



## **Voter Suppression Targets Women, Students and People of Color (Issue Advisory, Part Two)**

**September, 2014**

*Following up on Part One [ <http://now.org/resource/voter-suppression-targets-women-youth-and-communities-of-color-issue-advisory-part-one/> ] we continue with additional information about what's happening around the country that would depress voter turnout for the upcoming mid-term election. Of particular concern are tactics that would hinder electing feminist candidates for public office. We provide information on voting requirements in specific states and resources for activists who plan to help build the turnout of the Rising American Electorate – single women, persons of color and youth – for the November 4 general election.*

### **Voting Machines Threaten Accurate Election Counts**

Questions about the security of voting machines remain a concern. Researchers have found that electronic voting machines are susceptible to tampering. Princeton University researchers found in 2008 that it would only take seven minutes to install a different program in a voting machine. Even more disturbing is that election officials have no way to verify if votes are counted correctly because there is no paper trail. Despite these glaring security flaws, many states have taken no steps to establish a paper trail or adopted other security measures.

In addition to the insecurity of voting machines, the political leanings of their manufacturers raise questions. Most voting machines are produced by only two companies, Election Systems and Software and Dominion Voting Systems (formerly Diebold). Both of these companies contribute heavily to the Republican Party. Combined with the relative ease of tampering with these machines, and the deeply partisan nature of their producers, voters should be uneasy and state election division directors should be cautious.

Electronic voting machines should be required to produce a paper receipt, that way voters can check that the machine logged their vote correctly and election officials can recount with paper ballots in the event that a machine is questioned.

States that use electronic voting machines without a voter-verified paper ballot trail include: **Arkansas, Delaware, Georgia, Louisiana, Maryland, Mississippi, New Jersey, and South Carolina**. States that use a mix of electronic voting machines without a paper trail and paper balloting include: **Colorado, Florida, Indiana, Kansas, Kentucky, Pennsylvania, Tennessee, Texas, and Virginia**. All other states have at least a paper trail to follow, if not actual paper ballots.

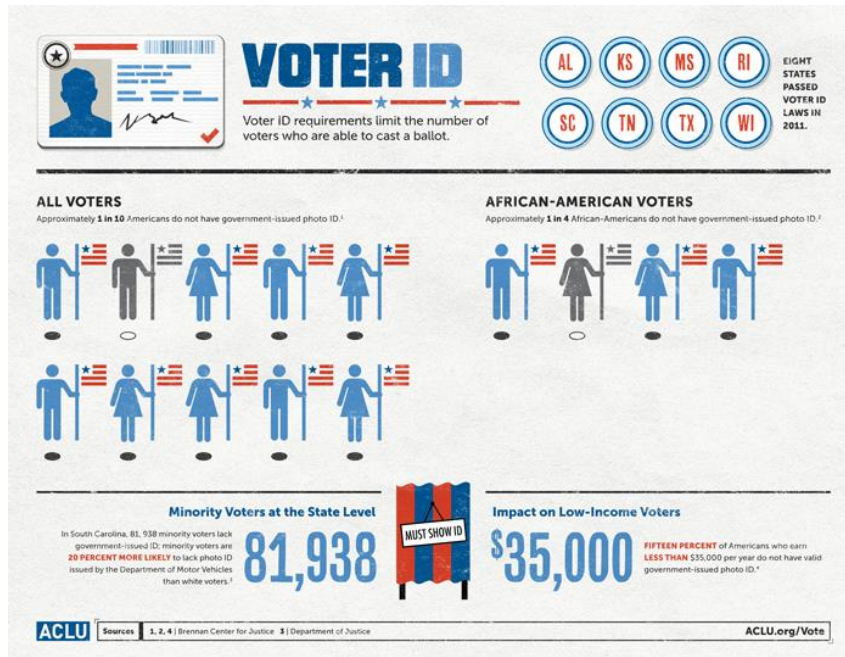
### **A Different Type of Disenfranchisement**

Voter ID laws and voter roll purges are not the only causes of disenfranchisement. According to the Brennan Center, over five million citizens or one in forty adults are currently disenfranchised because of felony convictions. Eleven states continue to prohibit a felon from voting even after they have finished their sentences and are no longer on parole. Felony disenfranchisement disproportionately affects minorities and the poor: one of every 13 Black citizens is ineligible to vote because of felony disenfranchisement. With one million prisoners being released each year, the number of persons affected by this restriction and the impact on voter eligibility is significant.

