Not enough time to examine and count the provisional ballots. Florida, Indiana, Virginia, and Washington all have clarified or extended the timeline to evaluate the ballots. But taking more time can prove a problem, particularly in presidential elections with the looming deadline to certify the vote for the Electoral College.[25]

Lack of uniform rules for counting ballots and effective training of the election officials in interpreting and applying those rules to determine the validity of ballots. Colorado, New Mexico, North Carolina, and Washington have all passed legislation focused on improving the efficacy and consistency of the voting and counting process.

**Litigation**

Successful legal challenges to the process highlight areas where provisional voting procedures were wanting. A flurry of litigation occurred around the country in October 2004 concerning the so-called "wrong precinct issue" – whether provisional ballots cast by voters in a precinct other than their designated one would be counted for statewide races. These lawsuits were largely unsuccessful in their stated goal: most courts, including the U.S. Court of Appeals for the Sixth Circuit (the only federal appeals court to rule on the issue), rejected the contention that HAVA requires the counting of these wrong-precinct provisional ballots.

This litigation was significant nonetheless.

- First, the Sixth Circuit decision established the precedent that voters have the right to sue in federal court to remedy violations of HAVA.

- Second --and significantly-- the litigation clarified the right of voters to receive provisional ballots, even though the election officials were certain they would not be counted. The decision also defined an ancillary right –the right to be directed to the correct precinct. There voters could cast a regular ballot that would be counted. If they insisted on casting a provisional ballot in the wrong precinct, they would be on notice that it would be a symbolic gesture only.

- Third, these lawsuits prompted election officials to take better care in instructing precinct officials on how to notify voters about the need to go to the correct precinct in order to cast a countable ballot – although the litigation regrettably came too late to be truly effective in this regard. In many states, on Election Day 2004, the procedures in place for notifying voters about where to go were less than ideal, reflecting less-than-ideal procedures for training poll workers on this point.

There was also pre-election litigation over the question whether voters who had requested an absentee ballot were entitled to cast a provisional ballot. In both cases (one in Colorado and one, decided on Election Day, in Ohio), the federal courts ruled that HAVA requires that these voters receive a provisional ballot. Afterwards, it is for state officials under state law to

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[25] The resources available to evaluate and count provisional ballots within a tight schedule may not be easily available. The General Accounting Office reports that Detroit, where 1,350 provisional ballots were cast and 123 counted, found the 6-day time frame for processing provisional ballots "very challenging and unrealistic. To overcome this challenge, the *entire department's employees were mobilized to process provisional ballots.*" The report also found that in Los Angeles County, "staff had to prepare duplicate ballots to remove ineligible or invalid contests when voters cast their ballots at the wrong precinct. To overcome this challenge, staffing was increased to prepare the duplicate ballots." In a close, contested election, "duplicate" ballots would doubtless receive long and careful scrutiny." See Appendix 7, GAO, "Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote," September 2005. (GAO Report-05-997)

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determine whether these provisional ballots will be counted, in part by determining if these provisional voters already had voted an absentee ballot (in which case one ballot should be ruled ineligible, in order to avoid double voting). These decisions confirm the basic premise that provisional ballots should be available whenever voters believe they are entitled to them, so that their preferences can be recorded, with a subsequent determination whether these preferences count as valid votes.

## RECOMMENDATIONS

Because every provisional ballot counted represents a voter who, if the system had worked perfectly, should have voted by regular ballot, the advent of statewide registration databases is likely to reduce the use provisional ballots. The one area in which such databases may not make a difference is for those who voted by provisional ballot because they did not bring required identification documents to the polling place. The statewide voter registration database will facilitate verifying that ballot, but the voter will still have vote provisionally. Beyond that exception, even with statewide registries in every state, provisional voting will remain an important failsafe, and voters should have confidence that the failsafe will operate correctly.

The wide variation in the implementation of provisional voting among and particularly within states suggests that EAC can help states strengthen their processes. Research-based recommendations for best, or at least better, practices based on the experience gained in the 2004 election can be useful in states' efforts to achieve greater consistency in the administration of provisional voting.

### Recommendations for Best Practices

Recent legislative activity shows that state efforts to improve the provisional voting process are underway. Those states, as well as others that have not yet begun to correct shortcomings that became apparent in 2004, can benefit from considering the best practices described here. By recommending best practices, the EAC will offer informed advice while respecting diversity among the states. One way to strengthen the recommendations and build a constituency for them would be for EAC to ask its advisory committee members to recommend as best practices procedures that have worked in their states.

#### Self-evaluation of Provisional Voting –4 Key Questions

The first need to achieve greater consistency within each state is to think about provisional voting systematically. As legislators, election officials, and citizens in the states prepare for the 2006 election, they should ask themselves these questions about their provisional voting systems.

1. Does the provisional voting system distribute, collect, record, and tally provisional ballots with sufficient accuracy to be seen as procedurally legitimate by both supporters and opponents of the winning candidate? Does the tally include all votes cast by properly registered voters who correctly completed the steps required?

2. Is the provisional voting system sufficiently robust to perform well under the pressure of a close election when ballot evaluation will be under scrutiny and litigation looms?

3. Do the procedural requirements of the system permit cost-efficient operation? Are the administrative demands of the system reasonably related to the staff and other resource requirements available?

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4. How great is the variation in the use of provisional voting in counties or equivalent levels of voting jurisdiction within the state? Is the variation great enough to cause concern that the system may not be administered uniformly across the state?

If the answers to these questions leave room for doubt about the effectiveness of the system or some of its parts, the EAC's recommendation of best practices should provide the starting point for a state's effort to improve its provisional voting system.

**Best Practices For Each Step In The Process**
We examined each step of the provisional voting process to identify specific areas where the states should focus their attention to reduce the inconsistencies noted in our analysis. We offer recommendations in each area appropriate to the responsibilities that HAVA assigns the EAC for the proper functioning of the provisional voting process.

**The Importance of Clarity**
The EAC should emphasize above all else the importance of clarity in the rules governing every stage of provisional voting. As the Century Foundation's recent report observed, "Close elections increasingly may be settled in part by the evaluating and counting of provisional ballots. . . To avoid post election disputes over provisional ballots—disputes that will diminish public confidence in the accuracy and legitimacy of the result-- well in advance of the election, states should establish, announce, and publicize clear statewide standards for every aspect of the provisional ballot process, from who is entitled to receive a provisional ballot to which ones are counted."[26]

Litigation surrounding the 2004 election resulted in decisions that, if reflected in state statutes or regulations and disseminated in effective training for poll workers, can increase the clarity of provisional ballot procedures, increase predictability, and bolster confidence in the system. By taking the following steps, states can incorporate those court rulings into their procedures.

- Promulgate, ideally by legislation, clear standards for evaluating provisional ballots, and provide training for the officials who will apply those standards. For example, in Washington State, the court determined that an election official's failure in evaluating ballots to do a complete check against all signature records is an error serious enough to warrant recanvassing.[27] Clear direction by regulation or statute on what records to use in evaluating ballots could have saved precious time and effort and increased the reliability of the provisional voting system.

- States should provide poll workers standard information resources for the training of poll workers by local jurisdictions. Training materials might include, for example, maps or databases with instruction on how to locate polling places for potential voters who show up at the wrong place. Usable and useful information in the hands of poll workers can protect voters from being penalized by ministerial errors at the polling place.[28]

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[26] The Century Foundation, Balancing Access and Integrity, Report of the Working Group on State Implementation of Election Reforms, July 2005.
[27] See *Washington State Republican Party v. King County Division of Records*, 103 P3d 725, 727-728 (Wash. 2004)
[28] See *Panio v. Sunderland* 824 N.E.2d 488, 490 (NY, 2005) See also Order, *Hawkins v. Blunt*, No.04-4177-CV-C-RED (W.D. Mo. October 12, 2004). While rejecting the notion that all ballots cast in the wrong precinct should be counted, the court ruled that provisional votes cast in the wrong precinct should be thrown out provided that the voter had been directed to the correct precinct. This meant that provisional votes cast in the wrong precinct (and even the

- State training materials provided to local jurisdictions should make clear that the only permissible requirement to obtain a provisional ballot is an affirmation that the voter is registered in the jurisdiction and eligible to vote in an election for federal office. [29] Recent legislation in Arizona indicates that recommendations should emphasize HAVA's requirement that persons appearing at the polling place claiming to be registered voters cannot be denied a ballot because they do not have identification with them. Poll workers may need appropriate training to understand their duty to give such voters a provisional ballot. [30]

### A. Registration and Pre-Election Information for Voters

Providing crisp, clear information to voters before the election is important to the success of the provisional voting process. The better voters understand their rights and obligations, the easier the system will be to manage, and the more legitimate the appearance of the process. States can begin by assessing the utility and clarity of the information for voters on their websites and by considering what information might be added to sample ballots mailed to voters before elections. Best practices in this area would include:

1. If states require identification at the time of registration, the kind of IDs required should be stated precisely and clearly and be publicly and widely available in a form that all voters can understand. For example, "You must bring your driver's license. If you don't have a driver's license, then you must bring an ID card with your photograph on it and this ID card must be issued by a government agency. " [31]

2. The process to re-enfranchise felons should be clear and straightforward. To avoid litigation over the registration status of felons, best practice should be defined as making re-enfranchisement automatic, or no more burdensome than the process required for any new registrant.[32]

3. State or county websites for voters should offer full, clear information on boundaries of precincts, location of polling places, requirements for identification, and other necessary guidance that will facilitate registration and the casting of a regular ballot. An 800 number should also be provided. Models are available: the statewide databases in Florida and Michigan provide voters with provisional voting information, registration verification and precinct location information.

### B. At the Polling Place

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wrong polling place) would count if there were no evidence that the voter had been directed to a different polling place. The court placed a duty upon election officials to make sure the voters were in the correct locations. Note that this question would not arise in a state that counted ballots cast in the wrong polling place but within the correct county.

[29] *Sandusky County Democratic Party v. Blackwell,* 387 F.3d 565, 774 (6th Cir. 2004)

[30] *The Florida Democratic Party v. Hood*, 342 F. Supp. 2d 1073, 1075-76 (N.D. Fla. 2004). The court explained that provisional voting is designed to correct the situation that occurs when election officials do not have perfect knowledge and when they make incorrect determinations about eligibility (the "fail-safe" notion). Denying voters provisional ballots because of on-the-spot determinations directly contradicts this idea. Even before the cited decision, the Florida Secretary of State's office had determined that any voter who makes the declaration required by federal law is entitled to vote a provisional ballot, even if the voter is in the wrong precinct.

[31] Websites in 29 states describe, with varying degrees of specificity, the identification voters may need. In 18 states voters can learn something about the precinct in which they should vote. And in 6 states (California, District of Columbia, Kentucky, Michigan, North Carolina, and South Carolina) they can verify their registration on the website.

[32] The Century Foundation, op. cit.

Avoiding error at the polling place will allow more voters to cast a regular ballot and all others who request it to cast a provisional ballot.

1. The layout and staffing of the polling place, particularly the multi-precinct polling place is important. Greeters, maps, and prominently posted voter information about provisional ballots, ID requirements, and related topics can help the potential voters cast their ballot in the right place. States should require poll workers to be familiar with the options and provide the resources needed for them to achieve the knowledge needed to be helpful and effective. Colorado has clear regulations on polling place requirements, including HAVA information and voting demonstration display.[33] Many states require training of poll workers. In some states that requirement is recent: after the 2004 election, New Mexico adopted a requirement for poll workers to attend an "election school." [34] A state statutory requirement for training could facilitate uniform instruction of poll workers in those states that do not already provide it.

2. The provisional ballot should be of a design or color sufficiently different from a regular ballot to avoid confusion over counting, as occurred in Washington State. The ballot might include a tear-off leaflet with information for voters such as: "Reasons Why Your Provisional Ballot Might Not Be Counted" on one side and "What to Do if My Provisional Ballot Is Not Counted" on the other.

3. Because provisional ballots offer a fail-safe, supplies of the ballots at each polling place should be sufficient for all the potential voters likely to need them. In 2004, some polling places ran out of ballots, with unknown effects on the opportunity to vote. In Middlesex County, New Jersey, for example, on Election Day the Superior Court ordered the county clerk to assure that sufficient provisional ballots were available at several heavily used polling places, and it authorized the clerk "in the event additional provisional ballots are required . . .to photocopy official provisional ballots." [35] At least two states, Connecticut and Delaware, provide guidelines to local election officials on how to estimate the demand for provisional ballots. Connecticut sets the number at 1% of the voters in the district, Delaware at 6%.[36] States that do not offer a practical method to guide the supply of provisional ballots at polling places should consider doing so. The guideline should take into account both the number of voters in the district and the number of provisional ballots actually cast in recent elections.

4. To achieve the procedural clarity needed to forestall disputes, states should establish a clear chain of custody for the handling of provisional ballots from production through distribution, collection and, finally, evaluation. A number of states have clear procedures for at least parts of this chain of custody. All states should examine their chain-of-custody requirements for clarity. Illinois includes the potentially beneficial requirement that ballots be transported by bi-partisan teams, which offers the potential to avoid some charges of election fraud.

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[33] 8 Colo. Code Regs. § 1505-1, Rule 7.1.
[34] 2005 N.M. Laws 270 page no. 4-5.
[35] Voting Order, November 2, 2004, Superior Court of New Jersey, Law Division, Middlesex County.
[36] Connecticut: "Equal to or not less than 1% of the number of electors who are eligible to vote in any given district, or such other number as the municipal clerk and the registrars agree is sufficient to protect voting rights. Conn. Gen. Stat. Ann. § 9-232j.Delaware: Each County Department of Elections Office is required to provide to each election district a number of provisional ballots equal to 6% of registered voters in that district, with a minimum allocation of 15 ballots. Additional supplies to be delivered when the supply becomes "very low." Del.Code Ann. Tit 15 § 4948(e).

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### C. Evaluating Voter Eligibility and Counting Provisional Ballots

The clarity of criteria for evaluating voter eligibility is critical to a sound process for deciding which of the cast provisional ballots should be counted. Public recognition of the validity of those criteria is important to establishing the legitimacy of the system as a whole. The experience in 2004 in North Carolina, Washington, and Ohio underlines the importance of clear criteria. As the Century Foundation report put it, "Whatever procedures the states choose [to determine if a provisional ballot should be counted], the paramount consideration—as with all others concerning provisional voting—is that they be clear and thus not susceptible to post-election manipulation and litigation."[37] Nonetheless, the *Panio v. Sutherland*[38] decision in New York shows the difficulty of defining the range of administrative errors from which the provisional voters should be held harmless. Even when the standard is "clerical error" judges can differ over what that means exactly. Possibly a state law might be able to clarify a definition by giving examples of clerical errors, but even then the definition is unlikely to be perfect.

1. State statutes or regulations should define a reasonable period for voters who lack the HAVA-specified ID or other information bearing on their eligibility to provide it in order to facilitate the state's ability to verify that the person casting the provisional ballot is the same one who registered. While there may be a concern to ensure that the individual who returns with the ID may not be the same individual who cast the provisional ballot, the spirit of HAVA demands that the opportunity to prove identity be provided after Election Day. A signature match can go far in establishing that the individual who voted and the individual returning later with identification is, in fact, the same person. Encouraging a voter who lacks ID on Election Day to return later to help the verification process by providing proper identification will strengthen the system and increase public confidence in the electoral process. Our data indicate that some voters would prefer to return with ID rather than to sign an affidavit, perhaps because of uncertainty about the legal process involved in the affidavit. At least 11 states allow voters to provide ID or other information one to 13 days after voting. Of particular interest is Kansas, which allows voters to proffer their ID by electronic means or by mail, as well as in person.[39]

2. More provisional ballots are counted in those states that verify ballots cast outside the correct precinct. [40] While HAVA arguably leaves this decision up to the states, pointing out the effect of the narrower definition on the portion of ballots counted could be useful to the states in deciding this question. States should be aware, however, of the

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[37] The Century Foundation, op. cit.

[38] 4 N.Y.3d 123, 824 N.E.2d 488 (N.Y. 2005) and Memorandum (LaPlante—Foley) Provisional Ballot Cases by State, July 19, 2005.

[39] In Kansas, the voter can provide ID to a County Election Officer any time before the County Board of Canvassers meets to count provisional ballots. KS. ST. 25-1122(d). ID can be presented in person, OR via mail or electronic means. *Id.* The Board must meet either on the Friday or Monday following a Tuesday election. *Id.* at 25-3104. Deadlines in other states are: Alabama – 5:00 P.M. on the Monday following the election AL ST § 17-10A-2(c)(1) Florida: until 5:00 P.M. on the third day following the election . Fla. Stat. Ann. § 101.048 (adopted after the 2004 election);Georgia—no later than 2 days after the election. GA ST § 21-2-417; 419. Illinois- 2 days to submit additional information 10 Ill. Comp. Stat. Ann. 5/18A-15(d); Indiana— in 2004 the deadline was the close of the polls IN. ST. §. 3-11.7-5-2(a). The time period was extended to 13 days by the adoption of Indiana Code 3-11-8, Section 25, Subsection (I); Maryland—until the meeting of the Election Board; MD ELEC LAW § 11-303. New Jersey— until the close of business on the second day after the election 19:53C-3(i). Nevada— until 5:00 P.M. on the Friday following the election NV ST 293.3085; New Mexico—until 7:00 P.M. on Election Day NM ADC 1.10.22 (8) (H).

[40] See Andersen, op. cit, pgs. 23 – 24 for an analysis of the significant effect of counting out-of-precinct ballots. The Election Day Survey found that, "Most notably, jurisdictions that permitted jurisdiction-wide acceptance of provisional ballots reported higher rates of provisional ballots being cast, but also reported a much higher incidence of provisional ballots being counted, than other jurisdictions."

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additional burden placed on the ballot-evaluation process when out-of-precinct ballots are considered. And tradeoffs are involved if out-of-precinct voters are unable to vote for the local offices that might appear on the ballot in their district of residence. One option for states is to involve the voters in the decision by pointing out that voters who cast their provisional ballots in the wrong precinct may not be able to participate in the local election. The voter could then decide to go to the correct precinct or vote provisionally for the higher offices at the top of the ticket only.

3. Alternatively, if a state chooses to require voters to appear at their assigned precinct, where the same polling site serves more than one precinct, a voter's provisional ballot should count so long as the voter cast that ballot at the correct polling site even if at the wrong precinct within that location. [41] Ideally the voter could be directed to the correct machine, but poll worker advice will not always be correct. One way to assess the balance of issues here is to consider that, If a voter in a multi-precinct polling place is sent to the wrong machine, the error is probably the poll worker's, and the voter should not be penalized.

4. Officials should follow a written procedure, and perhaps a checklist, to identify the reason why a provisional ballot is rejected (e.g., check the applicable box "unregistered voter"; "lack of signature match" "wrong precinct," etc.) Those forms should be disclosed publicly when completed. Colorado's election rules offer particularly clear guidance to the official evaluating a provisional ballot.[42]

   Colorado Rejection Codes (Any ballot given a rejection code shall not be counted):

   RFS (Rejection federal or state) No federal or state candidates or issues to duplicate.
   RNS (Rejection not signed) Provisional Ballot Affidavit not signed.
   RIN (Rejection incomplete information provided) Required information is incomplete and the designated election official is unable to confirm voter's eligibility.
   RNR (Rejection not registered) Voter did not register by the voter registration deadline or by emergency registration, Colorado voter registration record was not found, or voter was previously cancelled and has not been reinstated pursuant to 1-2-605(10). C.R.S.
   REE (Rejection envelope empty) Provisional ballot envelope is empty.
   RAB (Rejection voter voted absentee) Designated election official has confirmed that voter voted an absentee ballot.
   REV (Rejection based on ballot cast in early voting) Voter voted early.
   RIP (Rejection based on incorrect party) Incorrect Party in Primary Election.
   RFE (Rejection felon not eligible to vote) Individual was convicted of a felony and is either serving a sentence of confinement or detention or is on parole.
   RWC (Rejection elector not registered in county or State of Colorado) Non-county or non-state resident; therefore voter not eligible to vote in the county where the provisional ballot was voted.
   RID (Rejection first time voter has not supplied identification upon registration or thereafter prior to and during time voter voted) First Time Voter who

[41] Chances are administrative error accounts for the voter being directed to the wrong precinct under these circumstances.
[42] 8 CCR 1505-1, at 26.5.4, adopted august 4, 2005. See also 1-2-509(3) C.R.S.

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registered by mail or through a voter registration drive, is tagged as id deficient, and did not provide id at the time of voting.

RRD (Rejection registration deficient) Voter had deficient or incomplete registration and required information was not provided prior to or at the time of filling in the provisional ballot envelope. Voter's eligibility cannot be established.

**D. Verification of Provisional Ballots**

1. States that use the information on the provisional ballot to permit voters who have changed their addresses to update their registrations should adopt clear procedures on that process and specify how the new information will be communicated between different Boards of Elections

2. In verifying provisional ballots, the time by which election officials must make their eligibility determinations is particularly important in presidential elections because of the need to certify electors to the Electoral College. States should consider in particular how to divide the time allowed them by the safe-harbor provisions that apply in presidential elections to the certification to the Electoral College. Some part of this five-week period will be consumed by the eligibility evaluation, but states should take care to provide a sufficient period of time as well for challenges. If a state consumes 21 days following the election in the eligibility evaluations, only two weeks will remain for legal challenges to be concluded. Is that sufficient? Or should the state provide the resources needed to complete the eligibility determinations in 10 days or two weeks, leaving three weeks or more for legal challenges in a close election? Our research did not identify an optimum division of the five weeks available. The prudent course here would be to encourage states to consider the issue and then make a careful decision about how to complete all steps in the evaluation of ballots and challenges to those determinations within the five weeks available.

**E. Post-election Information for Voters**

Timely information to voters about the disposition of their provisional ballot will provide helpful feedback and more important enable voters to determine if they are registered for future elections and, if not, what they need to do to become registered.

1. Establish mechanisms to ensure that voters casting provisional ballots are informed whether they are now registered for future elections and, if not, what they need to do to become registered.

**F. State Laws Governing Litigation over Provisional Voting**

1. Establish special, streamlined litigation procedures for Election Day complaints that individuals are being denied the right to cast a provisional ballot

**<u>Broader Considerations</u>**

**G. Integrity and the Appearance of Integrity**

1. State laws or regulations providing for non-partisan or bi-partisan bodies to make a public determination of the validity of provisional ballots would increase confidence in the system.

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2. To improve transparency, state laws or regulations should require the purging process for registration to be public and with an opportunity for voters to correct an erroneous determination that they should be purged.

3. State laws or regulation should require the evaluation process for provisional ballots to be public, while protecting the names of those who voted provisionally.

**H. Continuous Assessment of the Provisional Ballot -- Process and Performance**

Defining what makes for a successful provisional voting system is difficult. The most successful system is probably not the one with the most provisional votes cast (that could indicate problems with the registration system). Nor is the system with the greatest number counted or with the fewest counted necessarily superior because the evaluation process could be flawed.

Defining quality requires a broad perspective about how well the system works, how open it is to error recognition and correction, and how well provisional voting processes are connected to the registration and voter identification regimes. The EAC should consider engaging one of the national quality organizations or processes, such as Six Sigma[43] or the Baldridge Quality process [44] to evaluate the provisional ballot process. Pending such a review, the EAC can recommend that states take the following actions.

1. Recognize that the first step to improving quality is to see the provisional voting process as a system and take a systems approach to regular evaluation through standardized metrics with explicit goals for performance.
2. States should begin by collecting data systematically on the provisional voting process so that they can evaluate their voting system and assess changes from one election to the next. The effort should start in the 2006 election, and the data collected should include:
   - -- Provisional votes cast and counted by jurisdiction, say counties, with details on why the voter had to vote provisionally (lack of ID, not on list, challenged at polling place, issued absentee ballot, etc) and number of ballots actually counted in each category.
   - -- Reasons why provisional ballots were not counted, using categories such as those that have been adopted by Colorado, described earlier in this report.
   - -- Measures of variance among jurisdictions.
   - -- Number of poll workers trained in administration of provisional voting by polling place
   - -- Number of jurisdictions posting information on provisional voting in the polling place
   - -- Time required to evaluate ballots by jurisdiction

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[43] Six Sigma is a measure of quality that strives for near perfection. Six Sigma is a disciplined, data-driven approach and methodology for eliminating defects (driving towards six standard deviations between the mean and the nearest specification limit) in any process -- from manufacturing to transactional and from product to service.

[44] The Baldrige Criteria for Performance Excellence provide a systems perspective for understanding performance management. They reflect validated, leading-edge management practices against which an organization can measure itself. With their acceptance nationally and internationally as the model for performance excellence, the Criteria represent a common language for communication among organizations for sharing best practices. The Criteria are also the basis for the Malcolm Baldrige National Quality Award process.

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Improving understanding of the provisional voting process through analysis of detailed information will enable state and local election officials to strengthen their systems. By collecting and analyzing this data states can identify which aspects of the registration and electoral system are most important in shunting voters into the provisional ballot process. Responsible officials can then look to their registration system, identification requirements or poll worker training as a way to reduce the need for voters to cast their ballots provisionally.

