

# [***The End of the Electoral College Is Finally in Sight | Opinion***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BV3-51F1-DY68-117W-00000-00&context=1516831)

Newsweek.com

April 19, 2024 Friday 6:22 AM EST

Copyright © 2024 Newsweek Inc. All Rights Reserved



**Length:** 1096 words

**Byline:** David Faris

**Highlight:** The dumbest institution in the democratic world might not have long to live.

**Body**

Earlier this week, Maine Gov. Janet Mills (D) decided [*not to veto*](https://www.maine.gov/governor/mills/news/governor-mills-allows-national-popular-vote-legislation-become-law-without-her-signature-2024#:~:text=Under%20the%20legislation%2C%20Maine%20joins,needed%20to%20elect%20a%20president.) an obscure law called the [*National Popular Vote Interstate Compact*](https://www.nationalpopularvote.com/) (NPV), which calls for the state's 4 Electoral College votes to be awarded to the presidential candidate who gets the most votes nationally regardless of the outcome in the state. The law doesn't go into effect, however, until states totaling 270 electoral votes join the compact. That's the number of Electoral College votes required to win the presidency. Once dismissed as an unworkable, almost farcical fantasy, the NPV just tallied its 209th electoral vote with Maine, and now has a clear path to victory. And that means that the Electoral College as we know it might not survive past the 2024 election cycle.

This is incredible news. The U.S. Electoral College is, by a quite considerable margin, the most unfathomably stupid democratic institution in the world. It has already malfunctioned twice this century by awarding the presidency to the person who received fewer votes from the American electorate. The 2000 election of [*George W. Bush*](https://www.newsweek.com/topic/george-w.-bush?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships), who steered us directly into three distinct catastrophes—the Iraq and Afghanistan wars and the Great Recession—sent our new century disastrously off course in ways we are still feeling today. The even-more egregious 2016 elevation of former President [*Donald Trump*](https://www.newsweek.com/topic/donald-trump?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships), who lost the popular vote more decisively than Bush, resulted in the capture of the [*Supreme Court*](https://www.newsweek.com/topic/supreme-court?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) by reactionary conservatives for at least a generation.

There is no defensible democratic principle that could justify awarding a single national office to the person who received fewer votes than their chief rival. Rather than empowering small states as its proponents wrongly assume, it merely aggrandizes the denizens of closely divided states while depriving citizens in the other 40 or so of any meaningful impact on the presidential election whatsoever. And we all know that the empty sophistry of Electoral College apologists would vanish the day the presidency is won by a Democrat who lost the popular vote. In that sense, the easiest way to get rid of the thing would have been for [*John Kerry*](https://www.newsweek.com/topic/john-kerry?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) to get 118,000 more votes in Ohio in 2004, which would have made him the winner despite losing the national popular vote to Bush. Back-to-back Electoral College inversions, one for each party, could have generated the necessary momentum to amend the Constitution.

Alas, that is not what happened. Despite the cult of [*Republican*](https://www.newsweek.com/topic/republican?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) "republic not a democracy" types that love it because it currently helps the GOP, the Electoral College remains as unpopular as ever – public opinion majorities have supported its abolition throughout the 21st century, with 61 percent of Americans on board in the most recent Pew survey [*in September 2023*](https://news.gallup.com/poll/320744/americans-support-abolishing-electoral-college.aspx). And because [*Republicans*](https://www.newsweek.com/topic/republicans?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) are unlikely to agree to amend the Constitution any time soon, given the party's current structural advantage in the Electoral College (which isn't even guaranteed [*to last*](https://www.nbcnews.com/politics/2024-election/electoral-college-question-looming-2024-rcna145950) through November), the NPV is the only game in town.

