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# Voter Identification Requirements: Background and Legal Issues

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## Summary

Some states require voters at a polling place to produce identification before casting a ballot. Such requirements have emerged as a controversial issue in recent elections, particularly requirements in some states for photographic identification (photo ID), and they are the focus of this report.

Since 2008, more than 30 states have enacted laws relating to voter identification, with several containing photo ID requirements. Several states enacted voter identification laws that have either been struck down by courts or are not yet in effect. A number of bills with voter identification provisions have been introduced in the 113<sup>th</sup> Congress and one (S. 1945) has received committee consideration.

Thirty states require voters to provide an accepted identification document when voting in person, although few require such documentation for absentee voters. Eighteen states require photo ID for voting. With respect to what type of photo ID is acceptable and what happens if a voter does not have it, no two states are the same. Nine of the 18 photo ID states require it for polling-place voting but permit alternatives such as signing an affidavit for voters without an ID. Eight states—Georgia, Indiana, Kansas, Mississippi, South Carolina, Tennessee, Texas, and Virginia—permit only voters who present a photo ID to cast a ballot, with few exceptions. Arkansas, Pennsylvania, and Wisconsin enacted similarly stringent photo ID laws that, due to court action, were not in effect for the November 4, 2014, election. Washington conducts its elections by mail, but one in-person vote center is open in each county on Election Day and photo ID is required; thus, it is included among the photo ID states.

Leading up to the 2014 midterm election, state voter photo ID laws were challenged under the Fourteenth Amendment to the U.S. Constitution, Section 2 of the Voting Rights Act (VRA), or state constitutional provisions. In some instances, due to ongoing appeals, the question of whether a particular photo ID law would be in effect was resolved only in the final months or weeks preceding the November 4 election. In view of a 2008 U.S. Supreme Court ruling that upheld the constitutionality under the Fourteenth Amendment of a voter photo ID law, such challenges have drawn attention. They are also notable because of their application of Section 2 of the VRA, which has generally been invoked in the context of redistricting plans, at-large elections, and felony disenfranchisement laws. Further litigation in this area is expected, and it is unclear how courts in other jurisdictions or appellate courts will rule.

Supporters of photo ID requirements in particular emphasize the need to prevent voter fraud, while opponents emphasize the need to avoid disenfranchising legitimate voters who do not have ready access to a photo ID. Polling data suggest that most voters and most local election officials support a photo ID requirement but that many are also concerned about the risk of disenfranchisement. The policy controversy centers largely on whether the risk of disenfranchisement or the risk of voter fraud is the greater threat to the integrity of the electoral process. This policy debate is being conducted in the absence of a broad consensus about the evidence pertaining to those risks.

Election administration is complex, and changes in voter ID requirements may affect elections in unanticipated ways, such as a need for more provisional ballots, increased waiting times at polling places, and misapplication of the new rules by poll workers. The longer that election

officials have to implement changes to voting procedures, the lower the risk of unintended and potentially harmful consequences may be.

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## Introduction and Overview

More than half the states require a voter to provide a specified identification document (ID) to cast a ballot, and some of those states require photographic identification (photo ID). Seventeen states and the District of Columbia do not require any type of ID to vote, but a voter may be asked to provide certain information to verify what is contained in the registration record or otherwise confirm his or her identity, such as stating an address or birth date or providing a signature. Washington and Oregon conduct elections entirely by mail, although Washington provides for in-person voting on Election Day and photo ID is required.

Identification requirements across the states vary in flexibility, in the type of documents allowed, in exceptions made to the requirements, and in the recourse available to a voter who cannot comply with the ID requirement at the polls. This report provides an overview of states that require a voter to provide some form of ID before casting a ballot. The report discusses the origins of voter ID, federal legislative action in the 113<sup>th</sup> Congress related to voter identification, and background and legal issues related to voter ID, particularly photo ID, laws in the states.

## Current Status of Photo ID in the States

Among the 30 states that require voters to show an identification document for the November 2014 election, 8 permit only photo IDs (Georgia, Indiana, Kansas, Mississippi, South Carolina, Tennessee, Texas, and Virginia) while others permit other means of identification for voters without photo IDs (see **Table 1**).<sup>1</sup> Another nine states require a voter to show a photo ID, but permit other means of identification that might include signing an affidavit, providing non-photo ID, permitting the voter to cast a provisional ballot and subsequently matching the voter's signature to one on file, and others. Washington has vote-by-mail elections in which all voters receive a ballot in the mail. They may cast a ballot in person on Election Day but must provide photo ID to do so.

Twelve states require a voter to provide non-photo ID, such as a voter registration card, current utility bill, hunting or fishing license, bank statement, paycheck, tribal ID, Social Security card, or other document that shows the voter's name and address (see **Table 2**).

## The Help America Vote Act Identification Requirement and the Origins of Photo ID

A number of developments during the past 14 years may have focused attention on identification requirements for voting. After the 2000 election, numerous studies and reports were issued that assessed the nation's voting process, or aspects of it, and made policy recommendations. Perhaps the best known study was issued in August 2001 by the National Commission on Federal Election Reform, sponsored by the Miller Center of Public Affairs at the University of Virginia and The Century Foundation and co-chaired by Presidents Gerald R. Ford and Jimmy Carter (often

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<sup>1</sup> Interpretation of the requirement may not always be clear-cut. For example, the Kansas requirement does not include an alternative to photo ID for most voters, but it exempts some voters with disabilities, members of the military, and people with religious objections to being photographed. New Mexico requires an ID document, but permits voters who do not have one to vote a regular ballot if they correctly state name, registration address, and year of birth.

referred to as the “Carter-Ford Commission”).<sup>2</sup> The report noted that states should work to improve “verification of voter identification at the polling place”<sup>3</sup> and recommended that they

require those who are registering to vote and those who are casting their ballot to provide some form of official identification, such as a photo ID issued by a government agency (e.g., a driver’s license). A photo ID is already required in many other transactions, such as check-cashing and using airline tickets. These Commissioners point out that those who register and vote should expect to identify themselves. If they do not have photo identification then they should be issued such cards from the government or have available alternative forms of official ID. They believe this burden is reasonable, that voters will understand it, and that most democratic nations recognize this act as a valid means of protecting the sanctity of the franchise.<sup>4</sup>

Many of the report’s recommendations were incorporated in the Help America Vote Act (HAVA, P.L. 107-252) which was enacted in October 2002. HAVA includes requirements for states on voting systems and information, provisional voting, and voter registration. Since 2006, states have been required to maintain a single, computerized list of all registered voters that every election official in the state can access.<sup>5</sup>

The act also includes a limited voter identification requirement. An individual who registers to vote by mail and has not previously voted in a federal election in the jurisdiction must provide a current, valid photo ID *or* a copy of a current utility bill, bank statement, government check, paycheck, or other government document with the voter’s name and address, whether voting in person or by mail.<sup>6</sup> The requirement does not apply to a voter who registers under the National Voter Registration Act of 1993 (NVRA, P.L. 103-31, also known as the “motor-voter” law) and submits with the registration application one of the required identifications or who provides a driver’s license number or the last four digits of the voter’s Social Security number that matches an existing state record with the same number, name, and date of birth as provided in the registration. A voter who does not provide one of the required documents may submit a provisional ballot that is counted in accordance with state law if the appropriate election official determines that the voter is eligible.

