



The High Cost of 'Free' Photo Voter Identification Cards

By Richard Sobel

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EXECUTIVE SUMMARY

Photo voter identification laws, adopted in 21 state legislatures since 2003, have become a lightning rod for political debate about voting rights in this country. Proponents claim such laws are necessary to maintain the integrity of the electoral process and protect against in-person voter fraud. Opponents maintain that in-person voter fraud is virtually non-existent, and argue that the real intent of these laws is to make it harder for minority group members, the young, the poor, women and the elderly to vote.¹ Currently, photo voter ID laws are in effect in 11 states, and three more are scheduled for implementation next year. Thus far, court challenges have halted or delayed implementation of five of the new laws, and two states have delayed applying for preclearance until the Supreme Court rendered a decision in a case challenging sections of the Voting Rights Act (*Shelby County v. Holder*). The controversy over the effects and constitutionality of state voter identification requirements may intensify in the upcoming years, particularly now that the Supreme Court has ruled on *Shelby*, striking down Section 4 (the coverage formula for Section 5 preclearance requirements) of the Voting Rights Act.

The fundamental question at the heart of this debate is whether photo voter ID requirements abridge the right to vote. In the 2008 case of a “facial” challenge to the constitutionality of conditioning the right to vote upon providing an official ID, *Crawford v.*

¹ See, for example, Jane Mayer, “The Voter Fraud Myth,” *The New Yorker*, October 29, 2012, available online at: http://www.newyorker.com/reporting/2012/10/29/121029fa_fact_mayer and Richard Hasen: *The Voting Wars*, Yale University Press, 2012.

Marion County Election Board, a divided U.S. Supreme Court permitted Indiana to require voter IDs. But the decision cautioned that such laws might be unconstitutional under an “as-applied” challenge if they could be shown to burden specific voters.² In response, voter ID states now typically offer “free” voter IDs to those who lack drivers’ licenses or other forms of government-sponsored identification cards.

What exactly is meant by “free” in this context? Relying on public documents obtained through the Internet, media outlets, and legal testimony, this report calculates the costs incurred by three different individuals who had to obtain “free” voter identification cards in each of three states—Pennsylvania, South Carolina, and Texas. Each state had enacted controversial, and legally contested, new voter identification laws in the past three years. Since specific data are difficult to obtain, we developed a method for estimating the costs of a “free” state-issued photo ID for voting based on the following factors of time, travel and out-of-pocket expenses:³

1. Time costs involved in learning about photo voter ID requirements.
2. Costs of purchasing required birth, marriage, naturalization and other certificates. In some instances, these calculations include legal fees needed to secure these documents.
3. Costs of travel expenses to the locations of the departments of vital records and motor vehicles, and
4. Cost of travel time and wait time at the agencies. The costs multiply for repeated trips or when an individual must hire a driver and/or vehicle.

We found that the expenses for documentation, travel, and waiting time are significant, especially for minority group and low-income voters—ranging from \$75 to \$368. When legal fees are added to these numbers, the costs skyrocket to as high as \$1,500. Adjusted for inflation, these figures represent between seven and 136 times the \$1.50 poll tax outlawed by the 24th amendment in 1964.

² In an appellate dissent in *Crawford v. Marion County, Indiana* (484 F.3d 436 (2007)).

³ These factors have been identified based on those detailed in the 2006 Missouri Supreme Court decision on the constitutionality of voter identification laws, *Weinschenk v. State of Missouri* (SC 88039, 2006). A fuller discussion of that decision and the criteria for identifying cost factors can be found in Section II of this report. Texas examples are constructed based on testimony of a state senator.

For many people, paying the cost necessary to meet voting requirements is equal to a week's worth of groceries. In fact, some citizens simply cannot afford the costs required to obtain these voter IDs. And others can never get the documents they need to qualify for an ID. In short, under these laws, those citizens who cannot get IDs will pay the ultimate price: they will lose their right to vote.

Here are the expenses incurred by the three individuals in each of the three targeted states for which we calculated costs in their pursuit of a "free" voter identification card:

Pennsylvania:

Voter #1:	\$74.75
Voter #2:	\$133.61
Voter #3:	\$162.39

South Carolina:

Voter #1:	\$92.50 (\$1,047.50+ if pro bono legal fees are calculated)
Voter #2:	\$99.75 (\$1,449.75 if pro bono legal fees are calculated)
Voter #3:	\$368.01

Texas:

Voter #1:	\$79.26
Voter #2:	\$85.44
Voter #3:	\$169.79

In sum, voter IDs are expensive, often prohibitively so. And they can have the constitutionally impermissible effect of denying an individual the right to vote.

