

Ballot Drop Boxes in the 2020 Elections

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Abstract:

During the 2020 general election, the absentee ballot drop box became an increasingly popular option for voters to submit completed mail ballots to election officials without using the mail. While some states had successfully used ballot drop boxes for years, the coronavirus pandemic jump-started the practice for much of the rest of the country, particularly after questions emerged about the U.S. Postal Service's capacity to deliver absentee ballots reliably on time. Although a few states, such as Tennessee and Missouri, prohibited the use of ballot drop boxes, citing the risk of voter fraud, nearly 40 states had ballot drop boxes available during the 2020 general election, and voters' use of ballot drop boxes was the highest of any election in American history.

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I. Introduction

During the 2016 general election, nearly [16%](#) of voters nationwide cast their ballot using drop boxes.¹ Four years later, with many more states providing access to ballot drop boxes, over [40%](#) of absentee voters cast their ballot using ballot drop boxes. The 2020 election saw the highest use of drop boxes in U.S. history. Ballot drop boxes are secure, locked structures that allow voters in many states to cast completed absentee ballots without having to rely on the U.S. Postal Service (USPS) for delivery or having to return the ballot in person to election officials. According to the [Election Assistance Commission](#) (EAC), some voters prefer ballot drop boxes to mail delivery due to “concern[s] about meeting the postmark deadline and ensuring that their ballot is returned in time to be counted.” Many states, therefore, offered voters the option to drop off absentee ballots up until Election Day, typically through staffed, indoor drop-off locations and unstaffed, outdoor boxes that were locked, anchored, tamper-proof, and often monitored by [24-hour video surveillance](#).

In some states, ballot drop boxes have been successfully used for years and serve as a popular option for many voters. In Colorado, for example, [nearly 75%](#) of all voters in the 2016 general election cast their ballots using a drop box. In Washington State, ballot drop box usage rates have also [increased over time](#), from 37.7% in the 2012 general election to 56.9% in 2016 and 73.1% in 2020. In other states, however—especially those without a history of robust absentee voting—the use of ballot drop boxes is in its infancy. Yet, in response to the coronavirus pandemic, an increasing number of states ramped up their use of ballot drop boxes during the 2020 election to provide voters an additional option to cast a ballot without having to enter polling sites on Election Day or potentially overwhelming the USPS with mail-in votes.