Following passage of HAVA, states enacted laws to implement the act’s identification requirement, and in some cases, more stringent requirements. A related provision of HAVA made clear that states were free to adopt stricter election administration requirements than those imposed by HAVA:

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<sup>2</sup> The National Commission on Federal Election Reform, *To Assure Pride and Confidence in the Electoral Process*, August 2001, at [http://web1.millercenter.org/commissions/comm\\_2001.pdf](http://web1.millercenter.org/commissions/comm_2001.pdf).

<sup>3</sup> *Ibid.*, p. 14.

<sup>4</sup> *Ibid.*, p. 31.

<sup>5</sup> §303. Under the requirement states must maintain a “single, uniform, official, centralized, interactive computerized statewide voter registration list” that contains the name and registration information of every registered voter in the state and to which every election official, including local officials, may obtain “immediate electronic access to the information contained in the computerized list.” The requirement does not apply to states that do not have voter registration (North Dakota). Voters in North Dakota must provide an acceptable ID (driver’s license; passport; tribal, military, or student ID; a current utility bill; or a USPS verification of a change of address form) or be vouched for by a pollworker in order to vote.

<sup>6</sup> §303 (b).

The requirements established by this title are minimum requirements and nothing in this title shall be construed to prevent a State from establishing election technology and administration requirements that are more strict than the requirements established under this title so long as such State requirements are not inconsistent with the Federal requirements under this title or any law described in section 906.<sup>7</sup>

Another related development was the passage of legislation in the House of Representatives in the 109<sup>th</sup> Congress to require photo ID and proof of citizenship to vote. The Committee on House Administration reported an amended version of H.R. 4844 (Hyde) on September 14, 2006, which was taken up and passed by the House on September 20.<sup>8</sup> It was not taken up by the Senate before the 109<sup>th</sup> Congress adjourned. The amended version of the bill would have required a government-issued photo ID (beginning in 2008) and proof of citizenship (beginning in 2010) for voting in federal elections. It would have required that voters who cast a provisional ballot because they did not have the required ID provide such within 48 hours for the ballot to be counted. It included an exception for military and overseas voters. The bill would have required states to provide photo ID documents to qualified voters who did not have such documents, and to provide them to indigent voters at no cost. It would have authorized appropriations to cover the costs of providing such identification to indigent voters.

## **Public Opinion**

Public opinion surveys have tended to show significant majority support for requiring photo ID to vote. A Pew Research Center poll from October 2006 found that 78% of respondents answered yes when asked whether voters should be required to show photo ID; 18% answered no.<sup>9</sup> A similar Pew Research Center poll from October 2012 found that 77% of respondents believed that voters should be required to show “official photo ID before they vote on Election Day,” while 20% did not. When asked whether they had the “identification you might need to vote?” 98% answered yes, 1% said no, and 1% volunteered that identification was not needed.<sup>10</sup>

A *Washington Post* poll from August 2012 asked a series of questions about photo ID and vote fraud, and found that 74% of respondents believed that voters should be required to show “official, government-issued photo identification, such as a driver’s license” to vote, while 23% did not.<sup>11</sup> In response to a question that asked whether voter fraud is a major problem, minor problem, or not a problem in presidential elections, 48% believed it is a major problem, 33% considered it a minor problem, and 14% believed vote fraud is not a problem. Another question asked whether voter suppression—described as eligible voters taken off registration lists or denied the right to vote—is a major problem, minor problem, or not a problem in presidential

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<sup>7</sup> §304. The statutes referred to in §906 are the Voting Rights Act of 1965, the Voting Accessibility for the Elderly and Handicapped Act, the Uniformed and Overseas Citizens Absentee Voting Act, the National Voter Registration Act of 1993, the Americans with Disabilities Act of 1990, and the Rehabilitation Act of 1973.

<sup>8</sup> The vote was 228-196 in favor of the bill.

<sup>9</sup> Pew Research Center for the People & the Press, “Democrats Hold Double-Digit Lead in Competitive Districts,” October 26, 2006, at <http://www.people-press.org/2006/10/26/democrats-hold-double-digit-lead-in-competitive-districts/>.

<sup>10</sup> Pew Research Center for the People & the Press, “Broad Support for Photo ID Voting Requirements,” October 11, 2012, at <http://www.people-press.org/2012/10/11/broad-support-for-photo-id-voting-requirements/>.

<sup>11</sup> Washington Post Poll, “Fear of Voter Suppression High, Fear of Voter Fraud Higher,” August 13, 2012, at [http://www.washingtonpost.com/politics/polling/voter-identification-laws-washington-post-poll/2012/08/13/13829cb0-e419-11e1-89f7-76e23a982d06\\_page.html](http://www.washingtonpost.com/politics/polling/voter-identification-laws-washington-post-poll/2012/08/13/13829cb0-e419-11e1-89f7-76e23a982d06_page.html).

elections; 41% believed it is a major problem, 32% believed it is a minor problem, and 20% believed it is not a problem. One question joined those two concepts by asking which was more of a concern to the respondent, the potential for vote fraud or the potential that eligible voters could be denied the right to vote? In response, 49% believed that vote fraud was more of a concern and 44% believed that denying eligible voters the right to vote was more of a concern.

These survey results suggest that the public's support for photo ID has remained steady in recent years. That is, according to the polls examined for this report, a majority of the public believes that voters should show photo ID to vote, and a plurality believes that both vote fraud and vote suppression are major problems. When voters were asked in one poll to rank which was of greater concern—vote fraud or denying the right to vote—vote fraud ranked first by five percentage points and denying eligible voters ranked second. It is not clear to what extent respondents were aware of evidence on the degree to which voter fraud occurs or how such information would have affected their opinions.

