Voter ID: From Indiana to Iowa

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What do we mean when we say “Voter ID?”

• Generally, documentation presented in order to vote.
  • 34 states require some form of documentation;
  • 16* states (including California and New York) use signature verification, affidavits, or biographical information;

• However, in political debate and policy discussion, it typically refers to requiring strict Photo ID for voting.
Voter ID: Where we have been; Where we are going.

• Throughout the 1800s and early 1900s, political parties controlled most ballot access. Election reform began around this time. In 1950, South Carolina began requiring identification to vote.

• 1950-2005- variation across the states in required documentation for voting. States with photo ID typically consider it a secondary form of identification or one of several acceptable forms.*

• 2005- Movement towards strict photo Voter ID**; Indiana and Georgia adopt strict photo Voter ID.

• 2008- Indiana’s law upheld in Crawford v. Marion County Election Board***
Voter ID: Where we have been; Where we are going.

- 2013– *Shelby County v. Holder*; United States Supreme Court rules coverage formula in Section 4(b) of the Voting Rights Act unconstitutional, effectively removing Section 5 preclearance requirements.

- 2013–Present– Many states enact or reenact strict photo Voter ID laws that had not met preclearance requirements. Many are challenged in court.
What Matters to the Federal Courts?

• Race Matters
  • No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color . . . . (Section 2, Voting Rights Act*)
  • Is voting racially polarized in the state?
What Matters to the Federal Courts?

• Context Matters
  • “Upon receipt of the race data, the General Assembly enacted legislation that restricted voting and registration in five different ways, all of which disproportionately affected African Americans.” *North Carolina NAACP v. McCrory.*
  • Previous history with preclearance.
  • Other legislation passing during the same time period.**
  • Public information efforts.
  • Types of ID included v. excluded.
What Matters to the Federal Courts?

• How the Ballot is Counted Matters
  • Provisional—counted after verifying legitimacy of voter?
  • Provisional—strict compliance with ID requirements?
  • Regular Ballot?
2017

- **Arkansas** (state motto: “Regnat populus (The People Rule)"
  
  - HB 1047-amended strict photo Voter ID to add signature verification to provisional ballot.

- **North Dakota** (state mottos: “Liberty and Union Now and Forever, One and Inseparable” “Serit ut alteri saeclo prosit (One sows for the benefit of another age)"
  
  - HB 1369-amended strict photo Voter ID to add tribal IDs and alternative IDs for certain special circumstances. Still considered strict.
Texas (state motto: “Friendship”)

- Has tried to pass photo Voter ID since 2005.
- SB 14 (strict photo Voter ID) passed in 2011, took effect in 2013 following Shelby Cty decision.
- *Veasey v. Abbott* (formerly Rick Perry et al.)
- SB 5 passed in 2017 creating a Declaration of Reasonable Impediment
- Currently in litigation
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• **West Virginia** (state motto: “Montani semper liberi (Mountaineers are always free)"
  - HB 4013 combined automatic voter registration with a voter ID requirement that provides an opportunity for voters without ID to sign an affidavit and cast a provisional ballot. If the affidavit signature matches the signature on file, the ballot is counted.

• **Iowa** (state motto: “Our liberties we prize and our rights we will maintain"
  - HB 516 provides for education campaign; phases in through 2018; automatically sends free Voter ID card to every registered voter who does not already have a driver’s license or ID card issued by the state; beginning in 2018, all new applicants will receive free voter ID cards.
Takeaways for Future Legislation

- *Shelby County* is not a “Get out of Jail Free” card.
  - as of April 2016, Texas had already spent at least $3.5 million on litigation
  - groups are actively attempting through litigation to “bail in” jurisdictions to preclearance under Section 3(c) of the Voting Rights Act (52 U.S.C. § 10302(c))

- Consider the history and political environment of your state.
  - Did it used to be covered under Section 5?
  - How will requirement X look?

- Consider the costs. Remember the Pinto.
  - Voter education; Poll worker training; Paying for IDs; Paying for litigation
Recommended Reading

• If interested in the Texas Voter ID story:
  • Texas Voter ID Law Led to Fears and Failures in 2016 Election by Jessica Huseman

• What I’m reading now: