



"The Cost of Voter ID Laws: What the Courts Say " – Brennan Center for Justice

Secretary of State Husted's announcement this week outlining his priorities for election administration reform seems to indicate he is working toward more stringent identification requirements for voting. He would require a full Social Security number or Ohio driver's license number for absentee or provisional voters. This raises major concerns about identity theft and decreased voter access, all in pursuit of phantom fraud. More discussion of the Secretary's proposals must await the disclosure of the detailed provisions of his legislation.

As recently as 2004, however, Ohio voters needed to present only their signature as identification at the polling place. Since then, Ohio has increased the requirements but currently allows voters to use any of a number of documents as proof of identity when voting, from a photo ID to military identification to utility bills and bank statements (for a complete list, see

<http://www.sos.state.oh.us/SOS/elections/voterInformation/bringid.aspx>). LWV-Ohio continues to advocate using the voter's signature as proof of identity when at the polls.

A number of other states are giving serious consideration to passing more stringent voter ID laws, including Wisconsin, North Carolina, Missouri, South Carolina, Kansas, Texas, Montana and Minnesota. The Brennan Center for Justice's recent study, "The Cost of Voter ID Laws: What the Courts Say," is based on a comprehensive review of every court case in which a photo ID law has been challenged. This paper examines of the costs states must incur if they decide to implement photo ID requirements for voters. It is available at http://www.brennancenter.org/content/resource/the_cost_of_voter_id_laws_what_the_courts_say/

From the Introduction to "The Cost of Voter ID Laws: What the Courts Say"...

Currently, every state in America requires voters to prove their identities before receiving a ballot; different states require different levels of proof. Legislators in states across the country are now promoting bills that would require voters to meet more stringent documentation requirements before voting—including presenting photo identification at the polls on Election Day in order to cast a ballot. While the details of the proposals vary, these bills all would deny the right to vote to some or all citizens who are unable to produce a photo ID. Studies show that as many as 11 percent of United States citizens—mostly older, low-income, and minority citizens—do not have government-issued photo IDs.¹ Under the federal and state Constitutions, states must ensure that there is an accessible and reasonable way for all citizens to vote, including the estimated 33 million citizens who do not have photo IDs.

Based on a comprehensive review of every court case in which a photo ID law has been challenged, this paper examines some of the costs states must incur if they decide to implement photo ID requirements for voters. Previous Brennan Center publications have laid out the reasons why such requirements are bad policy and may be unconstitutional, regardless of the measures discussed below.² While the results of lawsuits challenging photo ID laws have been mixed, the case law to date has established several basic principles that must be satisfied under the Constitution:

- ***First***, photo IDs sufficient for voting must be available free of charge for all those who do not have them. States cannot limit free IDs to those who swear they are indigent.
- ***Second***, photo IDs must be readily accessible to all voters, without undue burden. At a minimum, most states will likely have to expand the number of ID-issuing offices and extend their operating hours to meet this requirement.
- ***Third***, states must undertake substantial voter outreach and public education efforts to ensure that voters are apprised of the law's requirements and the procedures for obtaining the IDs they will need to vote.

In addition, some courts may require states to ensure that all the documents required in order to obtain photo IDs are free and easily available to prospective voters. While these measures will not guarantee that a state's voter ID law will be upheld in court (there are a number of constitutional problems with voter ID requirements, as discussed below), failure to include these measures will make it likely that courts will find the law deficient.

All of these measures entail appreciable costs that states must be prepared to incur if they move forward with photo ID requirements. In addition, states adopting photo ID laws must incur all the administrative costs of changing election procedures, including the costs of materials and training for election officials and poll workers across the state. A fiscal note prepared in conjunction with a proposed photo ID law in Missouri estimated a cost of \$6 million for the first year in which the law was to be in effect, followed by recurring costs of approximately \$4 million per year.³ When Indiana estimated the costs of its photo ID law, it found that, to provide more than 168,000 IDs to voters, the “[t]otal production costs, including man-power, transaction time and manufacturing” was in excess of \$1.3 million, with an additional revenue loss of nearly \$2.2 million.⁴ That estimate apparently did not include a variety of necessary costs, including the costs of training and voter education and outreach. A fiscal note assessing an ID bill in Minnesota estimated at least \$250,000 for the manufacturing costs of providing free ID at only 90 locations across the state, the costs of one training conference for county auditors, and some administrative costs.⁵ The estimate included neither the costs of outreach and education, nor any of the significant costs that would be borne by local governments.⁶ The note estimated an additional cost of \$536,000 per election if each precinct hired just one additional election judge.

