



HOW CAN STATES

DEFEND THE ELECTORAL COLLEGE?

In recent years, critics of the Electoral College have called for it to be either abolished outright through a constitutional amendment or effectively nullified through the National Popular Vote interstate compact (NPV). States have power to push back against these efforts and defend the Electoral College.

One way is to list the names of each candidate for elector on a state's ballot, identifying the presidential candidate they have pledged to support. South Dakota presently does this, and it can help to build public understanding of the Electoral College as a two-step election process rather than a direct election.

State legislatures can pass resolutions that explain the benefits of the Electoral College and dangers of NPV. In 2020 the Arizona House of Representatives and both chambers of the South Dakota legislature passed resolutions supporting the Electoral College and condemning NPV, and similar resolutions were introduced in other states.

States can amend their constitution to explicitly prohibit the votes of non-residents from being used to determine its winning electoral slate, which Missouri legislators have considered. Most state constitutions already limit voting to residents of the state, but it's not clear the courts would consistently interpret this as a prohibition on NPV. A state constitutional amendment would remove all doubt and protect the right of a state's residents to choose their own presidential electors.

There are other ways states can defend the Electoral College and frustrate NPV, including giving residents multiple votes to cast for electors and changing the manner and timeline that election results are certified and reported. Many of the options for defending the Electoral College require great attention to detail, so consulting with knowledgeable experts is highly recommended.

KEY POINTS

- States can help to educate residents on the importance of the Electoral College and how it works by listing the names of presidential electors on the ballot and by passing resolutions.
- State constitutional amendments can explicitly prohibit the votes of non-residents from being used to choose presidential electors (or any other office).
- States have great latitude in how and when they certify and report their election results, and can change them in ways that can frustrate the NPV compact.