Another set of costs, less recognized in public debates about voter identification laws, are the expenses imposed upon the budgets and taxpayers of states that enact voter identification laws. These costs include establishing new bureaucracies or adding staff to

existing ones, production of the actual identification cards themselves, publicity and public instruction efforts to inform the public about the new laws, training of poll workers, judges and other voting officials, and, not insignificantly, the cost of litigating these laws against challenges in federal and state courts. Such litigation costs are likely to increase after the *Shelby* decision. Studies have suggested that meeting the voter ID requirements could cost the treasuries of these states as much as \$78 million.⁴

Moreover, voter identification laws are not being enacted in a vacuum. There is a long history in this country of imposing barriers aimed at keeping African Americans, in particular, from exercising their constitutional right to vote. Our nation is currently undergoing a profound demographic transition that will leave the U.S. with no single racial majority in 50 years. The media made much of the political implications of demographic changes apparent among the voting public during the election of 2012.

The immediate result of the June 25, 2013, U.S. Supreme Court decision, *Shelby County v. Holder*, which strikes down Section 4 of the Voting Rights Act, is that states with a long history of voting discrimination will no longer be required to obtain government preclearance before enacting changes in electoral practices and policies. This makes it particularly critical that we examine whether ostensibly “race neutral” voter identification laws are actually more sophisticated “Jim Crow” rules that disenfranchise large swaths of populations of color, along with other vulnerable groups. Beyond racial and ethnic minority groups in general, the disenfranchised can include the young, the poor, women, and the elderly.

If the cost of a free voter ID can be shown to burden particular voters, an “as-applied” challenge under the *Crawford* criteria is still viable. An accurate accounting of the full costs involved in securing these identification documents is a critical part of such an examination. This report begins that process.

⁴ See The Voting Rights Institute, *The Real Cost of Photo ID*, available at: http://assets.democrats.org/pdfs/photoID/Dems-report-real_cost_of_voting_ID.pdf, and “What’s Wrong with this Picture?” Advancement Project, April 2011, available at: <http://www.advancementproject.org/resources/entry/whats-wrong-with-this-picture-new-photo-id-proposals-part-of-national-push>

Appendix IV. Table 9. Voter ID Laws by State:⁵

STATE	LAW	TIME OF ENACTMENT	PROVISIONS	LEVEL OF STRICTNESS ⁶	CURRENT STATUS
Alabama	§17-9-30	2011	If a voter does not provide a photo ID, he or she <i>may cast a regular ballot</i> . Two election officials identify the voter as an eligible voter on the poll list, and both election workers sign a sworn affidavit so stating.	Non-Strict	Not yet in effect; Set to take effect in 2014, has yet to receive required preclearance from the Department of Justice.
Arkansas	§7-5-305	2013	If the voter fails to provide a photo ID, he or she shall <i>only be allowed to vote a provisional ballot</i> .	Strict	Not yet in effect; Set to take effect in 2014.
Florida	§101.043	2012	If the voter fails to provide a photo ID, he or she shall <i>only be allowed to vote a provisional ballot</i> .	Strict	In Effect
Georgia	§21-2-417	2007	If the voter fails to provide a photo ID, he or she shall <i>only be allowed to vote a provisional ballot</i> . This provisional ballot will only be counted if the voter present appropriate photo identification at his or her county registrar's office within three days of the election.	Strict	In Effect
Hawaii	§11-136	2012	If a voter has no photo identification, he or she <i>may cast a regular ballot</i> . The voter will be asked to recite his/her date of birth and residence address to corroborate the information provided in the poll book.	Non-Strict	In Effect

⁵ National Conference of State Legislatures, "[Voter Identification Requirements](#)," October 24, 2012.

⁶ A Strict law (13 states) does not allow a voter to cast a ballot under any circumstances without a Photo ID. Potential voters may cast a provisional ballot but it will only be counted if ID requirements or other conditions are later met. A Non-Strict law (7 states) is one which allows a voter to cast a regular ballot without a Photo ID (or a provisional ballot that is automatically counted) by, for example, signing of a sworn affidavit. (Missouri not included in calculations because the law was struck down by the State Supreme Court.)

