

Why Courts Matter: Voting Rights and *Shelby County v. Holder*

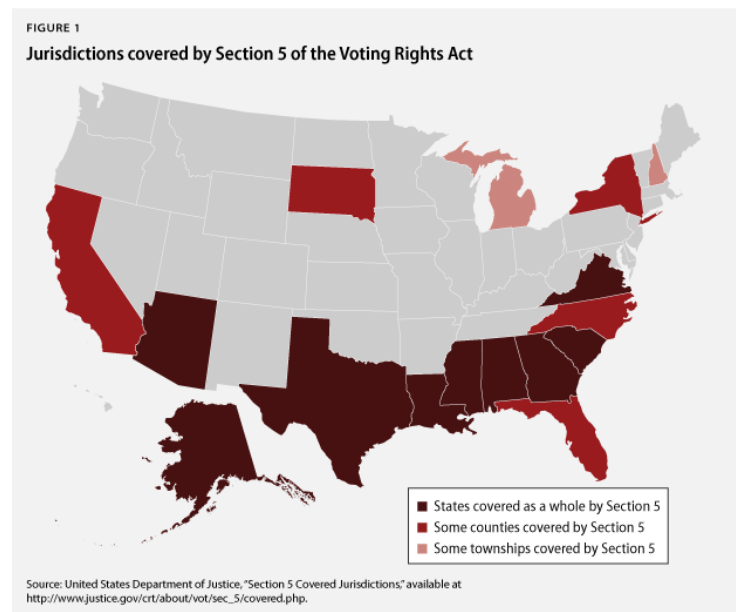
On Feb. 27, 2012, the U.S. Supreme Court will hear *Shelby County v. Holder*, a challenge to the constitutionality of Section 5 of the landmark Voting Rights Act. Section 5 has been essential in protecting minorities' right to vote in jurisdictions with a history of racial discrimination in voting. Without Section 5, these jurisdictions would be able to enact measures that impose additional burdens on minorities and limit their access to the polls. Several states have already tried to do this by passing voter ID laws, limiting early voting, or altering voter registration rules.

Our federal courts play a key role in voting. Not only do federal courts have to approve certain changes to voting laws under the Voting Rights Act, but they also hear challenges to state laws that impact the future of the right to vote. As we saw in the 2012 election, voting rights are still under attack, and so it has become more important than ever to have judges and justices who understand that the right to vote must be protected and all Americans – regardless of their background – have a right to fully participate in our democracy.

What is Section 5 of the Voting Rights Act?

Section 5 is part of the Voting Rights Act, enacted in 1965, to outlaw discriminatory voting practices.

- Section 5 requires certain states with a history of racial discrimination in voting receive “pre-clearance” by either a federal court or the U.S. Department of Justice before making any changes to their voting laws.
- Currently, nine states and parts of seven other states are covered under section 5.
- Congress initially determined which jurisdictions were covered under Section 5 by using a plan laid out in the Voting Rights Act and also created a scheme for states to “bail out” of coverage if they have complied with the Voting Rights Act for 10 years.
- Section 5 has been reauthorized by Congress four separate times, each time after finding it was still a necessary law to protect minority voters. It was most recently reauthorized in 2006 – by a nearly unanimous vote.



The reason for Section 5 is simple: In the covered jurisdictions, the right to vote is still at risk for minority voters, and under the Constitution, Congress must protect that right.

History of *Shelby County v. Holder*

In April 2010, Shelby County, Alabama, which is covered by Section 5, filed suit in federal court in Washington, D.C., seeking to have Section 5 declared unconstitutional. Shelby County claims that Congress did not have the required constitutional authority when it reauthorized Section 5 of the VRA in 2006.

- In 2011, the U.S. District Court for the District of Columbia upheld the constitutionality of Section 5, holding that Congress acted appropriately in 2006 when it reauthorized the statute.
- In 2012, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the district court ruling by a vote of two to one.
- On February 27, 2013, the U.S. Supreme Court will hear oral arguments in *Shelby County v. Holder*. The Supreme Court is expected to announce its decision in the case by the end of June 2013.

For more detailed information about the case, visit <http://www.scotusblog.com/case-files/cases/shelby-county-v-holder/>.

Legal Progress is the legal policy and communications program at the Center for American Progress. A key mission of Legal Progress is to educate the public about the impact of the courts on issues they care most about.