## **Voter ID Legislation in the 113<sup>th</sup> Congress**

Seven bills introduced in the 113<sup>th</sup> Congress include provisions that pertain to voter identification, including photo ID. Five bills would affect the state voter ID requirements by amending either HAVA (three bills) or NVRA (two bills). Two would amend the Voting Rights Act to exclude a voter identification requirement from the list of triggers for federal oversight of elections. The Senate Committee on the Judiciary held a hearing on S. 1945 (see below) on June 25, 2014, but none of the other bills has received committee or floor consideration.

### **HAVA**

H.R. 281, H.R. 5144, and H.R. 1748 would amend HAVA. H.R. 281 would prohibit a state or local election official from requiring a photo ID to register or to vote, either in person or by mail, in a federal election. It would also prohibit an election official from requiring an individual to cast a provisional ballot if the individual does not present a photo ID to vote. H.R. 5144 would require a state or local election official to accept a current, valid student photo identification from an institution of higher learning to vote in a federal election. H.R. 1748 would permit an individual to meet a photo identification requirement to vote in a federal election by signing an affidavit attesting to the individual's identification and that the individual is registered to vote.

### **NVRA**

H.R. 3321 and H.R. 2115 would amend the NVRA. H.R. 2115 would require states with a photo ID requirement for voting in a federal election to provide individuals who lack a government-issued identification with such an identification for free upon request. H.R. 2115 would require an individual who applies for a driver's license to indicate whether the individual resides or resided in another state and whether the individual intends the new state to serve as the residence for voting purposes. It would require the motor vehicle authority to communicate such information to the individual's previous state of residence if the new state will be the voting residence.



## Voting Rights Act and Voter ID

H.R. 3899 and S. 1945 would amend the VRA to exclude from the list of violations that trigger jurisdiction retention under Section 2 a requirement that an individual provide photo identification as a condition of receiving a ballot in a federal election. S. 2399 would amend the VRA to make an unexpired tribal identification document issued by an Indian tribe or Native Corporation a valid form of identification in states and jurisdictions that have a voter ID requirement for registering or voting.

## Differences in Photo Identification Laws

As with many aspects of election administration, there is wide variation among the states with respect to verifying voter identity. According to the National Conference of State Legislatures,<sup>12</sup> 30 states require a voter to show ID before voting at the polls on Election Day. Of those 30 states, some require a voter to provide photo ID in order to vote. Seventeen states and the District of Columbia do not require a voter to provide any ID to vote, and Oregon and Washington conduct elections entirely by mail. In these two states, election officials mail ballots to all registered voters, who are not required to provide proof of identity when submitting the ballot. Washington also permits a voter to cast a ballot in person on Election Day and requires a photo ID to do so.

For the 2014 election, 18 states had a photo ID requirement in effect. An additional four states enacted photo ID laws that were not in effect or have been delayed from taking effect because of court action. (Arkansas,<sup>13</sup> Pennsylvania, and Wisconsin photo ID laws were not in effect for the November 4 election; North Carolina's law takes effect in 2016.)

A description of the photo ID requirements in the 18 states with such a requirement is shown in **Table 1** below. For each of those states, the table presents information about the types of photo IDs accepted; the voting methods used; exceptions to the photo ID requirement, if any; recourse if the voter is not able to comply with the requirement; and a comments column. The comments column has other information about the laws, including when the law was enacted, how it is administered, and exceptions that are permitted.

Some states accept a wide range of photo IDs, including ones that are issued by other states, while others limit the type of ID more narrowly. In Louisiana, for example, voters can meet the photo ID requirement with a driver's license or special ID issued by the state or "other generally recognized picture identification card with [your] name and signature."<sup>14</sup> The Office of Motor Vehicles will provide a free special ID card to any person who presents a voter information card. In comparison, Indiana voters must provide an ID issued by the state of Indiana or the federal government that includes a photo and a name that conforms<sup>15</sup> to the voter registration record and is current or that expired after the date of the last general election.

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<sup>12</sup> Available at <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx#Laws%20in%20Effect>.

<sup>13</sup> Under current law, Arkansas pollworkers ask each voter for some form of identification, but a voter who does not have it is permitted to vote a regular ballot.

<sup>14</sup> Louisiana Secretary of State website, at <http://www.sos.la.gov/tabid/457/Default.aspx>.

<sup>15</sup> The name does not need to be identical to the registration record. Indiana Secretary of State website, at <http://www.in.gov/sos/elections/2401.htm>.

**Table I. Description of Requirements for States that Mandate a Photo ID for Voters**

State	Type of Photo ID Accepted	Voting Method		Exceptions	Recourse if No ID	Comments
		In-Person	Absentee/ Mail-in			
Alabama	State Federal Passport Military Government employee Student/employee (post-secondary school in the state) Tribal	X	X		Regular ballot upon affidavit sworn by two election officials attesting to voter's identity and eligibility; provisional ballot, counted if, by 5 pm on the Friday after the election, voter presents ID at county election office.	
Florida	State DMV-issued Passport Military Student Debit or credit card Retirement center Neighborhood association Public assistance	X			Provisional ballot, counted if validated by signature matching.	
Georgia	State Federal County Passport Military Tribal Government employee	X			Provisional ballot, counted if, within 3 days after the election, voter presents ID at county election office.	First enacted in 2003; amended in 2005 and 2006. State provides free ID. DL may be expired.
Hawaii	Not specified but must have the voter's signature	X			Voter must state date of birth and residence address.	ID must be provided upon request by a pollworker.

State	Type of Photo ID Accepted	Voting Method		Exceptions	Recourse if No ID	Comments
		In-Person	Absentee/ Mail-in			
Idaho	State DMV-issued Federal Passport Student (high school or state accredited IHE) Tribal	X			Voter must complete and sign affidavit, which must be accurate under penalty of law.	ID requirements enacted in 2010.
Indiana	State Federal	X		State-licensed care facility where the voter resides.	Provisional ballot, counted if, by noon of the Monday following the election, voter presents ID at county election office or signs an affidavit declaring indigence or religious objection to being photographed.	ID requirements enacted in 2005. Except for military IDs, must include expiration date, which must be after the most recent general election.
Kansas	DL issued by any state State ID card Passport Government employee Military Student (post-secondary school in state) Public assistance Government concealed-carry weapon license	X	X	Permanent physical disability preventing travel; absent active duty military and merchant marine and their families; religious objection to being photographed.	Provisional ballot, counted if, before the meeting of the county board of canvassers, voter presents ID to county election officer in person or by mail or electronic means.	ID may be expired if voter is 65 or older. Voters applying by mail for absentee ballots must provide either state DL or ID card numbers or copies of other accepted ID.
Louisiana	Generally recognized ID	X			Voter must sign affidavit and present other identification information required by election commissioners, and is subject to challenge.	