The effort was launched in 2006, with Maryland [*the first state*](https://archive3.fairvote.org/news/maryland-legislature-passes-historic-national-popular-vote-plan/) to join in 2007. Even fairly recently, the path to 270 looked pretty hopeless. With Republicans controlling a majority of state legislatures and governorships since 2010, its prospects looked dim. But Democrats have been quite successful in passing the NPV when they win governing trifectas, and with all consensus blue states in the fold, the action now moves to battleground states like Arizona and Georgia. If Michigan, which currently has a Democratic state legislature and governor, puts it into effect as expected, that would leave the effort at 224 Electoral Votes. If Democrats recapture state legislatures in Wisconsin, Pennsylvania, and Arizona this fall—well within the realm of possibility—that could put 40 of the remaining 46 Electoral Votes in play. If successful there, then all Democrats would need to do is retake the governor's office in Virginia in 2025 and the NPVIC could go into effect, possibly in time to have an impact on the 2028 election.

It won't be that easy, unfortunately. The hard-right Supreme Court—the same one whose 6-3 conservative supermajority was produced *by* the Electoral College—is likely to have the last word on the constitutionality of the interstate compact effort. In theory, states have the right to appoint their electors in whatever fashion they choose. But awarding them to a candidate who loses the state popular vote could conceivably [*run afoul*](https://harvardlawreview.org/blog/2019/03/the-danger-of-the-national-popular-vote-compact/) of the 14th Amendment's Equal Protection Clause, and an agreement like this between the states could [*violate the Compact Clause*](https://legaljournal.princeton.edu/national-popular-vote-circumventing-the-united-states-constitution/).

But [*there is*](https://fairvote.org/dispelling-the-major-legal-arguments-against-the-national-popular-vote-compact/) plenty of [*existing Supreme Court precedent*](https://www.sightline.org/2021/01/19/the-national-popular-vote-interstate-compact-requires-no-congressional-approval/) to hope the compact would pass constitutional muster, especially given the clarity of Article II, Section 1 of the Constitution on this question: "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors." Nevertheless, lawsuits challenging the NPV are a near-certainty, and if the composition of the Supreme Court remains unchanged, I wouldn't bet on the compact getting upheld. Remember, when this lawless court has been given the opportunity to enhance Republican political power at the expense of Democrats, they have chosen to do so almost every single time, regardless of the legal merits.

That means that Democrats, for this and many other reasons, are going to need to [*rekindle talk*](https://fivethirtyeight.com/features/why-a-fringe-idea-about-the-supreme-court-is-taking-over-the-left/) of expanding the Supreme Court if they ever win another trifecta in D.C. While that's unlikely this year given the brutal [*Senate*](https://www.newsweek.com/topic/senate?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) map facing Team Blue, it is easy enough to imagine Democrats winning both chambers of [*Congress*](https://www.newsweek.com/topic/congress?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) again in 2026 or 2028.

If they fail, again, to rein in this rogue, corrupt Supreme Court, it would mean not just another long series of policy defeats and reversals, but also a lost opportunity to abolish a hated institution that has tormented them for more than 20 years. And because the possibility of getting out from underneath the Electoral College's absurd thumb hasn't been this tantalizingly close since an amendment effort [*stalled out*](https://www.history.com/news/electoral-college-nearly-abolished-thurmond) in the Senate (via—what else?—the filibuster) in 1970, Democrats need to finally get it done.

*David Faris is an associate professor of political science at Roosevelt University and the author of* It's Time to Fight Dirty: How [*Democrats*](https://www.newsweek.com/topic/democrats?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) Can Build a Lasting Majority in American ***Politics***. *His writing has appeared in* The Week*,* The Washington Post*,* The New Republic*,* Washington Monthly *and more. You can find him on Twitter @davidmfaris.*

*The views expressed in this article are the writer's own.*

[*Link to Image*](https://d.newsweek.com/en/full/2380429/no-one-likes-electoral-college.jpg)

**Graphic**

No One Likes the Electoral College

Win McNamee/Getty Images

A protester is seen inside the U.S. Capitol Building on Jan. 6, 2021, in Washington, DC, where Congress held a joint session today to ratify Joe Biden's 306-232 Electoral College win.

**Load-Date:** April 19, 2024

**End of Document**