



## Voter ID – Issue Brief

**Voter Identification Laws, or Voter Identification Requirements,** require electors wishing to cast their ballots in-person on Election Day or during the early in-person voting period to present a valid form of identification before being permitted to vote.

**Brief History:** Voter ID laws emerged after the Court’s decision in *Crawford v. Marion County Election Board* (2008), which established that reasonable ID requirements, motivated by a state’s reasonable interest to prevent voter fraud, are not on their face unconstitutional.<sup>1</sup> Although the Supreme Court upheld voter ID laws, opponents can potentially challenge strict voter ID laws if they can show specific harms to voters that outweigh states’ interests in curbing fraud.<sup>2</sup> After the Supreme Court struck down the outdated federal pre-clearance provisions of the Voting Rights Act (VRA) in *Shelby County v. Holder* (2013), many additional states began to implement strong voter ID laws due to the increased ease of passing voting-related measures.

Under the Help America Vote Act (HAVA), all first-time voters in federal elections in every state **must** show some form of ID at the polls if they registered to vote by mail.<sup>3</sup> This is not required if the voter registered in person. Voter ID laws vary dramatically across the United States, even among the states that require voter identification.

- **36 states** have laws requesting or requiring voters to show some form of identification at the polls, 35 of which are in force in 2020.<sup>4</sup> North Carolina’s law has a temporary injunction on it, as of Dec. 31, 2019.<sup>5</sup>
  - o **Half of these states** request or require voters to show an identification document that has a photo on it, such as a driver’s license, state-issued identification card, military ID, tribal ID, and many other forms of ID.<sup>6</sup>
- **14 states** use other methods to verify the identity of voters that do not include requiring the voter to present ID.<sup>7</sup> Most frequently, these states require other minimal identifying information at the polling place, such as a signature or even verbal attestation, to check against information on file.

<sup>1</sup> *Voter Identification*, MIT Election Data and Science Lab, available at: <https://electionlab.mit.edu/research/voter-identification>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

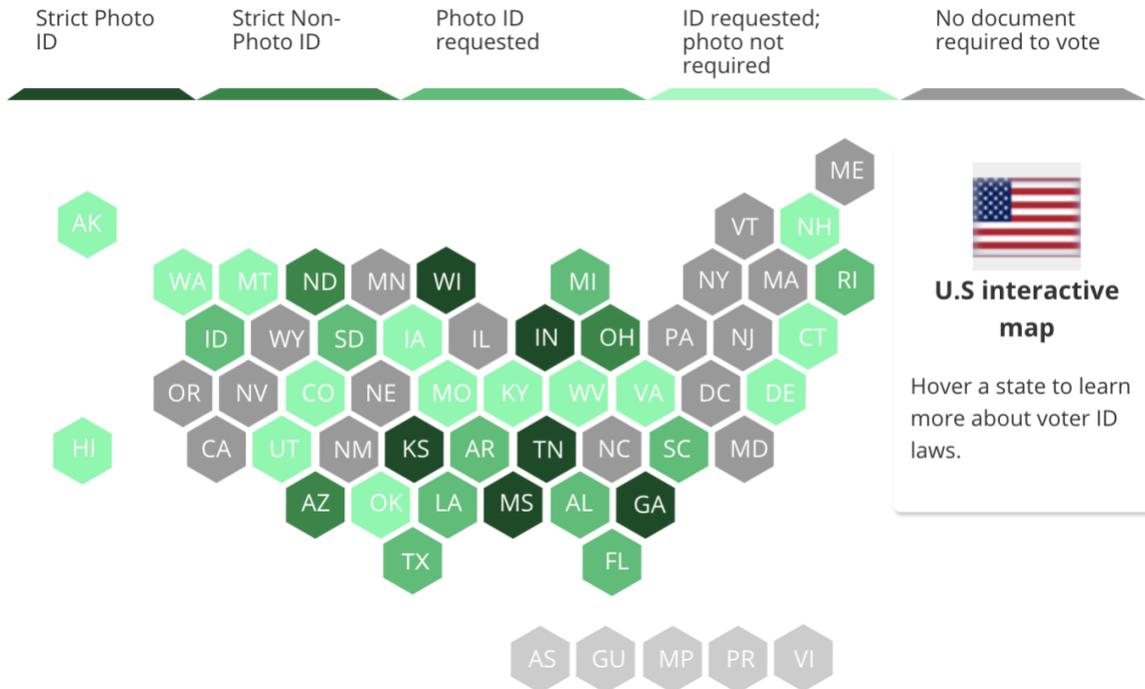
<sup>4</sup> *Voter Identification Requirements / Voter ID Laws*, National Conference of State Legislatures (Feb. 24, 2020), available at: <https://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