State	Type of Photo ID Accepted	Voting Method		Exceptions	Recourse if No ID	Comments
		In-Person	Absentee/ Mail-in			
Michigan	Federal State (DL or ID card may be issued by any state) Passport Military Student (high school or accredited IHE) Tribal	X			Voter must sign affidavit.	ID requirements went into effect in 2007. ID must be current.
Mississippi	Government-issued Passport Government employee Student (accredited post-secondary institution in state) Military Tribal	X	X	State-licensed care facility where the voter resides and votes; religious objection to being photographed.	Affidavit ballot, if, <i>within five days following the election</i> , voter presents ID at county election office; a voter with a religious objection to being photographed must execute an affidavit at county election office <i>within five days following the election</i> .	
New Hampshire	Until August 30, 2015: Government-issued (federal, state, county or municipal) Student Other as determined by election officials (subject to challenge) Thereafter: State DMV-issued (any state) Passport Military	X		For registration, residents of care facilities may use a letter from the administrator rather than a photo ID.	ID is requested and a voter who does not present an ID may vote a provisional ballot; a subsequent mailing is sent to the voter to sign and return. If unreturned, the voter may be investigated for vote fraud.	New photo ID law was delayed by action of the legislature until August 30, 2015. Expired DL and passport may be used until then. Thereafter, date ID expired must be less than five years.

State	Type of Photo ID Accepted	Voting Method		Exceptions	Recourse if No ID	Comments
		In-Person	Absentee/ Mail-in			
Rhode Island	Federal State Passport U.S. educational institution Military Government issued medical card	X			Provisional ballot, counted if provisional ballot application signature matches the voter registration signature.	Must be current.
South Carolina	State DMV issued Passport Military State voter registration card with photo	X			Provisional ballot, counted if, <i>before county certification of the election</i> , voter presents ID to county election office; or if voter completes an affidavit at the polling place attesting religious objection to being photographed or a reasonable impediment (any valid reason, beyond voter's control) to obtaining a photo ID.	
South Dakota	State DMV-issued Federal Passport Student (accredited in-state school) Tribal	X	X		Voter must complete and sign affidavit with name and address, under penalty of perjury.	
Tennessee	State DMV-issued Any state-issued (in addition to TN) Passport Military	X		Indigence; religious objection to being photographed. Requires affidavit.	Provisional ballot, counted if, <i>by the end of the second business day after the election</i> , voter presents ID to county election officer.	

State	Type of Photo ID Accepted	Voting Method		Exceptions	Recourse if No ID	Comments
		In-Person	Absentee/ Mail-in			
Texas	State DMV-issued Passport Military Citizenship certificate Concealed-handgun license Election identification certificate Dept. of Public Safety ID	X			Provisional ballot, counted if, <i>within six calendar days of the election</i> , voter presents to county election office ID or, under penalty of perjury, affidavit declaring religious objection to being photographed, or that lack of ID resulted from declared natural disaster within 45 days of casting of ballot.	With exception of citizenship certificate, cannot be 60 days or more past expiration date.
Virginia	State voter registration card Passport State DL State or local agency Concealed handgun permit Student (in state IHE) Employee ID	X	X (last four digits of SSN)		Provisional ballot marked "ID-ONLY" and counted if, <i>by noon on third day after election</i> , voter submits a copy of an accepted ID to the electoral board by facsimile, email, in-person, USPS, or commercial delivery.	Must be current.
Washington	Valid Photo ID	X		Vote-by-Mail State	Provisional ballot, counted if signature on declaration matches signature on voter registration record.	All voters receive a ballot in the mail, but county auditors must open at least one vote center for in-person voting and ID requirement pertains to these voters.

**Sources:** Government Accountability Office, *Elections: State Laws Addressing Voter Registration and Voting on or Before Election Day*, GAO-13-90R, October 4, 2012, <http://www.gao.gov/assets/650/649203.pdf>; National Conference of State Legislatures, "Voter ID: State Requirements," 2014, <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>. Original statutory language was not checked by CRS in preparing this table to verify descriptions in the two sources, except to resolve conflicts or ambiguities between the descriptions.

**Notes:** Oklahoma has a photo ID requirement but permits use of a valid voter registration card (which is not a photo ID) in lieu of the photo ID. DL means driver's license. DMV means the state agency that issues drivers licenses. IHE means an Institute of Higher Education. Passport means a U.S. passport. State means the state in which the voter is attempting to vote. States vary in whether accepted student IDs may include those issued by high schools as well as postsecondary institutions, or

whether they must be issued by a school in the state. Three states enacted photo ID laws that will not be in effect for the November 4, 2014, election due to court action: Arkansas, Pennsylvania, and Wisconsin.

**Table 2. Description of Requirements for States that Mandate a Non-Photo ID Requirement for Voting**

State	Type of Non-Photo ID Accepted	Voting Method			Recourse if No ID	Comments
		In-Person	Absentee/ Mail-in	Exceptions		
Alaska	State voter registration card DL Birth certificate Passport Hunting, fishing license Current utility bill Bank statement Paycheck Government check or document with name and address	X	X	An election official who knows the voter may waive the requirement.	The voter may cast a “questioned” ballot.	
Arizona	DL Government issued ID Tribal Utility bill dated within 90 days Bank statement dated within 90 days Valid state vehicle registration Indian census card Property tax statement Vehicle insurance card Recorder’s Certificate	X			Provisional ballot, counted if voter ID presented to county recorder by 5pm on the fifth business day after a federal general election, or 5pm on the third business day after any other election.	

State	Type of Non-Photo ID Accepted	Voting Method			Recourse if No ID	Comments
		In-Person	Absentee/ Mail-in	Exceptions		
Colorado	State DL State Department of Revenue card Passport Federal, state, or local employee ID Pilot's license Military Medicare or Medicaid card Certified birth certificate Certified naturalization document  A copy of a current utility bill, bank statement, government check, paycheck or government document that contains name and address	X			Provisional ballot, counted if a designated election official can verify the voter's eligibility.	Most CO voters vote by mail but at least one location is open in each county on Election Day for in-person voting and ID requirement applies to those voters.
Connecticut	Social Security card Any preprinted form showing the voter's name and either an address, signature, or photo	X			Voter must complete and sign a form that shows the voter's address and date of birth and which includes a statement attesting that the voter is the person listed on the checklist.	
Delaware	Photo ID Utility bill Paycheck Any government document with voter's name and address	X			Voter signs an affidavit of affirmation that he or she is the person listed on the election district record.	
Kentucky	DL Social Security card Credit card	X			When election officers disagree about a voter's qualifications or the voter is challenged, the voter may sign a written oath of qualification.	



