

118TH CONGRESS  
1ST SESSION

# S. 3423

To guarantee the right to vote for all citizens regardless of conviction of a criminal offense, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2023

Mr. WELCH (for himself, Mr. SANDERS, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To guarantee the right to vote for all citizens regardless of conviction of a criminal offense, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Inclusive Democracy  
5 Act of 2023”.

6 **SEC. 2. PROTECTING THE FUNDAMENTAL RIGHT TO VOTE.**

7 (a) PROTECTION OF RIGHT.—The right of citizens of  
8 the United States to vote in an election for Federal office  
9 shall not be denied or abridged by the United States or

1 by any State on account of conviction of a criminal of-  
2 fense.

3 (b) APPLICATION.—Subsection (a) applies with re-  
4 spect to convictions occurring before, on, or after the date  
5 of the enactment of this Act.

6 **SEC. 3. ACCESS TO THE BALLOT.**

7 (a) NOTIFICATION OF VOTING RIGHTS.—

8 (1) STATE NOTIFICATION.—At the time an in-  
9 dividual is convicted of a criminal offense under the  
10 law of a State, the State shall notify the individual  
11 in writing that the individual’s conviction of the of-  
12 fense does not affect the individual’s right to vote in  
13 an election for Federal office and that the individual  
14 may register or remain registered to vote in an elec-  
15 tion for Federal office if the individual is otherwise  
16 eligible to vote in the election, notwithstanding the  
17 individual’s conviction.

18 (2) FEDERAL NOTIFICATION.—At the time an  
19 individual is convicted of a criminal offense under  
20 Federal law, the court in which the individual is con-  
21 victed shall notify the individual in writing that the  
22 individual’s conviction of the offense does not affect  
23 the individual’s right to vote in an election for Fed-  
24 eral office and that the individual may register or re-  
25 main registered to vote in an election for Federal of-

1        fice if the individual is otherwise eligible to vote in  
2        the election, notwithstanding the individual's convic-  
3        tion.

4            (3) PERSONS ON PROBATION AND PAROLE.—  
5        Not later than 90 days after the date of the enact-  
6        ment of this Act, the head of each Federal, State,  
7        and local probation or parole office shall provide  
8        each individual on probation or parole under the ju-  
9        risdiction of that office with written notification  
10       about any changes made by this Act to voter eligi-  
11       bility requirements in the applicable State.

12           (4) PERSONS IN CARCERAL SETTINGS.—Not  
13       later than 90 days after the date of the enactment  
14       of this Act, the head of each Federal, State, and  
15       local carceral setting shall provide each individual in-  
16       carcerated in their carceral setting with written noti-  
17       fication that the individual's criminal conviction does  
18       not affect the individual's right to vote in an election  
19       for Federal office and that the individual may reg-  
20       ister or remain registered to vote in an election for  
21       Federal office if the individual is otherwise eligible  
22       to vote in the election, notwithstanding the individ-  
23       ual's conviction.

24           (5) PUBLIC NOTICE.—

1 (A) ROLE OF THE ELECTION ASSISTANCE  
2 COMMISSION.—Not later than 180 days after  
3 the date of the enactment of this Act, the Elec-  
4 tion Assistance Commission shall conduct a na-  
5 tional public service announcement campaign,  
6 using newspapers, radio stations, social media  
7 platforms, and network television, to inform the  
8 public about the changes in voter eligibility pur-  
9 suant to this Act.

10 (B) ROLE OF THE DEPARTMENT OF JUS-  
11 TICE.—Not later than 60 days after the date of  
12 the enactment of this Act, the Attorney General  
13 shall publish updated information on voting  
14 rights for individuals with criminal records and  
15 guidance on developing voting practices for such  
16 individuals. Such information shall be—

17 (i) made publicly available on the De-  
18 partment of Justice’s website;

19 (ii) made publicly available on the  
20 Election Assistance Commission’s website;  
21 and

22 (iii) provided to the Federal Bureau  
23 of Prisons, the Office of U.S. Probation  
24 and Pretrial Services, and the chief State

1 election official and the head of the depart-  
2 ment of corrections in each State.