While a few million dollars a year may not sound like a lot, that sum is a significant fraction of states' total election administration budgets. Missouri, for example, spent about \$10.5 million in its 2009 fiscal year;⁸ a photo ID requirement would have increased the state's election administration spending by more than 50%, according to the state's own estimate. Indiana's Elections Division spent about \$3.4 million in its 2009–2010 fiscal year,⁹ which is roughly equal to the state's estimated costs for photo ID from 2008 to 2010. States are unlikely to receive sufficient federal assistance to meet these costs.¹⁰ In Wisconsin, a nonpartisan association of local election officials expressed concerns

about a photo ID bill, in significant part because of the fiscal impact of photo ID requirements on local municipalities and state agencies.¹¹ And in Iowa, an association of local election officials made up of Republicans and Democrats cited the cost of photo ID laws in publicly registering its opposition to an Iowa photo ID bill.¹

In a difficult fiscal environment, citizens may reasonably question whether there are more pressing needs on which to spend their tax dollars than photo ID rules, and state legislators should seriously consider whether photo ID laws are worth their considerable costs. In doing so, legislators should consider the myriad other measures already in place in their states to guard against voter fraud—which have been very effective at deterring such fraud¹³—as well as less expensive measures to increase the security of elections, including voter ID laws that allow voters who do not have photo ID to demonstrate their identities at the polls by other means. Legislators who still wish to pursue photo ID requirements for voting must ensure that the laws provide for free photo IDs, ensure that IDs are reasonably accessible to all eligible voters, and include sufficient voter education and outreach programs and poll worker training.

Endnotes

¹See, e.g., Brennan Center for Justice, *Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification 3* (2006), available at http://www.brennancenter.org/page/-/d/download_file_39242.pdf. A comprehensive catalog of photo ID studies is available here: http://www.brennancenter.org/content/resource/research_on_voter_id.

²See, e.g., Wendy R. Weiser, Justin Levitt, Catherine Weiss & Spencer Overton, *Response to the Report of the 2005 Commission on Federal Election Reform*, BRENNAN CENTER FOR JUSTICE (2005), available at http://www.brennancenter.org/content/resource/response_to_the_carter_baker_commission; Citizens Without Proof, *supra* note 1; U.S. Supreme Court Briefs In Support Of Petitioners, *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008), available at http://www.brennancenter.org/content/resource/crawford_v_marion_county_election_board.

³See Tova Andrea Wang, *Misidentified Priorities*, *The American Prospect* (Jan. 4, 2011), http://www.prospect.org/cs/articles?article=misidentified_priorities (citing Committee on Legislative Research Oversight Division, *Fiscal Note*, L.R. No.: 4947-25, Bill No.: Truly Agreed To and Finally Passed CCS #2 for HCS for SS #2 for SCS for SB 1014 & 730 (May 12, 2006)).

⁴*Elections and the Economy*, THE CANVASS: STATES AND ELECTION REFORM (Nat'l Conf of State Legislatures, Denver, CO), Feb. 2011, at 2, available at http://www.ncsl.org/documents/legismgt/elect/Canvass_Feb_2011_No_17.pdf.

⁵See Secretary of State, *Fiscal Note – 2009-10 Session*, Bill No. H0057-0 (Feb. 3, 2009) [hereinafter *Minnesota Fiscal Note*], at 5-7.

⁶ Those costs include the costs of hiring additional election judges, training local officials, processing voter identification applications, issuing and producing the cards, and receiving returned cards when voters move.

⁷ See *Minnesota Fiscal Note*, *supra* note 5, at 7.

⁸ Missouri Office of Administration, *Secretary of State Financial Summary*, THE MISSOURI BUDGET FISCAL YEAR 2011 HB 12-4 (2011), available at <http://oa.mo.gov/bp/budg2011/Secretary.pdf>.

⁹ Indiana State Budget Committee, STATE OF INDIANA BUDGET REPORT I-18-19 (2011), available at http://www.in.gov/sba/files/as_2011_whole.pdf.

¹⁰ Ruth Greenwood, *Using HAVA Funds for Photo ID Laws is Not as Simple as it Sounds*, FAIR ELECTIONS LEGAL NETWORK BLOG (Feb. 16, 2011, 1:24 AM), <http://fairelectionsnetwork.blogspot.com/2011/02/using-hava-funds-for-photo-id-laws-is.html>.

¹¹ *Public Hearing on SB-6* (Jan. 25, 2011) (statement of Diane Hermann-Brown, President, Wisconsin Municipal Clerks Association) (on file with authors).

¹² See Jennifer Jacobs, *Iowa County Election Officials Oppose Bill to Require Photo ID to Vote*, DES MOINES REGISTER (Feb. 14, 2011), <http://blogs.desmoinesregister.com/dmr/index.php/2011/02/14/iowas-county-elections-officials-oppose-bill-to-require-photo-id-to-vote/> (the Iowa State Association of County Auditors registered its opposition to the Iowa ID bill, with none of its sixty members voting to register in favor of the bill).

¹³ For more information, see Justin Levitt, *The Truth About Voter Fraud*, Brennan Center (2007), available at <http://www.brennancenter.org/content/resource/truthaboutvoterfraud/>.

The League of Women Voters of Ohio
17 South High Street, Suite 650
Columbus, Ohio 43215
www.lwvohio.org

[Click here to unsubscribe](#)