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## ATTACHMENT 1 – Data Sources for Classification of the States

Our research on provisional voting divided the various states into several categories to allow an assessment of how different factors may have influenced the process of casting and counting provisional ballots. This analysis was conducted before the release of the Election Day Study, and the categories we used may differ in some respects from its work. The variables used to analyze a state's use of provisional ballots:

1. New vs. Old (states that used a provisional ballot before the 2004 election)
2. Use of a statewide database of registered voters vs. no use of a statewide database
3. Counting out-of-precinct ballots vs. not counting out-of-precinct ballots
4. Voter identification requirements
5. Method used to verify provisional ballots
6. Levels of provisional ballots cast and counted

We first assigned states within these categories based on classifications done by Electionline.org in its studies. The Electionline data was the only published information available at the time of our research. We reviewed the Electionline data carefully, and, in select cases, updated it with new, detailed information that had become available after its publication. The changes we made are explained below.

--Idaho, Maine, Minnesota, New Hampshire, Wisconsin and Wyoming were excluded from our analysis. They have election-day registration systems, and did not need to use HAVA-compliant provisional ballots.

--North Dakota does not register voters, so it also was excluded from HAVA requirements and did not use provisional voting.

--Mississippi has not reported its provisional voting results and could not be included in our analysis, though it was compliant in 2004.

--Pennsylvania did not report its totals for the Election Day Study, but we obtained information on Pennsylvania and included it in our analysis.

New vs. Old States

We classified states as "new" or "old" based on the 2001 Electionline study of provisional voting,[45] but condensed its classifications into a single dichotomous variable, new/old with all other cases excluded. The Electionline study divided states into five categories of their use of provisional ballots in the 2000 election:

1. Use of provisional ballots (P)
2. Limited use of provisional ballots (LP)
3. Affidavit ballots (A)
4. No system in place (N)
5. Unnecessary/Not Applicable (U/NA)

We included in the list of "Old States" all states listed as using provisional ballots, limited use of provisional ballots or affidavit ballots. States in all three categories would have been familiar with key aspects of provisional voting.. States that had no provisional voting system in place for the 2002 election, and were HAVA compliant in 2004, were listed as "new" states, as 2004 would have been the first year in which they would be offering the option of provisional voting. States that were listed as unnecessary or not applicable were excluded from this study, as they

[45] This study can be found at: http://electionline.org/Portals/1/Publications/Provisional%20Voting.pdf.

were exempt from the HAVA regulations in 2004 because they either allowed same-day registration or did not register voters.

Rhode Island is the only state categorized as an old state by Electionline that we moved into the list of new states. Electionline's map shows Rhode Island as a state that used provisional voting in 2000, but in the state description, it is listed as having no system in place. We learned from the Rhode Island Board of Elections that the state had previously permitted potential voters to sign an affidavit if they did not appear on a precinct's list of registered voters, but felt they were registered to vote. Based on the signed affidavit, the election official would then contact a county official to see if the voter was on a more complete registration list. If the voter's name was on the complete list, that voter was permitted to cast a regular ballot. As this process did not grant the voter a provisional ballot, but served as a different type of administrative failsafe, we concluded that Rhode Island's first use of provisional voting was in 2004 and, therefore, classified the state as "new" to the system of provisional balloting.

**Table 1**
**CATEGORIZATION OF STATES -- Old and New**

| Old States | New States | HAVA Exempt or NA |
|---|---|---|
| Alaska | Connecticut | Idaho |
| Alabama | Delaware | Maine |
| Arkansas | Georgia | Minnesota |
| California | Hawaii | New Hampshire |
| Colorado | Illinois | North Dakota |
| DC | Indiana | Wisconsin |
| Florida | Louisiana | Wyoming |
| Iowa | Massachusetts | |
| Kansas | Missouri | |
| Kentucky | Montana | |
| Maryland | Nevada | |
| Michigan | Oklahoma | |
| Mississippi | Pennsylvania | |
| Nebraska | Rhode Island | |
| New Jersey | South Dakota | |
| New Mexico | Tennessee | |
| New York | Utah | |
| North Carolina | Vermont | |
| Ohio | | |
| Oregon | | |
| South Carolina | | |
| Texas | | |
| Virginia | | |
| Washington | | |
| West Virginia | | |
| **26** | **18** | **7** |

Statewide List of Registered Voters

The Electionline preview of the 2004 Election[46] was the starting point for compiling a list of states that had a statewide database of registered voters. That study listed 34 States that did not have their statewide database systems complete, and 16 that did, including the District of Columbia. North Dakota does not register voters, so does not need to compile such a database. Electionline's criterion for concluding that a state had a statewide list was that the state have participation from all jurisdictions in a statewide system. We added Oklahoma to the list of states with statewide databases because we found it had met the Electionline criteria by the 2004 election, albeit too late for inclusion in the Electionline survey.

Out-of-Precinct Ballots

We based our classification of states that allow the counting of ballots cast outside the correct precinct on the data in the 2004 Electionline preview of the 2004 election[2]. States that evaluated ballots cast in a precinct where the voter was not registered were categorized as "out-of-precinct." States that invalidated such ballots were categorized as "In-precinct only."

**Table 2**
**CATEGORIZATION OF STATES -- Counting Out-Of-Precinct Ballots**

| Out-of-Precinct | In-Precinct Only | HAVA EXEMPT OR NA |
|---|---|---|
| Alaska | Alabama | Idaho |
| Arkansas | Arizona | Maine |
| California | Colorado | Mississippi |
| Delaware | Connecticut | New Hampshire |
| Georgia | District of Columbia | North Dakota |
| Illinois[47] | Florida | Wisconsin |
| Kansas | Hawaii | Wyoming |
| Louisiana | Indiana | |
| Maryland | Iowa | |
| New Mexico | Kentucky | |
| North Carolina | Massachusetts | |
| Oregon | Michigan | |
| Pennsylvania | Missouri | |
| Rhode Island | Montana | |
| Utah | Nebraska | |
| Vermont | Nevada | |
| Washington | New Jersey | |
| | New York | |
| | Ohio | |
| | Oklahoma | |
| | South Carolina | |
| | South Dakota | |
| | Tennessee | |
| | Texas | |
| | Virginia | |
| | West Virginia | |
| | | |
| **17** | **26** | **7** |

[46] "Election Preview 2004: What's changed, What Hasn't and Why". This study can be found at: http://electionline.org/Portals/1/Publications/Election.preview.2004.report.final.update.pdf
[47] In Illinois, it is not clear that all counties followed this procedure. Some counties may not have counted out-of-precinct ballots.

Verification Method

We identified four different ways states assessed provisional ballots to determine if they should be counted: signature match, match voter data, signed affidavits, and bringing back identification later. We gathered information about these verification techniques by checking state websites and consulting journalistic accounts. We consulted state legislation to provide further information where needed.

**Table 3**
**CATEGORIZATION OF STATES -- Ballot Evaluation Methods**

| Signature Match | Data Match | Affidavit | Return with ID | NA |
|---|---|---|---|---|
| Alaska | Alabama | Connecticut | Indiana | Idaho |
| California | Arizona | Delaware | Iowa | Maine |
| Florida | Arkansas | Georgia | Kansas | Mississippi |
| Oregon | Colorado | Hawaii | Maryland | Minnesota |
| | DC | Illinois | Michigan | New Hampshire |
| | Louisiana | Kentucky | Montana | N. Carolina* |
| | Missouri | Massachusetts | New Jersey | N. Dakota |
| | Ohio | Nebraska | New Mexico | Wisconsin |
| | Oklahoma | Nevada | Texas | Wyoming |
| | Pennsylvania | New York | Utah | |
| | Rhode Island | South Dakota | | |
| | S. Carolina | Tennessee | | |
| | Washington | Vermont | | |
| | West Virginia | Virginia | | |
| | | | | |
| | | | | |
| 4 | 14 | 14 | 10 | 9 |

* North Carolina lacked clear standards to evaluate provisional ballots and is excluded from this analysis.

**Data Collection**

To assemble our data for analysis, we began by using the data on provisional votes cast and counted reported by Electionline. To increase the accuracy of this data, we surveyed each state's election websites for updated data, and for reported numbers on the county level. We then sent emails to 49 (we excluded Alaska, see below) states and the District of Columbia, requesting updated data on the number of provisional votes cast and counted by county. We received information from 25 states by our cut-off date of August 25, 2005.

**Table 4**
**Updated information by State**

| Received Updated Data | Did Not Receive Updated Data |
|---|---|
| California | Alabama |
| District of Columbia | Alaska[48] |
| Florida | Arizona |
| Hawaii | Arkansas |
| Indiana | Colorado |
| Iowa | Connecticut |
| Kansas | Delaware |
| Louisiana | Georgia |
| Maryland[49] | Idaho |
| Missouri | Illinois |
| Montana | Kentucky |
| Nebraska[50] | Maine |
| Nevada | Massachusetts |
| New Jersey | Michigan |
| New Mexico | Minnesota |
| Ohio | Mississippi |
| Oklahoma | New Hampshire |
| Oregon | New York |
| Pennsylvania | North Carolina |
| Rhode Island | North Dakota |
| South Dakota | South Carolina |
| Tennessee | Utah |
| Texas | Vermont |
| Virginia | Wisconsin |
| Washington | Wyoming |
| West Virginia | |
| | |
| **26 States** | **25 States** |

[48] Alaska was not contacted via email, as the state does not have voting districts comparable to counties in other states and could not be matched with comparable census data.
[49] Maryland reported provisional ballots that were counted per county, but not number cast.
[50] Nebraska reported an incomplete list of provisional ballots cast and counted by county, but designated counties by number, rather than by name.

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**Data Differences**

The data used in this study differ from the data reported in the Election Day Study for 19 states. The Election Day Study was not completed until well after our statistical analysis of provisional voting was finished. Where there are differences, they are typically very small, usually fewer than 100 votes either cast or counted. Of the 9 states that have differences of more than 100 votes cast or counted, 7 have reported their numbers directly to us and can be considered updated data that EDS had not obtained. For one of those states, New Mexico, EDS had incomplete data, and for another, Pennsylvania, EDS had no data at all. The data that we have collected reflects updated numbers from the states that have changed following recounts and litigation that altered how ballots were evaluated.

**Table 5**
**Data Differences with the Election Day Study**

| State | EDS Numbers Cast/Counted | Our Numbers Cast/Counted | Differences | Updated Info from State?[51] |
|---|---|---|---|---|
| **Alabama** | 6,478/1,865 | 6560/1836 | 82/29 | No |
| **Alaska** | 23,285/22,498 | 23,275/22,498 | 10/0 | No |
| **Colorado** | 51,529/39,086 | 51,477/39,163 | 52/77 | No |
| **Georgia** | 12,893/4,489 | 12,893/3,839 | 0/650 | No |
| **Hawaii** | 346/25 | 348/25 | 2/0 | Yes |
| **Iowa** | 15,406/8,038 | 15,454/8,048 | 48/10 | Yes |
| **Kansas** | 45,535/32,079 | 45,563/31,805 | 28/274 | Yes |
| **Montana** | 688/378 | 653/357 | 35/21 | Yes |
| **Nebraska** | 17,421/13,788 | 17,003/13,298 | 418/490 | Yes |
| **Nevada** | 6,153/2,446 | 6,154/2,447 | 1/1 | Yes |
| **New Mexico** | 6,410/2,914 | 15,360/8,767 | 8,950/5,853 | Yes |
| **N. Carolina** | 77,469/50,370 | 77,469/42,348 | 0/8,022 | No |
| **Ohio** | 157,714/123,902 | 158,642/123,548 | 928/354 | Yes |
| **Pennsylvania** | No data | 53,698/26,092 | 53,698/26,092 | Yes |
| **Texas** | 35,282/7,156 | 36,193/7,770 | 911/614 | Yes |
| **Vermont** | 121/30 | 101/37 | 20/7 | No |
| **Virginia** | 4,608/728 | 4,609/728 | 1/0 | Yes |
| **Washington** | 92,402/73,806 | 86,239/69,273 | 6,163/4,533 | Yes |
| **Wisconsin** | 374/119 | 373/120 | 1/1 | No |

[51] Data not provided by the state itself is taken from Electionline figures.

**Appendices**

a. Summary of Voter ID Requirements by State
b. Summary of case law on Voter ID issues
c. Vercellotti --Analysis of Effects of Voter ID Requirements on Turnout
d. Indexed database of major articles on Voter ID Requirements and related topics
e. Compendium of states' legislation, procedures, and litigation (available as an electronic document)

## Appendix A
## Summary of Voter Identification Requirements By State

Prepared by
Sara A. Sampson, Reference Librarian,
The Ohio State University Moritz College of Law.

### Voter ID Requirements

| State | Forms of ID Required 2004 | Statutory Language | Statutory Citation |
|---|---|---|---|
| Alabama | Provide ID | (b) Each elector shall provide identification to an appropriate election official prior to voting. A voter required to show identification when voting in person shall present to the appropriate election official either of the following forms of identification:<br><br>(1) A current valid photo identification.<br>(2) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. The term "other government document" may include, but is not limited to, any of the following:<br>a. A valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification.<br>b. A valid United States passport.<br>c. A valid Alabama hunting or fishing license.<br>d. A valid Alabama permit to carry a pistol or revolver.<br>e. A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States.<br>f. A valid United States military identification card.<br>g. A certified copy of the elector's birth certificate.<br>h. A valid Social Security card.<br>i. Certified naturalization documentation.<br>j. A certified copy of court records showing adoption or name change.<br>k. A valid Medicaid card, Medicare card, or an Electronic Benefits Transfer Card (formerly referred to as a "food stamp card").<br><br>(c) For voters required to show identification when voting by mail, the voter shall submit with the ballot a copy of one of the forms of identification listed in subsection (b).<br>(e) An individual required to present identification in accordance with this section who is unable to meet the identification requirements of this section shall be permitted to vote by a challenged or provisional ballot, as provided for by law.<br><br>(f) In addition, an individual who does not have identification in his or her possession at the polls shall be permitted to vote if the individual is positively identified by two election officials as a voter on the poll list who is eligible to vote and the election official signs the voters list by where the voter signs.<br><br>Effective Date: June 24, 2003 | Ala. Code § 17-11A-1 |
| Alaska | Provide ID | (a) Before being allowed to vote, each voter shall exhibit to an election official one form of identification, including<br><br>(1) an official voter registration card, driver's license, state identification card, current and valid photo identification, birth certificate, passport, or hunting or fishing license; or<br><br>(2) an original or a copy of a current utility bill, bank statement, paycheck, government check, or other government document; an item exhibited under this | Alaska Stat. § 15.15.225 |

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| | | paragraph must show the name and current address of the voter.<br><br>(b) An election official may waive the identification requirement if the election official knows the identity of the voter. The identification requirement may not be waived for voters who are first-time voters who initially registered by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050, and did not provide identification as required in AS 15.07.060.<br><br>(c) A voter who cannot exhibit a required form of identification shall be allowed to vote a questioned ballot.<br><br>effective June 17, 2003 | |
| Arizona | Provide ID | B. If a statewide voter registration database is not yet operational, for any person who has registered to vote by mail for the first time in this state after January 1, 2003 or who is reregistering by mail after January 1, 2003 after moving from one county to another county in this state, the person shall comply with the following in order to be issued a ballot:<br><br>1. The person shall present either one of the following:<br><br>(a) A current form of identification that bears a photograph of the person and the name of the person.<br><br>(b) A current utility bill, bank statement, paycheck, government issued check or other government document that shows the name and registration address of the person.<br><br>2. If the person does not present a document that complies with paragraph 1, the person is only eligible to vote a provisional ballot as prescribed by § 16-584.<br><br>Effective Dec. 1, 2003 | Ariz. Rev. Stat. Ann. § 16-579 |
| Arkansas | Provide ID | 7-5-305. Requirements.<br><br>(a) Before a person is permitted to vote, the election official shall:<br>(1) Request the voter to identify himself in order to verify the existence of his name on the precinct voter registration list;<br>(2) Request the voter, in the presence of the election official, to state his address and state or confirm his date of birth;<br>(3) Determine that the voter's date of birth and address are the same as those on the precinct voter registration list;<br>(4) If the date of birth given by the voter is not the same as that on the precinct voter registration list, request the voter to provide identification as the election official deems appropriate;<br>(5)(A) If the voter's address is not the same as that on the precinct voter registration list, verify with the county clerk that the address is within the precinct.<br>(B) If the address is within the precinct, request the voter to complete a voter registration application form for the purpose of updating county voter registration record files.<br>(C) If the address is not within the precinct, instruct the voter to contact the county clerk's office to determine the proper precinct;<br>(6) If the voter's name is not the same as that on the precinct voter registration list, request the voter to complete a voter registration application form for purposes of updating county voter registration record files;<br>(7) Request the voter, in the presence of the election official, to sign his name, including his given name, his middle name or initial, if any, and his last name in the space provided on the precinct voter registration list. If a person is unable to sign his signature or make his mark or cross, the election official shall enter his initials and the voter's date of birth in the space for the person's signature on the precinct voter registration list; and | Arkansas Code Annotated § 7-5-305 |

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| | | (8)(A) Request the voter for purposes of identification to provide a valid driver's license, photo identification card issued by a governmental agency, voter card, social security card, birth certificate, United States passport, employee identification card issued by a governmental agency containing a photograph, employee identification card issued in the normal course of business of the employer, student identification card, Arkansas hunting license, or United States military identification card.<br>(B)(i) If a voter is unable to provide this identification, the election official shall indicate on the precinct voter registration list that the voter did not provide identification.<br>(ii) Following each election, the county board of election commissioners may review the precinct voter registration lists and may provide the information of the voters not providing identification at the polls to the prosecuting attorney.<br>(iii) The prosecuting attorney may investigate possible voter fraud; and<br>(9) Follow the procedures under §§ 7-5-310, 7-5-311, and 7-5-523, if the preson is a disabled voter and presents himself or herself to vote.<br><br>Effective: July 16, 2003 | |
| California | Sign Name | Any person desiring to vote shall announce his or her name and address in an audible tone of voice, and when one of the precinct officers finds the name in the index, the officer shall in a like manner repeat the name and address. The voter shall then write his or her name and residence address or, if the voter is unable to write, shall have the name and residence address written by another person on a roster of voters provided for that purpose, whereupon a challenge may be interposed as provided in this article.<br><br>(Enacted in 1994, no amendments since) | Cal. Elec. Code § 14216 |
| Colorado | Provide ID | (1) Except as provided in subsection (4) of this section, any eligible elector desiring to vote shall show his or her identification as defined in section 1-1-104(19.5), write his or her name and address on the signature card, and give the signature card to one of the election judges,<br>* * *<br><br>(4) An eligible elector who is unable to produce identification may cast a provisional ballot in accordance with article 8.5 of this title.<br><br>(19.5)(a) "Identification" means:<br><br>(I) A valid Colorado driver's license;<br><br>(II) A valid identification card issued by the department of revenue in accordance with the requirements of part 3 of article 2 of title 42, C.R.S.;<br><br>(III) A valid United States passport;<br><br>(IV) A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of this state, or by any county, municipality, board, authority, or other political subdivision of this state;<br><br>(V) A valid pilot's license issued by the federal aviation administration or other authorized agency of the United States;<br><br>(VI) A valid United States military identification card with a photograph of the eligible elector;<br><br>(VII) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector;<br><br>(VIII) A valid medicare or medicaid card issued by the United States health care | Colo. Rev. Stat. Ann. § 1-7-110; Colo. Rev. Stat. Ann. § 1-1-104 |

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| | | financing administration;<br><br>(IX) A certified copy of a birth certificate for the elector issued in the United States; or<br><br>(X) Certified documentation of naturalization.<br><br>(b) Any form of identification indicated in paragraph (a) of this subsection (19.5) that shows the address of the eligible elector shall be considered identification only if the address is in the state of Colorado.<br><br>Effective 5/28/2004 | |
| Connecticut | Provide ID | (a) In each primary, election or referendum, when an elector has entered the polling place, the elector shall announce the elector's street address, if any, and the elector's name to the checkers in a tone sufficiently loud and clear as to enable all the election officials present to hear the same. Each elector who registered to vote by mail for the first time on or after January 1, 2003, and has a "mark" next to the elector's name on the official registry list, as required by section 9-23r, shall present to the checkers, before the elector votes, either a current and valid photo identification that shows the elector's name and address or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the elector. Each other elector shall (1) present to the checkers the elector's Social Security card or any other preprinted form of identification which shows the elector's name and either the elector's address, signature or photograph, or (2) on a form prescribed by the Secretary of the State, write the elector's residential address and date of birth, print the elector's name and sign a statement under penalty of false statement that the elector is the elector whose name appears on the official checklist. Such form shall clearly state the penalty of false statement. A separate such form shall be used for each elector. If the elector presents a preprinted form of identification under subdivision (1) of this subsection, the checkers shall check the name of such elector on the official checklist. If the elector completes the form under subdivision (2) of this subsection, the assistant registrar of voters shall examine the information on such form and either instruct the checkers to check the name of such elector on the official checklist or notify the elector that the form is incomplete or inaccurate.<br><br>Effective May 10., 2004 | Conn. Gen. Stat. Ann. § 9-261 |
| Delaware | Provide ID | (a) A voter, upon entering the room where an election is being held, shall announce his or her name and address and provide proof of identity, whereupon the clerks shall place a mark or make a notation of his or her name upon the election district record. In the event the voter does not have proof of identity with them, he or she shall sign an affidavit of affirmation that he or she is the person listed on the election district record.<br><br>Effective: July 9, 2002 | 15 Del. Code § 4937 |
| D.C. | Sign Name | (i)(1) A person shall be entitled to vote in an election in the District of Columbia if he or she is a duly registered voter. A qualified elector shall be considered duly registered in the District if he or she has met the requirements for voter registration and, on the day of the election, either resides at the address listed on the Board's records or files an election day change of address pursuant to this subsection.<br><br>(2) Each registered voter who changes his or her place of residence from that listed on the Board's records shall notify the Board, in writing, of the new residence address. A change of address shall be effective on the date the notification was mailed as shown by the United States Postal Service postmark. If not postmarked, the notification shall be effective on the date of receipt by the Board. Change of address notifications from registrants shall be accepted pursuant to subsection (g) of this section, except that any registrant who has not notified the Board of his or her current residence address by the deadline established by subsection (g) of this section may be permitted to vote at the | D.C. Code § 1-1001.07 |

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| | | polling place that serves the current residence address by filing an election day change of address notice pursuant to paragraph (4) of this subsection.<br>(3) Each registered voter who votes at a polling place on election day shall affirm his or her residence address as it appears on the official registration roll for the precinct. The act of signing a copy of the official registration roll for the precinct shall be deemed affirmation of the voter's address as it appears on the Board's registration records.<br>(Effective April 3, 2001)(not added as part of 2005 amendment) | |
| Florida | Photo ID | 101.043 (1) The precinct register, as prescribed in s. 98.461, shall be used at the polls in lieu of the registration books for the purpose of identifying the elector at the polls prior to allowing him or her to vote. The clerk or inspector shall require each elector, upon entering the polling place, to present a current and valid picture identification as provided in s. 97.0535(3)(a). If the picture identification does not contain the signature of the voter, an additional identification that provides the voter's signature shall be required. The elector shall sign his or her name in the space provided, and the clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector.<br><br>(2) Except as provided in subsection (3), if the elector fails to furnish the required identification, or if the clerk or inspector is in doubt as to the identity of the elector, such clerk or inspector shall follow the procedure prescribed in s. 101.49.<br><br>**97.0535** (3)(a) The following forms of identification shall be considered current and valid if they contain the name and photograph of the applicant and have not expired:<br><br>1. Florida driver's license.<br><br>2. Florida identification card issued by the Department of Highway Safety and Motor Vehicles.<br><br>3. United States passport.<br><br>4. Employee badge or identification.<br><br>5. Buyer's club identification.<br><br>6. Debit or credit card.<br><br>7. Military identification.<br><br>8. Student identification.<br><br>9. Retirement center identification.<br><br>10. Neighborhood association identification.<br><br>11. Entertainment identification.<br><br>12. Public assistance identification.<br><br>(b) The following forms of identification shall be considered current and valid if they contain the name and current residence address of the applicant:<br><br>1. Utility bill. | West's Fla. Stat. Ann. § 101.043 & West's Fla. Stat. Ann. § 97.0535 |