3 (b) REGISTRATION.—

4 (1) ACCESS TO REGISTRATION.—The head of  
5 each carceral setting shall offer an individual who is  
6 incarcerated at the carceral setting the opportunity  
7 to register to vote in an election for Federal office  
8 by providing the individual with the mail voter reg-  
9 istration application form described in section  
10 9(a)(2) of the National Voter Registration Act of  
11 1993 (52 U.S.C. 20508(a)(2)) at the time of the in-  
12 dividual's incarceration at the carceral setting and  
13 upon the individual's request.

14 (2) TRANSMISSION OF VOTER REGISTRATION  
15 APPLICATIONS BY CARCERAL SETTING.—

16 (A) IN GENERAL.—Not later than 10 days  
17 after an individual who is incarcerated in a  
18 carceral setting provides an employee of the  
19 carceral setting with the individual's completed  
20 voter registration application form, the head of  
21 the carceral setting shall mail or otherwise  
22 transmit the form to the chief State election of-  
23 ficial of the State in which the individual has  
24 applied to register to vote.

1 (B) EXPEDITED TRANSMISSION WITHIN 5  
2 DAYS OF ELECTION.—If an individual provides  
3 an employee of the carceral setting with a com-  
4 pleted voter registration application form 5  
5 days before the deadline for registering to vote  
6 in an election for Federal office for which the  
7 individual seeks to register, the head of the  
8 carceral setting shall—

9 (i) transmit to the chief State election  
10 official of the State in which the individual  
11 seeks to register to vote the individual's  
12 application form electronically on the day  
13 on which the head of the carceral setting  
14 receives the form from the individual; or

15 (ii) shall ensure that the form is  
16 mailed to the chief State election official of  
17 the State in which the individual seeks to  
18 register to vote and is postmarked within  
19 2 days of receiving the form from the indi-  
20 vidual.

21 (3) ACCEPTANCE OF FORMS BY ELECTION OF-  
22 FICIALS.—

23 (A) DEADLINE FOR ACCEPTANCE.—A  
24 State may not refuse to accept or process a  
25 voter registration application form submitted on

1           behalf of an individual under this subsection  
2           with respect to an election for Federal office in  
3           the State on the grounds that the individual did  
4           not meet a deadline for returning the form to  
5           the appropriate State or local election official if  
6           the form is postmarked or otherwise indicated  
7           by the United States Postal Service to have  
8           been mailed within 2 days of the deadline for  
9           receipt of the form under State law.

10           (B) REQUIRING ACCEPTANCE IN ELEC-  
11           TRONIC FORM.—A State may not refuse to ac-  
12           cept or process a voter registration application  
13           form submitted on behalf of an individual under  
14           this subsection with respect to an election for  
15           Federal office in the State on the grounds that  
16           the individual submitted the form electronically,  
17           including by fax or email, or that the individual  
18           submitted the form by mail.

19           (4) ADDRESS FOR PURPOSES OF VOTER REG-  
20           ISTRATION.—

21           (A) CHOICE OF ADDRESS.—An incarcer-  
22           ated individual may register to vote in an elec-  
23           tion for Federal office in accordance with this  
24           section by using either the individual's last

1 known address or the address of the carceral  
2 setting.

3 (B) PROVIDING SAME ABILITY TO CHANGE  
4 ADDRESS BETWEEN ELECTIONS AS REG-  
5 ISTRANTS NOT INCARCERATED.—To the extent  
6 that a State permits an individual who is not  
7 incarcerated to use a different address to reg-  
8 ister to vote in elections for the same Federal  
9 office, including primary, general, and runoff  
10 elections for that office, the State shall permit  
11 an incarcerated individual to use either the in-  
12 dividual’s last known address or the address of  
13 the carceral setting to register to vote in elec-  
14 tions for the same Federal office.

15 (5) EXCEPTION.—Nothing in this section shall  
16 be construed as requiring an incarcerated individual  
17 to register to vote if the individual’s address under  
18 paragraph (4)(A) is located in a jurisdiction that  
19 does not require voter registration as a prerequisite  
20 to voting in an election for Federal office.