II. The Ballot Drop Box Landscape

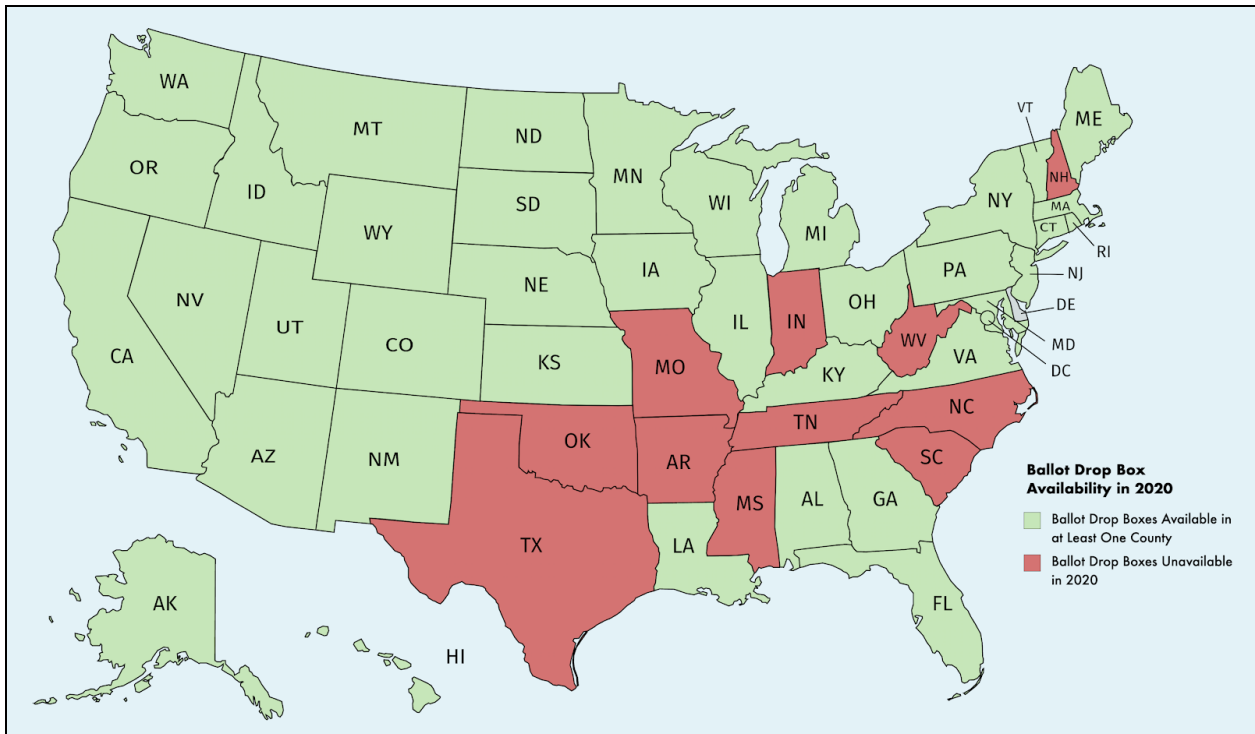
A. Drop Box Usage by State

The National Conference of State Legislatures reports that only [eight states](#) explicitly permit or require ballot drop boxes by statute or regulatory guidance: Arizona, California, Colorado, Hawaii, Montana, New Mexico, Oregon, and Washington State. In practice, however, many more states use ballot drop boxes regularly, either through statewide practice (without specific

¹ Background information throughout this memorandum was drawn from “[The Use of Ballot Drop Boxes During COVID-19](#),” Axel Hufford (August 23, 2020). See also “[Where Can You Drop Off Your Ballot? A 50-State Analysis](#),” Axel Hufford, Lane Baker, Alexandra Popke, Garrett Jensen, and Gabriella Garcia (October 10, 2020).

statutory language) or on a county-by-county basis. According to the Brookings Institution, “[d]rop-off boxes, mail, and in-person channels” were all available to voters in at least [19 states](#), including Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Kentucky, Maryland, Michigan, Nebraska, New Jersey, Ohio, Oregon, Utah, Washington State, as well as Washington, D.C.

Many more states do not offer ballot drop boxes statewide but allow counties or cities to provide ballot drop boxes if local officials decide to implement a regional drop box program. In recent years, local officials in several states have set up ballot drop boxes within certain jurisdictions, including [Illinois](#) (in Chicago), [Iowa](#) (in Cedar Rapids and Marion), [Kansas](#) (in Sedgwick County), [Maine](#) (in Bangor), [Minnesota](#) (drive-through ballot drop-off in Minneapolis), [Nevada](#) (in Clark County), [Pennsylvania](#) (in Philadelphia and several counties), [South Dakota](#) (in Lincoln County), [Virginia](#) (in Arlington), and [Wisconsin](#) (in Sheboygan County, and several cities). Many other states have more recently implemented new ballot drop box systems since the start of the coronavirus pandemic, including [Connecticut](#), [Kentucky](#), [New Jersey](#), [New Mexico](#), [North Dakota](#), and [Rhode Island](#). Altogether, nearly 40 states (and Washington, D.C.) used ballot drop boxes in one or more locations during the 2020 general election. A full list can be found [here](#).



III. The Use of Drop Boxes in 2020

A. Changes Since the Start of the Coronavirus Pandemic

During the coronavirus pandemic, several state legislatures and governors expanded the use of ballot drop boxes for November's general election.

