB 1629](#)

#3: Seizing power over election responsibilities.

Legislatures have proposed shifting power from professional election administrators to partisan legislatures or legislatively appointed officials. These bills increase the danger of partisan election manipulation and raise the risk of an election crisis.

As of July 31, we have found 8 bills in this category that were introduced this year in Arizona or carried over from last year.

- [HB 2385](#)
- [HB 2289](#)
- [HB 2379](#)
- [HB 2596](#)
- [HB 2743](#)
- [SB 1012](#)
- [SB 1259](#)
- [SB 1285](#)

#4: Creating unworkable burdens in election administration.

These bills increase the risk of subversion by intruding on the granular details of election administration. One particularly dangerous flavor of these bills, under consideration in Arizona, would require all ballots to be counted by hand, practically guaranteeing delays, higher rates of counting error, and increased risk of tampering by bad actors.

As of July 31, we have found 15 bills in this category that were introduced this year in Arizona or carried over from last year.

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|---------------------------|---------------------------|
| ● HB 2080 | ● SB 1338 |
| ● HB 2244 | ● SB 1348 |
| ● HB 2289 | ● SB 1357 |
| ● HB 2378 | ● SB 1360 |
| ● HB 259 | ● SB 1570 |
| ● HB 2743 | ● SB 1574 |
| ● HB 2780 | ● SB 1608 |
| ● SB 1056 | |

#5: Imposing disproportionate criminal or other penalties.

Legislatures have proposed criminal prosecution of election officials for poorly defined offenses and have created criminal and civil liability for steps that election officials routinely take to help voters cast ballots. States are also escalating the enforcement of election laws by creating entirely new law enforcement agencies, which can breed distrust in elections and election officials and interfere with effective election administration.

As of July 31, we have found 13 bills in this category that were introduced this year in Arizona or carried over from last year.

- [HCR 2025](#)
- [HB 2237](#)
- [HB 2242](#)
- [HB 2491](#)
- [HB 2492](#)
- [HB 2780](#)
- [HB 1027](#)
- [SB 1056](#)
- [SB 1359](#)
- [SB 1475](#)
- [SB 1574](#)
- [SB 1577](#)
- [SB 1629](#)

Arizona Legislative Spotlight

Arizona considered legislation that would have given the legislature control over future election results. Arizona [HB 2476](#), would change the procedure for choosing the state’s Electoral College electors. Instead of selecting all of the electors based on the statewide popular vote, one elector would be awarded based on the popular vote in each of Arizona’s congressional districts, and the selection of the remaining two electors would be placed directly in the hands of the state legislature. Arizona [HB 2596](#) would have required the legislature to come into session to review the results of all primary and general elections—essentially transforming the legislature into the state’s final certification authority. Under the bill, if the legislature rejects the election results, a new election may be held. The measure also authorizes the legislature to audit any regular primary or general election.

Arizona also considered legislation to decertify the 2020 presidential election results in the state. Arizona [HCR 2033](#), was sponsored by Secretary of State candidate Mark Finchem, who has been [endorsed](#) by former President Trump.

Arizona also considered [SB 1285](#), which would have switched direct approval power over the state’s Election Procedures Manual—which provides detailed instructions on how elections should be conducted to every voting jurisdiction in the state—from the secretary of state to the legislative council and attorney general.

Arizona also considered legislation that would require all ballots to be hand counted ([HB 2289](#); [HB 2596](#); [HB 2743](#); [SB 1338](#); and [SB 1348](#)) and audits of election systems (AZ [H 2244](#) & [H 2777](#)).

[SB 1574](#) would have required county election officials to “maintain a record of all voting irregularities that occur during early voting, emergency voting and election day voting.” The bill instructed clerks to “describe the irregularity” but provided no guidance on what counted as an irregularity. Within 30 days after election day, the county officer must provide the record of the irregularities to legislative leadership, with a copy sent to the secretary of state. Any official who failed to follow these instructions could be punished with a Class 2 misdemeanor of up to four months in prison.