21 (c) ABSENTEE VOTING.—

22 (1) IN GENERAL.—An individual who is incar-  
23 cerated in a carceral setting and who is registered  
24 to vote in an election for Federal office shall have



1 the right to vote in the election by mail by absentee  
2 ballot.

3 (2) ABSENTEE BALLOT APPLICATIONS.—

4 (A) PROVISION OF APPLICATIONS.—If an  
5 individual who is incarcerated in a carceral set-  
6 ting is registered to vote in an election for Fed-  
7 eral office, the head of the carceral setting shall  
8 provide the individual with an application to  
9 vote by absentee ballot in the election upon re-  
10 quest.

11 (B) TRANSMISSION OF APPLICATIONS.—

12 Not later than 2 days after an incarcerated in-  
13 dividual provides an employee of the carceral  
14 setting with a completed application to vote by  
15 absentee ballot, the head of the carceral setting  
16 shall mail or otherwise transmit the application  
17 to the chief State election official of the State  
18 in which the individual is registered to vote in  
19 the election.

20 (C) ACCEPTANCE OF APPLICATIONS.—

21 (i) DEADLINE.—A State may not  
22 refuse to accept or process an application  
23 to vote by absentee ballot submitted on be-  
24 half of an individual under this subsection  
25 with respect to an election for Federal of-

1            fice in the State on the grounds that the  
2            individual did not meet a deadline for re-  
3            turning the application to the appropriate  
4            State or local election official if the form is  
5            postmarked or otherwise indicated by the  
6            United States Postal Service to have been  
7            mailed within 2 days of the deadline for  
8            the receipt of the application under State  
9            law.

10            (ii) REQUIRING ACCEPTANCE IN ELEC-  
11            TRONIC FORM.—A State may not refuse to  
12            accept or process an application to vote by  
13            absentee ballot submitted on behalf of an  
14            individual under this subsection with re-  
15            spect to an election for Federal office in  
16            the State on the grounds that the indi-  
17            vidual submitted the application electroni-  
18            cally, including by fax or email, or that the  
19            individual submitted the application by  
20            mail.

21            (D) REQUIREMENTS FOR STATES TRANS-  
22            MITTING APPLICATIONS WITHOUT REQUEST  
23            FROM REGISTRANT.—A State which transmits  
24            applications to vote by absentee ballot in an  
25            election for Federal office to each individual

1 who is registered to vote in the election, without  
2 regard to whether the individual requests the  
3 application, shall ensure that applications are  
4 transmitted to individuals who are incarcerated  
5 in a carceral setting and who are registered to  
6 vote in the election in the same manner as ap-  
7 plications are transmitted to other individuals  
8 who are registered to vote in the election.

9 (3) ABSENTEE BALLOTS.—

10 (A) PROVISION OF ABSENTEE BALLOTS.—

11 (i) ELECTION MAIL.—An absentee  
12 ballot that is mailed to an incarcerated in-  
13 dividual under this subsection shall be  
14 treated and marked as election mail for  
15 purposes of title 39, United States Code.

16 (ii) EXPEDITED PROCESSING.—The  
17 head of a carceral setting shall ensure that  
18 any election mail is made available to an  
19 incarcerated individual to whom it is ad-  
20 dressed not later than 24 hours after such  
21 mail is received at the carceral setting.

22 (B) PROVISIONAL BALLOTS.—

23 (i) RIGHT TO CAST PROVISIONAL AB-  
24 SENTEE BALLOT.—If an incarcerated indi-  
25 vidual declares that such individual is a

1 registered voter in the jurisdiction in which  
2 the individual desires to vote and that the  
3 individual is eligible to vote in an election  
4 for Federal office, but the name of the in-  
5 dividual does not appear on the official list  
6 of eligible voters for the election or an elec-  
7 tion official asserts that the individual is  
8 not eligible to vote, such individual shall be  
9 permitted to cast a provisional absentee  
10 ballot in the election, notwithstanding the  
11 failure of the individual to request an ab-  
12 sentee ballot prior to the deadline for sub-  
13 mitting a request for the ballot under the  
14 law of the State in which the individual  
15 seeks to vote.