- [Michigan](#) election officials recommended that during its August primary voters use drop boxes instead of the postal service due to mail delivery backlogs that jeopardized the prospects for on-time deliveries. The state now has hundreds of ballot drop box [locations](#), most of which are 24/7, outdoor fixtures. As part of its expansion, Michigan used [\\$2 million](#) of the federal funding it received from the Coronavirus, Aid, Relief and Economic Security (CARES) Act “for cities to buy additional equipment to make obtaining and processing absentee ballots easier, such as ballot drop boxes, high-speed counting machines and automatic letter openers.”
- [Georgia](#) installed 144 absentee boxes through a statewide grant program, which allows counties to apply for \$3,000 to offset 75% of the cost of new ballot drop boxes. Georgia's Secretary of State Brad Raffensperger “encourage[d] every county to take advantage of the grant program and install a drop box ahead of the November elections.”
- [New Jersey](#) state officials announced that more drop boxes would be added before November.
- [Connecticut](#) installed [around 200](#) drop boxes with CARES Act funding in time for the August 11, 2020 primary.
- [Kentucky](#)'s 2020 general election plan included the use of ballot drop boxes for the first time, with locations to be decided by county clerks.
- [New Mexico](#) launched a pilot program with ballot drop boxes for the general election.
- [North Dakota](#) allowed voters to return ballots via drop box during the June primary.
- [Maryland](#)'s state elections administrator requested \$40,500 in additional funding from the state to purchase additional ballot drop boxes.
- [Rhode Island](#)'s Board of Elections authorized drop boxes for the June 2 primary in all 47 polling places and at the 39 boards of canvassers in each city or town hall.
- [Louisiana](#)'s secretary of state took steps to limit vote-by-mail options but nonetheless proposed curbside drop-off options for absentee ballots.

By contrast, several states explicitly disallowed the use of ballot drop boxes in the 2020 elections, despite (in some cases) having provided drop boxes in previous election cycles. [Tennessee](#), for example, did not allow drop boxes due to alleged concerns of fraud. Tennessee

Secretary of State Tre Hargett said the availability of drop boxes creates the risk some individuals will pressure absentee voters to let them “watch you fill that ballot out and drop that ballot off for you.” “We believe it’s a great security measure to have someone returning their own ballot by the United States Postal Service,” he said. Similarly, [New Hampshire](#) did not allow voters to leave a ballot at town or city hall drop off boxes after hours; voters had to provide postage and use the mail service or directly hand deliver the ballot to an election official during office hours. [Missouri](#)’s secretary of state chose not to distribute the 80 drop boxes the state had already purchased because, he claimed, state law required ballots to be returned by mail. The [South Carolina](#) Senate in September rejected a Democratic proposal to allow ballots to be placed in drop boxes, with a 25-16 party-line vote.

In other states, controversy developed over the precise number of ballot drop boxes available during the 2020 general election. In [Ohio](#), [Secretary of State Frank LaRose](#) issued a directive that limited each county to one ballot drop box. This limitation raised ballot access concerns, particularly for voters without access to transportation. For example, Delaware County’s sole drop box was behind the county’s board of elections building, 2.5 miles away from the city of Delaware and “nowhere within walking distance of the city’s residents.” LaRose claimed that he did not have the legal authority to expand drop box locations without legislative action, but Ohio’s Democratic Party Chairman [David Pepper](#) argued that the secretary of state was “doing everything he could to stop drop boxes, delaying it for almost a month, and then unilaterally only saying one per county without a legal opinion.” Similarly, Texas Governor Greg Abbot ordered that each county could have only one ballot drop-off location for voters, a decision which was later [upheld](#) by the Texas Supreme Court. Moreover, these drop-off locations were not ballot drop boxes at all; rather, each location was an in-person hand-delivery station staffed by election officials and only available during business hours.

Although there is little-to-no evidence of ballot drop boxes being used historically for voter fraud, California became a subject of controversy shortly before the election when the state Republican Party created and distributed ballot drop boxes that were labeled “official” but were entirely controlled by the party. In the weeks leading up to Election Day, the California Republican Party placed [50 collection boxes](#) in conservative areas of Orange, Fresno, and Los Angeles counties. Although these boxes were all labeled either “Ballot Drop Box” or “Official Ballot Drop off Box,” they were anything but official under the law. The state Republican Party claimed that the boxes were legal because California allowed for ballot collection and delivery by third parties. California’s secretary of state and attorney general disagreed and sent a cease-and-desist letter to the Republican Party, ordering they remove the boxes. The attorney general began an investigation, issuing subpoenas, and Secretary of State Alex Padilla released a [statement](#) that “[s]tate law is clear—anyone who is collecting and returning a voter’s ballot must put their name, signature, and relationship to the voter on the return envelope....If a

person who has been designated by a voter to return their ballot fails or neglects that responsibility, they can face serious legal consequences.” Nevertheless, Padilla said, anyone who used these unofficial ballot drop boxes could rest assured that their votes would not be invalidated due to the unauthorized nature of the collection box.