## Voter Identification Laws in Effect in 2020



<https://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>

## Talking Points

**Public Sentiment:** Polling shows that a substantial majority of Americans from all racial and ethnic backgrounds agree that voter ID laws are needed.<sup>8</sup> **80%** of Americans across party lines favor requiring all voters to provide photo identification at their voting place in order to vote.<sup>9</sup> **95%** of Republicans, **83%** of Independents, and **63%** of Democrats favor requiring Photo ID to vote.<sup>10</sup> When considering racial demographics, **77%** of minorities favor these laws.<sup>11</sup> In every major demographic, including black voters and Democrats, voters support voter ID laws.<sup>12</sup>

<sup>8</sup> Hans A. von Spakovsky, *Are Voter-ID Laws Needed? Yes, They Protect Election Integrity*, the Heritage Foundation (Apr. 1, 2011), available at: <https://www.heritage.org/election-integrity/commentary/are-voter-id-laws-needed-yes-they-protect-election-integrity>.

<sup>9</sup> Justin McCarthy, *Four in Five Americans Support Voter ID Laws, Early Voting*, Gallup (Aug. 22, 2016), available at: <https://news.gallup.com/poll/194741/four-five-americans-support-voter-laws-early-voting.aspx>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Mario Trujillo, *Poll: 70 percent support voter ID laws*, the Hill (May 16, 2014), available at: <https://thehill.com/blogs/blog-briefing-room/206300-poll-70-percent-support-voter-id-laws>.



**Fraud Prevention:** Voter ID is the strongest defense against impersonation fraud, voting under fictitious registrations, double-voting by people registered in more than one state, and voting by noncitizens.<sup>13</sup> Voter ID laws also make absentee ballot fraud harder to commit in states such as Kansas that have extended the ID requirement to absentee ballots.<sup>14</sup> Voter ID laws are essential to the integrity, honesty, and fairness of elections and ensure the proper voters are casting ballots.

**Voter Confidence:** In *Crawford*, Justice John Paul Stevens wrote that “public confidence in the integrity of the electoral process has independent significance, because it encourages citizen participation in the democratic process.”<sup>15</sup> Voter confidence is vital to any successful electoral system. Voter ID laws boost public confidence in the election results and administration since voters can trust that every vote counted is valid and true. Voter ID fraud actually happens, and when it does, it can affect the outcome of an election. For example, in 2010, an election in Missouri that ended in a one-vote margin of victory included 50 votes cast illegally by citizens of Somalia. In 1996, a congressional race in California was almost overturned by hundreds of votes illegally cast by noncitizens. Additionally, in 1984, a grand jury in Brooklyn revealed a widespread, 14-year conspiracy that cast thousands of fraudulent votes through impersonation fraud in state and congressional elections.<sup>16</sup>

**Voter Disenfranchisement/Suppression:** Voter ID laws do not suppress voters or decrease voter turnout. Researchers for the National Bureau of Economic Research found that voter ID laws have no negative effect on registration or turnout, overall or for any group defined by race, gender, age, or party affiliation.<sup>17</sup> Out of the millions of registered voters the researchers studied over eight years, no statistically observable change in voting behavior could be attributed to voter ID laws.<sup>18</sup> Further, Hispanic voter turnout has actually increased in states with voter ID requirements, as opposed to states without them.<sup>19</sup> Even under the extreme assumption that all voters without IDs were either fraudulent or would be disenfranchised by a strict voter ID law, the enactment of such a law would have only a very small effect on turnout.<sup>20</sup>

<sup>13</sup> See *supra* note 8.

<sup>14</sup> Hans A. von Spakovsky, *New Study Confirms Voter ID Laws Don't Hurt Election Turnout*, the Heritage Foundation (Feb. 27, 2019), available at: <https://www.heritage.org/election-integrity/commentary/new-study-confirms-voter-id-laws-dont-hurt-election-turnout>.

<sup>15</sup> *Crawford v. Marion County Election Bd.*, 553 U.S. 118, 197 (2008).

<sup>16</sup> See *supra* note 8.

<sup>17</sup> Enrico Cantoni and Vincent Pons, *Strict ID Laws Don't Stop Voters: Evidence from a U.S. Nationwide Panel, 2008-2018*, the National Bureau of Economic Research (Mar. 2020), available at: <https://www.nber.org/papers/w25522>.

<sup>18</sup> See *supra* note 14.

<sup>19</sup> *Id.*

<sup>20</sup> Mark Hoekstra and Vijetha Koppa, *Strict Voter Identification Laws, Turnout, and Election Outcomes*, the National Bureau of Economic Research (Aug. 2019), available at: <https://www.nber.org/papers/w26206>.