

Native American Rights Fund

Indigenous Peoples' Rights

<https://www.narf.org/cases/montana-bipa/>

Campaign and Advocacy

Tribes and Native voter organizations successfully argued that a new Montana law that restricted ballot collection made it prohibitively difficult for Native voters.

Status: Archived

In a state where the majority of individuals vote by mail, rural tribal communities work with get-out-the-vote organizers who collect and transport ballots to election offices that would otherwise be inaccessible. These ballot collection efforts are often the only way Native Americans can access the vote. A Montana law, which restricted ballot collection, would effectively end this practice, disenfranchising Native American voters en masse.

In March 2020, the Assiniboiné & Sioux Tribes of Fort Peck, Blackfeet Nation, Confederated Salish and Kootenai Tribes of the Flathead Reservation, Crow Tribe, and Fort Belknap Indian Community, as well as Western Native Voice and Montana Native Vote, Native American-led organizations focused on getting out the vote and increasing civic participation in the Native American community challenged the so-called Montana Ballot Interference Prevention ACT (BIPA). The lawsuit, Western Native Voice v. Stapleton, was filed in the Montana 13th Judicial District Court in Yellowstone County. On September 25, 2020, the court permanently struck down BIPA with the following:

the questions presented cannot be viewed through the lens of our own upbringings or own life experiences, but through the lens of the cold, hard data that was presented at trial about the clear limitations Native American communities in Montana face, and how the costs associated with (BIPA) are simply too high and too burdensome to remain the law of the State of Montana.

Today, [the court permanently struck down Montana Ballot Interference Prevention Act \(BIPA\)](#), a law that imposed severe restrictions on ballot collection efforts that are critical to Native American voters living on rural reservations.

NARF Staff Attorney Natalie Landreth responded, Today the Court held that BIPA is unconstitutional and is permanently enjoined. This means that this election, Indian people in Montana can get the help they so sorely need to have their ballots counted.

The law set an arbitrary limit on the number of ballots an individual could collect and also restricted the categories of individuals who were permitted to collect ballots. These limitations were intended to suppress turnout on rural reservations, where geographic and socioeconomic barriers to voting make ballot collection even more critical.

In the introduction of the order the court wrote, the questions presented cannot be viewed through the lens of our own upbringings or own life experiences, but through the lens of the cold, hard data that was presented at trial about the clear limitations Native American communities in Montana face, and how the costs associated with (BIPA) are simply too high and too burdensome to remain the law of the State of Montana.

NARF [Staff Attorney Jacqueline De Len](#) explained, Native American voters living on reservations in Montana are tired of being underserved and systemically discriminated against by the state. Today's decision removes one unnecessary obstacle for rural Montana voters and helps every voice be heard in our state and federal elections. It is one step forward in the fight to protect our vote and our voices.

WHAT: Trial, *Western Native Voice v. Stapleton*

WHEN: 9:00 a.m. 5:00 p.m. on Tuesday, Sept. 8 through Friday, Sept. 11, 2020

WHERE: Yellowstone County District Court, 217 N. 27th Street, Billings, MT

A Montana court has blocked a state law that severely restricts the right to vote for Native Americans.

The Native American Rights Fund, American Civil Liberties Union, and ACLU of Montana successfully sought [the preliminary injunction halting the so-called Montana Ballot Interference Prevention ACT \(BIPA\)](#), which imposed severe restrictions on ballot collection efforts that are critical to Native American voters, particularly those living on rural reservations..

The lawsuit was filed on behalf of the Assiniboiné & Sioux Tribes of Fort Peck, Blackfeet Nation, Confederated Salish and Kootenai Tribes of the Flathead Reservation, Crow Tribe, and Fort Belknap Indian Community, as well as Western Native Voice and Montana Native Vote, Native American-led organizations focused on getting out the vote and increasing civic participation in the Native American community.