B. Ballot Drop Box Litigation and Campaign Controversy

During the June 2 primary election in [Pennsylvania](#), the City of Philadelphia installed 11 ballot drop boxes around the city and additional drop boxes [around 20 counties](#) to help accommodate a surge in absentee voting. The Trump [reelection campaign later sued](#) Pennsylvania in federal court, arguing that the use of ballot drop boxes during the primary was unconstitutional and asking the court to bar their use in the general election. The [complaint](#) alleged that “inadequately noticed and unmonitored ad hoc drop boxes” and “the lack of statewide standards governing the location of drop boxes” violated the equal protection clause of the Fourteenth Amendment. The suit also claimed that drop boxes “have increased the potential for ballot fraud or tampering” and that the state’s mail-in voting system “provides fraudsters an easy opportunity to engage in ballot harvesting, manipulate or destroy ballots, manufacture duplicitous votes, and sow chaos.”

A federal judge [ordered](#) the Trump campaign to produce evidence of voting fraud occurring via drop boxes. After the Trump campaign “[failed to produce any evidence](#) of vote-by-mail fraud in Pennsylvania,” the judge [put the case on hold](#) pending resolution in Pennsylvania state court. President Trump also [tweeted concerns](#) about ballot drop boxes, alleging that they “make it possible for a person to vote multiple times” and are a “big fraud,” but Twitter has since [placed a public interest notice](#) on the Trump post for violating its civic integrity policy “for making misleading health claims that could potentially dissuade people from participation in voting.”

In the end, on September 17, the Pennsylvania Supreme Court [ruled](#) that, under state law, drop boxes were a proper method for voters to return ballots, and it green-lit their use for November’s election. As a result of the “clear legislative intent underlying Act 77,” the court [wrote](#), referring to the state law which allowed state voters to use absentee balloting, “the Election Code should be interpreted to allow county boards of election to accept hand-delivered mail-in ballots at locations other than their office addresses including drop-boxes.” Republican officials tried, unsuccessfully, to overturn the ruling. The Trump campaign was later caught [videotaping](#) various ballot drop boxes in Philadelphia, in an effort to find voters using the drop boxes to commit voter fraud. Pennsylvania Attorney General Josh Shapiro rebuked these efforts, noting that “Pennsylvania law permits poll watchers to carry out very discrete and specific duties” but “videotaping voters at drop boxes is not one of them.”

Shapiro also argued that “the act of photographing or recording a voter casting a ballot could be voter intimidation—which is illegal.”

IV. Conclusion

Public health concerns emerging from the coronavirus pandemic led to greater use of ballot drop boxes during the 2020 general election than in any election in American history. It was an increase spurred in part by the expected increase in absentee voting generally and in part by questions about the capacity of USPS to deliver all absentee ballots in a timely manner. As a result, according to [Pew Research Center](#), over 40% of Americans who voted by absentee or mail-in ballot returned their ballot via a drop box, well above the 15% who dropped their ballots off in-person and nearly as many as the 44% who mailed in their ballots. Indeed, the use of ballot drop boxes was popular across party lines, with 43% of Biden voters and 37% of Trump voters opting to use a designated drop box. Finally, given the expanded voting options in 2020, an overwhelming [94% of voters](#) said that voting in 2020 was either “very easy” or “somewhat easy” (including 95% of Biden voters and 93% of Trump voters). Overall, this polling suggests that state expansion of ballot drop boxes may be popular across party lines and, in future elections, a significant portion of the electorate may opt to continue using their local ballot drop box.