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|---|---|---|---|
| | | 2. Bank statement.<br><br>3. Government check.<br><br>4. Paycheck.<br><br>5. Other government document (excluding voter identification card).<br><br>Version effective 1/1/2005-12/31/2005 | |
| Georgia | Provide ID | (a) Each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such person's admission to the enclosed space at such polling place. Proper identification shall consist of any one of the following:<br>(1) A valid Georgia driver's license;<br>(2) A valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification;<br>(3) A valid United States passport;<br>(4) A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state;<br>(5) A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;<br>(6) A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;<br>(7) A valid Georgia license to carry a pistol or revolver;<br>(8) A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;<br>(9) A valid United States military identification card;<br>(10) A certified copy of the elector's birth certificate;<br>(11) A valid social security card;<br>(12) Certified naturalization documentation;<br>(13) A certified copy of court records showing adoption, name, or sex change;<br>(14) A current utility bill, or a legible copy thereof, showing the name and address of the elector;<br>(15) A bank statement, or a legible copy thereof, showing the name and address of the elector;<br>(16) A government check or paycheck, or a legible copy thereof, showing the name and address of the elector; or<br>(17) A government document, or a legible copy thereof, showing the name and address of the elector.<br>(b) If an elector is unable to produce any of the items of identification listed in subsection (a) of this Code section, he or she shall sign a statement under oath in a form approved by the Secretary of State, separate and distinct from the elector's voter certificate, swearing or affirming that he or she is the person identified on the elector's voter certificate. Such person shall be allowed to vote without undue delay; provided, however, that an elector who registered for the first time in this state by mail and did not provide one of the forms of identification set forth in subsection (a) of this Code section at the time of registration and who is voting for the first time may vote a provisional ballot pursuant to Code Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in this Code section within the time period for verifying provisional ballots pursuant to Code Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement."<br><br>effective June, 2003 | Ga. Code. Ann. § 21-2-417 |

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| Hawaii | Photo ID | (b) The voter shall present valid identification to the official in charge of the pollbook.<br><br>***Do I Need an I.D. to Vote on Election Day?***<br>**Yes.** Be sure to have an I.D. with a picture and signature (such as a Hawaii driver's license or state I.D. card) when you go to vote. The NVRAC card is not an acceptable form of identification.<br><br>From the 2004 version of the administrative code.<br><br>**§ 11-136 Poll book, identification, voting.**<br><br>Every person upon applying to vote shall sign the person's name in the poll book prepared for that purpose. This requirement may be waived by the chairperson of the precinct officials if for reasons of illiteracy or blindness or other physical disability the voter is unable to write. Every person shall provide identification if so requested by a precinct official. A poll book shall not contain the social security number of any person.<br><br>After signing the poll book and receiving the voter's ballot, the voter shall proceed to the voting booth to vote according to the voting system in use in the voter's precinct. The precinct official may, and upon request shall, explain to the voter the mode of voting.<br><br>Last amended 2003. | Haw. Code. R. § 2-51-80 (Paper ballots; voting procedure at the polls), § 2-51-83 (Punchcard ballots; voting procedure at polls), 2-51-85.1 (Marksense ballots; voting procedure at the polls.) – All have same subsection (b)<br><br>Haw. Code. R. T. 2, SUBT. 4, CH. 51, Appendix<br><br>HRS 11-136 |
| Idaho | Sign Name | (1) An elector desiring to vote shall state his name and address to the judge or clerk in charge of the combination election record and poll book.<br><br>(2) Before receiving his ballot, each elector shall sign his name in the combination election record and poll book following his name therein.<br><br>(5) The elector shall then be given the appropriate ballots which have been stamped with the official election stamp and shall be given folding instructions for such ballots.<br><br>(Last amended in 1972) | Id. St. §34-1106 |
| Illinois | Give Name | Any person desiring to vote shall give his name and, if required to do so, his residence to the judges of election, one of whom shall thereupon announce the same in a loud and distinct tone of voice, clear, and audible; the judges of elections shall check each application for ballot against the list of voters registered in that precinct to whom absentee or early ballots have been issued for that election, which shall be provided by the election authority and which list shall be available for inspection by pollwatchers. A voter applying to vote in the precinct on election day whose name appears on the list as having been issued an absentee or early ballot shall not be permitted to vote in the precinct. All applicable provisions of Articles 4, 5 or 6 shall be complied with and if such name is found on the register of voters by the officer having charge thereof, he | 10 Ill. Comp. Stat. 5/17-9 |

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| | | shall likewise repeat said name, and the voter shall be allowed to enter within the proximity of the voting booths, as above provided. One of the judges shall give the voter one, and only one of each ballot to be voted at the election, on the back of which ballots such judge shall indorse his initials in such manner that they may be seen when each such ballot is properly folded, and the voter's name shall be immediately checked on the register list. In those election jurisdictions where perforated ballot cards are utilized of the type on which write-in votes can be cast above the perforation, the election authority shall provide a space both above and below the perforation for the judge's initials, and the judge shall endorse his or her initials in both spaces. Whenever a proposal for a constitutional amendment or for the calling of a constitutional convention is to be voted upon at the election, the separate blue ballot or ballots pertaining thereto shall, when being handed to the voter, be placed on top of the other ballots to be voted at the election in such manner that the legend appearing on the back thereof, as prescribed in Section 16-6 of this Act, shall be plainly visible to the voter. At all elections, when a registry may be required, if the name of any person so desiring to vote at such election is not found on the register of voters, he or she shall not receive a ballot until he or she shall have complied with the law prescribing the manner and conditions of voting by unregistered voters. If any person desiring to vote at any election shall be challenged, he or she shall not receive a ballot until he or she shall have established his right to vote in the manner provided hereinafter; and if he or she shall be challenged after he has received his ballot, he shall not be permitted to vote until he or she has fully complied with such requirements of the law upon being challenged. Besides the election officer, not more than 2 voters in excess of the whole number of voting booths provided shall be allowed within the proximity of the voting booths at one time. The provisions of this Act, so far as they require the registration of voters as a condition to their being allowed to vote shall not apply to persons otherwise entitled to vote, who are, at the time of the election, or at any time within 60 days prior to such election have been engaged in the military or naval service of the United States, and who appear personally at the polling place on election day and produce to the judges of election satisfactory evidence thereof, but such persons, if otherwise qualified to vote, shall be permitted to vote at such election without previous registration. | |
| Indiana | Sign Name | | West's Annotated Indiana Code § 3-11-8-25 |
| Iowa | Sign Name | 1. The board members of their respective precincts shall have charge of the ballots and furnish them to the voters. Any person desiring to vote shall sign a voter's declaration provided by the officials, in substantially the following form:<br><br>VOTER'S DECLARATION OF ELIGIBILITY<br><br>I do solemnly swear or affirm that I am a resident of the ..... precinct, ..... ward or township, city of ....., county of ....., Iowa.<br><br>I am a registered voter. I have not voted and will not vote in any other precinct in said election.<br><br>I understand that any false statement in this declaration is a criminal offense punishable as provided by law.<br><br>_____<br>Signature of Voter<br>_____<br>Address<br>_____<br>Telephone<br>Approved: | Iowa Code § 49.77 |

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| | | _____<br>Board Member<br><br>2. One of the precinct election officials shall announce the voter's name aloud for the benefit of any persons present pursuant to section 49.104, subsection 2, 3, or 5. Any of those persons may upon request view the signed declarations of eligibility and may review the signed declarations on file so long as the person does not interfere with the functions of the precinct election officials.<br><br>3. A precinct election official shall require any person whose name does not appear on the election register as an active voter to show identification. Specific documents which are acceptable forms of identification shall be prescribed by the state commissioner.<br><br>A precinct election official may require of the voter unknown to the official, identification upon which the voter's signature or mark appears. If identification is established to the satisfaction of the precinct election officials, the person may then be allowed to vote.<br><br>(From 2004 version of Iowa Annotated Code; effective January 1, 1995) | |
| Kansas | Sign Name | (b) A person desiring to vote shall provide to the election board: (1) the voter's name; (2) if required, the voter's address; and (3) the voter's signature on the registration or poll book. A signature may be made by mark, initials, typewriter, print, stamp, symbol or any other manner if by placing the signature on the document the person intends the signature to be binding. A signature may be made by another person at the voter's direction if the signature reflects such voter's intention.<br><br>(Approved April 14, 2004, 2004 Kansas Laws Ch. 93) | Kan. Stat. Ann. § 25-2908(b) |
| Kentucky | Provide ID | 117.227 Confirmation of voter's identity<br><br>Election officers shall confirm the identity of each voter by personal acquaintance or by a document, such as a motor vehicle operator's license, Social Security card, or credit card. The election officer confirming the identity shall sign the precinct voter roster and list the method of identification.<br><br>Effective: 7/15/02<br><br>31 KAR 4:010. Voter identification cards.<br><br>Section 1. In addition to the forms of identification specifically provided for by KRS 117.227, any identification card that bears both the picture and signature of the voter, or any identification card that has been issued by the county, and which has been approved in writing by the State Board of Elections, shall be acceptable for confirmation of the voter's identity. | Ky Rev. Stat. Ann. 117.227<br><br>31 Ky. Admin. Regs. 4:010. |
| Louisiana | Photo ID | A. Identification of voters.<br><br>(1) A person who desires to vote in a primary or general election shall give his name and address to a commissioner, who shall announce the applicant's name and address to the persons at the polling place.<br><br>(2) Each applicant shall identify himself, in the presence and view of the bystanders, and present to the commissioners a Louisiana driver's license, a Louisiana special identification card issued pursuant to R.S. 40:1321, or other generally recognized picture identification card. If the applicant does not have a Louisiana driver's license, a Louisiana special identification card, or other generally recognized picture identification card, the applicant shall sign an affidavit, which is supplied by the secretary of state, to that effect before the commissioners who shall place the affidavit in the envelope marked "Registrar of Voters" and attach the envelope to the precinct register, and the applicant | La. Rev. Stat. Ann. 18:562 |

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| | | shall provide further identification by presenting his current registration certificate, giving his date of birth or providing other information stated in the precinct register that is requested by the commissioners. However, an applicant that is allowed to vote without the picture identification required by this Paragraph is subject to challenge as provided in R.S. 18:565.<br><br>Effective: 1/1/2002 | |
| Maine | Give Name | The voting procedure is as follows.<br><br>1. Name announced. A voter who wishes to vote must state the voter's name and, upon request, residence address to an election clerk who shall announce the name in a loud, clear voice.<br><br>(In effect at time of 2003 amendment: 2003, c. 584, § 9) | Me. Rev. Stat. Ann. tit. 21-A, § 671 |
| Maryland | Sign Name | 10-310.<br>(a) For each individual who seeks to vote, an election judge, in accordance with instructions provided by the local board, shall:<br>(1) locate the individual's name in the precinct register and locate the preprinted voting authority card and then authorize the individual to vote a regular ballot;<br>(2)(i) if the individual's name is not found on the precinct register, search the inactive list and if the name is found, authorize the individual to vote a regular ballot; or<br>(ii) if the individual's name is not on the inactive list, refer the individual for provisional ballot voting under § 9-404 of this article;<br>(3) establish the identity of the voter by requesting the voter to state the month and day of the voter's birth and comparing the response to the information listed in the precinct register;<br>(4) verify the address of the voter's residence;<br>(5) if any changes to the voting authority card are indicated by a voter, make the appropriate changes in information on the card or other appropriate form; and<br>(6) have the voter sign the voting authority card and either issue the voter a ballot or send the voter to a machine to vote. | Md. Elec. Law § 10-310 |
| Mass. | Give Name | Each voter desiring to vote at a polling place shall give his name and, if requested, his residence to one of the officers at the entrance to the space within the guard rail, who shall thereupon distinctly announce the same. If such name is found on the voting list, the election officer shall check and repeat the name and shall admit the voter to the space enclosed by the guard rail and, in case official ballots, other than those marked "Challenged Ballots" as provided by section thirty-five A, are used, such voter shall be given one ballot. The use of electronic means such as tape recording equipment or radio broadcasting equipment for the recording or broadcasting of the names of voters not yet checked as having voted shall be prohibited.<br><br>Last amended in 1981<br><br>(5B) Identification. If so authorized by the city or town clerk or registrars of voters, an election officer may request any voter to present written identification. Such requests shall not discriminate in any way, but shall be entirely random, consistent, or based on reasonable suspicion. For the purpose of 950 CMR 52.03(5B), of M.G.L. c. 54, § 76B, and of 950 CMR 52.03(5)(b), suitable written identification includes a driver's license, recent utility bill, rent receipt on a landlord's printed letterhead, lease, duplicate copy of a voter registration affidavit, or any other printed identification which contains the voter's name and address. If voters fail to present suitable written identification when so requested, they must still be allowed to vote, but an election officer or any other person may challenge their right to vote under M.G.L. c. 54, § 85 and 950 CMR 52.03(23). | Mass. Ann. Laws 54 § 76<br><br>950 Mass. Code Regs. 52.03 |
| Michigan | Sign Name | (1) At each election, before being given a ballot, each registered elector offering to vote shall identify himself or herself by presenting an official state | Mich. Comp. Laws Ann. § |

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| | | identification card issued to that individual pursuant to Act No. 222 of the Public Acts of 1972, being sections 28.291 to 28.295 of the Michigan Compiled Laws, an operator's or chauffeur's license issued to that individual pursuant to the Michigan Vehicle Code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, or other generally recognized picture identification card and by executing an application showing his or her signature or mark and address of residence in the presence of an election official. If the voter registration cards are used in the precinct, the election official in charge of the precinct registration file shall compare the signature upon the application with the signature upon the registration card. If voter registration lists are used in the precinct, the election inspector shall determine if the name on the application to vote appears on the voter registration list. If the name appears on the voter<br>registration list, the elector shall provide further identification by giving his or her date of birth or other information stated upon the voter registration list. In precincts using voter registration lists, the date of birth may be required to be placed on the application to vote. If the signature or an item of information does not correspond, the vote of the person shall be challenged, and the same procedure shall be followed as provided in this act for the challenging of an elector. If the person offering to vote has signed the registration card or application by making a mark, the person shall identify himself or herself by giving his or her date of birth, which shall be compared with the date of birth stated upon the registration card or voter registration list, or shall give other identification as may be referred to upon the registration card or voter registration list. If the elector does not have an official state identification card, operator's or chauffeur's license as required in this subsection, or other generally recognized picture identification card, the individual shall sign an affidavit to that effect before an election inspector and be allowed to vote as otherwise provided in this act. However, an elector being allowed to vote without the identification required under this subsection is subject to challenge as provided in section 727.<br><br>(2) If, upon a comparison of the signature or other identification, it is found that the applicant is entitled to vote, the election officer having charge of the registration list shall approve the application and write his or her initials on the application, after which the number on the ballot issued shall be noted on the application. The application shall serve as 1 of the 2 poll lists required to be kept as a record of a person who has voted. The application shall be filed with the township, city, or village clerk. If voter registration cards are used in the precinct, the date of the election shall be noted by 1 of the election officials upon the precinct registration card of each elector voting at an election. If voter registration lists are used in the precinct, the election official shall clearly indicate upon the list each elector voting at that election. The clerk of a city, village, or township shall maintain a record of voting participation for each registered elector.<br><br>The Attorney General declared that this statute violated the Equal Protection Clause of the Fourteenth Amendment. Op. Atty. Gen. 1997, No. 6930. That decision is binding on all state agencies.<br><br>(Effective March 31, 1997) | 168.523 |
| Minnesota | Sign Name | (a) An individual seeking to vote shall sign a polling place roster which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, maintains residence at the address shown, is not under a guardianship in which the court order revokes the individual's right to vote, has not been found by a court of law to be legally incompetent to vote or convicted of a felony without having civil rights restored, is registered and has not already voted in the election. The roster must also state: "I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not | Minn. Stat. § 204C.10 |

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| | | more than $10,000, or both."<br><br>(b) A judge may, before the applicant signs the roster, confirm the applicant's name, address, and date of birth.<br><br>(c) After the applicant signs the roster, the judge shall give the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.<br><br>(Effective January 1, 2004) | |
| Mississippi | Sign Name | * * *<br><br>When any person entitled to vote shall appear to vote, he shall first sign his name in a receipt book or booklet provided for that purpose and to be used at that election only and said receipt book or booklet shall be used in lieu of the list of voters who have voted formerly made by the managers or clerks; whereupon and not before, the initialing manager or, in his absence, the alternate initialing manager shall indorse his initials on the back of an official blank ballot, prepared in accordance with law, and at such place on the back of the ballot that the initials may be seen after the ballot has been marked and folded, and when so indorsed he shall deliver it to the voter, which ballot the voter shall mark in the manner provided by law, which when done the voter shall deliver the same to the initialing manager or, in his absence, to the alternate initialing manager, in the presence of the others, and the manager shall see that the ballot so delivered bears on the back thereof the genuine initials of the initialing manager, or alternate initialing manager, and if so, but not otherwise, the ballot shall be put into the ballot box; and when so done one (1) of the managers or a duly appointed clerk shall make the proper entry on the pollbook. If the voter is unable to write his name on the receipt book, a manager or clerk shall note on the back of the ballot that it was receipted for by his assistance.<br><br>(Effective January 1, 1987) | Miss. Code Ann. § 23-15-541 |
| Missouri | Provide ID | 1. Before receiving a ballot, voters shall identify themselves by presenting a form of personal identification from the following list:<br><br>(1) Identification issued by the state of Missouri, an agency of the state, or a local election authority of the state;<br><br>(2) Identification issued by the United States government or agency thereof;<br><br>(3) Identification issued by an institution of higher education, including a university, college, vocational and technical school, located within the state of Missouri;<br><br>(4) A copy of a current utility bill, bank statement, government check, paycheck or other government document that contains the name and address of the voter;<br><br>(5) Driver's license or state identification card issued by another state; or<br><br>(6) Other identification approved by the secretary of state under rules promulgated pursuant to subsection 3 of this section other identification approved by federal law. Personal knowledge of the voter by two supervising election judges, one from each major political party, shall be acceptable voter identification upon the completion of a secretary of state-approved affidavit that is signed by both supervisory election judges and the voter that attests to the personal knowledge of the voter by the two supervisory election judges. The secretary of state may provide by rule for a sample affidavit to be used for such purpose.<br><br>(Last amended in 2002) | Mo. Rev. Stat. §115.427.1 |

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| Montana | Provide ID | (1) (a) Before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge a current photo identification showing the elector's name. If the elector does not present photo identification, including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address.<br><br>(From 2004 version of the Montana Code Annotated; No updates in 2004, only in 2005 [ Unrelated section was amended in 2005]) | Mont. Code. Ann. §13-13-114(1)(a) |
| Nebraska | Sign Name | (1) The clerks of election shall have a list of registered voters of the precinct and a sign-in register at the polling place on election day. The list of registered voters shall be used for guidance on election day and may be in the form of a computerized, typed, or handwritten list or precinct registration cards. Registered voters of the precinct shall place and record their signature in the sign-in register before receiving any ballot. The list of registered voters and the sign-in register may be combined into one document.<br><br>(Last amended in 2003)<br><br>Official ballots shall be used at all elections. No person shall receive a ballot or be entitled to vote unless and until he or she is registered as a voter except as provided in section 32-914.01, 32-914.02, 32-915, 32-915.01, or 32-936. Except as otherwise specifically provided, no ballot shall be handed to any registered voter at any election until (1) he or she announces his or her name and address to the clerk of election, (2) the clerk has found that he or she is a registered voter at the address as shown by the precinct list of registered voters unless otherwise entitled to vote in the precinct under section 32-328, 32-914.01, 32-914.02, 32-915, or 32-915.01, (3) if the voter registered by mail after January 1, 2003, and has not previously voted in an election for a federal office within the county, the clerk shall ask the registered voter to present a photographic identification which is current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document that is current and that shows the name and address of the voter, (4) the clerk has instructed the registered voter to personally write his or her name in the precinct sign-in register on the appropriate line which follows the last signature of any previous voter, and (5) the clerk has listed on the precinct list of registered voters the corresponding line number and name of the registered voter.<br><br>(Last updated in 2003) | Neb. Rev. Stat. § 32-913<br><br>Neb. Rev. Stat. § 32-914 |
| Nevada | Match Sig. | 1. Except as otherwise provided in NRS 293.541, if a person's name appears in the election board register or if he provides an affirmation pursuant to NRS 293.525, he is entitled to vote and must sign his name in the election board register when he applies to vote. His signature must be compared by an election board officer with the signature or a facsimile thereof on his original application to register to vote or one of the forms of identification listed in subsection 2.<br><br>2. Except as otherwise provided in NRS 293.2725, the forms of identification which may be used individually to identify a voter at the polling place are:<br><br>(a) The card issued to the voter at the time he registered to vote;<br><br>(b) A driver's license;<br><br>(c) An identification card issued by the Department of Motor Vehicles;<br><br>(d) A military identification card; or | Nev. Rev. Stat.§ 293.277 |

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| | | (e) Any other form of identification issued by a governmental agency which contains the voter's signature and physical description or picture.<br><br>Last Amendment Effective Jan. 1, 2004. | |
| NH | Give Name | A person desiring to vote shall, before being admitted to the enclosed space within the guardrail, announce his or her name to one of the ballot clerks who shall thereupon repeat the name; and, if the name is found on the checklist by the ballot clerk, the ballot clerk shall put a checkmark beside it and again repeat the name. The ballot clerk shall state the address listed on the checklist for the voter, and ask if the address is correct; if the address on the checklist is not correct, the ballot clerk shall correct the address in red on the checklist. The voter, if still qualified to vote in the town or ward and unless challenged as provided for in RSA 659:27-33, shall then be allowed to enter the space enclosed by the guardrail. After the voter enters the enclosed space, the ballot clerk shall give the voter one of each ballot to be voted on in that election which shall be folded as it was upon receipt from the secretary of state.<br><br>Last Amendment Effective July 2, 2002. | N.H. Rev. Stat. Ann. 659:13 |
| New Jersey | Match Sig. | 19:15-17. Comparison of signatures or statements made openly; provisional ballots for newly registered voters without proper identification<br><br>a. The comparison of signatures of a voter made upon registration and upon election day, and if the voter alleges his inability to write, the comparison of the answers made by such voter upon registration and upon election day, shall be had in full view of the challengers.<br><br>b. If a voter has registered by mail after January 1, 2003 to vote for the first time in his or her current county of residence and did not provide personal identification when registering pursuant to section 16 of P.L.1974, c. 30 (C.19:31-6.4), the voter shall be permitted to vote starting at the first election held after January 1, 2004 at which candidates are seeking federal office after displaying one of the following items: (1) a current and valid photo identification card; (2) a current utility bill, bank statement, government check or pay check; (3) any other government document that shows the voter's name and current address; or (4) any other identifying document that the Attorney General has determined to be acceptable for this purpose. If the voter does not display one of these documents, the voter shall not be permitted to vote by machine but shall instead be provided with a provisional ballot, pursuant to the provisions of P.L.1999, c. 232 (C.19:53C-1 et seq.). This subsection shall not apply to any voter entitled to vote by absentee ballot under the "Uniformed and Overseas Citizens Absentee Voting Act" (42 U.S.C. 1973ff-1 et seq.) or to any voter who is provided the right to vote other than in person under section 3 of Pub.L.98-435, the "Voting Accessibility for the Elderly and Handicapped Act," or any other voter entitled to vote otherwise than in person under any other federal law. This subsection shall also not apply to any person who registers to vote by appearing in person at any voter registration agency or to any person whose voter registration form is delivered to the county commissioner of registration or to the Attorney General, as the case may be, through a third party by means other than by mail delivery.<br><br>c. Each county commissioner of registration shall collect and maintain, in the manner prescribed by the Attorney General, the information provided pursuant to subsection b. of this section and section 16 of P.L.1974, c. 30 (C.19:31- 6.4). Access to the personal identification information provided pursuant to subsection b. of this section and section 16 of P.L.1974, c. 30 (C.19:31- 6.4). shall be prohibited, in accordance with subsection a. of section 6 of P.L.2001, c. 404 (C.47:1A-5).<br><br>Last Amendment Effective July 9, 2004 | N.J. Stat. Ann. 19:15-17 |
| New Mexico | Sign Name | D. The judge assigned to the voter list used for confirmation of registration and voting shall determine that each person offering to vote is registered and, in the | N.M. Stat. Ann §1-5-10 |

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| | | case of a primary election, that the voter is registered in a party designated on the primary election ballot. If the person's registration is confirmed by the presence of his name on the voter list or if the person presents a certificate under the seal and signature of the county clerk showing that he is entitled to vote in the election and to vote in that precinct, the judge shall announce to the election clerks the list number and the name of the voter as shown on the voter list.<br><br>E. The election clerk shall locate that list number and name on the signature roster and shall require the voter to sign his usual signature or, if unable to write, to make his mark opposite his printed name. If the voter makes his mark, it shall be witnessed by one of the judges of the precinct board. If the signature roster indicates that the voter is required to present a form of identification before voting, the election judge shall ask the voter for a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows and matches the name and address of the voter as indicated on the signature roster. If the voter does not provide the required identification, he shall be allowed to vote on a provisional paper ballot.<br><br>G. A voter shall not be permitted to vote until he has properly signed his usual signature or made his mark in the signature roster.<br><br>(From 2004 version of New Mexico Annotated Statutes, amended in 2005 to require presentation of ID) | (Recompiled as §1-12 -7.1 by L. 2005, Ch. 270, §63, effective July 1, 2005) |
| New York | Match Sig. | 1. A person before being allowed to vote shall be required, except as provided in this chapter, to sign his name on the back of his registration poll record on the first line reserved for his signature at the time of election which is not filled with a previous signature, or on the line of the computer generated registration list reserved for his signature. The two inspectors in charge shall satisfy themselves by a comparison of this signature with his registration signature and by comparison of his appearance with the descriptive material on the face of the registration poll record that he is the person registered. If they are so satisfied they shall enter the other information required for the election on the same line with the voter's latest signature, shall sign their names or initials in the spaces provided therefor, and shall permit the applicant to vote. Any inspector or inspectors not satisfied shall challenge the applicant forthwith.<br><br>2. If a person who alleges his inability to sign his name presents himself to vote, the board of inspectors shall permit him to vote, unless challenged on other grounds, provided he had been permitted to register without signing his name. The board shall enter the words "Unable to Sign" in the space on his registration poll record reserved for his signature or on the line of the computer generated registration list reserved for his signature at such election. If his signature appears upon his registration record or upon the computer generated registration list the board shall challenge him forthwith, except that if such a person claims that he is unable to sign his name by reason of a physical disability incurred since his registration, the board, if convinced of the existence of such disability, shall permit him to vote, shall enter the words "Unable to Sign" and a brief description of such disability in the space reserved for his signature at such election. At each subsequent election, if such disability still exists, he shall be entitled to vote without signing his name and the board of inspectors, without further notation, shall enter the words "Unable to Sign" in the space reserved for his signature at such election.<br><br>3. The voter's signature made by him upon registration and his signature made at subsequent elections shall be effectively concealed from the voter by a blotter or piece of opaque paper until after the voter shall have completed his signature.<br><br>4. In any case where a person who has heretofore voted has placed his voting signature on the back of his registration poll record on the first or any succeeding line or lines at the time or times of an election, instead of on the last line of the | N.Y. Law § 8-304 (McKinney) |