State	Type of Non-Photo ID Accepted	Voting Method			Recourse if No ID	Comments
		In-Person	Absentee/ Mail-in	Exceptions		
Missouri	State Federal Local election authority ID Student (issued by MO IHE)  A copy of a current utility bill, bank statement, government check, paycheck or government document that contains name and address DL or ID card issued by any state	X			Voter may cast ballot if two supervising election judges, one from each party, attest that they know the voter.	
Montana	DL Student (school district or postsecondary photo ID) Tribal  A copy of a current utility bill, bank statement, government check, paycheck, notice of confirmation of voter registration, or government document that contains name and address	X			Voter must sign precinct register and may cast a provisional ballot, pending a comparison of signature on provisional ballot affirmation with voter registration record.	
North Dakota	DL or State ID card Passport Federal Tribal Student (ND college or university) Long term care identification certificated (issued by ND facility)	X				Government ID must be current.

State	Type of Non-Photo ID Accepted	Voting Method			Recourse if No ID	Comments
		In-Person	Absentee/ Mail-in	Exceptions		
Ohio	State or federal photo ID Utility bill Bank statement Government check, paycheck, or document	X	X		Provisional ballot with provision of SSN, last four digits of SSN, or completed affidavit, counted if, <i>within 10 days of election</i> , voter provides ID in person to board of elections.	Documents must be current.
Oklahoma	State, federal, or tribal ID that shows a name, photo, and an expiration date after the election State voter registration card	X			Provisional ballot, counted if name, address, DOB, driver's license or last four digits of SSN match registration record.	
Utah	Current state DL Current state or federal ID Concealed weapon permit Passport Military Bureau of Indian Affairs card Tribal <i>or</i> two IDs with name and evidence that voter resides in precinct	X		County clerk may verify identity and residence "through some other means."	Provisional ballot.	

**Source:** National Conference of State Legislatures, "Voter ID: State Requirements," 2014, at <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>, Government Accountability Office, *Elections: State Laws Addressing Voter Registration and Voting on or Before Election Day*, GAO-13-90R, October 4, 2012, <http://www.gao.gov/assets/650/649203.pdf>.

**Notes:** DL means driver's license. DMV means the state agency that issues drivers licenses. IHE means an Institute of Higher Education. Passport means a U.S. passport. State means the state in which the voter is attempting to vote. States vary in whether accepted student IDs may include those issued by high schools as well as postsecondary institutions, or whether they must be issued by a school in the state.

Some of the 18 photo ID states strictly enforce the photo ID requirement—the voter cannot cast a regular ballot in person without providing a required ID—while others require a photo ID but will allow a voter without one to verify his or her identity by some other means. Of the 18 states with a photo ID requirement, 10 permit an individual to vote after signing an affidavit, by providing certain information to an election official, or if the voter’s signature can be subsequently matched to one that is on file (Alabama, Florida, Hawaii, Idaho, Louisiana, Michigan, New Hampshire, Rhode Island, South Dakota, and Washington). The voter’s eligibility may be challengeable or subject to subsequent investigation to verify eligibility. In the other eight states (Georgia, Indiana, Kansas, Mississippi, South Carolina, Tennessee, Texas, and Virginia), a voter who does not have the required photo ID may be eligible to cast a provisional ballot that will be counted if the voter provides an accepted ID after the election. To illustrate differences in state laws, in Louisiana, a voter must sign an affidavit and present other identification information (a utility bill, payroll check, or government document with the voter’s name and address) to an election official, and may be subject to challenge. In Indiana, a voter who lacks the required photo ID can cast a provisional ballot that will be counted if the voter appears at the county elections office by noon on the Monday after the election and either brings the required ID or signs an affidavit affirming indigence or religious objection to being photographed.

Georgia and Indiana were the first states to enact photo ID requirements in 2003 and 2005, respectively, and both strictly enforce the photo ID requirement. Georgia provides free photo ID to any voter and both states make allowances for voters with expired photo ID.

**Table 2** includes information on states that require a voter to provide some form of identification that does not need to contain a photograph, which can include such documents as a voter registration card, birth certificate, tribal identification, vehicle registration or insurance card, employee ID, utility bill, paycheck, Social Security card, student ID, hunting or fishing license, and many others. In most of these states, a voter who does not produce an approved identification may cast a provisional ballot that will be counted if the voter signs an affidavit, the voter’s eligibility can be verified by election officials, or the voter’s signature is subsequently matched to a signature on file.

## Legal and Constitutional Issues Regarding Voter Photo Identification Laws<sup>16</sup>

Leading up to the 2014 midterm election, state voter photo identification (ID) laws were challenged<sup>17</sup> under the Fourteenth Amendment to the U.S. Constitution, Section 2 of the Voting Rights Act (VRA),<sup>18</sup> and state constitutional provisions. In some instances, due to ongoing appeals, the question of whether a particular state voter ID law would be in effect was resolved

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<sup>16</sup> This portion of the report was written by L. Paige Whitaker, Legislative Attorney.

<sup>17</sup> For further discussion, see CRS Legal Sidebar WSLG1080, UPDATED: As Midterm Election Approaches, State Election Laws Challenged, by L. Paige Whitaker.

<sup>18</sup> Following the 2013 Supreme Court ruling in *Shelby County v. Holder*, invalidating the coverage formula in Section 4 of the Voting Rights Act, the preclearance requirements in Section 5 are currently inoperable. See 133 S. Ct. 2612 (2013). As a result, recently enacted voter ID laws in those states and jurisdictions formerly required to obtain preclearance under Section 5 are no longer subject to this requirement. For further discussion, see CRS Report R42482, *Congressional Redistricting and the Voting Rights Act: A Legal Overview*, by L. Paige Whitaker.

only in the final months or weeks preceding the November 4 election. In view of a 2008 Supreme Court ruling that upheld the constitutionality under the Fourteenth Amendment of a voter photo ID law, such challenges have drawn attention. They are also notable because of their application of Section 2 of the VRA, which has generally been invoked in the context of redistricting plans, at-large elections, and felony disenfranchisement laws.

## **Fourteenth Amendment and Voting Rights Act**

In April 2014, a federal district court enjoined a Wisconsin voter photo ID law finding that it violated both the equal protection clause of the Fourteenth Amendment and Section 2 of the VRA.<sup>19</sup> In September, the U.S. Court Appeals for the 7<sup>th</sup> Circuit issued a stay of the district court's injunction, but in October, the U.S. Supreme Court vacated the appellate court ruling and ordered that immediate implementation of the Wisconsin voter ID law be stopped, pending a petition for certiorari. If the petition is denied, the Supreme Court's order will automatically terminate; if it is granted, the order will terminate upon a judgment by the Court. Accordingly, the law was not in effect for the November 4 election.

