

Voter Identification

Summary

- Restrictive voter identification policies – especially those that require state-issued photo ID cards – threaten to exclude millions of eligible voters.
- As many as 10% of eligible voters do not have, and will not get, the identification required by strict voter ID laws.
- ID requirements fall hardest on people who have traditionally faced barriers at the polls.
- ID requirements are not justified by any serious or widespread problem.
- States should not implement burdensome identification requirements.
- States that do require proof of identity at the polls should permit an expansive range of proof.

Restrictive voter identification policies – especially those that require state-issued photo ID cards – threaten to exclude millions of eligible voters. There is a movement afoot to demand that eligible voters provide documentation of their identity at the polls, and to restrict the documents that a voter may offer as proof. Indiana just implemented one such law; Florida has just passed another. A recent Georgia law demands that voters show one of only six forms of government-issued photo ID. The 2005 Commission on Federal Electoral Reform, known as the Carter-Baker Commission, went even farther, recommending that states require a voter to present an enhanced driver's license known as "Real ID" or a specific state-issued equivalent. If followed, this recommendation would prevent eligible citizens from voting if they appeared even with a valid U.S. passport or U.S. military photo ID.

As many as 10% of eligible voters do not have, and will not get, the identification required by strict voter ID laws. Between six and ten percent of voting-age Americans today do not have driver's licenses or state-issued non-driver's photo ID.¹ Based on Americans' moving patterns, many more do not have photo ID showing their current address. New federal rules that will require documentary proof of immigration status will make some ID even harder to obtain; under a new Arizona law passed in 2004, nearly 75% of new voter registration forms in one county were rejected for failure to provide adequate proof of citizenship. And getting ID costs substantial time and money: not only must a would-be voter pay fees both for ID cards and the backup documents needed to get them, but she may have to take several hours off of work, and travel significant distances, to visit government offices open only during select daytime hours.

ID requirements fall hardest on people who have traditionally faced barriers at the polls. The impact of ID requirements is even greater for the elderly, students, people with disabilities, low-income individuals, and people of color. 36 percent of Georgians over age 75 do not have a driver's license.² Fewer than 3 percent of Wisconsin students have driver's licenses listing their current address. The same study found that African Americans have driver's licenses at half the rate of whites, and the disparity increases among younger voters; only 22% of black men aged 18-24 had a valid driver's license.³ Not only are minority voters less likely to possess photo ID, but they are also more likely than white voters to be selectively asked for ID at the polls. For example, in New York City, which has no ID requirement, a study showed that poll workers illegally asked one in six Asian Americans for ID at the polls, while white voters were permitted to vote without showing ID.

ID requirements are not justified by any serious or widespread problem. Proponents often cite fraud or the potential for fraud to justify new ID requirements. There is no question that election misconduct exists, including improper purges of eligible voters, distributing false information about when and where to vote, stuffing of ballot boxes, and tampering with registration forms. But there is no evidence that the type of fraud solved by stricter voter ID – individual voters who misrepresent their identity at the polls – is anything but an anomaly. In Ohio, a statewide survey found four instances of ineligible persons voting or attempting to vote in 2002 and 2004, out of 9,078,728 votes cast – a rate of 0.00004%.⁴ Despite the invocation of fraud as support for the new Georgia law, Georgia Secretary of State Cathy Cox has stated that she could not recall one documented case of voter fraud relating to the impersonation of a registered voter at the polls during her ten-year tenure as an election official. Nationwide, since October 2002, 52 individuals have been convicted of federal crimes relating to election fraud (including several offenses not remedied by ID requirements), while 196,139,871 ballots have been cast in federal general elections.⁵ Statistically, Americans are more likely to be killed by a bolt of lightning.

States should not implement burdensome identification requirements. Although ID requirements may seem reasonable to many middle-class Americans, hard evidence shows that many citizens face extreme difficulty in obtaining certain forms of identification, and that ID requirements are often discriminatorily implemented. Restrictive ID requirements are not only unnecessary, but will disenfranchise eligible voters, artificially depress turnout, and lead to administrative difficulties at the polls. Moreover, existing laws that address the same rare problems targeted by voter ID requirements – including procedures for cleaning the voter rolls and voter ID provisions in the Help America Vote Act (HAVA) – have not yet been fully implemented or assessed. States without widespread evidence of actual fraud caused by individual misrepresentation at the polls should not turn to ID requirements now.

States that do require proof of identity at the polls should continue to permit an expansive range of proof. HAVA found it sensible to ask for documentary proof of identity at the polls only of a limited range of voters: citizens registering for the first time in a jurisdiction, by mail, whose application information had not already been verified against other state or federal databases. For all other voters, a person's sworn statement as to her identity should ordinarily suffice; such is the policy, for example, in Arkansas. If a state nevertheless demands further documentary proof, it should give ample notice to the voter of the documents accepted, and should not restrict the list of acceptable documents beyond the broad range provided in HAVA – including current utility bills, bank statements, paychecks, and other government documents. Moreover, any voter unable to provide sufficient identification at the polls should be allowed to cast a provisional ballot, which will then be counted unless election officials determine that the voter was not in fact eligible under state law to vote. Election officials can also confirm the eligibility of a provisional voter by matching the signature on the provisional ballot envelope against the signature on the registration form.

¹ See John Mark Hansen, Coordinator, Task Force on the Federal Election System, *Report*, at VI-4 in *Task Force Reports to Accompany the Report of the National Commission on Election Reform* (Aug. 2001).

² Deanna Wrenn, *Three States Debate Requiring Voters to Show ID*, VENTURA COUNTY STAR, Mar. 31, 2005, at 6.

³ John Pawasarat, *The Driver License Status of the Voting Age Population in Wisconsin* 1, 11 (June 2005), available at <http://www.uwm.edu/Dept/ETI/barriers/DriversLicense.pdf>.

⁴ Coalition on Homelessness & Hous. in Ohio & League of Women Voters Coalition, *Let the People Vote* (2005), available at <http://www.cohhio.org/alerts/Election%20Reform%20Report.pdf>.

⁵ Office of the Clerk, U.S. House of Representatives, *HElectionH Statistics* (2005), <http://clerk.house.gov/members/electionInfo/elections.html>.