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| | | space thereon required to be reserved for such voting signatures and on any lines next running upward therefrom, the inspectors of election shall obliterate such misplaced signature or signatures, initial the obliteration and require such voter to sign his name again in the correct place on such registration poll record.<br><br>5. Any person who has heretofore registered and who at such time placed his or her registration signature on the back of the registration poll record otherwise than in the space required to be provided therefor at the bottom of such poll record, shall, before being permitted to vote at any election thereafter, subscribe a new registration signature for himself on the last line at the bottom of such poll record, and, at the same time, if the inspectors of election are satisfied that the signatures were made by the same person, obliterate his original registration signature placed elsewhere than on the bottom of such record. Such obliterations may be made by crossing out the signature so as to completely efface the same or by affixing thereover a piece of gummed tape of a size sufficient only to cover such signature and of a type adequate to fully conceal the same<br>Last Amended 1986 | |
| North Carolina | Give Name | (a) Checking Registration. --A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots. If a precinct official states that the person is duly registered, the person shall sign the pollbook, other voting record, or voter authorization document in accordance with subsection (c) of this section before voting. | N.C. Gen. Stat. Ann. § 163-166.7 |
| North Dakota | Provide ID | 16.1-05-07 Poll clerks to check identification and verify eligibility -- Poll clerks to request, correct, and update incorrect information contained in the pollbook.<br><br>1. Before delivering a ballot to an individual according to section 16.1-13- 22, the poll clerks shall request the individual to show a driver's license issued by the state, another form of identification displaying a photograph of the individual and the individual's date of birth, or another appropriate form of identification prescribed by the secretary of state. If an individual offering to vote fails or refuses to show an appropriate form of identification, the individual may be allowed to vote without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct. After verifying that the individual's name is contained in the pollbook generated from the central voter file, poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.<br><br>(From 2003 version of N.D. Century Code; only amendment to this statute that became effective in 2003 was in 2005) | N.D. Cent. Code § 16.1-05-07 |

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| Ohio | Match Sig. | When an elector appears in a polling place to vote he shall announce his full name and address to the precinct election officials. He shall then write his name and address at the proper place in the poll lists or signature pollbooks provided therefore, except that if, for any reason, an elector shall be unable to write his name and address in the poll list or signature pollbook, the elector may make his mark at the place intended for his name and a precinct official shall write the name of the elector at the proper place on the poll list or signature pollbook following the elector's mark, upon the presentation of proper identification. The making of such mark shall be attested by the precinct official who shall evidence the same by signing his name on the poll list or signature pollbook as a witness to such mark.<br><br>The elector's signature in the poll lists or signature pollbooks shall then be compared with his signature on his registration form or a digitized signature list as provided for in section 3503.13 of the Revised Code, and if, in the opinion of a majority of the precinct election officials, the signatures are the signatures of the same person, the clerks shall enter the date of the election on the registration form or shall record the date by such other means as may be prescribed by the secretary of state. If the right of the elector to vote is not then challenged, or, if being challenged, he establishes his right to vote, he shall be allowed to proceed into the voting machine. If voting machines are not being used in that precinct, the judge in charge of ballots shall then detach the next ballots to be issued to the elector from Stub B attached to each ballot, leaving Stub A attached to each ballot, hand the ballots to the elector, and call his name and the stub number on each of the ballots. The clerk shall enter the stub numbers opposite the signature of the elector in the pollbook. The elector shall then retire to one of the voting compartments to mark his ballots. No mark shall be made on any ballot which would in any way enable any person to identify the person who voted the ballot.<br><br>(Effective at time of last update, 1992 H 182, eff. 4-9-93) | Ohio Rev. Code Ann. § 3505.18 |
| Oklahoma | Sign Name | Each person presenting himself to vote shall announce his name to the judge of the precinct, whereupon the judge shall determine whether said person's name is in the precinct registry.<br><br>(Last amended in 1990)<br><br>Persons who have been determined to be eligible to vote shall sign, in the presence of the clerk, the proper precinct registry. Said clerk shall thereupon issue proper ballots to said person. The voter's signature on said precinct registry shall be the best evidence of said voter's having voted at said election. Said precinct registry shall be retained in the office of the county election board for a period of twenty-two (22) months following the election and shall be subject to public inspection during regular office hours.<br>(Last amended in 1990) | Okla. Stat. Ann. tit. 26, § 7-114<br><br>Okla. Stat. Ann. tit. 26, § 7-117 |
| Oregon | Match Sig. | All elections in Oregon are Vote by Mail.<br><br>An Elections Official will compare the signature on your ballot return envelope to the signature on your voter registration card to verify your identity<br><br>(http://www.uhavavote.org/votingguide/votebymail.html) (unknown date, but use of wayback machine shows that this provision on site on following dates: 7/11/04, 10/20/04 and 10/29/04) | Or. Rev. Stat. § 254.385 |
| Penn. | Match Sig. | (a.3) All electors, including any elector that shows identification pursuant to subsection (a), shall subsequently sign a voter's certificate, and, unless he is a State or Federal employee who has registered under any registration act without declaring his residence by street and number, he shall insert his address therein, and hand the same to the election officer in charge of the district register. Such election officer shall thereupon announce the elector's name so that it may be heard by all members of the election board and by all watchers present in the | 25 Pa. Stat. Ann. § 3050 |

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| | | polling place and shall compare the elector's signature on his voter's certificate with his signature in the district register. If, upon such comparison, the signature upon the voter's certificate appears to be genuine, the elector who has signed the certificate shall, if otherwise qualified, be permitted to vote: Provided, That if the signature on the voter's certificate, as compared with the signature as recorded in the district register, shall not be deemed authentic by any of the election officers, such elector shall not be denied the right to vote for that reason, but shall be considered challenged as to identity and required to make the affidavit and produce the evidence as provided in subsection (d) of this section. When an elector has been found entitled to vote, the election officer who examined his voter's certificate and compared his signature shall sign his name or initials on the voter's certificate, shall, if the elector's signature is not readily legible, print such elector's name over his signature, and the number of the stub of the ballot issued to him or his number in the order of admission to the voting machines, and at primaries a letter or abbreviation designating the party in whose primary he votes shall also be entered by one of the election officers or clerks. As each voter is found to be qualified and votes, the election officer in charge of the district register shall write or stamp the date of the election or primary, the number of the stub of the ballot issued to him or his number in the order of admission to the voting machines, and at primaries a letter or abbreviation designating the party in whose primary he votes, and shall sign his name or initials in the proper space on the registration card of such voter contained in the district register.<br><br>(In effect at time of, and unaltered by: 2004, Oct. 8, P.L. 807, No. 97, § 5.1 (changes procedure for first time voters, not established voters)) | |
| Rhode Island | Give Name | (a) Each person desiring to vote shall state his or her name and residence, including that person's street address, if he or she has any, to one of the first pair of bi-partisan supervisors, who shall then announce the name and residence in a loud and distinct voice, clear and audible. As each voter's name is announced, the voter shall be handed a ballot application in the following form:<br>BALLOT APPLICATION<br><br>(Poll List)<br>Senatorial District _____<br><br>Representative District _____<br><br>Voting District _____<br><br>Election<br><br>Date _____<br><br>I hereby certify that I am a registered and qualified elector in the above voting district of<br>City of<br><br>and hereby make application for ballots to be voted at this election.<br><br>_____<br><br>(Signature of Voter)<br><br>_____<br><br>(Residence Address)<br><br>Number Approved _____<br><br>(Supervisor of Election) | R.I. Gen. Laws § 17-19-24 |

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| | | (b) The voter shall sign the application in the presence and view of a bipartisan pair. They shall locate the voter's name on the certified voting list for the voting district. Upon finding the voter's name on the certified voting list for the district, they shall initial the ballot application in the place provided next to the word "Approved" and shall enter on the certified list of voters a proper notation that the applicant has voted in the election. They shall then return the ballot application to the voter who shall pass down the line and present it to the clerk. After the voter has handed the approved ballot application to the clerk, the clerk shall provide the voter with the appropriate computer ballot and security sleeve, the warden shall direct the voter to the voting booth which the voter shall use, and unless the voter needs instruction or assistance as provided in this chapter, the voter shall cast his or her vote, and if he or she desires place the voted computer ballot in a security sleeve, and shall proceed to the optical scan precinct count unit and shall personally place his or her voted ballot into the designated ballot slot on the unit, and after doing so, shall leave the enclosure at once. No voter shall remain within the voting booth longer than ten (10) minutes, and if the voter refuses to leave after the lapse of ten (10) minutes, the voter shall be removed from the voting booth by order of the warden. Except for the election officials and the election inspector, not more than two (2) voters in excess of the number of voting booths shall be permitted within the enclosed space at any time.<br><br>(Last amended 2004, Current through January 2005 Session) | |
| South Carolina | Photo ID | **§ 7-13-710. Proof of right to vote; signing poll list; comparison of signatures.**<br><br>When any person presents himself to vote, he shall produce his valid South Carolina driver's license or other form of identification containing a photograph issued by the Department of Motor Vehicles, if he is not licensed to drive, or the written notification of registration provided for by §§ 7-5- 125 and 7-5-180 if the notification has been signed by the elector. If the elector loses or defaces his registration notification, he may obtain a duplicate notification from his county board of registration upon request in person, or by telephone or mail. After presentation of the required identification, his name must be checked by one of the managers on the margin of the page opposite his name upon the registration books, or copy of the books, furnished by the board of registration. The managers shall keep a poll list which must contain one column headed "Names of Voters". Before any ballot is delivered to a voter, the voter shall sign his name on the poll list, which must be furnished to the appropriate election officials by the State Election Commission. At the top of each page the voter's oath appropriate to the election must be printed. The signing of the poll list or the marking of the poll list is considered to be an affirmation of the oath by the voter. One of the managers shall compare the signature on the poll list with the signature on the voter's driver's license, registration notification, or other identification and may require further identification of the voter and proof of his right to vote under this title as he considers necessary. If the voter is unable to write or if the voter is prevented from signing by physical handicap, he may sign his name to the poll list by mark with the assistance of one of the managers.<br><br>Last amended: 1968 | S.C. Code Ann. § 7-13-710 |
| South Dakota | Photo ID | When a voter is requesting a ballot, the voter shall present a valid form of personal identification. The personal identification that may be presented shall be either:<br><br>(1) A South Dakota driver's license or nondriver identification card;<br>(2) A passport or an identification card, including a picture, issued by an agency of the United States government;<br>(3) A tribal identification card, including a picture; or<br>(4) An identification card, including a picture, issued by a high school or an accredited institution of higher education, including a university, college, or | S.D. Codified Laws § 12-18-6.1 |

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| | | technical school, located within the State of South Dakota.<br><br>Last amended March 2004 | |
| Tennessee | Provide ID | Identification of eligible voters<br>(a)(1) A voter shall sign an application for ballot, indicate the primary in which the voter desires to vote, if any, and present it to a registrar. The application for ballot shall include thereon a space for the address of the voter's current residence, and the voter shall write or print such address on the application when the voter signs it. The registrar shall compare the signature and information on the application with the signature and information on the duplicate permanent registration record. The registrar shall make a determination whether the voter's address is different from the address on the voter's permanent registration record or if the registration is in inactive status. If the voter has changed residence, or the voter's registration is inactive, the registrar shall follow the procedures for voting pursuant to § 2-7-140. If, upon comparison of the signature and other identification, it is found that the applicant is entitled to vote, the registrar shall initial the application and shall note on the reverse side of the voter's duplicate permanent registration record the date of the election, the number of the voter's ballot application, and the elections in which the voter votes. If the applicant's signature is illegible, the registrar shall print the name on the application. The registrar shall give the voter the ballot application which is the voter's identification for a paper ballot or ballots or for admission to a voting machine. The voter shall then sign the duplicate poll lists without leaving any lines blank on any poll list sheet.<br><br>(2) In any computerized county, the county election commission shall have the option of using an application for a ballot as provided in this section, or using the computerized voter signature list. A computerized voter signature list shall include the voter's name, current address of residence, social security number or registration number, birth date and spaces for the voter's signature, elections voted, ballot number and precinct registrar's initials. The following procedures shall be followed in the case of computerized voter signature lists:<br><br>(A) The voter shall sign the signature list and indicate the election or elections the voter desires to vote in and verify the voter's address in the presence of the precinct registrar;<br>(B) The registrar shall compare the voter's signature and information on the signature list with other evidence of identification supplied by the voter. If, upon comparison of the signature and other evidence of identification, it is found that the applicant is entitled to vote, the registrar shall initial the signature list;<br>(C) If the applicant's signature is illegible, the registrar shall print the name of the applicant on the voter list; and<br>(D) If a voter is unable to present any evidence of identification specified in subsection (c), the voter shall be required to execute an affidavit of identity on a form provided by the county election commission.<br><br>Last amended 2003 | Tenn. Code Ann. § 2-7-112 |
| Texas | Provide ID | (b) On offering to vote, a voter must present the voter's voter registration certificate to an election officer at the polling place.<br><br>(Last amended in 1997) | Tex. Elec. Code Ann. § 63.001 |
| Utah | Give Name | (1)(a) Any registered voter desiring to vote shall give his name, and, if requested, his residence, to one of the election judges.<br>(b) If an election judge does not know the person requesting a ballot and has reason to doubt that person's identity, the judge shall request identification or have the voter identified by a known registered voter of the district.<br><br>(3) If the election judge determines that the voter is registered:<br>(a) the election judge in charge of the official register shall:<br>(i) write the ballot number opposite the name of the voter in the official register; and | Utah Code Ann. § 20A-3-104 |

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| | | (ii) direct the voter to sign his name in the election column in the official register;<br>(b) another judge shall list the ballot number and voter's name in the pollbook; and<br>(c) the election judge having charge of the ballots shall:<br>(i) endorse his initials on the stub;<br>(ii) check the name of the voter on the pollbook list with the number of the stub;<br>(iii) hand the voter a ballot; and<br>(iv) allow the voter to enter the voting booth.<br><br>(In effect at time of last update prior to 2005: Laws 2003, c. 37, § 1, eff. May 5, 2003) | |
| Vermont | Give Name | Before a person may be admitted to vote, he or she shall announce his or her name and if requested, his or her place of residence in a clear and audible tone of voice, or present his or her name in writing, or otherwise identify himself or herself by appropriate documentation. The election officials attending the entrance of the polling place shall then verify that the person's name appears on the checklist for the polling place. If the name does appear, and if no one immediately challenges the person's right to vote on grounds of identity or having previously voted in the same election, the election officials shall repeat the name of the person and:<br>(1) If the checklist indicates that the person is a first-time voter in the municipality who registered by mail and who has not provided required identification before the opening of the polls, require the person to present any one of the following: a valid photo identification; a copy of a current utility bill; a copy of a current bank statement; or a copy of a government check, paycheck, or any other government document that shows the current name and address of the voter. If the person is unable to produce the required information, the person shall be afforded the opportunity to cast a provisional ballot, as provided in subchapter 6A of this chapter. The elections official shall note upon the checklist a first-time voter in the municipality who has registered by mail and who produces the required information, and place a mark next to the voter's name on the checklist and allow the voter to proceed to the voting booth for the purpose of voting.<br><br>(2) If the voter is not a first-time voter in the municipality, no identification shall be required, the clerk shall place a check next to the voter's name on the checklist and allow the voter to proceed to the voting booth for the purpose of voting<br><br>(Last amended in 2003) | Vt. Stat. Ann. tit. 17, § 2563 |
| Virginia | Provide ID | § 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification<br><br>A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.<br><br>B. An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask the voter to present any one of the following forms of identification: his Commonwealth of Virginia voter registration card, his social security card, his valid Virginia driver's license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.<br><br>If the voter's name is found on the pollbook, if he presents one of the forms of | Va. Code. Ann. |

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| | | identification listed above, if he is qualified to vote in the election, and if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board, or shall enter that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth.<br><br>Except as provided in subsection E of this section, if a voter is entitled to vote except that he is unable to present one of the forms of identification listed above, he shall be allowed to vote after signing a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter who he claims to be. A voter who requires assistance in voting by reason of physical disability or inability to read or write, and who requests assistance pursuant to § 24.2-649, may be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding voters who are unable to sign shall be followed when assisting a voter in completing this statement.<br><br>(Version in effect as of 2004- effective 4/12/2004) | |
| Washington | Sign Name | 29A.44.201.<br><br>A voter desiring to vote shall give his or her name to the precinct election officer who has the precinct list of registered voters. This officer shall announce the name to the precinct election officer who has the copy of the inspector's poll book for that precinct. If the right of this voter to participate in the primary or election is not challenged, the voter must be issued a ballot or permitted to enter a voting booth or to operate a voting device. For a partisan primary in a jurisdiction using the physically separate ballot format, the voter must be issued a nonpartisan ballot and each party ballot. The number of the ballot or the voter must be recorded by the precinct election officers. If the right of the voter to participate is challenged, RCW 29A.08.810 and 29A.08.820 apply to that voter.<br><br>(In effect at time of last update prior to 2005: 2004 c 271 § 136, eff. June 10, 2004)<br><br>29A.44.210.<br><br>Any person desiring to vote at any primary or election is required to sign his or her name on the appropriate precinct list of registered voters. If the voter registered using a mark, or can no longer sign his or her name, the election officers shall require the voter to be identified by another registered voter.<br><br>The precinct election officers shall then record the voter's name.<br><br>Effective date: July 1, 2004 | Wash. Rev. Code § 29A.44.201 & 29A.44.210 |
| West Virginia | Match Sig. | (a) Any person desiring to vote in an election shall, upon entering the election room, clearly state his or her name and residence to one of the poll clerks who shall thereupon announce the same in a clear and distinct tone of voice. If that person is found to be duly registered as a voter at that precinct, he or she shall be required to sign his or her name in the space marked "signature of voter" on the pollbook prescribed and provided for the precinct. If that person is physically or otherwise unable to sign his or her name, his or her mark shall be affixed by one of the poll clerks in the presence of the other and the name of the poll clerk affixing the voter's mark shall be indicated immediately under the affixation. No ballot may be given to the person until he or she so signs his or her name on the pollbook or his or her signature is so affixed thereon.<br>* * *<br>(c) When the voter's signature is properly on the pollbook, the two poll clerks shall sign their names in the places indicated on the back of the official ballot and deliver the ballot to the voter to be voted by him or her without leaving the | W. Va. Code § 3-1-34 (a) |

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| | | election room. If he or she returns the ballot spoiled to the clerks, they shall immediately mark the ballot "spoiled" and it shall be preserved and placed in a spoiled ballot envelope together with other spoiled ballots to be delivered to the board of canvassers and deliver to the voter another official ballot, signed by the clerks on the reverse side required by this subsection. The voter shall thereupon retire alone to the booth or compartment prepared within the election room for voting purposes and there prepare his or her ballot using a ballpoint pen of not less than five inches in length or other indelible marking device of not less than five inches in length. In voting for candidates in general and special elections, the voter shall comply with the rules and procedures prescribed in section five, article six of this chapter.<br><br>(In effect at time of last update prior to 2005: Acts 2003, c. 100, eff. 90 days after March 7, 2003) | |
| Wisconsin | Give Name | 6.79(2)(a) Except as provided in sub. (6), where there is registration, each person, before receiving a voting number, shall state his or her full name and address. Upon the prepared registration list, after the name of each elector, the officials shall enter the serial number of the vote as it is polled, beginning with number one. Each elector shall receive a slip bearing the same serial number. A separate list shall be maintained for electors who are voting under s. 6.15, 6.29 or 6.55(2) or (3) and electors who are reassigned from another polling place under s. 5.25(5)(b). Each such elector shall have his or her full name, address and serial number likewise entered and shall be given a slip bearing such number.<br><br>(In effect at time of last update prior to 2005: 2003 Act 327, § 4, eff. June 12, 2004) | Wis. Stat. § 6.79 |
| Wyoming | Give Name | (a) Unless a voter is challenged pursuant to W.S. 22-15-101 through 22- 15-109, no identification shall be required when:<br><br>(i) Voting in person or by mail after having registered in person; or<br><br>(ii) Voting in person or by mail after having registered by mail and having previously voted in a Wyoming federal election.<br><br>(In effect at time of last update prior to 2005: Effective dates. -- Laws 2004, ch. 94, § 5, makes the act effective immediately upon completion of all acts necessary for a bill to become law as provided by art. 4, § 8, Wyo. Const. Approved March 5, 2004.) | Wyo. Stat. Ann. § 22-3-118 |

APPENDIX B –Court Decisions and Literature on Voter Identification and Related Issues

Court Decisions

**Summary of Relevant Cases:**

**Challenges Prevailed:**

*American Civil Liberties Union of Minnesota v. Kiffmeyer*, 2004

- Action for temporary restraining order – granted
- Statute: allowed use of tribal identification cards w/ name, address & photo as a valid identification to register to vote only if the voter lives on the reservation to "complete" a mail-in application (which only affected about 600 voters w/ incomplete applications)
- Claim -14th Amendment EPC: likely to prevail, no rational basis for a distinction between Indians residing on reservations and those not
- Statute: may use certain forms of photo identification lacking address together with a utility bill but not tribal identification cards
- Claim -14th Amendment EPC: likely to prevail

*Greidinger v. Davis*, 1993

- Statute: mandated disclosure of SS # as a precondition to voter registration (rationale was voter identification, but the numbers were rarely used to verify identity & were disclosed in voter lists to both political parties and the public upon request)
- Claims:
  - 14th Amendment EPC: no classification (applied strict scrutiny)
  - Substantive due process: law invalid; found that the statute conditioned the fundamental right to vote on the consent to an invasion of privacy; this was found to be a substantial burden (applied strict scrutiny)
    - Compelling interests: preventing voter fraud (deemed compelling)
    - Necessary: fails, preventing voter fraud when allowing names for inspection could be achieved by supplying addresses and DOBs or use of voter registration numbers
    - HOWEVER: Court also made it clear that if the registration scheme kept the SS# for internal use only – it would be valid

**Challenges Rejected:**

*League of Women Voters v. Blackwell*, 2004.

- Sec. of State Directive: provisional ballots issued if first-time voter, who registered by mail and did not provide ID, cannot produce proper ID at the polls AND that the provisional ballot will only be counted if the voter returns to the poll before it closes w/ ID or can recite SS# or DL#
- Claims – Supremacy Clause & HAVA: ruled that HAVA did not specify how the first-time voters' identifications should be verified and this method was not unreasonable or too burdensome

*Colorado Common Clause v. Davidson*, 2004

- Statute: required all voters to show ID (most types permitted) before voting
- Claims:
  - HAVA: ruled that HAVA did not preempt more strict state laws & allowed States to be more strict as long as consistent with the purpose of HAVA (both HAVA & CO provisions' purposes were to prevent voter fraud)
  - Substantive due process and equal protection
    - No improper discrimination

- Preventing voter fraud is a compelling interest since it is irreversible once vote is cast
- Only marginally more intrusive than HAVA, many types of identification permitted – thus, valid

*McKay v. Thompson*, 2000

- Statute: mandated disclosure of SS # as a precondition to voter registration
- Claims:
  - Privacy Act, Section 7: ruled that Tennessee voter system exempt from Privacy Act because it is pre-75
  - NVRA, permitting only min. amt. of info. necessary to prevent duplicate registration and determine eligibility: ruled that NVRA does not specifically forbid the use of SS#s & the Privacy Act specifically permits them pre-75
  - Substantive due process: ruled that internal use of SS# not a burden
  - Free Exercise, based on Bible's supposed prohibition on use of universal identifiers: ruled that law is generally applicable and thus valid
  - P&I, Article IV: does not protect in-state citizens
  - P&I, 14th Amend.: no protection for privilege where Congress authorized its infringement

*Kemp v. Tucker*, 1975

- Statute: required name, occupation, address, sex, race, height, hair color, eye color, and date of birth be listed on voter registration card for identification purposes
- Claims:
  - VRA: ruled that race was not made a "qualification" for voting
  - 15th Amendment: ruled that it did not abridge right to vote on account of race because rejection of application was due to failure to provide information, not race; race only one factor in identification
  - 14th Amendment EPC: ruled there was no distinction among voters

*Perez v. Rhiddlehoover*, 1966

- Statute: date of birth, place of birth, mother's first or maiden name, color of eyes, sex, race, occupation, and whether owner, tenant or boarder must appear on the registration for identification
- Claims:
  - VRA: ruled that it was not a "test or device" because it applied equally
  - 15th Amendment: same reasons

**<u>Cases in Which the Plaintiffs Have Prevailed in Challenging the Statute Requiring Voter Identification:</u>**

***American Civil Liberties Union of Minnesota v. Kiffmeyer,* No. 04-CV-4653, 2004 WL 2428690, at *1 (D. Minn. Oct. 28, 2004).**

This was an action just before the November 2004 election for a temporary restraining order, which was granted. The ACLU challenged a Minnesota law allowing the use of tribal identification cards with the name, address, and photograph as a valid identification (equal to a driver's license) for use in "completing" an incomplete mail-in voter registration only if the Indian lives on the reservation. 2004 WL 2428690, at *1. The Court ruled that this distinction would likely violate the Equal Protection Clause because there was no rational basis for differentiating

between the validity of the identification based on whether or not the cardholder lives on the reservation. *Id.* at *1, 3.