Idaho	§34-1106(2), 34-1113, 34-1114	2010	<p>If a voter does not provide photo ID, they must sign a sworn affidavit testifying to their identity and address in order <i>to cast a regular ballot</i>.</p> <p>Any person who knowingly provides false, erroneous or inaccurate information on such affidavit shall be guilty of a felony.</p>	Non-Strict	In Effect
Indiana	§3-5-2-40.5, 3-10-1-7.2 and 3-11-8-25.1	2006	<p>If the voter fails to provide a photo ID, he or she shall <i>only be allowed to cast a provisional ballot</i>.</p> <p>This provisional ballot will only be counted if the voter returns to the election board by noon on the Monday after the election and produces proof of identification or signs an affidavit stating they could not produce a photo ID due to costs or religious objections.</p>	Strict	In Effect
Kansas	§25-2908, 25-1122, 25-3002, and 8-1324(g)(2)	2011	<p>If the voter fails to provide a photo ID, he or she shall <i>only be allowed to cast a provisional ballot</i>.</p> <p>To have his or her ballot counted, the voter must provide a valid form of identification to the county election officer in person or provide a copy by mail or electronic means before the meeting of the county board of canvassers.</p>	Strict	In Effect
Louisiana	§18:562	2012	<p>If a voter does not provide photo ID, they must sign a sworn affidavit testifying to their identity and address in order <i>to cast a regular ballot</i>.</p>	Non-Strict	In Effect
Michigan	§168.523	2012	<p>If a voter does not provide photo ID, they must sign a sworn affidavit testifying to their identity and address in order <i>to cast a regular ballot</i>.</p>	Non-Strict	In Effect
Mississippi	§23-15-563	2011	<p>An individual without ID can cast an affidavit ballot which will be counted if the individual returns to the appropriate circuit clerk within five days after the election <i>and shows government-issued photo ID</i>.</p>	Strict	Not yet in effect; Has yet to receive required preclearance from the Department of Justice.

Missouri	SB 1014	2006	Must present ID document issues by state or federal government, with name, photograph, and unexpired expiration date. Voters without ID may vote provisionally.	(Strict)	Not in effect State Supreme Court overturned in October 2006
New Hampshire	§659:13	2012	If a voter does not provide photo ID, they must sign a sworn affidavit testifying to their identity and address in order <i>to cast a regular ballot</i> .	Non-Strict	In Effect
Pennsylvania	25 P.S. §§ 2602, 2626, 3050	2012	If the voter fails to provide a photo ID, he or she shall <i>only be allowed to cast a provisional ballot</i> .	Strict	Not yet in effect; Currently enjoined by the State Courts.
Rhode Island	§17-19-24.2	2011	If the voter fails to provide a photo ID, he or she shall <i>only be allowed to cast a provisional ballot</i> .	Strict	Partially in effect; The law went into effect in 2012, but in 2014 several forms of photo ID currently allowed will no longer be permissible for use.
South Carolina	§7-13-710	2011	If the voter fails to provide a photo ID, he or she shall <i>be allowed to cast a provisional ballot</i> , by signing a sworn affidavit stating that inability to acquire a photo ID because of a “reasonable impediment.” Board “shall find” valid, unless false.	Strict	Not yet in effect; Did not receive preclearance by the Department of Justice. DC Circuit approved law for 2013 with “reasonable impediment.”
South Dakota	§12-18-6.1 and 6.2	2003	If a voter does not provide photo ID, they must sign a sworn affidavit testifying to their identity and address in order <i>to cast a regular ballot</i> .	Non-Strict	In Effect
Tennessee	§2-7-112	2011	If the voter fails to provide a photo ID, he or she shall <i>only be allowed to cast a provisional ballot</i> . The provisional ballot will only be counted if the voter provides the proper evidence of identification to the administrator of elections or the administrator's designee by the	Strict	In Effect

			close of business on the second business day after the election.		
Texas	Election Code §63.001 et seq.	2011	If the voter fails to provide a photo ID, he or she shall <i>only be allowed to cast a provisional ballot</i> . In order to cast a provisional ballot, the voter must present the required form of identification to the voter registrar for examination within six days of the election. Alternatively, the voter sign an affidavit stating that he or she has a religious objection to being photographed or that the voter does not have identification as a result of a natural disaster which occurred not earlier than 45 days before the date the ballot was cast.	Strict	Not yet in effect; Did not receive preclearance by the Department of Justice. This decision is currently under judicial review.
Virginia	§24.2-643(B)	2013	If the voter fails to provide a photo ID, he or she shall <i>only be allowed to vote a provisional ballot</i> .	Strict	Not yet in effect; Set to take effect in 2014.
Wisconsin	§5.02(6m) and 6.79(2)(a)	2011	If the voter fails to provide a photo ID, he or she shall <i>only be allowed to cast a provisional ballot</i> . An elector who votes a provisional ballot may furnish statutory ID to the election inspectors before the polls close or to the municipal clerk no later than 4pm on the Friday following Election Day.	Strict	Not yet in effect; Wisconsin's Voter ID law was declared unconstitutional by a state court in March 2012. Appeals court reversed in appeal in May 2013