In its 2008 ruling, *Crawford v. Marion County Election Board*,<sup>20</sup> the Supreme Court upheld an Indiana voter photo ID law against a facial challenge under the equal protection clause of the Fourteenth Amendment. The Indiana law requires voters to present a photo identification card issued by the government.<sup>21</sup> Although a majority of the Court in *Crawford* did not agree on a rationale for upholding the voter photo ID law, the lead opinion found that although the voter photo ID law imposes a “somewhat heavier burden” on a “limited number” of people, the severity of that burden is mitigated by the fact that eligible voters may cast provisional ballots that will ultimately be counted.<sup>22</sup> Moreover, even if the burden cannot be justified as to a few voters, that fact would be insufficient to require the relief sought by the petitioners in *Crawford*, which was to invalidate the voter photo ID law in all its applications. The lead opinion concluded that Indiana's voter photo ID law imposed only a “limited burden” on voting rights that is justified by the state interest in protecting election integrity.<sup>23</sup> Notably, the opinion announced that if a law is nondiscriminatory, and supported by valid, neutral justifications, then those justifications should not be disregarded merely because partisan interests might have provided one motivation for the law's enactment.<sup>24</sup>

In 2011, Wisconsin enacted “Act 23,”<sup>25</sup> which required residents to present one of nine forms of photo ID in order to vote. The law further provided that individuals seeking a qualifying photo ID could apply for a state ID card at the Department of Motor Vehicles for a fee of \$18.00, which could be waived for applicants who are citizens; will be 18 years of age on the date of the next

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<sup>19</sup> Although there has been litigation challenging voter photo ID laws in other states, including North Carolina, Pennsylvania, and Texas, the Wisconsin case is discussed as an example.

<sup>20</sup> 553 U.S. 181 (2008). For further discussion of the *Crawford* decision, see CRS Report RS22882, *The Constitutionality of Requiring Photo Identification for Voting: An Analysis of Crawford v. Marion County Election Board*, by L. Paige Whitaker. For an analysis of First Amendment challenges to photo identification laws, see CRS Report R40515, *Legal Analysis of Religious Exemptions for Photo Identification Requirements*, by Cynthia Brougher.

<sup>21</sup> 2005 IND. ACTS 109, codified at IND. CODE §3-11-8-25.1.

<sup>22</sup> *Crawford*, 553 U.S. at 199.

<sup>23</sup> *Id.* at 203.

<sup>24</sup> *See id.* at 204.

<sup>25</sup> Available at <https://docs.legis.wisconsin.gov/2011/related/acts/23.pdf>.

election; and request that the card be issued without charge for voting purposes. In addition, in order to obtain a state ID card, the law required an applicant to present certain primary identification documents, appear at a DMV service center to submit an application, and be photographed.

In *Frank v. Walker*,<sup>26</sup> a federal district court determined that the Wisconsin photo ID law violated the equal protection clause of the Fourteenth Amendment because it imposes a substantial, yet unjustified, burden on many eligible voters who do not possess the requisite photo ID. In *Frank*, the court reasoned that because a majority of the Supreme Court in *Crawford* agreed that a photo ID requirement is appropriately evaluated under the “*Anderson/Burdick*”<sup>27</sup> balancing test (referencing Court decisions dating back to 1983 and 1992, respectively) for equal protection purposes, Act 23 should likewise be evaluated. However, the court found that a majority of the Justices in *Crawford* could not agree on how to apply that test. That is, while the court observed that a majority in *Crawford* agreed that, in applying *Anderson/Burdick*, the state’s interests justified the photo ID law’s burdens on all voters, it did not answer the further constitutional question as to whether the law could be invalidated based on the burdens it imposes on a subgroup of voters. Therefore, the court concluded that *Crawford* was not precedential on that question, and reverted to applying the *Anderson/Burdick* balancing test in order to answer it. According to the district court’s interpretation of *Anderson/Burdick*, it requires invalidation of a law “when the state interests are insufficient to justify the burdens the law imposes on subgroups of voters.”<sup>28</sup> In applying that test, the court first identified that the state’s justifications for the law were not supported by the evidence. In particular, the court found that virtually no voter impersonation occurs in the state. The court also found that not only does the voter ID law fail to further the state’s interest in promoting confidence in the electoral process, but there is evidence to suggest that it affirmatively undermines such confidence by creating the false perception that voter impersonation fraud is widespread. At the same time, the court found that Act 23 imposed a unique burden on the 9%, or 300,000, of Wisconsin registered voters who would need to obtain an ID exclusively for voting, a substantial number of whom are low-income individuals, and who would be deterred or prevented from voting. In weighing the burdens against the state interests, the court concluded that “it is absolutely clear that Act 23 will prevent more legitimate votes from being cast than fraudulent votes.”<sup>29</sup> Accordingly, the court held that the burdens imposed by Act 23 on the subgroup of voters who lack the requisite ID are not outweighed by the state’s justifications, in violation of the Fourteenth Amendment.

The lower court also found that Act 23 violates Section 2 of the VRA.<sup>30</sup> Section 2 provides a right of action for private citizens or the government to challenge discriminatory voting practices or procedures. Specifically, it prohibits any voting qualification or practice that results in the denial or abridgement of the right to vote based on race, color, or membership in a language minority. The statute further provides that a violation is established if, “based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by [members of a racial or language minority group] in that its members have less opportunity than other members of the

<sup>26</sup> 2014 U.S. Dist. LEXIS 59344 (E.D. Wis., Apr. 29, 2014), *stay denied by* *Frank v. Walker*, 2014 U.S. Dist. LEXIS 111811 (E.D. Wis., Aug. 13, 2014), *rev’d*, *Frank v. Walker*, 2014 U.S. App. LEXIS 19108 (7<sup>th</sup> Cir. Wis., Oct. 6, 2014).

<sup>27</sup> See *Anderson v. Celebrezze*, 460 U.S. 780 (1983); *Burdick v. Takushi*, 504 U.S. 428 (1992).

<sup>28</sup> *Frank*, 2014 U.S. Dist. LEXIS 59344, at 19.

<sup>29</sup> *Id.* at 70.