Secondly, the ACLU challenged a second statute which allowed the use of certain photo identification lacking the voter's address to be used together with a utility bill or bank statement as valid identification for registration. *Id.* at *3. The statute did not, however, permit using a tribal identification for this same purpose. *Id.* The Court ruled that this likely violated the equal protection clause as well. *Id.*

***Greidinger v. Davis*, 988 F.2d 1344 (4th Cir. 1993).**

This case challenged a Virginia law requiring the social security number for voter registration, which the State subsequently disclosed to the public and political parties upon request in voter registration lists, which included the social security numbers. Failure to provide the social security number resulted in the denial of the registration application. The law was challenged under the Equal Protection Clause and under substantive due process. The Court quickly rejected the equal protection challenge because the law made no classification. 988 F.2d at 1350.

The law was invalidated under substantive due process. *Id.* at 1355. The Court found that the statutory scheme conditioned the fundamental right to vote on the consent to an invasion of privacy, based on concerns of identity theft. *Id.* at 1353-54. The Court found this to be a substantial burden on the right to vote. *Id.* at 1354. The Court recognized that the government's interest in preventing voter fraud was compelling. *Id.* However, the Court found that disclosure of the information to the public and political parties was not necessary to achieve that interest. *Id.* Disclosure of addresses or dates of birth would be sufficient to aid the public in distinguishing between two voters with the same name. *Id.* at 1355. The Court did state that required disclosure of the social security number for internal use only would be valid. *Id.* at 1354 n.10.

**Cases in Which the Statute or Practice of Voter Identification Has Been Upheld:**

***League of Women Voters v. Blackwell*, 340 F. Supp. 2d 823 (N.D. Ohio 2004).**

The League of Women Voters challenged the Secretary of State's directive that provisional ballots should be issued to all first-time voters who registered by mail without providing identification who cannot show proper identification at the polls. 340 F. Supp. 2d at 828. The Directive also stated that the provisional ballots would only be counted if the voter orally recited his driver's license number or the last four digits of his social security number or returned to the polling place before it closed with some acceptable identification, including reciting those identification numbers. *Id.* The Court stated that HAVA only requires verification of eligibility of first time voters registering by mail; it does not say how that should be done. *Id.* at 831. The Court found the burden on the right to vote to be slight. *Id.* The Directive was found valid under HAVA and the Supremacy Clause because the number of uncounted votes would be small, the requirement was reasonable, and there was adequate notice of the requirement on the registration forms. *Id.* at 829-30.

***Colorado Common Cause v. Davidson*, No. 04CV7709, 2004 WL 2360485, at *1 (Colo. Dist. Ct. Oct. 18, 2004).**

In this case, the validity of three Colorado statutory provisions was challenged. The laws (1) required all in-person voters to show identification (not just first-time registrants); (2) provided that votes cast in the wrong precinct would not be counted; and (3) provided that

provisional ballots would not be counted if the voter applied for an absentee ballot. 2004 WL 2360485, at *1. The plaintiffs also challenged the provisions under HAVA. The identification provision allowed nearly all forms of acceptable identification under HAVA. *Id.* at *6.

The challenge to the identification requirement failed under both challenges. The Court interpreted HAVA as not intended to preempt state laws and as permitting states to be more strict than, but not inconsistent with, HAVA. *Id.* at *10. The Court felt that the purpose of both laws was the same, to reduce voter fraud, and thus, both laws could coexist. As to the Constitutional claim, both equal protection and substantive due process, the Court felt that preventing voter fraud, which is impossible to remedy once a vote is cast, is a compelling interest, and the Court also felt that a voter identification requirement for all voters, with many types of acceptable identification, was only marginally more intrusive than HAVA. *Id.* at 12. The Court also found no improper discrimination between voters. *Id.* Thus, the provision was upheld.

***McKay v. Thompson*, 226 F.3d 752 (6th Cir. 2000).**

The Sixth Circuit ruled that the Privacy Act, the National Voter Registration Act, Substantive Due Process, the Privileges and Immunities Clauses (Fourteenth Amendment & Article IV), and the First Amendment right to free exercise do not prohibit requiring disclosure of social security numbers as a precondition to voter registration.

The Privacy Act, Section 7, mandates that it is unlawful for a government to deny a right or privilege because of a citizen's refusal to disclose his social security number, unless the disclosure was required for a system established prior to 1975. 226 F.3d at 755 (citing Privacy Act of 1974, Pub. L. No. 93-579 (1974)). Since Tennessee required social security numbers for voter registration since 1972, his challenge was rejected. 226 F.3d at 755. Second, the NVRA only permits requiring the minimum amount of information necessary to prevent duplicate voter registration and to determine eligibility. *Id.* at 755-56 (citing 42 U.S.C. §1973gg-3(c)(2)(B)). The Court rejected this challenge because the NVRA does not specifically forbid the use of social security numbers, and the Privacy Act, a more specific statute, grandfathered their use if prior to 1975. 226 F.3d at 756.

Finally, the plaintiff's constitutional claims were all rejected. His substantive due process claim was rejected because internal receipt and use of social security numbers does not burden the fundamental right to vote. *Id.* The free exercise challenge, based on the Bible's supposed prohibition of universal identifiers, was rejected because the law was generally applicable and not directed at particular religious practices. *Id.* The Privileges and Immunities Clause claim was rejected because the Clause does not apply to citizens of the state. *Id.* The Fourteenth Amendment Privileges and Immunities claim, based on the right to vote as unique to U.S. citizenship, was rejected because the Clause provides no protection where Congress has authorized the infringement. *Id.*

***Kemp v. Tucker*, 396 F. Supp. 737 (M.D. Pa. 1975), *aff'd*, 423 U.S. 803.**

A statute was upheld, which required name, occupation, address, sex, race, height, hair color, eye color, and date of birth to be recorded on the voter registration card and allowed registration officials to reject an incomplete application. 396 F. Supp. at 738. Claims were alleged under the Fourteenth Amendment's Equal Protection Clause, the Fifteenth Amendment, and the Voting Rights Act.

As to the Fourteenth and Fifteenth Amendment claims, the Court reasoned that preventing voter fraud is a compelling goal, and identification provisions are "an essential means of achieving the goal." *Id.* at 739. The Court also rejected the equal protection claim because the statutes did not create a distinction at all. *Id.* at 740 n.3. Since race is just one of

several characteristics required, the Court found that it was intended for preventing voter fraud, not some other motive. *Id.* at 740. As to the VRA, the Court rejected the claim that it added race as a qualification for voting as frivolous. *Id.* As to a Fifteenth Amendment claim that it abridged the right to vote on account of race, the Court also made a distinction between rejecting a voter application because of race and rejecting an application because of failure to answer all relevant questions to assist in preventing voter fraud. *Id.* The statute was upheld.

***Perez v. Rhiddlehoover,* 186 So. 2d 686 (La. Ct. App. 1966).**

A voter registration requirement was challenged and upheld. The statute stated that date of birth, place of birth, mother's first or maiden name, color of eyes, sex, race, occupation, and whether owner, tenant or boarder must appear on the registration. 186 So.2d at 690. This information was required for identification of voters, especially when voters had the same name, to prevent duplicate voting. It was challenged under the Voting Rights Act of 1965 Section 4(a) which prohibits denying the right to vote for failure to comply with a "test or device." The Court felt that this requirement was not a test or device for discrimination because it applied equally. *Id.* at 691. The Court also determined that it was not in conflict with the Fifteenth Amendment either. *Id.*

***Friendly House, et al. v. Janet Napolitano et al.,* CV 04-649 TUC DCB**

On November 30, 2004, the Mexican American Legal Defense and Educational Fund (MALDEF) filed suit seeking to halt the implementation of Proposition 200. . Proposition 200 created a number of legal requirements to ensure that public benefits are not available to illegal immigrants. In particular, Proposition 200 requires that a person attempting to register to vote provide one of six specific forms of proof of United States citizenship. Compl. 12-13. Also, any person attempting to vote must present either one form of photo identification or two forms of non-photo identification. *Id.* at 13.

The lawsuit alleges two violations that directly relate to the voting identification restrictions. First, the lawsuit alleges a violation of the Twenty-Fourth and Fourteenth amendments in that a voter must pay a poll tax by spending money to purchase the required identification. *Id.* at 20. Second, the lawsuit alleges violation of the Voting Rights Act. *Id.* at 21. The lawsuit was recently dismissed by the 9th Circuit Court of Appeals for a lack of standing. The Circuit Court found that there was no injury-in-fact, meaning that once an injury occurs the suit will likely be refiled. Additionally, it should be noted that the voter identification issue is only a part of the lawsuit, and much of the focus has been on other aspects of Proposition 200.

**Current Litigation Concerning Voter ID Issues[1]**

Litigation is filled with uncertainty. Litigation stemming from newly passed voter identification requirements will continue into the foreseeable future. Lawsuits are currently pending over voter identification requirements in Georgia and Indiana. Other states, such as Ohio, are considering new identification requirements that could lead to further litigation. The Georgia lawsuit has already succeeded in getting a preliminary injunction against the law in question, which will likely galvanize interested parties in other states to pursue similar litigation. Of course, if the injunction is eventually overturned at the appellate level it could have a similar chilling affect on future litigation.

This summary major litigation pending in Georgia and Indiana includes a brief assessment of the likelihood of success:

[1] As of January 2, 2006

**Georgia** (*Common Cause/Georgia v. Billups*):

On September 19, 2005, Common Cause of Georgia, in conjunction with several other non-profit organizations, filed suit in Federal District Court against the Georgia Secretary of State and other election officials, challenging the constitutionality of Georgia's new voter identification requirements. The new law requires all voters attempting to cast a ballot in person to present a valid form of photographic identification. O.C.G.A. § 21-2-417. A voter that is unable to provide proper identification is given a provisional ballot. However, that provisional ballot will be counted only if the voter is able to subsequently present valid identification within two days of the election. *Id.*

The lawsuit alleges five separate violations of state and federal law. First, the complaint alleges that the identification requirements infringe on the right to vote guaranteed in the Georgia constitution (Compl. 32)[2]. In addition, the Plaintiffs claim violations of the Federal Civil Rights Act and Voting Rights Act. (Compl. 36,38). Finally, the lawsuit alleges violations of the Fourteenth and Twenty-Fourth amendments to the U.S. Constitution. The complaint claims that the ID requirements constitute an "undue burden" on the right to vote, in violation of the Equal Protection Clause of the Fourteenth Amendment (Compl. 34). The ID requirement does not apply to most absentee voters, and thus the requirement is also over-broad and not narrowly tailored to address the stated purpose of preventing voter fraud (Compl. 34). The complaint further alleges that the cost of obtaining a photo ID constitutes a poll tax, in violation of the Twenty-Fourth Amendment, and that the cost is also a violation of the Fourteenth Amendment because it applies to voters who choose to vote in person, and not to those who vote absentee (Compl. 34,35).

On October 18, 2005, the District Court granted the Plaintiff's motion for a preliminary injunction, enjoining the application of the new identification requirements. In granting the injunction, the court held that both federal constitutional claims had a substantial likelihood of succeeding on the merits at trial (Prelim. Inj. 96, 104). The court also held that, while the two federal statutory claims were plausible, they both lacked sufficient evidence at the time to have a substantial likelihood of success. (Prelim. Inj. 109,111,116). Finally, the court held that the Georgia constitutional claim would be barred by the Eleventh Amendment to the U.S. Constitution. (Prelim. Inj. 77).

The Defendants appealed the motion for preliminary injunction to the Eleventh Circuit, and oral argument is scheduled for March 1, 2006. In addition, some news reports have claimed that the Georgia legislature is considering re-visiting the ID requirements in light of the on-going litigation.[3] As for the merits, in granting the preliminary injunction the District Court has already signaled its belief that the federal constitutional claims are likely meritorious. The Eleventh Circuit may have a different view, but for now the case looks to have a reasonable chance of success.

**Indiana** (*Indiana Democratic Party v. Rokita* and *Crawford v. Marion County Election Board*):

The Indiana lawsuit is similar to its Georgia counterpart in content, though not in status. In Indiana separate lawsuits, now joined, were filed by the state Democratic Party and the

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[2] Litigation documents are available at the Election Law @ Moritz website. http://moritzlaw.osu.edu/electionlaw/litigation/index.php

[3] GA Legislature May Revisit Voter ID Law, State Net Capitol Journal, Dec. 19, 2005.

Indiana Civil Liberties Union (ICLU). The Democratic Party's lawsuit is directed against the Indiana Secretary of State, while the ICLU's lawsuit involves the Marion County Board of Elections and the State of Indiana. Like Georgia, Indiana law also requires citizens voting in person to present some form of official photo identification. IC § 3-11-8-25.1. Voters unable to present identification are given a provisional ballot, which is counted if they are able to provide the required identification by Noon on the second Monday following the election. IC § 3-11.7-5-1. Unlike Georgia, Indiana provides state issued identification at no charge. However, there are costs involved in the process, including transportation to the Bureau of Motor Vehicles, and payment for documents such as birth certificates, which are needed to obtain the ID. (Second Am. Compl. 6).

The Democratic Party's complaint raises Fourteenth Amendment claims similar to those in the Georgia lawsuit, including concerns about substantially burdening the right to vote, the enactment of a de-facto poll tax from the costs indirectly associated with obtaining ID, and the lack of applicability to voters who cast an absentee ballot. (Second Am. Compl. 6-9). In addition, the complaint alleges that the substantial burden placed on the right to vote violates the First Amendment protection of expressive or symbolic speech, as well as the freedom of association as applied to Democratic primary elections. (Second Am. Compl. 9-10). Finally, the complaint alleges violations of the Voting Rights Act, National Voter Registration Act, and the Help America Vote Act (Second Am. Compl. 10-11). The ICLU's complaint alleges many of the same violations, but also includes claims of a violation of Indiana's constitutional guarantee of a free and equal election system. (Compl. 15)

The case is currently in the pre-trial phase, with both sides awaiting decisions on their respective motions for summary judgment.[4] The likelihood of success is bolstered by the fact that the Fourteenth amendment constitutional claims have already been found persuasive by at least one other Federal District Court. However, the Indiana law is notably different than its Georgia counterpart in that it provides free identification. While the plaintiffs make a solid argument that related costs still amount to a poll-tax, it is possible that the court could distinguish on this matter.

Unlike the Georgia case, the Indiana lawsuit also claims a violation of the Help America Vote Act. Although the claim is not completely clear, it seems as though the Plaintiffs are arguing that the Indiana statute requires more stringent identification than what is required by HAVA. 42 U.S.C. § 15483(b)(1)-(2). While this is true, it is unclear how this violates the statute. HAVA merely states that certain voters unable to produce HAVA required identification be given a provisional ballot. *Id.* Indiana law meets this requirement. IC § 3-11-8-25.1. Although Indiana law requires more stringent identification for counting the provisional ballot, HAVA leaves theses decisions to state law. 42 U.S.C. § 15482(a).

[4] According to an AP article, the Plaintiffs filed some type of brief on December 21—however it is not yet up on the Moritz website and I am unsure how to access it otherwise.

**Appendix C**

**Analysis of Effects of Voter Identification Requirements on Turnout**

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May 16, 2006

## Introduction

A key area of disagreement in the policy debate over voter identification requirements concerns whether such requirements dampen turnout among those eligible to vote. Opponents of voter identification laws argue that they constitute an institutional barrier to voting, particularly among the poor, African-Americans, Hispanics, the elderly and people with disabilities (Baxter and Galloway 2005, Electionline.org 2002, Jacobs 2005, Young 2006). This argument holds that voter identification requirements create an extra demand on voters, and thus may discourage some of them from participating in elections. Further, critics of voter identification requirements contend that the effect is greater based on specific types of requirements. Critics argue that requiring voters to produce some form of government-issued photo identification on Election Day is more demanding than requiring, for example, that they state their names at the polling place because of the various steps needed to procure a photo identification card, such as a driver's license. Supporters of voter identification requirements, on the other hand, argue that the requirements are necessary to combat voter fraud, safeguard the integrity of the electoral process, and engender faith in the electoral process among citizens (Young 2006).

This report examines the potential variation in turnout rates based on the type of voter identification requirement in place in each state on Election Day 2004. This report draws from two sets of data – aggregate turnout data at the county level for each state, as compiled by the Eagleton Institute of Politics, and individual-level survey data included in the November 2004 Current Population Survey conducted by the U.S. Census Bureau. Classification of voter identification requirements comes from a review of state statutes conducted by the Moritz College of Law at the Ohio State University.

## Types of voter identification requirements

Based on research by the Moritz College of Law, states had one of five types of requirements in place on Election Day 2004. Upon arrival at polling places, voters had to either: state their names (10 states); sign their names (13 states and the District of Columbia); match their signature to a signature on file with the local election board (seven states); provide a form of identification that did not necessarily include a photo (15 states); or provide a photo identification (five states).[5] It was then possible to code the states according to these requirements, and test the assumption that voter identification requirements would pose an increasingly demanding requirement in this order: stating one's name, signing one's name, matching one's signature to a signature on file, providing a form of identification, and providing a form of photo identification.

[5] Oregon conducts elections entirely by mail. Voters sign their mail-in ballots, and election officials match the signatures to signatures on file. For the purposes of this analysis, Oregon is classified as a state that requires a signature match.

But election laws in numerous states offer exceptions to these requirements if individuals lack the necessary form of identification, and laws in those states set a minimum standard that a voter must meet in order to vote using a regular ballot (as opposed to a provisional ballot). Thus it is also possible to categorize states based on the minimum requirement for voting with a regular ballot. In 2004 the categories were somewhat different compared to the maximum requirement, in that none of the states required photo identification as a minimum standard for voting with a regular ballot. Four states, however, required voters to swear an affidavit as to their identity (Florida, Indiana, Louisiana, and North Dakota). The five categories for minimum requirements were: state name (12 states), sign name (14 states and the District of Columbia), match one's signature to a signature on file (six states), provide a non-photo identification (14 states), or swear an affidavit (four states). For the purposes of this analysis I also tested the array of minimum identification requirements to assess whether they posed increasing levels of demand on the voter: state name, sign name, match signature, provide non-photo identification, and, given the potential legal consequences for providing false information, swearing an affidavit.

**Estimating turnout among citizens in the voting-age population**

This report examines turnout among U.S. citizens of voting age in both the aggregate- and the individual-level data. Determining citizenship status in the individual-level data simply involved restricting the analyses to individuals who identified themselves as citizens in the November 2004 Current Population Survey. (Those who said they were not citizens did not have the opportunity to answer the supplemental voting questions contained in the Current Population Survey.)

In the aggregate data, determining the percentage of the voting-age population that has U.S. citizenship posed a methodological challenge. The Census Bureau gathers information on the citizenship status of adults ages 18 and older only during the decennial census. While the Census Bureau provides annual estimates of the population to account for changes between decennial censuses, the bureau does not offer estimates for the proportion of the adult population who are citizens as part of the annual estimates. To address this issue I estimated the 2004 citizen voting-age population for each county using a method reported in the analysis of the 2004 Election Day Survey conducted for the U.S. Election Assistance Commission (U.S. Election Assistance Commission, 2005). I calculated the percentage of the 2000 voting-age population who were citizens in 2000, and applied that percentage to the July 1, 2004 estimates for voting-age population in each county. In other words, I assumed that the percentage of the voting-age population that had U.S. citizenship in 2004 was similar to the percentage of the voting-age population who were citizens in 2000.[6]

**Analysis of aggregate data**

If one treats maximum voter identification requirements as a continuous variable, with photo identification as the most demanding requirement, one finds some statistical support for the premise that as the level of required proof increases, turnout declines. Averaging across counties in each state, statewide turnout is negatively correlated with maximum voter

[6] McDonald and Popkin (2001) recommend an even more stringent approach to voter turnout calculations. They point out that voting-age population estimates include adults who are ineligible to vote (such as convicted felons), and the estimates overlook eligible citizens living overseas. While estimates of the voting-eligible population are available at the state level, I was unable to find such estimates for individual counties, which provide the unit of analysis for the aggregate data analyzed here.

identification requirements ($r = -.30$, $p < .05$). In considering the array of minimum requirements, with affidavit as the most demanding requirement, however, the correlation between voter identification and turnout is negative, but it is not statistically significant ($r = -.20$, $p = .16$). This suggests that the relationship between turnout rates and minimum requirements may not be linear. Breaking down the turnout rates by type of requirement reveals in greater detail the relationship between voter identification requirements and voter turnout.

[Table 1 here]

The aggregate data show that 60.9 percent of the estimated citizen voting age population voted in 2004. Differences in voter turnout at the state level in 2004 varied based on voter identification requirements. Taking into account the maximum requirements, an average of 64.2 percent of the voting age population turned out in states that required voters to state their names, compared to 58.1 percent in states that required photo identification. A similar trend emerged when considering minimum requirements. Sixty-three percent of the voting age population turned out in states requiring voters to state their names, compared to 60.1 percent in states that required an affidavit from voters. Given the lack of a clear, consistent linear relationship between turnout and minimum identification requirements, however, I opted to treat the voter identification requirements as a series of dichotomous variables in subsequent analyses.[7]

Voter identification requirements alone do not determine voter turnout. Multivariate models that take into account other predictors of turnout can paint a more complete picture of the relationship between voter identification requirements and turnout. I estimated the effects of voter identification requirements in multivariate models that also took into account the electoral context in 2004 and demographic characteristics of the population in each county.

I coded the voter identification requirements as a series of dummy variables, coding each variable as one if the requirement existed in a given state, and zero otherwise. This yielded five dichotomous variables for maximum requirements (state name, sign name, match signature, non-photo identification, or photo identification), and five dichotomous variables for minimum requirements (state name, sign name, match signature, non-photo identification, or providing an affidavit). I omitted the variable for stating one's name so that it could serve as the reference category in comparison with the other four identification requirements in each of the statistical analyses.

To capture electoral context I included whether the county was in a presidential battleground state (any state in which the margin of victory for the winning candidate was five percent or less), and whether the county was in a state with a competitive race for governor and/or the U.S. Senate (also using the threshold of a margin of victory of five percent or less). Another contextual factor to consider is voter registration requirements, such as the deadline for registration. As states set the deadline farther away from Election Day, the task of remembering to register to vote becomes more challenging. Thus I added a variable to reflect the number of days between each state's registration deadline and the election.[8]

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[7] Treating maximum voter identification requirements as a continuous variable yielded results in which voter identification requirements were negatively related to aggregate turnout. Those results can be found in Table A-1 in the Appendix to this report.

[8] For states that had Election Day registration or no registration requirement (North Dakota), I assigned a value of zero to this variable.

Drawing from U.S. Census projections for 2003, I included the percentage of the voting-age population in each county that was Hispanic or African-American to control for ethnicity and race. I controlled for age using the 2003 Census projection for the percentage of county residents age 65 and older, and I controlled for socioeconomic status by including the median household income for 2002 in each county.[9]

I estimated a series of random effects models to account for the likelihood that data from counties were correlated within each state (for further explanation of random effects and other multilevel models, see Bryk and Raudenbush 1992, Luke 2004, Singer 1998).[10] I allowed the median income variable to have both fixed and random effects in each state to take into account variation in the cost of living in each state. The dependent variable in each model was voter turnout at the county level, with turnout calculated as the percentage of the estimated citizen voting-age population that voted in the 2004 election.

[Table 2 here]

Turning first to an analysis using the maximum identification requirements, two of the four requirements had a small and negative effect on turnout in 2004: matching one's signature and providing a non-photo identification. Taking into account the reference variable of stating one's name, the results indicate that turnout was lower in states that required signature matches or a non-photo identification than in states that required voters to simply state their name, holding constant the electoral context and demographic variables.