[SB 1027](#) would have created the “Bureau of Elections,” a brand-new agency within the state government’s executive branch “to investigate allegations of fraud in any state, county, or local government election” with a \$5 million appropriation. Any qualified voter would be able to submit a complaint to the Bureau. To conduct its investigations, the Bureau would be given subpoena power and the authority to hold hearings. If its investigation revealed a “substantial likelihood” of election fraud, the bill would have had the Bureau publicly announce their finding and refer the matter to a prosecuting agency.

[SB 1359](#) would have required election officials who have access to electronic systems to change their passwords every two weeks or face a possible misdemeanor charge.

Subversion from Beyond the Statehouse

Legislative election investigations

In 2021, the Arizona state senate hired an unqualified firm called Cyber Ninjas run by a biased CEO to conduct an “audit” of the election results from Maricopa County. Although the Cyber Ninjas’ activities unleashed a torrent of litigation and negative press coverage, the state senate has continued to press for [more investigations](#). Arizona’s chaotic review of the 2020 election was a prime example of how unprofessional reviews create election integrity problems rather than resolving them, as we detailed in our [2021 Report](#). The Cyber Ninjas firm was not qualified to conduct an official election audit and did not follow proper procedures, which resulted in ballots being destroyed and its results being widely [debunked](#) as misleading or false. The firm ultimately [collapsed](#) and laid off all of its employees after it finished its work in Arizona. Meanwhile, the Arizona Attorney General’s office issued a report based on its review of the Cyber Ninjas’ findings, which [concluded](#) that the 2020 results were accurate but nevertheless set off a new wave of doubts when it also opined that there were “questions” about that election.

Threats against election officials

Across the country, hundreds of thousands of people play a role in administering our elections, keeping them free, fair, and safe. These are the public servants and community leaders who make American democracy work—from governors and secretaries of state, to local and county officials, to temporary workers staffing the polls. Increasingly, however, election officials and workers are the targets for threats—both in the lead up to an election and throughout the year.

■ In March 2022, Republican Attorney General Mark Brnovich [urged](#) a county prosecutor to investigate whether Democratic Secretary of State Katie Hobbs committed the misdemeanor of failing to perform a duty under election law, simply because she briefly shut down an election-related website so that its maps could be updated to reflect recent redistricting.

■ Maricopa County Recorder Stephen Richer and his wife, who [received](#) threats and harassment after he criticized the discredited Cyber Ninjas audit of the county’s 2020 election results, faced a new round of death threats when he asked voters to use special county-supplied pens to vote in this year’s August primary.

■ [Pinal County](#) has had three election directors in the last two years and is short-staffed, in part, due to the hostile environment for election workers. In the lead-up to the state’s August primary, the office erroneously left a number of races off more than 60,000 early voting ballots, resulting in substantial disruption to the election.

Election Deniers

As 2022 began, more than 100 so-called election deniers were in the [running](#) to be either governor, attorney general, or secretary of state. Many of them are [campaigning](#) on lies and conspiracy theories. For example, Kari Lake, who is the Republican gubernatorial nominee in Arizona, has said she would not have certified her state’s election of President Joe Biden in 2020. Mark Finchem, the Republican nominee for secretary of state, was outside the U.S. Capitol on January 6, 2021 to protest the presidential election results. The Republican nominee for attorney general, Abraham Hamadeh, is also an Election Denier, who called his opponents and other Republicans “weak-kneed” for supporting certification of the 2020 election.

#2: Creating unworkable burdens in election administration.

These bills increase the risk of subversion by intruding on the granular details of election administration. One particularly dangerous flavor of these bills, under consideration in Georgia, would require all ballots to be counted by hand, practically guaranteeing delays, higher rates of counting error, and increased risk of tampering by bad actors.

As of July 31, we have found 3 bills in this category that were introduced this year in Georgia or carried over from last year.

