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Legal Sidebar

The Twenty-Sixth Amendment and Reduction of the Voting Age (Part 1): Introduction

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This Legal Sidebar post is the first in a six-part series that discusses the Twenty-Sixth Amendment to the U.S. Constitution, which prohibits the federal and state governments from denying or abridging, on the basis of age, the voting rights of U.S. citizens who are at least 18 years old. The Amendment effectively lowered the minimum voting age to 18 for all federal, state, and local elections. (Although most states maintained a minimum voting age of 21 immediately prior to the Amendment's ratification, nine states had already lowered their voting ages to 18, 19, or 20.) The most recent legal questions about the Twenty-Sixth Amendment's scope arose during the COVID-19 pandemic when litigants challenged state laws allowing older voters to cast an absentee ballot by mail upon request without having to satisfy certain conditions as being inconsistent with the Twenty-Sixth Amendment rights of younger voters, who had to abide by the in-person voting rule. The U.S. Courts of Appeals for the Fifth and Seventh Circuits rejected these challenges.

Because Congress may play a role in implementing the Twenty-Sixth Amendment, understanding the Amendment's history and drafting may assist Congress in its legislative activities. This Sidebar post provides an overview of the Twenty-Sixth Amendment's requirements. Other Sidebars in this series discuss the history of voter age qualifications in the United States and the Supreme Court's 1970 decision in *Oregon v. Mitchell*, as well as the Amendment's drafting in Congress and unresolved issues. Additional information on this topic is available at the Constitution Annotated: Analysis and Interpretation of the U.S. Constitution.

Overview

Section 1 of the Twenty-Sixth Amendment prohibits the federal and state governments from denying or abridging, on the basis of age, the voting rights of U.S. citizens who are at least 18 years old. This section of the Amendment effectively lowered the minimum voting age to 18 for all federal, state, and local elections. Section 2 of the Amendment grants Congress the power to enforce the prohibitions in Section 1 by enacting "appropriate legislation." The Supreme Court has not decided any cases definitively interpreting the Twenty-Sixth Amendment, but lower courts have occasionally confronted questions about the Amendment's scope since its 1971 ratification.

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Prior to the enactment of the amendment, the Constitution originally deferred to each state's determination of who could vote in federal and state elections and did not limit the states from restricting citizens' eligibility to vote on the basis of age. Many Founding-era state constitutions, laws, and customs limited voting privileges to White men who were at least 21 years of age and owned a certain amount of property, among other qualifications. Early in the nation's history—and even well into the 20th century—many Americans believed that a minimum voting age of 21 was necessary to ensure that voters would possess sufficient independence and "sound judgment." Although the Fourteenth Amendment, ratified in 1868 after the Civil War, appeared to recognize that all of the states had adopted 21 as the minimum voting age at the time, the issue of voter age qualifications did not receive significant nationwide attention until the United States entered World War II in 1941.

Shortly after the United States entered the war, Congress lowered the minimum age to 18 for military conscription through successive amendments to the Selective Training and Service Act of 1940. These amendments prompted some public officials to question why 18- to 20-year-old men serving in the nation's Armed Forces could not vote in federal or state elections. Alluding to this perceived contradiction, the slogan "old enough to fight, old enough to vote" became popular among proponents of lowering the voting age during the war.

In the decades after World War II ended, public support for lowering the minimum voting age grew as Americans questioned why young soldiers fighting in the Korean and Vietnam Wars could not exercise the franchise. Additionally, many policymakers contended that 18- to 20-year-olds had earned the right to vote by demonstrating sufficient knowledge, responsibility, and maturity. In the midst of campus protests against the Vietnam War, some Members of Congress argued that conferring the franchise on young voters would allow them to express their views peacefully within the political process.

When extending the Voting Rights Act of 1965 in 1970, Congress included a provision lowering the age qualification to vote in all elections—federal, state, and local—to 18. In a divided decision in the 1970 case *Oregon v. Mitchell*, the Supreme Court held that Congress was empowered to lower the age qualification in federal elections, but voided its attempt to lower the minimum voting age in all other elections as beyond congressional power. Confronted with the possibility that they might have to maintain two sets of registration books and incur the expense of running separate election systems for federal elections as compared to all other elections, many states were receptive to Congress proposing a constitutional amendment to establish a minimum age qualification of 18 for all elections.

On March 23, 1971, Congress approved the proposed Twenty-Sixth Amendment and submitted it to the states for potential ratification. The introductory text of the joint resolution proposing the Twenty-Sixth Amendment required three-fourths of the state legislatures to ratify the Amendment within seven years of its submission to the states in order for it to become part of the Constitution. The Amendment attained the three-fourths majority of the states necessary for ratification a few months later on July 1, 1971. On July 5, the Administrator of the General Services Administration officially certified that the Amendment had been ratified and become part of the Constitution.

Click here to continue to Part 2.

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