Two contextual factors -- whether the county was in a state that was a battleground state and whether that state had a competitive race for governor and/or U.S. Senate-- increased voter turnout. The time between the closing date for registration and the election had a slight negative effect on turnout. As the percentage of Hispanics in the county's population increased, turnout declined. The percentage of senior citizens in the county and household median income had positive effects on turnout. The percentage of African-Americans in the county did not have a significant effect.

The effects of the minimum voter identification requirements were non-existent. None of the dummy variables for voter identification requirements were statistically significant. Being a battleground state and having a competitive statewide race were significant and positive, as was the percentage of senior citizens in the county and household median income. The percentage of Hispanics in the county's population continued to have a negative effect on turnout, as did the number of days between the closing date for registration and the election.

I then sought to test the hypothesis that voter identification requirements dampen turnout among minorities, a claim voiced by some critics of the requirements. To test this idea I incorporated a series of interactions between the maximum and minimum voter identification requirements and the percentage of African-Americans and Hispanics living in the counties. In each case the interactions did not improve the fit of the models to the data. A chi-square test of the difference in the deviance for each model (represented by -2 log likelihood in Table 2),

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[9] To bring the income figures into a scale comparable to those of the other variables, I used the natural log of median household income.

[10] The data analyses provided evidence that there was, indeed, a clustering of data within each state. The intraclass correlation, bounded by 0 and 1, measures the variation between the states. A random intercept model using only the intercept as a predictor generated an intraclass correlation of .43, indicating considerable variation between the states.

showed no significant improvement by including the interactions ($p > 0.05$). I report the coefficients for the models with the interactions in the Appendix in tables A-2 and A-3.

Analysis of the aggregate data at the county level generates some support for the hypothesis that as the identification requirements for voting vary, so does turnout. Specifically, in terms of the maximum requirements, the results suggest that requiring a signature match or non-photo identification is negatively related to turnout compared to requiring that a voter state his or her name. But the analysis showed that adding interactions between identification requirements and the percentage of the county that was African-American or Hispanic did not improve the fit of the model to the data.

Aggregate data, however, cannot fully capture the individual demographic factors that may figure into the decision to turn out to vote. For example, previous research has found that education is a powerful determinant of turnout (Wolfinger and Rosenstone 1980, but see also Nagler 1991).[11] Married individuals also are more likely to vote than those who are not married (Alvarez and Ansolabehere 2002; Alvarez, Nagler and Wilson 2004; Fisher, Kenny, and Morton 1993). To fully explore the effects of voter identification requirements on turnout, it is important to examine individual-level data as well.

**Individual-level analysis**

Individual-level turnout data exists in the November 2004 Current Population Survey conducted by the U.S. Census Bureau. The Census Bureau conducts the CPS monthly to measure unemployment and other workforce data, but the bureau adds a battery of voter participation questions to the November survey in even-numbered years to coincide with either a presidential or midterm Congressional election.

One of the advantages of the CPS is the sheer size of the sample. The survey's Voting and Registration Supplement consisted of interviews, either by telephone or in person, with 96,452 respondents.[12] The large sample size permits analyses of smaller groups, such as Black or Hispanic voters or voters with less than a high school education. The analyses reported here are based on reports from self-described registered voters. I omitted those who said they were not registered to vote. I also excluded those who said they cast absentee ballots because the identification requirements for absentee ballots may differ from those required when one votes in person. In addition, I eliminated from the sample respondents who said they were not U.S. citizens because the questionnaire design skipped those individuals past the voter registration and turnout questions in the survey.

The dependent variable in these analyses is whether a respondent said he or she voted in the November 2004 election.[13] As in the analysis of aggregate data, I coded the voter

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[11] A reviewer for an earlier version of this paper recommended adding an education variable to the aggregate model. One version of the aggregate model not reported here included the percentage of adults in the county who had at least a college degree. The measure was highly collinear with the percentage of residents living below the poverty line, necessitating removal of the college degree variable from the model.

[12] It is important to note that the Census Bureau allows respondents to answer on behalf of themselves and others in the household during the interview. While proxy reporting of voter turnout raises the possibility of inaccurate reports concerning whether another member of the household voted, follow-up interviews with those for whom a proxy report had been given in the November 1984 CPS showed 99 percent agreement between the proxy report and the information given by the follow-up respondent (U.S. Census Bureau 1990).

[13] The U.S. Census Bureau reported, based on the November 2004 CPS, that 89 percent of those who identified themselves as registered voters said they voted in 2004 (U.S. Census Bureau 2005). Previous research has shown

identification requirements as a series of dummy variables, coding each variable as one if the requirement existed in a given state, and zero otherwise. This yielded five dichotomous variables for maximum requirements (state name, sign name, match signature, non-photo identification, or photo identification), and five dichotomous variables for minimum requirements (state name, sign name, match signature, non-photo identification, or providing an affidavit). I omitted the variable for stating one's name so that it could serve as the reference category in comparison with the other four identification requirements in each of the statistical analyses.[14]

In addition to the voter identification requirements, the models include two other state-level factors that might have influenced turnout in 2004: whether the state was considered a battleground state in the presidential election, and whether there was a gubernatorial and/or U.S. Senate race in the state (see Alvarez and Ansolabehere 2002, Alvarez et al. 2004, and Kenny et al. 1993 for similar approaches). As in the aggregate data analysis, the threshold that determined whether the state was a battleground state or had a competitive statewide race was a margin of victory of five percent or less.[15] At the individual level, I controlled for gender, household income, and dummy variables for race/ethnicity, age and education. In terms of race and ethnicity, I created dummy variables to represent whether a voter was Black/non-Hispanic, Hispanic, or Asian (with white/non-Hispanic/other voters as the omitted category for reference purposes). I separated education into five dummy variables: less than high school, high school diploma, some college, college graduate, and graduate training. I omitted the "less than high school" variable from the model for reference purposes. Regarding age, I created four dummy variables to represent 18 to 24 years of age, 29 to 44, 45 to 64, and 65 years and older. I omitted the 18-to-24 category as the reference variable in the model.

Drawing on previous research on voting behavior, I also controlled for whether an individual was employed, or at least a member of the workforce (as opposed to being a full-time student, a homemaker, or retired). Both employment and workforce membership have been shown to be positive predictors of turnout (see Mitchell and Wlezien 1995). Marital status, whether one is a native-born citizen and residential mobility also have emerged as significant predictors of turnout (Alvarez and Ansolabehere 2002, Alvarez et al. 2004, Kenney et al. 1993, Wolfinger and Rosenstone 1980). I included in the model variables for whether a respondent was married (coded 1 if yes, 0 otherwise), and whether one was a native-born citizen (coded 1 if yes, 0 otherwise). I measured residential mobility by coding for whether the respondent had moved to a new address in the six months prior to the interview (coded 1 if yes, 0 otherwise).

**Results**

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that, generally speaking, some survey respondents overstate their incidence of voting. Researchers speculate that over-reports may be due to the social desirability that accompanies saying one has done his or her civic duty, or a reluctance to appear outside the mainstream of American political culture (U.S. Census Bureau 1990). It is also possible that voting is an indication of civic engagement that predisposes voters to agree to complete surveys at a higher rate than non-voters (Flanigan and Zingale 2002). Hence the voter turnout rates reported in the CPS tend to be up to 10 percentage points higher than the actual turnout rate for the nation (Flanigan and Zingale 2002). Even with this caveat, however, the CPS serves as a widely accepted source of data on voting behavior.

[14] Earlier versions of this paper included an individual-level analysis that included the five maximum voter identification requirements combined into a continuous variable. The results of that analysis, which found that voter identification requirements had a negative relationship with turnout, can be found in table A-4 in the Appendix.

[15] Given that the individual-level analysis focused on registered voters (as opposed to the citizen voting-age population in the aggregate analysis), I did not include the closing date for registration as a predictor of turnout in the individual-level analysis.

The dependent variable is whether a respondent said he or she voted in the November 2004 election (coded 1 for yes, 0 for no). I estimated models using probit analysis, which calculates the effects of independent variables on the probability that an event occurred – in this case whether a respondent said he or she voted. I estimated the models using robust standard errors to control for correlated error terms for observations from within the same state.

[Table 3 here]

The two models in Table 3 use either the maximum or minimum voter identification requirements in each state. The two models generate similar results. In each model, three of the voter identification requirements exert a statistically significant, negative effect on whether survey respondents said they had voted in 2004. In other words, compared to states that require voters only to state their names, the requirements to sign one's name, provide a non-photo identification, photo identification in the maximum requirements or affidavit in the minimum requires exert a negative influence on turnout.

Of the other state factors, only the competitiveness of the presidential race had a significant effect on turnout. In terms of demographic influences, African-American voters were more likely than white voters or other voters to say they had cast a ballot, while Asian-Americans were less likely than white or other voters to say they had turned out. Hispanic voters were not statistically different from white or other voters in terms of reported turnout. Consistent with previous research, income, and marital status all were positive predictors of voting. Women also were more likely to say they voted than men. Among the age categories, those ages 45 to 64 and 65 and older were more likely than those ages 18 to 24 to say they voted. Respondents who had earned a high school diploma, attended some college, graduated from college or attended graduate school were all more likely to say they voted than those who had finished high school. Respondents who had moved within six months before the interview were less likely to say they had voted.

While the probit models provide statistical support for the influence of voter identification requirements and other variables on turnout, probit coefficients do not lend themselves to intuitive interpretation. Another common approach in studies of election requirements is to examine how the predicted probability of voter turnout would vary as election requirements vary. I used the probit coefficients to calculate the predicted probability of voting at each level of voter identification requirements while holding all other independent variables in the models at their means.[16] I calculated the probabilities taking into account both maximum and minimum requirements.

[Table 4 here]

Taking into account that signature matches were not a predictor of turnout, the differences in predicted probability appear to decline from stating one's name to providing a photo identification or affidavit. Voters in states that required photo identification were 2.7 percent less likely to vote than voters in states where individuals had to give their names.[17] In terms of the

[16] In the case of dichotomous independent variables, holding them at their mean amounted to holding them at the percentage of the sample that was coded 1 for the variable (Long 1997).

[17] The voter turnout percentages may seem disproportionately high compared to the turnout rates reported in the aggregate data analysis. It is important to consider that the turnout rates in the aggregate data were a proportion of

minimum requirement, voters in states that required an affidavit at minimum were 4 percent less likely to turn out than voters in states where they had to give their names.

The differences were more pronounced for those lower in education. Constraining the model to show predicted probabilities only for those with less than a high school diploma, the probability of voting was 5.1 percent lower in states that required photo identification as the maximum requirement and 7 percent lower in states that required an affidavit as the minimum requirement compared to states where stating one's name was the maximum or minimum requirement.

Race and ethnicity have generated particular interest in the debate over voter identification requirements. But incorporating dummy variables for Hispanics, African-Americans, and Asian-Americans into one model carries the implicit assumption that the remaining variables, including education and income, will influence each of these groups in a similar manner in terms of deciding whether to vote. These assumptions are not always born out by the data (see Leighley and Vedlitz, 1999.) To isolate the effects of voter identification and other variables on voter turnout within specific racial and ethnic groups, I divided the sample into sub-samples and re-ran the probit models.

[Table 5 here]

The effects of voter identification requirements were similar for white voters compared to the entire sample, which was not surprising given that white voters comprised 81 percent of the sample. Voters in states where the maximum requirement involved signing one's name, providing a non-photo identification or photo identification were less likely to vote than those in a state that required voters to give their names. Taking into consideration the minimum requirements, this was true only for voters in states that require a non-photo identification or an affidavit. White voters in photo identification states were 3.7 percent less likely to vote than were white voters in states where respondents gave their names. The difference in probability was 4.4 percent for voters in states where an affidavit was the minimum requirement.

Voter identification requirements also influenced turnout among Black voters, but to a lesser extent relative to white voters.

[Table 6 here]

Of the maximum voter identification requirements, only the non-photo identification requirement reduced turnout compared to turnout in states that required voters to state their names. The predicted probability of voting was 5.7 percent lower for Black respondents in states that required non-photo identification. In terms of age, only African-Americans age 65 and older were more likely to vote than respondents in the 18 to 24 referent group. Respondents in all levels of education were more likely to vote than respondents without a high school diploma. Gender, income, living in a battleground state, being a part of the workforce and having been born in the United States also were positive predictors. Recent mobility tended to lower the probability of voting. None of the minimum identification requirements had a significant effect on voting, while most of the remaining variables had effects similar to those in the maximum requirement model.

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all citizens of voting-age population, while the turnout rates for the individual-level data are the proportion of only registered voters who said they voted.

Hispanic voters also were less likely to vote in states that required non-photo identification as opposed to stating one's name.

[Table 7 here]

Using the coefficients from Table 7 to calculate predicted probabilities, for both the maximum and minimum requirements, Hispanic voters were 10 percent less likely to vote in non-photo identification states compared to states where voters only had to give their name. Hispanic voters ages 45 to 64 and 65 and over were more likely to vote than their 18-to-24-year-old counterparts. Education and income also were positive predictors of voting. Interestingly, being a native-born citizen lowered the probability of voting, while native-born citizenship was a positive predictor for African-American voters and was not a predictor at all for white voters. It may be that naturalized citizens of Hispanic descent are more conscious of the value of voting rights than other groups.

Varying voter identification requirements influenced Asian-American voters as well. As with Hispanic and Black voters, Asian-American voters were less likely to turn out in states with non-photo identification requirements than in states where voters gave their names.

[Table 8 here]

Using the probit coefficients to calculate predicted probabilities, Asian-American voters were 8.5 percent less likely to vote in states that required non-photo identification compared to states that require voters to state their names under the maximum requirements, and they were 6.1 percent less likely to vote where non-photo identification was the minimum requirement. Asian-American voters also were 2.2 percent less likely to vote when signatures were the maximum requirement compared to stating one's name.

In terms of other predictors, there were no significant differences in terms of age or income. In contrast to Hispanic voters, where one was a naturalized or natural-born citizen did not affect the probability of voting. Those with high school or college diplomas or graduate training were more likely to turn out than those with less than a high school diploma. Women and married voters also were more likely to turn out than men and voters who were note married.

**Discussion and conclusion**

The results presented here provide evidence that as voter identification requirements vary, voter turnout does as well. This point emerged from both the aggregate data and the individual-level data, although not always for both the maximum and minimum sets of requirements. The overall effect for all registered voters was fairly small, but still statistically significant.

In the aggregate data, requirements that voters match signatures on file, provide a non-photo identification or photo identification had negative effects on turnout compared to requiring that voters state their names. Interactions with specific groups – African-Americans and Hispanics – did not improve the fit of the aggregate data to the models. But differences emerged among specific groups in the individual-level data. The signature, non-photo identification and photo identification requirements all had negative effects compared to the requirement that voters simply state their names. These effects translated into reduced probabilities of voting of about 3 to 4 percent for the entire sample, with larger differences for specific subgroups. For

example, the predicted probability that Hispanics would vote in states that required non-photo identification was about 10 percentage points lower than in states where Hispanic voters gave their names. The difference was about 6 percent for African-Americans and Asian-Americans, and about 2 percent for white voters (the gap widened to 3.7 percent for white voters when comparing photo identification to simply stating one's name).

That the non-photo identification requirement was the most consistent in terms of statistical significance across the groups is intriguing given the intense debates surrounding photo identification requirements. This begs the question as to why photo identification requirements did not have a greater influence in 2004. It may have been due to the fact that photo identification was a maximum requirement in only five states, and each of those states accepted another type of identification as a minimum requirement.

In examining the effects of voter identification requirements on turnout, there is still much to learn. The data examined in this project could not capture the dynamics of how identification requirements might lower turnout. If these requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements?[18] Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day? The CPS data do not include measures that can answer this question. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements. Such knowledge also could help in designing training for election judges to handle questions about, and potential disputes over, voter identification requirements.

[18] The individual-level data offer some insight here. If advance knowledge of the voter identification requirements were to dampen turnout, it is reasonable to expect that advance knowledge of those requirements also could discourage some individuals from registering to vote. I ran the same probit models using the November 2004 Current Population Survey data and voter registration as the dependent variable (coded 1 if the respondent said he or she was registered, and 0 if the respondent was not registered). Of all of the voter identification requirements, only requiring signatures or matching signatures had a significant effect on whether a respondent said he or she was registered to vote in 2004. In each instance the effect was negative.

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| Table 1 – Variation in 2004 State Turnout Based on Voter Identification Requirements | | | |
|---|---|---|---|
| Maximum Requirement | | Minimum Requirement | |
| Voter Identification Required in the States | Mean Voter Turnout for States in that Category | Voter Identification Required in the States | Mean Voter Turnout for States in that Category |
| State Name | 64.2 % | State Name | 63.0 % |
| Sign Name | 61.1 % | Sign Name | 60.8 % |
| Match Signature | 60.9 % | Match Signature | 61.7 % |
| Provide Non-Photo ID | 59.3 % | Provide Non-Photo ID | 59.0 % |
| Provide Photo ID | 58.1 % | Swear Affidavit | 60.1 % |
| Average Turnout for All States | 60.9 % | | |

**Table 2. Predictors of 2004 turnout at the county level taking into account maximum and minimum voter identification requirements**

| | Maximum Requirements | | Minimum Requirements | |
|---|---|---|---|---|
| **Variable** | **Unstandardized Estimate** | **Standard Error** | **Unstandardized Estimate** | **Standard Error** |
| **Intercept** | -1.34** | 0.14 | -1.36** | 0.4 |
| **Sign Name** | -0.01 | 0.012 | 0.002 | 0.02 |
| **Match Signature** | -0.03* | 0.014 | -0.001 | 0.02 |
| **Non-photo ID** | -0.04** | 0.013 | -0.01 | 0.02 |
| **Photo Identification** | -0.02 | 0.019 | ---- | ---- |
| **Affidavit** | ---- | ---- | -0.01 | 0.02 |
| **Battleground State** | 0.04** | 0.01 | 0.04** | 0.01 |
| **Competitive Senate/Governor's Race** | 0.04** | 0.01 | 0.04* | 0.02 |
| **Registration Closing Date** | -0.002** | 0.0005 | -0.003** | 0.001 |
| **% African-American** | 0.02 | 0.01 | 0.02 | 0.01 |
| **% Hispanic** | -0.05** | 0.01 | -0.05** | 0.01 |
| **% Age 65 or older** | 0.82** | 0.03 | 0.82** | 0.03 |
| **Median Household Income** | 0.18** | 0.01 | 0.18** | 0.01 |
| **-2 Log Likelihood** | -8953.8 | | -8946.9 | |

Coefficients are restricted maximum likelihood estimates. N = 3,111. * $p < .05$ ** $p < .01$ (one-tailed tests)

**Table 3. Probit model of voter turnout.**

| | Maximum Requirements | | Minimum Requirements | |
|---|---|---|---|---|
| **Variable** | **Unstandardized Estimate** | **Standard Error** | **Unstandardized Estimate** | **Standard Error** |
| **Sign name** | -0.11* | 0.05 | -0.08* | 0.04 |
| **Match signature** | -0.04 | 0.05 | -0.03 | 0.05 |
| **Non-photo ID** | -0.16** | 0.06 | -0.15** | 0.05 |
| **Photo ID** | -0.17** | 0.07 | ---- | ---- |
| **Affidavit** | ---- | ---- | -0.23** | 0.06 |
| **Hispanic** | -0.08 | 0.05 | -0.08 | 0.05 |
| **African-American** | 0.24** | 0.04 | 0.24** | 0.04 |
| **Asian-American** | -0.37** | 0.07 | -0.38** | 0.07 |
| **Age 25-44** | 0.004 | 0.02 | 0.003 | 0.02 |
| **Age 45-64** | 0.26** | 0.03 | 0.26** | 0.03 |
| **Age65+** | 0.43** | 0.03 | 0.43** | 0.03 |
| **High School** | 0.31** | 0.02 | 0.31** | 0.02 |
| **Some college** | 0.57** | 0.03 | 0.57** | 0.03 |
| **College** | 0.88** | 0.04 | 0.88** | 0.04 |
| **Graduate School** | 0.98** | 0.05 | 0.98** | 0.05 |
| **Household income** | 0.03** | 0.003 | 0.03** | 0.003 |
| **Married** | 0.23** | 0.02 | 0.23** | 0.02 |
| **Female** | 0.10** | 0.01 | 0.10** | 0.01 |
| **Battleground state** | 0.17** | 0.04 | 0.18** | 0.04 |
| **Competitive race** | 0.05 | 0.06 | 0.05 | 0.05 |
| **Employed** | 0.05 | 0.05 | 0.05 | 0.05 |
| **Member of workforce** | -0.05 | 0.05 | -0.05 | 0.05 |
| **Native-born citizen** | 0.02 | 0.04 | 0.02 | 0.04 |
| **Moved within past 6 months** | -0.29** | 0.03 | -0.29** | 0.03 |
| **Constant** | -0.09 | 0.10 | -0.09 | 0.09 |
| **Pseudo-R-Squared** | 0.09 | | 0.10 | |

Notes: N = 54,973 registered voters

$p < .05$* $p < .01$** (one-tailed tests)

Models were estimated with robust standard errors to correct for correlated error terms within each state.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004

**Table 4. Predicted probability of voter turnout – full model**

| | Maximum requirement | Minimum requirement |
|---|---|---|
| **State name** | 0.917 | 0.915 |
| **Sign name** | 0.899 | 0.902 |
| **Match signature** | (N.S.) | (N.S.) |
| **Non-photo ID** | 0.890 | 0.890 |
| **Photo ID** | 0.888 | ---- |
| **Affidavit** | ---- | 0.875 |
| **Total difference from "state name" to "photo identification" or "affidavit"** | 0.029 | 0.040 |
| N | 54,973 | |

Figures represent the predicted probability of registered voters saying they voted as the identification requirement varies stating one's name to providing photo identification or an affidavit, with all other variables held constant. N.S. = nonsignificant coefficient in the probit model.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.