- [HB 1359](#)
- [HB 1402](#)
- [HB 1464](#)

#3: Imposing disproportionate criminal or other penalties.

Legislatures have proposed criminal prosecution of election officials for poorly defined offenses and have created criminal and civil liability for steps that election officials routinely take to help voters cast ballots. States are also escalating the enforcement of election laws by creating entirely new law enforcement agencies, which can breed distrust in elections and election officials and interfere with effective election administration.

As of July 31, we have found 2 bills in this category that were introduced this year in Georgia or carried over from last year.

- [HB 1392](#)
- [HB 1464](#)

Georgia Legislative Spotlight

The impact of SB 202

One of the earliest bills that captured national attention by increasing the risk of election subversion was Georgia's SB 202 (enacted in 2021). SB 202 included many voter [suppression provisions](#), some of which are currently being challenged by lawsuits. It also contained elements that our [first Report](#) identified as increasing the risk of election subversion by enlarging the power of the legislature to oversee elections and threatening the independence of election administrators statewide. SB 202 stripped the secretary of state from their role as chair of the State Elections Board and replaced them with the legislature's selection. SB 202 also further empowered the Board to investigate and replace local election officials.

■ The State Elections Board has used its new authority under SB 202 to remove local election officials only in an area of Georgia that typically votes for Democrats and has a significant population of voters of color. Fulton County, which includes most of Atlanta, was the Board's first investigative target. In summer 2021, State Senator Butch Miller and approximately two dozen other Republican state senators [sent a letter](#) to the Board requesting an investigation of that county's election administrators. The Board appointed a bipartisan investigation panel, which had been expected to release its conclusions in May 2022 but has not yet.

County election board transformations

In 2021, the Georgia legislature also enacted county-specific legislation that [materially reshaped](#) several counties' election boards. In eight rural counties, some with significant Black populations, the legislature restructured their election boards with a distinctly partisan tilt.

Subversion from Beyond the Statehouse

Threats against election officials

In [Gwinnett County](#), a volatile political environment that includes death threats directed at election workers, has driven away more than half of the permanent election staff.

Election Deniers

As 2022 began, more than 100 so-called election deniers were in the [running](#) to be either governor, attorney general, or secretary of state. Many of them are [campaigning](#) on lies and conspiracy theories.

Subversion from Beyond the Statehouse

Legislative election investigations

In the summer of 2021, the speaker of the Wisconsin Assembly, Robin Vos, announced that he had [hired](#) Michael Gableman, a former justice of the Wisconsin Supreme Court, as special counsel to conduct an “investigation” of the 2020 election (see spotlight in the [May 2022 report](#) for more details). While Vos [fired](#) Gableman in August 2022, the investigation has cost taxpayers one million dollars in salaries and litigation fees.

Actions by law enforcement to undermine elections

Eleven months after the 2020 election, the sheriff in Racine County alleged that five of the six members of the bipartisan WEC committed felonies. He [threatened](#) them with prosecution and requested a statewide investigation. His allegations stemmed from a 2020 WEC decision regarding how nursing home staff could assist nursing home residents with their absentee ballots. The Racine County Sheriff asserted this was a violation of state law and held a press conference announcing that he had discovered voter fraud and called for a statewide investigation by the attorney general. He later recommended that the county district attorney [prosecute](#) four of the five WEC commissioners. This in turn led to an effort by other officials to have the WEC commissioners [removed](#) from office. The attorney general [dismissed](#) the sheriff’s efforts as a publicity stunt designed to intimidate the WEC and undermine faith in the election, and the district attorney ultimately decided not to bring any charges.

Election Deniers

As 2022 began, more than 100 so-called election deniers were in the [running](#) to be either governor, attorney general, or secretary of state. Many of them are [campaigning](#) on lies and conspiracy theories. Tim Michels, the Republican nominee for governor in Wisconsin, [declined](#) as recently as this June to say whether he will certify the 2024 election if former President Donald Trump runs and loses in the state.

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