<sup>30</sup> 42 U.S.C. §§1973, 1973b(f).

electorate to participate in the political processes and to elect representatives of their choice.”<sup>31</sup> After acknowledging that Section 2 case law has generally been limited to the context of evaluating redistricting plans, at-large elections, and felony disenfranchisement laws and therefore was of limited utility, the court focused on the language of the statute. In the context of the photo ID law, the court found that Section 2 “protects against a voting practice that creates a barrier to voting that is more likely to appear in the path of a voter if that voter is a member of a minority group than if he or she is not.”<sup>32</sup> Referencing evidence at trial showing that minorities are less likely than whites to possess qualifying ID, the court concluded that “the photo ID requirement results in the denial or abridgment of the right of Black and Latino citizens to vote on account of race or color,” in violation of Section 2.

Reversing the district court, the U.S. Court of Appeals for the 7<sup>th</sup> Circuit ruled that the lower court’s findings did not justify an outcome different from the Supreme Court’s ruling in *Crawford*.<sup>33</sup> In *Crawford*, the 7<sup>th</sup> Circuit observed, the opinion concluded that the prevention of voter impersonation, and the preservation of public confidence in the integrity of elections, justify a photo ID requirement, despite the fact that persons without government-issued photo IDs must spend time to acquire the necessary documentation, such as birth certificates. The *Crawford* opinion found that for most voters, the inconvenience of obtaining a photo ID does not constitute a substantial burden on the right to vote or even impose a significant increase over the usual burdens of voting. The 7<sup>th</sup> Circuit concluded that those observations were equally true in Wisconsin, as they were in Indiana. While conceding that the Wisconsin voter ID law differs from the Indiana law upheld by the Supreme Court, the 7<sup>th</sup> Circuit found that those differences did not matter under the *Crawford* analysis. For example, while acceptable documentation under the Wisconsin law (drivers’ licenses, Wisconsin state ID cards, passports, military ID of persons in active service, recent naturalization papers, photo ID issued by a recognized Indian tribe, or signed photo ID issued by a college or university) omits some documents that the Indiana law accepts, it also includes some documentation that the Indiana law omits. The court concluded that such differences were not sufficient enough to establish that the burden of voting in Wisconsin is significantly different from the burden in Indiana.<sup>34</sup>

Regarding Section 2 of the VRA, the 7<sup>th</sup> Circuit found that although the voter ID law had a disparate outcome on minority voters, the law did not result in the “denial” of the right to vote based on race, color, or membership in a language minority as Section 2 requires. Unless the voter ID law makes it needlessly difficult to obtain a photo ID, it has not denied anything to any voter, the court concluded. The appellate court observed that the district court did not find that differences in economic circumstances are attributable to discrimination by the state of Wisconsin. Instead, the district court reasoned that minority voters are disproportionately likely to lack the requisite ID because they are disproportionately likely to live in poverty, resulting from discrimination in education, employment, and housing. The district court did not conclude that Wisconsin had discriminated in any of these respects, which was important, the 7<sup>th</sup> Circuit concluded, because Section 2(a) of the VRA forbids discrimination by race or color, but does not require states to overcome societal effects of private discrimination that affect the income or wealth of potential voters.<sup>35</sup> Furthermore, Section 2(b) of the VRA clarifies that violations are

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<sup>31</sup> 42 U.S.C. §1973(b).

<sup>32</sup> *Frank*, 2014 U.S. Dist. LEXIS 59344, at 93.

<sup>33</sup> *Frank v. Walker*, 2014 U.S. App. LEXIS 19108, at 4 (7<sup>th</sup> Cir. Wis., Oct. 6, 2014).

<sup>34</sup> *See id.* at 5-6.

<sup>35</sup> *See id.* at 26.

established if, based on a totality of the circumstances, it is shown that the political processes leading to nomination or election in the state or political subdivision are not equally open to participation by members of the protected class of citizens in that its members have less opportunity than other members of the electorate to participate in the political process. The Wisconsin voter ID law does not draw any line by race, the 7<sup>th</sup> Circuit found, and the district court did not determine that African Americans or Latinos have less opportunity than whites to get photo IDs. Instead the lower court found that due to economic disparities, these groups are less likely to use that opportunity, which the appellate court concluded does not violate Section 2. Act 23 extends to every citizen an equal opportunity to get a photo ID, the 7<sup>th</sup> Circuit concluded.<sup>36</sup>

## State Constitutional Qualifications

In Arkansas, less than three weeks prior to the November 4 election, the highest state court invalidated a voter photo ID law. On October 14, 2014, the Arkansas Supreme Court held that a voter photo ID law violated the state constitution.<sup>37</sup> According to the court, the framers of the constitutional provision intended that only the four listed voter qualifications be required,<sup>38</sup> and nothing further. The court found that if it upheld the voter ID law, it would disenfranchise Arkansas voters, and negate the intent of the framers of the state constitution.

## Implications

The question of whether voter photo ID laws comply with the U.S. Constitution, the VRA, and state constitutional provisions continues to unfold. Further litigation in this area is expected, and it is unclear how courts in other jurisdictions or appellate courts will rule. Although the Supreme Court upheld the constitutionality of a state voter photo ID law in 2008, courts might find other state laws distinguishable. Furthermore, as case law regarding Section 2 of the VRA has primarily been limited to redistricting plans, at-large elections, and felony disenfranchisement laws, it is unclear how case law applying the VRA in the context of voter ID laws will develop.

## Implementation Issues and Policy Considerations

Election administration changes have the potential to introduce a degree of uncertainty in the voting process simply because they involve new procedures. This is especially true in the first election for which they are implemented. The administration of federal elections by state and local jurisdictions is a complex, interconnected process, in which steps taken to address potential problems at any point may have both expected and unexpected effects, not only on the problem being addressed, but on other parts of the process, and on individual voters as well. Implementing such changes may reduce the resources available for other tasks before the election, or may have unforeseen effects that would require correction. It may be advantageous to have as much time as possible to implement changes to voting procedures, so that election officials, poll workers, and voters have time to adjust.

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<sup>36</sup> *See id.* at 26-27.

<sup>37</sup> *See Martin v. Kohls*, 2014 Ark. 427, at 15.

<sup>38</sup> The Arkansas Constitution sets forth four qualifications for voters: (1) U.S. citizenship; (2) Arkansas residency; (3) at least 18 years of age; and (4) lawful registration to vote in the election. ARK. CONST. Art. 3, §1.

Some changes affect a limited number of voters, such as changing the location of an individual polling place or introducing new voting equipment in a jurisdiction, while others affect all the voters in the state, such as changing voter registration or identification procedures. In both cases, election officials may be required to educate the voting public about the changes and make the necessary adjustments to poll worker training and procedures before the election to insure a smooth transition on Election Day. Voters need to understand the changes and undertake actions to insure that they do not jeopardize their ability to cast a ballot.