In a state where the majority of individuals vote by mail, rural tribal communities work with get-out-the-vote organizers who collect and transport ballots to election offices that would otherwise be inaccessible. These ballot collection efforts are often the only way Native Americans living on rural reservations can access the vote. BIPA would effectively end this practice, disenfranchising Native American voters en masse.

NARF Staff Attorney Natalie Landreth reacted to the ruling, The Ballot Interference Prevention Act makes it hard for many Montanans

to vote. It also is totally unnecessary, as there never was evidence that ballot collection caused any problems in the past. The Tribes are thankful that the court saw all this and has stopped enforcement of it.

The court issued a temporary restraining order blocking the so-called Montana Ballot Interference Prevention ACT (BIPA) that severely restricts Native Americans right to vote. The action means the law is blocked pending the outcome of a hearing scheduled for May 29. The primary is June 2.

NARF, with co-counsel American Civil Liberties Union and ACLU of Montana, successfully sought the order halting the law, which imposed severe restrictions on ballot collection efforts that are critical to Native American voters, particularly those living on rural reservations.

The Native American Rights Fund, American Civil Liberties Union, and ACLU of Montana today challenged a Montana law that severely restricts Native Americans access to the ballot.

The lawsuit was brought on behalf of the Assiniboine & Sioux Tribes of Fort Peck, Blackfeet Nation, Confederated Salish and Kootenai Tribes of the Flathead Reservation, Crow Tribe, and Fort Belknap Indian Community, as well as Western Native Voice and Montana Native Vote, Native American-led organizations focused on getting out the vote and increasing civic participation in the Native American community. They are challenging the so-called Montana Ballot Interference Prevention ACT (BIPA).

Voting has never been easy for Native Americans living on rural reservations, which are often geographically isolated, with limited access to postal service and transportation.

BIPA ignores the everyday realities that face Native American communities. It is not reasonable to expect voters to drive an hour to drop off their ballot, so collecting ballots in reservation communities just makes sense. Criminalizing this behavior is unfair to Native American voters and does nothing to solve the real problem of mail not being picked up and delivered to Native homes, said NARF Staff Attorney Jacqueline De Len.

In a state where the majority of individuals vote by mail, rural tribal communities work with get-out-the-vote organizers who collect and transport ballots to election offices that would otherwise be inaccessible. These ballot collection efforts are often the only way Native Americans can access the vote. BIPA would effectively end this practice, disenfranchising Native American voters en masse. For example:

We are urging the court to immediately block this law that would disenfranchise thousands of eligible voters who live on rural reservations, said Alora Thomas-Lundborg, senior staff attorney with the ACLUs Voting Rights Project. This case is about making sure every eligible voter who wants to vote can actually do so.

Western Native Voice and Montana Native Vote work to promote civic participation in the Native American community. On average, they collect over 85 ballots per organizer, which has been critical to ensuring people on reservations can exercise their fundamental right to vote. Under BIPA, however, Western Native Voice and Montana Native Vote would be able to assist a mere fraction of the voters it assisted in 2018.

A main tenet of our organizations principles is to encourage civic engagement, said Marci McLean, executive director of Western Native Voice. We developed a robust get-out-the-vote program and coupled it with an official ballot collection program. We have organizers on every reservation in the state, and in urban areas. For Native voters living on a reservation, this law directly harms our ability to participate in our democracy.

The complaint charges BIPA with violating the voting and due process rights of individuals living on reservations, as well as the free speech and association rights of Western Native Voice and Montana Native Vote as they engage in ballot collection on reservations.

This misguided and harmful law is leading to the disenfranchisement of entire communities, said Lillian Alvernaz, Indigenous justice legal fellow at the ACLU of Montana. This law is an attack on the constitutional rights of Indigenous people living on rural reservations.

The lawsuit, *Western Native Voice v. Stapleton*, was filed in the Montana 13th Judicial District Court in Yellowstone County.

Complaint: https://www.narf.org/nill/documents/20200312complaint_wnv_v_stapleton.pdf

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