Four states permanently disenfranchise felons: **Florida, Iowa, Kentucky and Virginia**. A decree by the governor or a clemency board is required to restore a person's voting rights and waiting periods of two to seven years are required. **Alabama, Arizona, Delaware, Mississippi, Nevada, Tennessee and Wyoming** allow some with felony convictions to vote after they released from probationary supervision. In states like Florida, Kentucky and Virginia, as many as one in five Black adults have been stripped of voting rights.

Felon disenfranchisement damages the ability of former prisoners to reintegrate into their communities and to embrace their roles as citizens and community members. Allowing citizens who have served their sentences to vote would help to ameliorate the underrepresentation of Blacks and Latinos at the polling booths.

In February, at a criminal justice conference, Attorney General Eric Holder said, "That it is time to fundamentally rethink laws that permanently disenfranchise people who are no longer under federal or state supervision. These restrictions are not only unnecessary and unjust, they are also counterproductive."



## Republicans Use Gerrymandering to Create Supermajorities

Gerrymandering, the process of drawing district lines to advance a political purpose has been a common practice in the U.S. since before the First Continental Congress. The U.S. Constitution requires that every ten years following the national decennial census that Congressional District boundary lines be re-drawn by the individual states in apportioning the number of seats (out of a total of 435) in the U.S. House that approximately corresponds to its share of the aggregate population of the 50 states. The share of seats in the House also determines the size of the state's number of votes in the Electoral College, that is, the number of House seats, plus two Senate seats, produces the number of electors who then cast their vote for president.

While both parties practice gerrymandering, the Republican Party, after the 2010 Census, has succeeded in guaranteeing themselves a majority in the U.S. House for the foreseeable future – most likely through the next decennial census in 2020. This is what helped them attain the 233 seats they maintain in the 113<sup>th</sup> Congress. By creating safe seats for themselves in a preponderance of the Congressional districts, the Republican Party essentially controls who runs for office and who is re-elected. Their party's new districts are drawn in a way that makes diversity in politics highly unlikely, if not impossible. For example, only about one tenth of Republican Congress members have districts with a Latino population of over 25 percent.

In addition to drawing Congressional District lines, Republicans have managed to create super-majorities for themselves in state legislatures as well – 26 state legislatures where they control both bodies -- and they have 29 governorships. It is this control of state political power that has

enabled them to get the upper hand in the Congressional re-districting race and puts them in the drivers' seat when it comes to promoting their legislative agendas.

States where legislatures are under solid Republican control are: **Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Michigan, Mississippi, Missouri, Montana, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Virginia, Wisconsin and Wyoming.**

These states are the ones that are pushing through numerous anti-reproductive rights laws and refusing to sign up for Medicaid coverage for low-income families under the Affordable Care Act (ACA), among other regressive measures. Gerrymandering has been a principal cause of the takeover of state legislature's by far right, anti-choice legislators. By effectively ensuring that more moderate candidates are unable to win, these gerrymandered districts have created a political environment that is hostile to women's health and choices and opposed to progressive legislation, like the ACA but instead focused on reducing taxes for the wealthy, undermining labor laws, opposing minimum wage increases, etc.

There is a growing movement to de-politicize redistricting. In 2010, **California** created a non-partisan commission to draw district lines. It resulted in some of the most competitive races that California has seen in a long time. Several other states have enacted or proposed similar plans. Independent redistricting committees also exist in **Alaska, Arizona, Hawaii, Idaho, Missouri, Montana, New Jersey, and Washington.** Currently, independent commissions exist in only nine states, but some experts believe that putting the responsibility of redistricting into the hands of an independent committee in every state would go a long way toward reducing the partisan acrimony that has become the status quo.

However, it is difficult for either political party and politically-active groups like NOW to argue against gerrymandering when it happens to benefit their favored candidates.