16 (ii) PROCESS.—Section 302(a) of the  
17 Help America Vote Act of 2002 (52 U.S.C.  
18 21082(a)) shall apply with respect to a  
19 provisional absentee ballot cast by an in-  
20 carcerated individual under this subsection  
21 in the same manner as such section applies  
22 to a provisional ballot cast by a voter.

23 (C) PRE-PAID POSTAGE.—Consistent with  
24 regulations of the United States Postal Service,  
25 the State or the unit of local government re-

1 responsible for the administration of the election  
2 for Federal office involved shall prepay the  
3 postage on any envelope provided to an incar-  
4 cerated individual under this Act.

5 (D) TRANSMISSION OF BALLOTS.—The  
6 head of a carceral setting shall mail or other-  
7 wise transmit a ballot on behalf of an incarcer-  
8 ated individual under this subsection to the ap-  
9 propriate election official on the same day on  
10 which an incarcerated individual submits the  
11 ballot to an employee of the carceral setting, or,  
12 if the individual submits the ballot to an em-  
13 ployee of the carceral setting after business  
14 hours, not later than 24 hours after the indi-  
15 vidual submits the ballot to the employee.

16 (E) ACCEPTANCE OF BALLOTS.—A State  
17 may not refuse to accept or process an absentee  
18 ballot submitted on behalf of an individual  
19 under this subsection with respect to an election  
20 for Federal office in the State—

21 (i) on the grounds that the individual  
22 did not meet a deadline for returning the  
23 ballot to the appropriate State or local  
24 election official if the ballot is postmarked  
25 or otherwise indicated by the United States

1           Postal Service to have been mailed on or  
2           before the date of the election; or

3                   (ii) on the grounds that the individual  
4           did not include with the ballot a copy of a  
5           form of identification otherwise required  
6           under State law.

7           (F) NOTICE AND OPPORTUNITY TO CURE  
8           MISSING SIGNATURE OR OTHER DEFECT.—If an  
9           incarcerated individual submits a ballot under  
10          this subsection without a signature or submits  
11          a ballot with another defect (other than a defect  
12          consisting of the failure of a ballot to meet the  
13          applicable deadline for the acceptance of the  
14          ballot) which, if left uncured, would cause the  
15          ballot to not be counted, the appropriate State  
16          or local election official, prior to making a final  
17          determination as to the validity of the ballot,  
18          shall—

19                   (i) make a good faith effort to imme-  
20                  diately notify the individual by mail, tele-  
21                  phone, and (if available) text message and  
22                  electronic mail that—

23                           (I) the ballot did not include a  
24                          signature or has some other defect,  
25                          and

1 (II) if the individual does not  
2 provide the missing signature or cure  
3 the other defect prior to the expira-  
4 tion of the 10-day period which begins  
5 on the date the official notifies the in-  
6 dividual that the ballot did not include  
7 a signature or has some other defect,  
8 such ballot will not be counted; and

9 (ii) count the ballot if, prior to the ex-  
10 piration of the 10-day period described in  
11 clause (i)(II), the individual provides the  
12 official with the missing signature on a  
13 form proscribed by the State or cures the  
14 other defect.

15 (G) REQUIREMENTS FOR STATES TRANS-  
16 MITTING APPLICATIONS WITHOUT REQUEST  
17 FROM REGISTRANT.—A State which transmits  
18 absentee ballots in an election for Federal office  
19 to each individual who is registered to vote in  
20 the election, without regard to whether the indi-  
21 vidual requests the absentee ballot, shall ensure  
22 that absentee ballots are transmitted to individ-  
23 uals who are incarcerated in a carceral setting  
24 and who are registered to vote in the election  
25 in the same manner as absentee ballots are

1 transmitted to other individuals who are reg-  
2 istered to vote in the election.