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**Table 5. Probit model of turnout for White voters.**

| | Maximum Requirements | | Minimum Requirements | |
|---|---|---|---|---|
| **Variable** | **Unstandardized Estimate** | **Standard Error** | **Unstandardized Estimate** | **Standard Error** |
| **Sign name** | -0.10* | 0.05 | -0.07 | 0.04 |
| **Match signature** | -0.04 | 0.05 | -0.01 | 0.06 |
| **Non-photo ID** | -0.14** | 0.06 | -0.14** | 0.06 |
| **Photo ID** | -0.22** | 0.08 | ---- | ---- |
| **Affidavit** | ---- | ---- | -0.26** | 0.05 |
| **Age 25-44** | -0.01 | 0.03 | -0.01 | 0.03 |
| **Age 45-64** | 0.25** | 0.03 | 0.25** | 0.03 |
| **Age65+** | 0.44** | 0.04 | 0.44** | 0.04 |
| **High School** | 0.36** | 0.03 | 0.36** | 0.03 |
| **Some college** | 0.64** | 0.03 | 0.64** | 0.03 |
| **College** | 0.95** | 0.04 | 0.96** | 0.04 |
| **Graduate School** | 1.05** | 0.05 | 1.05** | 0.05 |
| **Household income** | 0.03** | 0.004 | 0.03** | 0.003 |
| **Married** | 0.27** | 0.02 | 0.27** | 0.02 |
| **Female** | 0.09** | 0.01 | 0.09** | 0.01 |
| **Battleground state** | 0.16** | 0.04 | 0.16** | 0.04 |
| **Competitive race** | 0.07 | 0.07 | 0.07 | 0.06 |
| **Employed** | 0.08 | 0.05 | 0.08 | 0.05 |
| **Member of workforce** | 0.0003 | 0.05 | 0.003 | 0.05 |
| **Native-born citizen** | 0.08 | 0.08 | 0.08 | 0.08 |
| **Moved within past 6 months** | -0.28** | 0.03 | -0.28** | 0.03 |
| **Constant** | -0.23* | 0.11 | -0.24** | 0.10 |
| **Pseudo-R-Squared** | .10 | | .10 | |

Notes: N = 44,760 registered voters

$p < .05$* $p < .01$** (one-tailed tests)

Models were estimated with robust standard errors to correct for correlated error terms within each state.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004

028685

**Table 6. Probit model of turnout for African-American voters.**

| | Maximum Requirements | | Minimum Requirements | |
|---|---|---|---|---|
| **Variable** | **Unstandardized Estimate** | **Standard Error** | **Unstandardized Estimate** | **Standard Error** |
| **Sign name** | -0.13 | 0.09 | -0.08 | 0.13 |
| **Match signature** | -0.05 | 0.10 | -0.17 | 0.13 |
| **Non-photo ID** | -0.24** | 0.07 | -0.14 | 0.12 |
| **Photo ID** | -0.10 | 0.12 | ---- | ---- |
| **Affidavit** | ---- | ---- | -0.05 | 0.19 |
| **Age 25-44** | -0.004 | 0.09 | -0.004 | 0.09 |
| **Age 45-64** | 0.12 | 0.09 | 0.13 | 0.09 |
| **Age65+** | 0.30** | 0.12 | 0.31** | 0.12 |
| **High School** | 0.24** | 0.06 | 0.25** | 0.06 |
| **Some college** | 0.40** | 0.07 | 0.40** | 0.07 |
| **College** | 0.69** | 0.08 | 0.68** | 0.08 |
| **Graduate School** | 0.99** | 0.19 | 0.98** | 0.19 |
| **Household income** | 0.04** | 0.01 | 0.05** | 0.008 |
| **Married** | 0.11 | 0.07 | 0.11 | 0.07 |
| **Female** | 0.14** | 0.04 | 0.14** | 0.04 |
| **Battleground state** | 0.13* | 0.07 | 0.21** | 0.08 |
| **Competitive race** | -0.10 | 0.07 | -0.16 | 0.10 |
| **Employed** | -0.09 | 0.11 | -0.09 | 0.10 |
| **Member of workforce** | -0.32** | 0.12 | -0.31** | 0.11 |
| **Native-born citizen** | 0.31** | 0.11 | 0.28** | 0.12 |
| **Moved within past 6 months** | -0.32** | 0.06 | -0.32** | 0.06 |
| **Constant** | 0.16 | 0.18 | 0.12 | 0.17 |
| **Pseudo-R-Squared** | 0.09 | | 0.09 | |

Notes: N = 5,013 registered voters

p < .05* p < .01** (one-tailed tests)

Models were estimated with robust standard errors to correct for correlated error terms within each state.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004

028686

**Table 7. Probit model of turnout for Hispanic voters.**

| | Maximum Requirements | | Minimum Requirements | |
|---|---|---|---|---|
| **Variable** | **Unstandardized Estimate** | **Standard Error** | **Unstandardized Estimate** | **Standard Error** |
| **Sign name** | -0.20 | 0.20 | -0.19 | 0.11 |
| **Match signature** | -0.12 | 0.20 | -0.18 | 0.12 |
| **Non-photo ID** | -0.40* | 0.20 | -0.38** | 0.13 |
| **Photo ID** | -0.13 | 0.23 | ---- | ---- |
| **Affidavit** | ---- | ---- | -0.25 | 0.16 |
| **Age 25-44** | 0.11 | 0.09 | 0.11 | 0.09 |
| **Age 45-64** | 0.35** | 0.10 | 0.36** | 0.10 |
| **Age65+** | 0.38** | 0.11 | 0.40** | 0.11 |
| **High School** | 0.18** | 0.08 | 0.19* | 0.08 |
| **Some college** | 0.46** | 0.07 | 0.46** | 0.07 |
| **College** | 0.63** | 0.11 | 0.64** | 0.11 |
| **Graduate School** | 0.72** | 0.13 | 0.73** | 0.13 |
| **Household income** | 0.03** | 0.01 | 0.03** | 0.01 |
| **Married** | 0.05 | 0.06 | 0.05 | 0.06 |
| **Female** | 0.09* | 0.04 | 0.09* | 0.04 |
| **Battleground state** | 0.31** | 0.06 | 0.36** | 0.07 |
| **Competitive race** | -0.06 | 0.13 | -0.05 | 0.13 |
| **Employed** | 0.13 | 0.12 | 0.14 | 0.12 |
| **Member of workforce** | 0.07 | 0.13 | 0.08 | 0.13 |
| **Native-born citizen** | -0.18** | 0.07 | -0.20** | 0.07 |
| **Moved within past 6 months** | -0.38** | 0.08 | -0.39** | 0.08 |
| **Constant** | 0.22 | 0.27 | 0.21 | 0.20 |
| **Pseudo-R-Squared** | 0.08 | | 0.08 | |

Notes: N = 2,860 registered voters

$p < .05$* $p < .01$** (one-tailed tests)

Models were estimated with robust standard errors to correct for correlated error terms within each state.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004

028687

**Table 8. Probit model of turnout for Asian-American voters.**

| | Maximum Requirements | | Minimum Requirements | |
|---|---|---|---|---|
| **Variable** | **Unstandardized Estimate** | **Standard Error** | **Unstandardized Estimate** | **Standard Error** |
| **Sign name** | -0.37** | 0.20 | -0.26 | 0.17 |
| **Match signature** | -0.17 | 0.22 | -0.01 | 0.21 |
| **Non-photo ID** | -0.40** | 0.21 | -0.28* | 0.16 |
| **Photo ID** | -0.30 | 0.21 | ---- | ---- |
| **Affidavit** | ---- | ---- | 0.12 | 0.30 |
| **Age 25-44** | -0.11 | 0.23 | -0.10 | 0.23 |
| **Age 45-64** | 0.06 | 0.26 | 0.08 | 0.26 |
| **Age65+** | 0.14 | 0.36 | 0.17 | 0.34 |
| **High School** | 0.54** | 0.21 | 0.55** | 0.21 |
| **Some college** | 0.36 | 0.31 | 0.36 | 0.31 |
| **College** | 0.67** | 0.22 | 0.66** | 0.23 |
| **Graduate School** | 0.57* | 0.25 | 0.55* | 0.26 |
| **Household income** | 0.01 | 0.01 | 0.01 | 0.01 |
| **Married** | 0.34** | 0.13 | 0.34** | 0.13 |
| **Female** | 0.16* | 0.09 | 0.16* | 0.08 |
| **Battleground state** | 0.29* | 0.14 | 0.23 | 0.16 |
| **Competitive race** | 0.33* | 0.19 | 0.27 | 0.22 |
| **Employed** | -0.24 | 0.33 | -0.25 | 0.33 |
| **Member of workforce** | -0.54 | 0.35 | -0.55 | 0.35 |
| **Native-born citizen** | 0.14 | 0.12 | 0.16 | 0.11 |
| **Moved within past 6 months** | -0.38* | 0.17 | -0.39* | 0.17 |
| **Constant** | 0.36 | 0.52 | 0.29 | 0.51 |
| **Pseudo-R-Squared** | 0.08 | | 0.08 | |

Notes: N = 912 registered voters

p < .05* p < .01** (one-tailed tests)

Models were estimated with robust standard errors to correct for correlated error terms within each state.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004

028688

## Appendix

**Table A-1. Predictors of 2004 turnout at the county level taking into account maximum voter identification requirements treated as a continuous variable.**

| Variable | Unstandardized Estimate | Standard Error |
|---|---|---|
| Intercept | -1.33** | 0.14 |
| Voter Identification Requirements | -0.01** | 0.004 |
| Battleground State | 0.04** | 0.01 |
| Competitive Senate/Governor's Race | 0.04** | 0.01 |
| % African-American | 0.02 | 0.01 |
| % Hispanic | -0.05** | 0.01 |
| % Age 65 or older | 0.82** | 0.03 |
| Median Household Income | 0.18** | 0.01 |
| Registration Closing Date | -0.002** | 0.001 |
| -2 Log Likelihood | -8970.1 | |

Coefficients are restricted maximum likelihood estimates. N = 3,111.
* $p < .05$ ** $p < .01$ (one-tailed tests).

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**Table A-2. Predictors of 2004 turnout at the county level taking into account maximum voter identification requirements and interactions.**

| Variable | Unstandardized Estimate | Standard Error |
|---|---|---|
| Intercept | -1.39** | 0.14 |
| Sign Name | -0.02 | 0.013 |
| Match Signature | -0.03* | 0.02 |
| Non-photo ID | -0.05** | 0.01 |
| Photo Identification | -0.05** | 0.02 |
| Battleground State | 0.04** | 0.01 |
| Competitive Senate/Governor's Race | 0.04** | 0.01 |
| % African-American | -0.02 | 0.03 |
| % Hispanic | -0.22** | 0.10 |
| % Age 65 or older | 0.8** | 0.03 |
| Median Household Income | 0.18** | 0.01 |
| Registration Closing Date | -0.002** | 0.001 |
| Signature*African-American | 0.02 | 0.04 |
| Match Signature*African-American | 0.16** | 0.07 |
| Non-photo ID*African-American | 0.03 | 0.03 |
| Photo ID*African-American | 0.20** | 0.05 |
| Signature*Hispanic | 0.14 | 0.09 |
| Match Signature*Hispanic | -0.01 | 0.11 |
| Non-photo ID*Hispanic | 0.20** | 0.09 |
| Photo ID*Hispanic | 0.03 | 0.11 |
| -2 Log Likelihood | -8966.7 | |

Coefficients are restricted maximum likelihood estimates. N = 3,111.
* $p < .05$ ** $p < .01$ (one-tailed tests).

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**Table A-3. Predictors of 2004 turnout at the county level taking into account minimum voter identification requirements and interactions.**

| Variable | Unstandardized Estimate | Standard Error |
|---|---|---|
| Intercept | -1.39** | 0.14 |
| Sign Name | 0.0003 | 0.016 |
| Match Signature | -0.001 | 0.02 |
| Non-photo ID | -0.02 | 0.02 |
| Affidavit | -0.02 | 0.02 |
| Battleground State | 0.04** | 0.01 |
| Competitive Senate/Governor's Race | 0.04** | 0.02 |
| % African-American | -0.02 | 0.02 |
| % Hispanic | -0.19** | 0.08 |
| % Age 65 or older | 0.82** | 0.03 |
| Median Household Income | 0.18** | 0.01 |
| Registration Closing Date | -0.003** | 0.001 |
| Signature*African-American | -0.007 | 0.03 |
| Match Signature*African-American | 0.15** | 0.05 |
| Non-photo ID*African-American | 0.04 | 0.03 |
| Affidavit*African-American | 0.18** | 0.05 |
| Signature*Hispanic | 0.12 | 0.08 |
| Match Signature*Hispanic | -0.03 | 0.11 |
| Non-photo ID*Hispanic | 0.17* | 0.08 |
| Affidavit*Hispanic | -0.04 | 0.10 |
| -2 Log Likelihood | -8960.8 | |

Coefficients are restricted maximum likelihood estimates. N = 3,111.
* $p < .05$ ** $p < .01$ (one-tailed tests).

028691

**Table A-4. Probit model of voter turnout treating maximum voter identification requirements as a continuous variable.**

| Variable | Unstandardized Estimate | Standard Error |
|---|---|---|
| **Voter Identification Requirements** | -0.04** | 0.02 |
| **Hispanic** | -0.09 | 0.05 |
| **African-American** | 0.24** | 0.04 |
| **Asian-American** | -0.38** | 0.07 |
| **Age 25-44** | 0.005 | 0.02 |
| **Age 45-64** | 0.26** | 0.03 |
| **Age65+** | 0.43** | 0.03 |
| **High School** | 0.31** | 0.02 |
| **Some college** | 0.57** | 0.03 |
| **College** | 0.87** | 0.04 |
| **Graduate School** | 0.98** | 0.05 |
| **Household income** | 0.03** | 0.003 |
| **Married** | 0.23** | 0.02 |
| **Female** | 0.10** | 0.01 |
| **Battleground state** | 0.19** | 0.04 |
| **Competitive race** | 0.04 | 0.05 |
| **Employed** | 0.05 | 0.05 |
| **Member of workforce** | -0.05 | 0.05 |
| **Native-born citizen** | 0.02 | 0.04 |
| **Moved within past 6 months** | -0.29** | 0.03 |
| **Constant** | -0.08 | 0.10 |
| **Pseudo-R-Squared** | 0.09 | |

Notes: N = 54,973 registered voters

p < .05* p < .01** (one-tailed tests)

Models were estimated with robust standard errors to correct for correlated error terms within each state.

Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004

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## APPENDIX D

### Annotated Bibliography on Voter Identification Issues

Law Journals

- Angelo J. Genova & Rebecca Moll Freed, *The Right to Vote and Be Counted: A Liberty at Risk*, 233 N.J. LAW 44, Apr. 2005.
  - Discusses HAVA a lot
- George W. Grayson, *Registering and Identifying Voters: What the United States Can Learn From Mexico,* 3 ELECTION L.J. 513 (2004).
  - Benefits of US adopting Mexican system of identifying voters and voter registration
- Robert A. Pastor, *Improving the U.S. Electoral System: Lessons from Canada and Mexico,* 3 ELECTION L.J. 584 (2004).
  - Discusses HAVA, problems of 2000 election, discusses registration & identification
- Brian Kim, *Recent Development: Help America Vote Act,* 40 HARV. J. ON LEGIS. 579 (Summer 2003).
  - Discussion of HAVA requirements and voter ID, problems in 2000
- Robert L. McCurley, *Legislative Wrap-Up: Election Law Changes*, 64 ALA. LAW. 364, Nov. 2003.
  - Discusses changes in AL to their election law in 2003, including adding voter ID
  - HAVA discussed
- Clifford B. Levine, Esq. & David J. Montgomery, Esq., *Post-Election Litigation in Pennsylvania,* 41 Duq. L. Rev. 153 (Fall, 2002).
  - Discusses challenging elections based on voter fraud & illegal votes
- Rebecca Barrett, *Election,* 18 GA. ST. U. L. REV. 114 (Fall 2001).
  - Discusses a GA law in 2001 removing hunting & fishing licenses from list of acceptable ID and a failed amendment to limit acceptable ID to photo ID only
- Robert A. Junell, Curtis L. Seidlits, Jr. & Glen G. Shuffler, *Consideration of Illegal Votes in Legislative Election Contests,* 28 Tex. Tech L. Rev. 1095 (1997).
  - General discussion of ways voters are verified, what happens when voters are challenged as illegal voters
- John Victor Berry, *Take the Money and Run: Lame-Ducks "Quack" and Pass Voter Identification Provisions,* 74 U. DET. MERCY L. REV. 291 (Winter 1997).
  - discusses a photo ID law passed in Michigan in 1997 (later declared violated EPC of 14th amendment)
  - arguments against photo ID
- Deborah S. James, Note, *Voter Registration: A Restriction on the Fundamental Right to Vote,* 96 YALE L.J. 1615 (1987).
  - Discusses voter registration as a way to combat fraud & several different ways to do it

**Historical articles:**

- Gabrielle B. Ruda, Note, *Picture Perfect: A Critical Analysis of the Debate on the 2002 Help America Vote Act,* 31 FORDHAM URB. L.J. 235 (November 2003).
  - Lot of analysis on HAVA and voter ID
  - Little bit of historical
  - Arguments for and against certain types of voter ID laws

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- Kimberly C. Delk, *What Will it Take to Produce Greater American Voter Participation? Does Anyone Really Know?,* 2 LOY. J. PUB. INT. L. 133 (Spring 2001).
  - History of voting & requirements & laws throughout time
  - Future: I-voting & e-registration – improvements in voter ID which would result

**Marginally relevant/limited discussion of Voter ID issues**

- Jeanne S. Zaino & Jeffrey T. Zaino, *The Changing Landscape of Election Disputes,* 59 DISP. RESOL. J. 11 (Aug. – Oct. 2004).
  - Discusses HAVA & implementation
- Symposium, *Disability Law, Equality, and Difference: American Disability Law and the Civil Rights Model, Alabama Section*, 55 ALA. L. REV. 1167 (Summer 2004).
  - Discusses an AL law expanding exemptions to ID requirement if 2 poll workers identify them
- Bryan Mercurio, *Democracy in Decline: Can Internet Voting Save the Electoral Process*, 22 J. MARSHALL J. COMPUTER & INFO. L. 409 (Winter 2004).
  - Internet voting
- Kristen E. Larson, Note, *Cast Your Ballot.com: Fulfill Your Civic Duty over the Internet*, 27 WM. MITCHELL L. REV. 1797 (2001).
  - Voter ID and Internet voting
  - Costs & Benefits of Internet voting
  - States using or examining Internet voting
- Hugh M. Lee, *An Analysis of State and Federal Remedies for Election Fraud, Learning from Florida's Presidential Election Debacle?,* 63 U. Pitt. L. Rev. 159 (Fall, 2001).
  - Discusses illegal ballots, fraudulent registration
- Katharine Hickel Barondeau & Terry M. Jarrett, *The Florida Election Debacle: Can it Happen in Missouri?,* 57 J. Mo. B. 294, Nov./Dec. 2001.
  - Anti fraud election reform in Missouri
- Priscilla L. Southwell & Justin Burchett, *Vote-by-Mail in the State of Oregon,* 34 Willamette L. Rev. 345 (Spring 1998).
  - Vote by mail and discusses fraud issues involved
- Jonathan E. Davis, *Comment: The National Voter Registration Act of 1993: Debunking States' Rights Resistance and the Pretense of Voter Fraud,* 6 Temp. Pol. & Civ. Rts. L. Rev. 117 (Fall 1996/Spring 1997).
  - Voter fraud arguments against NVRA
- James A. Gardner, *Consent, Legitimacy and Elections: Implementing Popular Sovereignty Under the Lockean Constitution,* 52 U. PITT. L. REV. 189 (Fall 1990).
  - History of voting and requirements
  - Theory

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**Appendix E**

State Statutes and Regulations Affecting Voter Identification

Compiled by The Moritz College of Law, The Ohio State University

Available in electronic form

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**FINAL DRAFT**
For Review by the Standards Board and Board of Advisors

# Report to the

# U. S. Election Assistance Commission

# On

# Best Practices to Improve Voter Identification Requirements

# Pursuant to the

# HELP AMERICA VOTE ACT OF 2002

# Public Law 107-252

May 16, 2006

Submitted by

The Eagleton Institute of Politics, Rutgers, The State University of New Jersey

The Moritz College of Law, The Ohio State University

028703

**Deliberative Process Privilege**

# FINAL DRAFT

For Review by the Standards Board and Board of Advisors

## The Research Team

This research report on Voter Identification Requirements in the 2004 election is part of a broader analysis that also includes a study of Provisional Voting, which has already been submitted to the EAC. Conducting the work was a consortium of The Eagleton Institute of Politics of Rutgers, The State University of New Jersey, and The Moritz College of Law of The Ohio State University.

**The Eagleton Institute** explores state and national politics through research, education, and public service, linking the study of politics with its day-to-day practice. It focuses attention on how contemporary political systems work, how they change, and how they might work better. Eagleton regularly undertakes projects to enhance political understanding and involvement, often in collaboration with government agencies, the media, non-profit groups, and other academic institutions.

**The Moritz College of Law** has served the citizens of Ohio and the nation since its establishment in 1891.It has played a leading role in the legal profession through countless contributions made by graduates and faculty. Its contributions to election law have become well known through its Election Law @ Moritz website. *Election Law @ Moritz* illuminates public understanding of election law and its role in our nation's democracy.

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# FINAL DRAFT

For Review by the Standards Board and Board of Advisors

## Peer Review Group

A draft of this report and the statistical analysis in its appendix were critiqued by a Peer Review Group. The comments of its members improved the quality of our work. While the Group as a whole and the comments of its members individually contributed generously to the research effort, any errors of fact or weaknesses in inference are the responsibility of the Eagleton-Moritz research team. The members of the Peer Review Group do not necessarily share the views reflected in our recommendations.

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REVISED FINAL DRAFT
For review by the EAC Advisory Boards

# REPORT AND RECOMMENDATIONS TO THE EAC VOTER IDENTIFICATION ISSUES

**Report Background**

The Help America Vote Act of 2002 (HAVA) (Public Law 107-252) authorizes the United States Election Assistance Commission (EAC) (Sec. 241, 42 USC 15381) to conduct periodic studies of election administration issues. The purpose of these studies is to promote methods for voting and administering elections, including provisional voting, that are convenient, accessible and easy to use; that yield accurate, secure and expeditious voting systems; that afford each registered and eligible voter an equal opportunity to vote and to have that vote counted; and that are efficient.

This study provides information on voter identification practices in the 2004 election. It makes recommendations for best practices to evaluate future proposals for voter ID requirements, including the systematic collection and evaluation of information from the states. The research was conducted by the Eagleton Institute of Politics at Rutgers, the State University of New Jersey, and the Moritz College of Law at the Ohio State University under a contract with the EAC, dated May 24, 2005. The work included a review and legal analysis of state statutes, regulations and litigation concerning voter identification and provisional voting as well as a statistical analysis of the relationship of various requirements for voter identification to turnout in the 2004 election. This report is a companion to a report on Provisional Voting submitted to the EAC on November 28, 2005 under the same contract.

## EXECUTIVE SUMMARY AND RECOMMENDATIONS

### Background and Methods

This report arrives at a time of considerable ferment over the issue of voter identification. The debate across the nation over requiring voters to produce a specific identification document before being permitted to cast a regular (as opposed to a provisional) ballot, has revealed supporters and opponents in polarized camps.

- Proponents of stricter identification requirements base their case on improving the security of the ballot by reducing opportunities for one kind of vote fraud --multiple voting or voting by those who are not eligible. The proponents argue that their goal is to ensure that only those legally entitled to vote do so, and do so only once at each election.

- Opponents seek to forestall more stringent identification requirements, such as for government-issued photo ID, in order to ensure broad access to a regular ballot. They fear that some voters --such as, they argue, racial and ethnic minorities, the young, and elderly voters-- may lack convenient access to the required ID documents, or that such voters may be fearful of submitting their ID documents to official scrutiny and thus stay away from the polls.
- Both sides argue that their preferred policy will engender faith in the electoral process among citizens.

This report considers policy issues associated with the voter ID debate and investigates whether empirical study can suggest a way to estimate the effects of different voter ID requirements on turnout, and important first step in assessing tradeoffs between ballot security and ballot access. The aim is to contribute to the effort to raise the quality of the debate over this contentious topic. The tradeoffs between ballot security and ballot access are crucial. A voting system that requires voters to produce an identity document or documents may prevent the ineligible from voting. It may also prevent eligible voters from casting a ballot. If the ID requirement of a ballot protection system blocks ineligible voters from the polls at the cost of preventing eligible voters who lack the required forms of identification, the integrity of the ballot may not have been improved; the harm may be as great as the benefit.

As part of the project's effort to analyze the relationship between Voter ID requirements, turnout, and their policy implications, a statistical analysis was conducted to examine the potential variation in turnout. This statistical study developed a model to illuminate the relationships between voter ID requirements and turnout. This model's findings and limitations suggest avenues for further research and analysis that may assist the EAC and the states as they explore policies to balance the goals of ballot integrity and ballot access.

The statistical analysis describes one possible way to estimate what might be the incremental effect on voters' access to the ballot of an increase in the rigor of voter identification requirements. We do not offer this statistical analysis as the last word, but rather as a preliminary word on the subject. Its findings must be regarded as tentative; the information that might permit greater certainty is simply not available. Indeed, as our recommendations indicate, the next step to improve understanding of the effects of stricter voter identification on turnout and on vote fraud is to collect more information on both topics systematically and regularly.

Making a statistical estimate of the effect of voting regulations on turnout is difficult. The dynamics of turnout are complex, much studied, and only partially understood. Some agreement exists, however, that three factors that exert substantial influence on voter turnout are:[1] the socioeconomic status of the potential voter; legal requirements to vote; and the political context of the election. By focusing on how voters identify themselves at the polls, this report emphasizes legal requirements. The statistical analysis also consides some of the socioeconomic, racial, and age characteristics of the electorate, as well as the political context in 2004 (such as whether a state was a battleground in the presidential race).

Examining tradeoffs between ballot security and ballot access requires some measure of the effectiveness of voter ID requirements in reducing multiple voting or voting by ineligible voters. The existing evidence on the incidence of vote fraud, especially on the kind of vote fraud that could be reduced by requiring more rigorous voter identification, is not sufficient to evaluate those tradeoffs.[2] Assessing the effectiveness of voter ID as a way to protect the integrity of the ballot should logically include an estimate of the nature and frequency of vote fraud. This research does not include consideration of vote fraud, nor does it estimate the possible effectiveness of various voter ID regimes to counter attempts at vote fraud. Our analysis also cannot take into account how many potential voters who did not turn out under comparatively stricter voter ID requirements might have been ineligible or eligible to vote.

Despite these qualifications regarding the quality of the available data and the limitations of statistical analysis, however, although it used different statistical methods and two different sets of data on turnout in 2004 election, it points to the same general finding. As discussed at greater length in the appendix to this report, stricter voter identification requirements were correlated with reduced turnout in the models employed.[3] As explained below, these models find that a statistically significant relationship exists, even when controlling for other factors (such as whether the election was in a battleground state) that might affect turnout. Without knowing more about the effects of stricter voter ID on reducing multiple voting or voting by ineligible

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[1] See, for example, Tom William Rice and Patrick J. Kenney, "Voter Turnout in Presidential Primaries." 1985. Political Behavior, 7: 101-112. Identification requirements are not the only legal restrictions on voting. States also differ, for example, in their registration requirements (including how long before the election registration must take place and the identity documents required register).

[2] The EAC has contracted with other researchers to study vote fraud issues.

[3] Appendix C: Tim Vercellotti, Eagleton Institute of Politics, *Analysis of Effects of Voter Identification Requirements on Turnout.*

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voters, however, the tradeoffs between ballot security and ballot access cannot be assessed fully.

Methodology

The report includes detailed information on the nature of the statutory requirements across the country in 2004 and on the statutes and court decisions that provide the legal context for the voter ID debate. We gathered information on the requirements in effect in the 50 states and the District of Columbia in that year. Based on our interpretation of state statutes, supplemented in some cases by conversations with state election officials, we divided the states' ID requirements into five categories. We believe each category is more rigorous than the one preceding, based on the demands they make on voters.[4] The categories range from "Stating Name" which we judge to be somewhat less demanding than "Signing Name." "Signature Match" requires poll workers to examine the signature and compare it to a sample, which is slightly more demanding that the voter simply signing. "Present ID" requires voters to offer some documentary evidence of their identity, ranging from a utility bill to a passport. It is more demanding than the previous three categories because it requires that the voter remember to bring this documentation to the polls. (Even a simple ID, such as a utility bill, may not be available to some renters or, say, those in group housing.) We regard a government "Photo ID" as the most rigorous requirement. Such identity documents may not be uniformly and conveniently available to all voters.

For each state, we identified both the "maximum" and "minimum" identification requirements. The term "maximum" refers to the most that voters may be *asked* to do or show at the polling place (putting aside cases in which particular voter's eligibility may be questioned pursuant to a state challenge process). The term "minimum," on the other hand, refers to the most that voters can be *required* to do or show, in order to cast regular ballot (again leaving aside a state challenge process). We have included "maximum" requirements in our analysis, and not simply "minimum" requirements, because simply asking voters to produce particular identifying information may have a deterrent effect, even if voters are ultimately allowed to cast a regular ballot without that identification. For example, in a state where voters are asked to show photo ID at the polling place, but still allowed to vote by completing an affidavit confirming their eligibility, the "maximum" of being asked to show photo ID may deter some voters even though the "minimum" would allow them to vote without photo ID.

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[4] Even the most relaxed provisions for identification at the polls –anything stricter than the honor system used in North Dakota—will impose some burden on particular voters. Harvard Law Review 119:1146

It is worth emphasizing that, at the time of the 2004 election, there was *no* state that had a "minimum" requirement of showing photo ID – in other words, there was no state that required voters to show photo ID in order to cast a regular ballot. For this reason, our report does not measure the impact of laws, like those recently enacted in Indiana and Georgia, which require voters to show photo ID in order to cast a regular ballot without an affidavit exception.

To examine the potential variation on turnout rates associated with each type of voter ID requirements in effect on Election Day 2004, the statistical analysis drew on two sets of data. These were, first, aggregate turnout data at the county level for each state and, second, the reports of individual voters collected in the November 2004 Current Population Survey by the U. S. Census Bureau. Using two different data sets makes it possible to check the validity of one analysis against the other. It also provides insights not possible using only one of the data sets. The aggregate analysis cannot provide valid estimates on the effects of different ID requirements on particular demographic groups (e.g., the old, the young, African-Americans, the poor, or high school graduates). The Current Population Survey data does permit that kind of analysis, although it has the disadvantage of relying on self-reports by respondents about their registration status and experience in the polling place.

To understand legal issues that have been raised in recent litigation over voter ID requirements, we collected and analyzed the few major cases that have been decided so far on this issue. The decisions so far provide some guidance on the constitutional and other constraints as to voter ID requirements.

Summary of Findings

As voter identification requirements vary, voter turnout varies as well. This finding emerged from both the statistical analysis's aggregate data and the individual-level data, although not always for both the maximum and minimum sets of requirements. The overall relationship between the stringency of ID requirements and turnout was fairly small, but still statistically significant.

In the model used with the aggregate data in the statistical analysis, the match signature requirement, the provide a non-photo ID requirement, and the photo ID requirement were all correlated with lower turnout compared to requiring that voters state their names. With the addition of the registration closing data to the aggregate analysis, photo id is no longer a

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significant predictor of turnout. Signature match and non-photo id remain significant and negative predictors in the model.

The reduction in turnout was not the same for all demographic groups in the citizen voting age population.

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The non-photo identification requirement showed the most significant and consistent correlation with reduced turnout. This result may be surprising given the intense debates surrounding photo identification requirements. The effect of photo ID requirements cannot, however, be assessed from the data the statistical analysis examined, since none of the states had laws in 2004 that conditioned voting on presentation of photo ID. Each of the five states that had photo ID as a "maximum" requirement (i.e., the most that voters could be asked to show at the polls) accepted another type of identification or an affidavit as a "minimum" requirement in the 2004 election (i.e., they were allowed to cast a regular ballot with something less than photo ID).

Significant questions about the relationship of voter identification requirements to turnout remain unanswered. The data examined in this project could not capture the dynamics of how identification requirements might lower turnout. If ID requirements dampen turnout, is it because individuals are aware of the requirements and stay away from the polls because they cannot or do not want to meet the requirements? Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day? Other factors that may also be correlated with stricter ID laws – such as less user-friendly voter registration systems – may actually be causing lower turnout. The CPS data do not include the information needed to answer this question. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements. Such knowledge also could help in designing training for election judges to handle questions about, and potential disputes over, voter identification requirements.

Our analysis of litigation suggests that the courts will look more strictly at requirements that voters produce a photo ID in order to cast a regular ballot, than at non-photo ID laws. The courts have used a balancing test to weigh the legitimate interest in preventing election fraud against the citizen's right to privacy (protecting social security numbers from public disclosure, for

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example) and the reasonableness of requirements for identity documents. To provide both the clarity and certainty in administration of elections needed to forestall destabilizing challenges to outcomes, a best practice for the states may be to limit requirements for voter identification to the minimum needed to prevent duplicate registration and ensure eligibility.

The current lack of understanding of precisely how voter ID requirements affect turnout could be ameliorated by requiring the collection and reporting of additional data, including the reasons potential voters are required to cast a provisional ballot and the reasons for rejecting provisional ballots during the 2006 and subsequent elections. Also useful would be the results of surveys of voters on their experiences in meeting voter ID requirements and on what type of ballot they cast.[5] And, of course, more information is needed on the incidence and varieties of vote fraud, but that inquiry is outside the scope of this report.

Recommendations for consideration and action by the EAC

The dynamics of Voter ID requirements –how more rigorous voter ID requirements may affect the decision by potential voters to go or stay away from the polls-- are not perfectly understood. This lack of understanding should be recognized in the policy process in the states. The debate over voter ID in the states would be improved by additional research sponsored by the EAC.

The EAC should consider the following actions to improve understanding of the relationship between voter ID requirements and the two important goals of ensuring ballot access and ensuring ballot integrity.

1. Encourage or sponsor further research to clarify the connection between Voter ID requirements and the number of potential voters actually able to cast a ballot that is actually counted.
2. Recommend as a best practice the publication of a "Voting Impact Statement" by states as they assess their voter ID requirements to protect the integrity of the ballot. The analysis will help ensure that efforts to increase ballot security have a neutral effect on electoral participation by eligible voters. The Voter Impact Statement would estimate the number and demographics of 1) eligible, potential voters that may be kept from the polls

[5] Arizona held its first election with its new, stricter ID requirements on March 14, 2006. In at least one county (Maricopa) election officials handed a survey to voters that asked if they knew about the voter identification law and if they did, how they found out about it. Edythe Jensen, "New Voter ID Law Goes Smoothly in Chandler," *Arizona Republic*, March 15, 2006. More surveys of this kind can illuminate the dynamics of voter ID and voting in ways that are not possible now because of insufficient data.

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or permitted to cast a provisional ballot by a stricter ID requirement; and 2) and assess the number of ineligible voters who will be prevented from voting by the stricter ID requirements.

3. Encourage or require the states in the 2006 election and beyond, to collect and report reliable, credible information on the relationship between ballot access and ballot security. EAC should publish an analysis of this information to provide a sound factual basis for the states to consider as they estimate the incidence of the kinds of vote fraud that more stringent ID requirements may prevent. The analysis should describe the dynamics of the voter ID process in preserving the security of the ballot. EAC can also use this information to encourage the states to assess the effectiveness of programs to ensure that all eligible voters have required ID and are permitted to vote in future elections. Well-designed longitudinal studies in the states can show the results of changing voter ID requirements on electoral participation over time. The studies should include precinct-level data to provide the fine-grained analysis that can provide a solid foundation for policy.
    I. Useful information could be supplied by state-sponsored surveys of voters by local election officials. It would make clear why those who cast a provisional ballot were found ineligible to cast a regular ballot. The answers would illuminate the frequency with which ID issues divert voters into the provisional ballot line.
    II. Surveys to ask voters what they know about the voter id requirements would also provide useful context for evaluating the effect of various voter ID requirements on electoral participation.
    III. Spot checks by state election officials on how the identification process works at polling places could provide information on how closely actual practice tracks statutory or regulatory requirements. Such reports should be available to the public.
4. Encourage states to examine the time period allowed for voters who cast a provisional ballot because they lacked required ID to return with their identification. In eleven states, voters who had to cast a provisional ballot because they lacked the ID required for a regular ballot were permitted to return later with their ID. Their provision of this ID is the critical step in evaluating the ballots. The length of the period in which the voter may return with ID is important. In setting the time period for return, which now varies among the states from the same day to about two weeks, states should consider three factors:

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the convenience of the voter, the total time allowed to evaluate ballots[6], and the safe harbor provision in presidential elections.

5. Recommendations to the states from EAC should reflect current judicial trends. Requirements that voters provide some identifying documentation have been upheld, where photo ID is *not* the only acceptable form. Whether laws requiring photo ID will be upheld is more uncertain.

## SUMMARY OF RESEARCH

### Background and Approach of the Study

Voter ID requirements are just one set of rules governing voting that may affect turnout. Social scientists have long studied how election rules affect participation in elections. The general view today is that the individual citizen makes the choice of whether the vote in a way similar to other decisions that a rational citizen makes, by comparing costs and benefits. The benefits of voting are fairly stable and hard to specify given the remote probability that any one vote will make a difference in an election. But whatever the benefit as perceived by an individual voter, as the costs of voting (for example, time, hassle, acquisition of information) increase, the likelihood that a citizen will vote decrease. Not all groups in the population calculate the cost of participation in the same way, so that election laws (such as registration or identification requirements) may affect different groups differently.

A short summary of some of the social science literature illustrates what may be a broad consensus that the rules of elections affect turnout, but note the important differences in the details of what groups may be most affected.

- Bowler, Brockington and Donovan in "Election Systems and Voter Turnout: Experiments in the United States". *The Journal of Politics*, 63:3 (August 2001) concluded that electoral systems help shape turnout by altering the benefits perceived by voters. For example, cumulative voting systems have 5% greater turnout than plurality systems
- The effect of registration systems has been the subject of many studies over the last 40 years. Kelley, Ayres, and Bowen in "Registration and Voting: Putting First Things First." *American Political Science Review*. 61:2 (June 1967) found that local variations in the

[6] Our research on provisional voting reveals that states that provide more than a week to evaluate provisional ballots end up counting substantially more of those ballots than states that provide less than a week.

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rate of voting are most directly tied to variations in the rate of registering to vote, and that the rate of registering to vote in localities is most directly related to the laws and administration of the registration process. They concluded that the decline in voting over the past 80 years was due, in part, to the rise of registration laws.

- Brians and Grofman in "Election Day Registration's Effect on U.S. Voter Turnout." *Social Science Quarterly.* 82:1 (March 2001), found that relaxing registration laws produces higher turnout. In particular, they observed that relaxing registration laws is more likely to promote voter turnout among those with medium levels of income and education, rather than those at the lowest levels. Highton in "Easy Registration and Voter Turnout," *Journal of Politics.* 59:2 (May 1997), concluded similarly that registration laws affect voter turnout, but also observed that easier registration promotes turnout among those in lower socio-economic status.

- Mitchell and Wlezien. "The Impact of Legal Constraints on Voter Registration, Turnout, and the Composition of the American Electorate," *Political Behavior.* 17:2 (June 1995) agreed that easier registration promotes higher turnout, but also concluded that higher turnout from easier registration would be unlikely to change the composition of the electorate. Nagler in "The Effect of Registration Laws and Education on U.S. Voter Turnout." *American Political Science Review.* 85:4 (December 1991) found that registration laws decrease voter turnout by depressing the eligible electorate, but that lower educated people are not disproportionately impacted by these laws. But Rosenstone and Raymond E. Wolfinger in "The Effect of Registration Laws on Voter Turnout." *American Political Science Review.* 72:1 (March 1978) found that while registration laws did affect both voter turnout and the composition of the electorate, the sharpest effect of these restrictions was felt in the South and among the least educated.
- Squire, Wolfinger, and Glass in "Residential Mobility and Voter Turnout." *American Political Science Review.* 81:1 (March 1987) found that people who move constitute a major demographic group affected by registration laws. They estimated that altering laws to facilitate voting by recently moved people could increase turnout by 9%. Highton in "Residential Mobility, Community Mobility, and Voter Turnout." *Political Behavior.* 22:2 (June 2000) also found that people who move have lower turnout than stable residents, and estimated that the decline was more a result of registration laws than a loss of social connections.

- Highton and Wolfinger in "Estimating the Effects of the National Voter Registration Act of 1993." *Political Behavior.* 20:2 (June 1998) concluded that the Motor Voter laws led to a significant increase in voting; that eliminating voter purges for not voting also increases voting; and that these effects are felt most heavily by the young (under 30) and the mobile (moved within past 2 years). Knack, in "Does 'Motor Voter' Work? Evidence from State-Level Data." *Journal of Politics.*, 57:3 (August 1995), also found that motor voter does lead to increased registration and voting, but that other parts of NVRA of 1993, like mail-in registrations, agency-based registrations, and limitations on voter purges had not been as influential two years after the passage of the act.

While voter ID may not have been the subject of as much research as the registration process, establishing the eligibility of a person to vote has long been part of the electoral process. Voters may have to identify themselves twice in the electoral process: when registering to vote and then when casting a ballot. The pressures felt by the voter arising from the need to check ID, even so simple a check as a signature match, can be greater at the polls on Election Day than at the time of registration. Poll workers may feel under pressure when faced with long lines and limited time.

Voter ID requirements on Election Day

This analysis focuses on ID requirements on Election Day, but with an appreciation that the ID requirements at time of registration and on Election Day are inter-related. [7] The emphasis in this report is on Voter ID requirements on Election Day and afterwards as election judges evaluate provisional ballots. This is the critical period for the electoral system, the time when ballot access and ballot security are in the most sensitive balance.

The report looks at voter ID issues that go beyond the rather narrow identification requirements in HAVA. Much of the current debate in state legislatures over voter ID ranges beyond HAVA to require more rigorous documentation of identity for all would-be voters, not just those who had not registered in person and are casting a ballot for the first time. Current controversies in the states over voter ID seems to have been sparked in part by the HAVA requirements, but goes beyond those requirements, and sets the context for the analysis here.[8]

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[7] As the Carter-Baker Commission noted, photo ID requirements for in-person voting do little to address the problem of fraudulent registration by mail, especially in states that do not require third-party organizations that register voters to verify ID. Commission on Federal Election Reform, pp 46-47.

[8] Harvard Law Review 119:1127: "Legislators hoping to stiffen their state antifraud laws have taken their cue from identification provisions buried in HAVA."

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We recognize that the previously technical, rather dull subject of voter ID requirements has become fiercely partisan and divisive in many states. The polarization of the debate has raised the stakes over this issue, making dispassionate analysis both more valuable and more rare.[9] Voter ID is often described as the critical step in protecting the integrity of the ballot, the process to ensure that the potential voter is eligible and, if eligible, is permitted to cast one ballot and one ballot only. Truly protecting the integrity of the ballot, however, requires a perspective that takes in the entire voting process. It demands more than preventing the ineligible from voting, and should also ensure that all those who are eligible and want to vote can cast a ballot that counts. The protection effort must embrace all forms of voting, including absentee ballots, and consider each step in the process from registration through vote counting.

A voting system that requires voters to produce an identity document or documents may prevent the ineligible from voting. It may also prevent the eligible from casting a ballot. If the ID requirements block ineligible voters from the polls at the cost of preventing eligible voters who cannot obtain or have left at home the required forms of identification, the integrity of the ballot may not have been improved; the harm may be as great as the benefit. Ultimately, a normative evaluation of whether a state should adopt a stricter voter ID requirement (and, if so, what particular form that new requirement should take) will weigh value judgments as well as available factual evidence. Nonetheless, this report has proceeded on the premise that increased understanding of the factual evidence relating to the imposition of voter ID requirements, based on available data and statistical analysis of that data, can help inform the policy process.

Assessing the effectiveness of voter ID as a way to protect the integrity of the ballot should logically include an estimate of the nature and frequency of vote fraud. The EAC has commissioned a separate analysis of the incidence of vote fraud. Consequently, this research does not include consideration of vote fraud nor the possible effectiveness of various voter ID regimes to counter attempts at vote fraud. As a result, our study of the possible effects of voter

[9] "Of the various electoral procedure laws passed in the fifty states since the 2000 and 2004 presidential elections and those still being debated in state legislatures and local media, few arouse more potent partisan feelings than voter identification laws." *Harvard Law Review* 119:1144. John Fund's 2004 book, *Stealing Elections: How Voter Fraud Threaten Our Democracy*, cites (pages 16 – 17) a Rasmussen Research poll that asked respondents if they were more concerned with voting by ineligible participants or with disenfranchisement of eligible voters. Sixty-two percent of Kerry supporters, but only 18 percent of Bush supporters, worried more about *disenfranchisement*; 58 percent of Bush supporters, but only 19 percent of Kerry supporters were more concerned with *voter fraud*.

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ID requirements on turnout cannot take into account how many potential voters who did not turn out under comparatively stricter voter ID requirements might have been ineligible or eligible to vote.

In some states, voters lacking required ID, or who have ID that does not reflect their current address, are able to vote only by casting a provisional ballot.[10] Voter ID requirements that require voters to bring a document to the polls --rather than simply sign their names-- may divert more voters to the provisional ballot. Requiring poll workers to request and check ID, can put stress on the already demanding environment of the polling place. Scrutiny of ID can create lines at the polling places. Further delays can result when voters cast a provisional ballot and fill out the ballot envelope. Voters who cast a provisional ballot because they lack their ID on Election Day, and who then fail to return with the needed document or documents, will have their ballot rejected.[11] And, of course, the cost of processing provisional ballots is greater than the cost of regular ballots.

Each of these potential consequences of more elaborate voter identification processes can increase the chance of litigation. Long lines will, at best, discourage voters and at worst make voting seem a hassle, an impression that could keep more citizens (even those with ID) from the polls.

Evaluating the effect of different Voter ID regimes can be most effective when based on clear standards --legal, equitable, practical. The standards outlined here might be described as questions policy-makers should ask about Voter ID requirements. We suggest 7 questions that address important dimensions of the problem.

1. Is the Voter ID system designed on the basis of valid and reliable empirical studies of the incidence of the sorts of vote fraud it is designed to prevent?[12]

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[10] For example, the Florida voter ID law adopted after the 2004 election and pre-cleared by the Department of Justice, permits voters who cannot meet the ID requirements to sign an affidavit on the envelope of a provisional ballot, which will be counted if the signature matches that on the voter's registration form.

[11] The EAC's Election Day Study found "improper ID," to be the third most common reason for a provisional ballot to be rejected. "Improper ID" was cited by 7 states responding to the survey, compared to 14 mentions for voting in the wrong precinct. *Election Day Study*, Chapter 6, p. 5.

[12] "Often where the battle over voter identification is most heated, real evidence of voter fraud proves scarce: in Georgia, for example, the Secretary of State averred that she had never encountered a single instance of voter impersonation at the polls. State laws might sometimes impose tighter restrictions on in-person voting than on absentee ballots, which yield the greatest incidence of, and provide the easiest avenue for, voter fraud. . ." Harvard Law Review 127:1144 (2006)

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2. How effective is the ID requirement in increasing the security of the ballot? How well can it be coordinated with a statewide voter database?[13]
3. How practical is the requirement? (Can it be administered smoothly by the staff and budget likely to be made available? How much additional training of polling place workers might be required?) Is it simple enough or can it be defined with sufficient clarity that poll workers throughout the state can administer it uniformly and with a minimum of local interpretation made on the fly under the pressure of Election Day?[14]
4. How cost-effective is the system? Does it demonstrably increase the security of the ballot affordably, measured in both monetary and other costs? To improve understanding of the non-monetary component of the costs, conducting a voter impact study might be appropriate. The voter impact study would examine, before the adoption of the regulation, the cost of compliance by the voter (such as the cost in time and money of acquiring a photo ID card), any offsetting benefits to voters, and the possible disparate effects of the regulation on various groups of voters.[15] A thorough, objective impact statement that demonstrated the nexus between the identification regime and the integrity of the ballot could provide protection against inevitable legal challenges.
5. If a side effect of the Voter ID regulation is likely to reduce turnout, generally or among particular groups, is it possible to take other steps to ameliorate the adverse consequences?[16]
6. Does it comply with the letter and spirit of Voting Rights Act?
7. The seventh question is the most difficult to answer. How neutral is the effect of the Voter ID requirement on the composition of the qualified and eligible electorate? Might it,

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[13] See the final section of this report for a brief overview of possible effects of a statewide voter database on voter identification issues.

[14] In New York, in 2004, disparities in training and voting information were made apparent in a study finding elections officials had wildly varying interpretations of what the state's voter identification requirement actually was. Tova Wang, "Warning Bell in Ohio," December 5, 2005. Website, the Foundation for National Progress.

[15] "Absent clear empirical evidence demonstrating widespread individual voter fraud, legislatures need to fashion narrowly tailored voter identification provisions with an eye toward the inevitable and well-grounded constitutional challenges that will arise in the courts. Only as states grow more adept at administering elections will courts likely demonstrate greater willingness to uphold strict identification requirements." Harvard Law Review 127:1144 (2006)

[16] For example, the Carter-Baker Commission coupled its recommendation for a national voter ID card to a call for an affirmative effort by the states to reach out and register the unregistered, that is, to use the new Voter ID regime as a means to enroll more voters. Similarly, Richard Hasen has suggested combining a national voter ID with universal registration. See his "Beyond the Margin of Litigation: Reforming U.S. Election Administration to Avoid Electoral Meltdown," 62 Washington and Lee Law Review 937 (2005).

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intentionally or unintentionally, reduce the turnout of particular groups of voters or supporters of one party or another without an offsetting decrease in vote fraud?

**Voter ID and Turnout**

Based on research for this study by the Moritz College of Law, states had one of five types of maximum requirements in place on Election Day 2004.These are shown in Table 1, *Voter ID Requirements*. The five categories: at the polling place, voters were asked to either: state their names (10 states); sign their names (13 states and the District of Columbia); sign their names, to be matched to a signature on file (seven states); provide a form of identification that did not necessarily include a photo (15 states); or provide a photo identification (five states).[17] Using this information made it possible to code the states according to these requirements, and examine the assumption that voter identification requirements would pose an increasingly demanding requirement in this order: stating one's name, signing one's name, matching one's signature to a signature on file, providing a form of identification, and providing a form of photo identification, however, in all "photo ID" states in 2004, voters without photo ID could cast a regular ballot after signing an affidavit concerning their identity and eligibility or provide other forms of ID). The report refers to this set of ID requirements as "maximum," the most rigorous ID the voter can be asked to present at the polling place in order to cast a regular ballot.[18]

Election laws in several states offer exceptions to these requirements if potential voters lack the necessary form of identification. Laws in those states set a minimum standard – that is the minimum requirement that a voter may be required to satisfy in order to vote using a regular ballot. States can be categorized based on the minimum requirement for voting with a regular ballot. In 2004 the categories were somewhat different compared to the maximum requirement, in that none of the states required photo identification as a minimum standard for voting with a regular ballot. That is, voters who lacked photo ID would still be allowed to vote in all states, if able to meet another requirement. Four states required voters to swear an affidavit as to their identity (Florida, Indiana, Louisiana, and North Dakota). The five categories for minimum requirements were: state name (12 states), sign name (14 states and the District of Columbia), match one's signature to a signature on file (six states), provide a non-photo identification (14 states), or swear an affidavit (four states). The analysis also examined this array of minimum

[17] Oregon conducts elections entirely by mail. Voters sign their mail-in ballots, and election officials match the signatures to signatures on file. For the purposes of this analysis, Oregon is classified as a state that requires a signature match.

[18] As noted above, our analysis does not consider additional requirements that particular voters may be subjected to as part of an official challenge process, in the event that their eligibility is called into question.

identification requirements to assess how they correlated with turnout: state name, sign name, match signature, provide non-photo identification, and, given the potential legal consequences for providing false information, swearing an affidavit. As noted above, *no* state had a "minimum" requirement of showing photo ID. This analysis therefore cannot estimate the effect of laws, such as those recently enacted in Indiana and Georgia that require voters to show photo ID in order to cast a regular ballot without an affidavit or other exception.

We recognize the difficulties in summarizing each state's voter ID requirements. The problem is illustrated by the number of footnotes to Table 1 below. The variety of statutory and regulatory details among the states is complex.

Moving beyond the statutes and regulations, we also recognize that the assignment of each state to one category may fail to reflect actual practice at many polling places. As in any system run by fallible humans, the voter ID process is subject to variation in practice.[19] Voters may have been confronted with demands for identification different from the directives in state statutes or regulation. It seems reasonable to conclude, however, that while actual practices may vary, the variance is around each state's legal requirement for ID. The analysis of the effect of state requirements on turnout must be viewed with some caution. We believe that the categories used in this report provide an acceptable level of discrimination among voter identification regimes.

[19] One state election official told us that, "We have 110 election jurisdictions in Illinois, and I have reason to believe [the voter ID requirements] are administered little bit differently in each one. We wish it weren't that way, but it probably is."

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