### **“Gender”-mandering Targets Potential Female Candidates**

Gerrymandering can, and has been used to reduce minority representation across the nation. Recently scholars have noted that district lines are drawn in a way that disfavors female candidates. In fact, redistricting in **Texas** almost forced Democratic State Senator Wendy Davis out of her seat – in a move that looked very much like gender-mandering. If Davis had not sued under the Voting Rights Act she would never have been able to filibuster the draconian anti-choice legislation pushed by Gov. Rick Perry (R) and Republicans in the legislature.

Barbara Palmer, political science associate professor at Baldwin Wallace College, says that districts where women are likely to win in look much different than a district that a man is likely to win. “Specifically, we note that women are more likely to win in “women-friendly” districts,

thus by drawing district lines which ignore gender considerations, female candidates may have a more difficult time winning their elections,” Palmer writes in a description of her 2012 book with Dennis Simon, *Women and Congressional Elections: A Century of Change*. In 2005, Palmer and Simon undertook a study to determine the most “woman-friendly” districts in the United States. Factors used to determine this ranking include pay equity, school-age population, and reproductive health services among others. The most striking result of this study was that though some men were still elected in these districts, every elected person was a Democrat. From Nancy Pelosi in California’s 8<sup>th</sup> District, to Jim Moran in Virginia’s 8<sup>th</sup>, each of these areas understand the value of strong policies advocating for women.

**Summary of State’s Voter Identification Requirements**

The National Conference of State Legislatures (<http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx> ) categorizes states’ requirements for voters as follows:

**Strict Photo ID** – AR, GA, IN, KS, MS, TN, TX, VA and WI

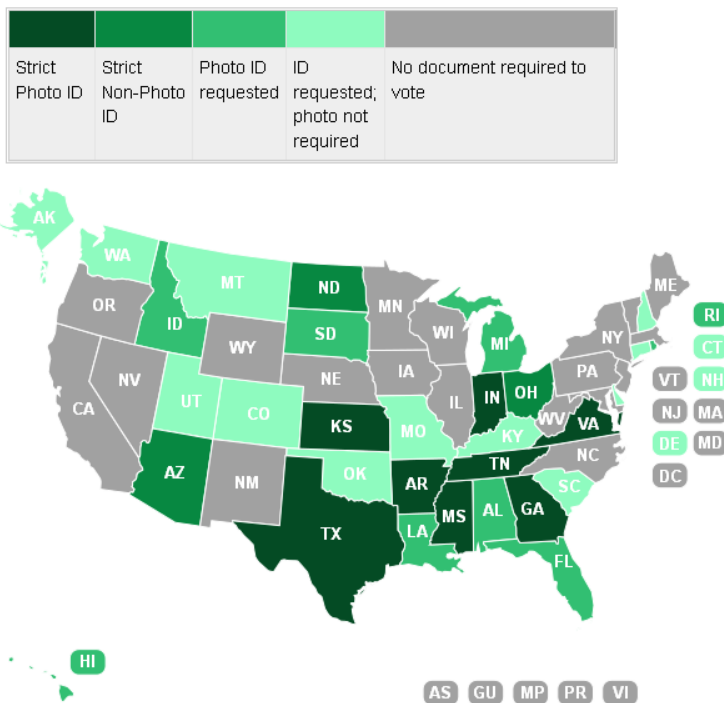
**Strict Non-Photo ID** – AZ, ND, OH and RI

**Photo ID Requested** – AL, FL, HI, ID, LA, MI and SD

**ID Requested, Photo Not Required** – AK, CO, DN, DE, KY, MO, MT, NH, OK, SC, UT and WA

**No Document Required to Vote** – CA, DC, IL, IA, MD, MA, ME, MN, NE, NV, NJ, NM, NY, NC, OR, PA, VT, WV and WY

**Voter Identification Laws in Effect in 2014**



## NCSL's Quick Guide to Voter Suppression Activities

Fifteen states have announced or passed voter suppression legislation since January 1, 2013, making it harder for targeted populations to exercise their right to vote. If you vote in one of the following states, your rights may be compromised when entering the voting booth<sup>i</sup>:

- **Alabama**: HB 91 requires those who handle voter registration to submit these materials to an elections authority within 72 hours, an unnecessarily stringent time limit on voter registration drives. Those who handle these materials would face a Class C Misdemeanor and would be barred from community organizing efforts for one year if they did not meet this limited deadline. This bill was introduced but indefinitely postponed in the Alabama House of Representatives in April 2014.
- **Arkansas**: The Arkansas Voter ID Law requires absentee voters to provide copies of ID or other documents proving the voter's registered address, much like in-person voters at the polls. This is another burden placed upon absentee voters. The law was passed in 2013 and went into effect in 2014.
- **Florida**: After the 2013 Supreme Court ruling in *Shelby County v. Holder*, which invalidated the major premises of the Voting Rights Act and maintained that discriminatory practices could be used to suppress voters, Florida resumed plans to attempt to purge the voter rolls of suspected noncitizens.
- **Georgia**: HR 891, passed in the Georgia Senate in March 2014, creates two different voting standards for Georgian voters. Early voting periods in all municipal elections would be reduced from 21 days to six days, unduly burdening those voting for municipal-level officials. State, county and federal elections would all continue to have a 21 day early voting period.
- **Iowa**: Gov. Terry Branstad (R) issued Executive Order 70 in 2013, which severely restricted the reinstatement of voting rights of those with past felony convictions. Additionally, the Iowa ACLU and Iowa League of United Latin American Citizens began their fight in March 2013 to fight Iowa's efforts to purge voting rolls and restrict qualified voters from participating in elections.
- **Kansas**: In 2013, Kansas implemented a dual registration to burden voters by additional proof of citizenship. People who use the federal form to vote in state and local elections—while legally meeting federal voting standards—are required to show additional identification when voting in these lower level elections. Due to the discrepancy in registration form, thousands of Kansas are unsure of their voter registration status and may not be permitted to vote in state or local elections.
- **Missouri**: In May 2014, the Missouri State Senate introduced a constitutional amendment (HJR 47) that would require a restrictive photo ID for voters, which could prevent those who do not hold appropriate photo identification at the polls from voting.

Additionally, HR 90, last delivered to the Secretary of State on May 30<sup>th</sup>, 2014, restricts the early voting period before a general election to only six days.

- **Mississippi:** Much like in Florida, *Shelby County v. Holder* had implications for Mississippi's voter suppression. Secretary of State Delbert Hosemann said Mississippi would implement a new, restrictive voter ID law, which came into effect in June 2014 and requires voters to show one of 10 types of approved photo identification at the polls.
- **Montana:** A measure to repeal election-day registration will be on Montana's November 4 ballot, called L.R. 126.
- **North Carolina:** In 2013, Gov. Pat McCrory (R) signed a voter suppression law into effect that imposes multiple restrictions on voters. The bill eliminates a week of early voting, ends same-day voter registration, prohibits out-of-precinct voting and requires photo ID for voters. The North Carolina ACLU is attempting to block this law before the 2014 elections.
- **Ohio:** Gov. John Kasich (R) signed several bills into law to rewrite voting rules in the state. These pieces of legislation eliminate early voting and voter registration opportunities and increase identification standards.
- **Texas:** SB 14, a voter ID law, passed the Texas Legislature in 2011, though the U.S. Department of Justice prevented this legislation from taking hold. After *Shelby County v. Holder*, SB 14 came into effect, requiring voters to present an approved form of photo ID to vote in all Texas elections. In August 2013, the U.S. Department of Justice filed a lawsuit against Texas on the basis of SB 14's discrimination against minority voters.
- **Virginia:** In 2013, Gov. Bob McDonnell (R) signed SB 1256, which requires photo ID at the polls for all voters. SB 1256 went into effect in 2014, in time to negatively impact the 2014 elections.
- **Wisconsin:** Gov. Scott Walker (R) signed a measure into law in March 2014 that greatly restricts the opportunities for Wisconsin voters to access the polls. This bill eliminates absentee voting on weekends ahead of elections; voting is now only permitted on weekdays from 8 AM to 7 PM at clerks' offices. A recent court ruling allows WI to implement its new strict photo ID requirement (the map above does not reflect the court ruling).