3 (d) ACCESS TO SERVICES AND INFORMATION ON  
4 ELECTIONS.—

5 (1) ONLINE SERVICES.—If a carceral setting  
6 provides the individuals who are incarcerated in the  
7 carceral setting with access to computers, tablets, or  
8 other electronic devices with internet access, the  
9 carceral setting shall permit an incarcerated indi-  
10 vidual who is eligible to vote in an election for Fed-  
11 eral office with access to the internet and such de-  
12 vices free of charge for the purpose of researching  
13 candidates in the election, political campaigns, and  
14 procedures for registration and voting.

15 (2) DISTRIBUTION OF INFORMATION BY CAN-  
16 DIDATES, CAMPAIGNS, AND NONPARTISAN  
17 GROUPS.—A carceral setting shall permit candidates,  
18 political campaigns, and non-partisan groups that  
19 register individuals to vote and distribute voter edu-  
20 cational materials and information on an election for  
21 Federal office and voting, candidates, and political  
22 campaigns involved with the election to distribute  
23 such materials inside the carceral setting—

24 (A) in the case of a candidate, political  
25 campaign, or nonpartisan group that distributes



1           such materials and information on elections for  
2           Federal office held in the State in which the  
3           carceral setting is located, for not fewer than  
4           60 days before the date of any election for Fed-  
5           eral office held in the State; or

6                   (B) in the case of a candidate, political  
7           campaign, or nonpartisan group that distributes  
8           such materials and information on elections for  
9           Federal office which are not held in that State,  
10          at least once a year.

11          (3) POSTING OF INFORMATION IN CARCERAL  
12          SETTING.—The head of a carceral setting shall en-  
13          sure that information on registering to vote in elec-  
14          tions for Federal office, requesting an absent ballot  
15          in such elections, and voting in elections for Federal  
16          office is posted prominently in an area of the  
17          carceral setting that is commonly accessible and visi-  
18          ble to the incarcerated individuals.

19          (e) ACCESS FOR THIRD PARTIES TO PROVIDE VOTER  
20          REGISTRATION SERVICES.—

21                   (1) ACCESS REQUIRED.—The head of a carceral  
22          setting shall permit a nonpartisan entity that pro-  
23          vides non-partisan voter registration services to  
24          enter the carceral setting and provide such services

1 to individuals who are incarcerated in the carceral  
2 setting.

3 (2) PROHIBITING RESTRICTIONS ON ACCESS OF  
4 CERTAIN INDIVIDUALS.—The head of a carceral set-  
5 ting may not place restrictions on an individual’s  
6 ability to enter a carceral setting as a representative  
7 of a nonpartisan entity described in paragraph (1)  
8 on the grounds that the individual was formerly in-  
9 carcerated or that the individual is on the visitors  
10 list of an individual who is currently incarcerated.

11 (f) GUIDANCE ON PROSECUTION.—No incarcerated  
12 individual who is registered to vote in an election for Fed-  
13 eral office and who is provided a ballot that includes an  
14 election for a non-Federal office, ballot initiative, or ref-  
15 erendum for which the individual is not registered to vote  
16 may be prosecuted under any law on the grounds that the  
17 individual voted in that election for a non-Federal office,  
18 ballot initiative, or referendum.

19 (g) EFFECTIVE DATE.—This section shall apply with  
20 respect to the regularly scheduled general elections for  
21 Federal office in November 2024 and each succeeding  
22 election for Federal office.

1 **SEC. 4. ENFORCEMENT.**

2 (a) ATTORNEY GENERAL.—The Attorney General  
3 may, in a civil action, obtain such declaratory or injunctive  
4 relief as is necessary to remedy a violation of this Act.

5 (b) PRIVATE RIGHT OF ACTION.—

6 (1) IN GENERAL.—A person who is aggrieved  
7 by a violation of this Act may provide written notice  
8 of the violation to the chief State election official of  
9 the State involved, or, if the violation is alleged to  
10 be committed by an officer or employee of the Fed-  
11 eral government, to the Attorney General.

12 (2) RELIEF.—Except as provided in paragraph  
13 (3), if the violation is not corrected within 30 days  
14 after receipt of a notice under paragraph (1), or  
15 within 10 days after receipt of the notice if the viola-  
16 tion occurred within 120 days before the date of an  
17 election for Federal office, the aggrieved person  
18 may, in a civil action, obtain declaratory or injunc-  
19 tive relief with respect to the violation.