There is no universal voting ID that is used in the United States (including the voter registration card, which is mostly used to provide information for the voter rather than for identification). Acceptable forms of identification differ by state and may be obtained from different agencies or entities within each state. Voters who possess one of the acceptable IDs need not take any action except to bring it with them to the polling place.

In states with stringent ID requirements, voters who do not have an acceptable ID must secure one in order to cast a ballot. Sometimes the voter must obtain another document first, such as a birth certificate, as proof required for the voter ID.<sup>39</sup> It is also possible that a voter may possess an approved ID that does not match the information in the voter's registration record, for example because of a recent name change due to marriage or divorce, which would require the voter to rectify the discrepancy.

Other issues that could arise because of new photo ID laws concern the use of provisional ballots, the potential for long lines, and the possibility that poll workers could misapply the new rules. Voters who do not have an accepted ID may cast a provisional ballot. In states that have a stringent ID law, the voter will need to present required documentation at the county election office within a specified time period for the provisional ballot to be counted. Long lines may develop in high-turnout elections, such as presidential ones, if new check-in procedures require each voter to present an ID. Voters who are unaware of such new requirements and those who do not have an acceptable ID may cause delays and complications if they need to execute affidavit votes or cast provisional ballots. Finally, there is the possibility that some poll workers will not be sufficiently trained to know which IDs are acceptable (particularly in states that accept a range of federal, state, and other IDs), which voters, if any, are exempt from the requirement,<sup>40</sup> the procedures to be followed if a voter lacks the proper ID, and how to interpret an ID photograph, especially if the voter has changed in appearance in some way, such as hair color or facial hair.

Whatever their individual views on photo ID or other voting requirements, most observers would probably agree on these two goals: (1) that all eligible voters should have equal opportunity to cast a ballot, and (2) that all necessary steps should be taken to protect the election process from fraud, abuse, and error at any stage. Both of those goals are arguably essential to ensuring the integrity of elections, but both are sometimes thought of as conflicting. It may be reasonable to suppose that the more focus is placed on providing access to the ballot box for all eligible voters, the greater the risk that people who do not meet the criteria for eligibility—for example by reason of non-citizenship, non-residence, or criminal history—will be improperly included on the voter

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<sup>39</sup> CBS News, "Pa. Law Hampers Some Voters From Getting IDs," September 28, 2012, at [http://www.cbsnews.com/8301-18563\\_162-57521927/pa-law-hampers-some-voters-from-getting-ids/](http://www.cbsnews.com/8301-18563_162-57521927/pa-law-hampers-some-voters-from-getting-ids/).

<sup>40</sup> In some states, indigent voters and those with a religious objection to being photographed are exempt from the photo ID requirement. For more information, see CRS Report R40515, *Legal Analysis of Religious Exemptions for Photo Identification Requirements*, by Cynthia Brougher.



rolls, or succeed in voting despite not being on the rolls. It may also be reasonable to suppose that the more focus is placed on preventing fraud and abuse, the greater the risk that people who do meet the fundamental criteria for eligibility will be improperly excluded from the voter rolls, or not succeed in voting despite being on the rolls.<sup>41</sup>

It could be that the apparent conflict is in fact a false one—for example, changes to the election process aimed at increasing access or at decreasing fraud might not have significant effects on actual access and fraud—or that the impact of any particular measure that seems likely to be effective is in fact minimal. No broad consensus has emerged on how to interpret the data that exist.<sup>42</sup> That uncertainty is not surprising, given both the complexities of the election process and the difficulties of collecting data about it that are amenable to scientific analysis.<sup>43</sup>

The lack of data may also explain the somewhat paradoxical views of election officials on voter photo ID. Two scientific surveys of local election officials in 2006 and 2008 found that on average they supported a photo ID requirement but believed it would have a negative effect on turnout. They also believed it would increase election security even though they found voter fraud uncommon and not a serious problem in their jurisdictions.<sup>44</sup>

A systematic approach to achieving the two goals discussed above would presumably include a risk analysis of all steps in the election process with respect to each goal. In recent elections, attention has shifted among different points in the process, with voter identification being subject to significant legislative attention since the 2010 election. But in the absence of systematic risk analyses, it is difficult to determine what points in the election process—voter registration, voting systems, polling place location and hours, pollworker training, voter identification, vote tabulation, or other steps—actually involve the greatest potential risks to election integrity and therefore what priorities would be most effective for reducing those risks.

## Concluding Observations

Given recent state legislative activity on photo ID, and identification requirements generally, it is likely that legislators in the states will continue to consider similar legislation in the future. According to NCSL, 121 identification bills were considered in the states during legislative sessions in 2013 and 2014.<sup>45</sup> Further action in the courts and the Department of Justice should be

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<sup>41</sup> Some observers have proposed solutions that might reduce the risk of such a conflict, for example, by placing digital photographs of registered voters in electronic pollbooks, thereby eliminating the need for most voters to present separate identification documents (Caltech/MIT Voting Technology Project, *Voting: What Has Changed, What Hasn't, and What Needs Improvement*, October 18, 2012, at [http://www.vote.caltech.edu/sites/default/files/Voting%20Technology%20Report\\_final.pdf](http://www.vote.caltech.edu/sites/default/files/Voting%20Technology%20Report_final.pdf)).

<sup>42</sup> See, for example, the disparate views presented in two recent books: Lorraine Carol Minnite, *The Myth of Voter Fraud* (Ithaca [N.Y.]: Cornell University Press, 2010); John Fund, *Who's Counting?: How Fraudsters and Bureaucrats Put Your Vote at Risk* (New York: Encounter Books, 2012).

<sup>43</sup> For example, one study found that more stringent voter ID requirements was associated with lower turnout, but the effect was small, there was no evidence of an effect of photo ID per se, and no evidence was presented with respect to impacts on voter fraud (The Eagleton Institute of Politics and The Moritz College of Law, *Best Practices to Improve Voter Identification Requirements* (Election Assistance Commission, June 28, 2006), at [http://www.eac.gov/assets/1/workflow\\_staging/Page/62.PDF](http://www.eac.gov/assets/1/workflow_staging/Page/62.PDF)).

<sup>44</sup> CRS Report R41667, *How Local Election Officials View Election Reform: Results of Three National Surveys*, by Eric A. Fischer and Kevin J. Coleman.

<sup>45</sup> The NCSL 2011-2012 Elections Legislation Database, at <http://www.ncsl.org/research/elections-and-campaigns/> (continued...)

expected as well on photo ID as several new laws have recently gone into effect. Finally, the 2014 election may provide useful data on the implementation and performance of photo ID laws, which Congress may choose to examine. The impact of voter ID laws in a growing number of states is likely to continue to be a topic of high interest for the foreseeable future.

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