20 (3) EXCEPTIONS.—Notwithstanding paragraphs  
21 (1) and (2), a civil action to obtain declaratory or  
22 injunctive relief with respect to a violation of this  
23 Act may be immediately brought by an incarcerated  
24 individual—

25 (A) who requested the opportunity to reg-  
26 ister to vote in an election for Federal office

1 and did not receive a voter registration applica-  
2 tion, or who submitted a voter registration ap-  
3 plication that was not properly transmitted or  
4 processed, within 30 days of the State’s voter  
5 registration deadline; and

6 (B) who is registered to vote in an election  
7 for Federal office and who—

8 (i) is denied access to an absentee bal-  
9 lot application;

10 (ii) has their request for an absentee  
11 ballot improperly denied;

12 (iii) is not supplied with an absentee  
13 ballot after properly requesting one;

14 (iv) does not have their voted ballot  
15 properly transmitted to the appropriate  
16 election official; or

17 (v) is otherwise denied the right to re-  
18 ceive or cast an absentee ballot.

19 **SEC. 5. DEFINITIONS.**

20 For purposes of this Act:

21 (1) **CARCERAL SETTING.**—The term “carceral  
22 setting” means any prison, penitentiary, jail, or  
23 other institution or facility that confines individuals  
24 charged with or convicted of criminal offenses,  
25 whether publicly or privately operated, except that

1 such term does not include any residential commu-  
2 nity treatment center (or similar public or private  
3 facility).

4 (2) CHIEF STATE ELECTION OFFICIAL.—The  
5 term “chief State election official” means the indi-  
6 vidual designated by a State under section 10 of the  
7 National Voter Registration Act of 1003 (52 U.S.C.  
8 20509) to be responsible for the coordination of  
9 State responsibilities under such Act.

10 (3) ELECTION.—The term “election” means—

11 (A) a general, special, primary, or runoff  
12 election;

13 (B) a convention or caucus of a political  
14 party held to nominate a candidate;

15 (C) a primary election held for the selec-  
16 tion of delegates to a national nominating con-  
17 vention of a political party; or

18 (D) a primary election held for the expres-  
19 sion of a preference for the nomination of per-  
20 sons for election to the office of President.

21 (4) FEDERAL OFFICE.—The term “Federal of-  
22 fice” means the office of President or Vice President  
23 of the United States, or of Senator or Representa-  
24 tive in, or Delegate or Resident Commissioner to,  
25 the Congress.

1 **SEC. 6. RELATION TO OTHER LAWS.**

2 (a) STATE LAWS RELATING TO VOTING RIGHTS.—

3 Nothing in this Act shall be construed to prohibit a State  
4 from enacting any law which affords the right to vote or  
5 the right to register to vote in any election for Federal,  
6 State, or local office on terms less restrictive than those  
7 established by this Act.

8 (b) CERTAIN FEDERAL ACTS.—The rights and rem-  
9 edies established by this Act are in addition to all other  
10 rights and remedies provided by law, and neither rights  
11 and remedies established by this Act shall supersede, re-  
12 strict, or limit the application of the Voting Rights Act  
13 of 1965 (52 U.S.C. 10301 et seq.), the National Voter  
14 Registration Act of 1993 (52 U.S.C. 20501 et seq.), or  
15 the Help America Vote Act of 2002 (52 U.S.C. 20901 et  
16 seq.).

17 **SEC. 7. INTERPRETATIONS FAVORABLE TO THE PERSON**  
18 **SEEKING TO REGISTER OR VOTE.**

19 If a provision of this Act is susceptible to differing  
20 interpretations, it shall be construed in favor of the person  
21 seeking to register or vote.

22 **SEC. 8. SEVERABILITY.**

23 If any provision of this Act or the application of any  
24 provision thereof to any person or circumstance is judi-  
25 cially determined to be invalid, the remainder of this Act

- 1 or the application of such provision to other persons or
- 2 circumstances shall not be affected by such determination.

○