### **Efforts to Undo the Damage**

In order to address problems generated by the Supreme Court's striking down of key provisions of the Voting Rights Act, Congress has introduced bipartisan legislation to strengthen the act. The Voting Rights Amendment Act of 2014 (H.R. 3899) would strengthen the VRA by rewriting Section Four and thereby reinstate the enforcement provisions in Section Five. Section Four includes the formula that decided which states were subject to preclearance. Most recently, on

March 30<sup>th</sup>, this bill was referred to the House Subcommittee on the Constitution and Civil Justice. Rewriting Section Four would keep states like **North Carolina** from introducing even more severe voting restrictions. A companion measure has also been introduced in the Senate, S. 1945. Both bills are still in committee and with Republicans in control of the House, it's not likely that H.R. 3899 will get out of committee in the 113<sup>th</sup> Congress.

However, lawsuits in seven states have been filed, including three states (**North Carolina, Texas, and Arizona**) formerly covered under the VRA's Section 5, where voting restrictions have recently been enacted. Federal courts are hearing these cases and there is a possibility that the U.S. Supreme Court revisiting the Voting Rights Act.

In addition, nine states have introduced legislation to relax existing ID laws. These states are: **Arizona, Kansas, New Hampshire, Ohio, South Carolina, Tennessee, Virginia, and Wisconsin.**

### **Why We Need a Constitutional Right to Vote**

Currently the U.S. Constitution does not contain a universal guarantee of a right to vote; the 15<sup>th</sup> Amendment prohibits denial of a citizen's right to vote on the basis of race, color or former condition of servitude while the 19<sup>th</sup> Amendment recognizes women's right to vote by prohibiting denial based on sex. The 26<sup>th</sup> Amendment prohibits denial based on age of citizens 18 years of age and older. But it is not unconstitutional to deny citizens right to vote for other reasons. This fact was brought to the nation's attention when in *Bush v. Gore* the Supreme Court ruled that the Constitution did not explicitly guarantee a right to vote in a presidential election.

A constitutional amendment to guarantee the individual right to vote would provide protections against efforts to disenfranchise voters like the ones we have seen in recent years. H.J. Res. 44 proposes such an amendment. H.J. Res. 44 was introduced by Rep. Mark Pocan (D-WI) and has been assigned to the House Subcommittee on the Constitution and Civil Justice.

### **States with Good Voting Polices to Emulate**

**California**, though it is the most populous state in the nation, has fairly short wait times at the polls. It accomplishes this feat by reducing the number of voters per precinct. California also allows voters to register online, allows students to pre-register before they turn 18, and allows any voter to vote-by-mail without excuse. At least seven other states have passed laws allowing citizens to register online. These states include **Massachusetts, Minnesota, Nebraska, Oregon, Utah, Virginia and West Virginia.**



States that have passed laws allowing same-day registration include: **Colorado, Hawaii, and Maryland**. States that have passed laws creating pilot programs to experiment with this include **Illinois and Utah**.

States that have introduced legislation to restore voting rights to felons include: **Arizona, Iowa, Kentucky, New Jersey, New York, Tennessee, and Virginia**.

### **What Can Individuals and Organizations Do to Combat Voter Suppression?**

With voter suppression efforts running rampant across the United States, many activists are wondering what they can do to fight back. Luckily, there are a variety of resources which can help.

The simplest thing one can do is to contact their **Secretary of State's office or Division of Elections** for voting information and resources. In some states, it is the Lt. Governor's office that oversees elections. Certain organizations will try to disseminate misinformation with hopes of discouraging voters from showing up to the polls, but the Secretary of State or Division of Elections will have the most up-to-date information.

Another thorough and current source is the **American Civil Liberties Union (ACLU)**. By visiting their "Voting Rights" page at <https://www.aclu.org/fighting-voter-suppression>, one can find state-by-state information on voter ID laws and day of voting resources. The ACLU's efforts focus on making sure all eligible voters have the chance to vote and that the process is fair and accessible.

**FairVote** works for Systemic electoral reform in order to achieve a representative democracy with full participation from all citizens. FairVote supplies advocates with strategies and research for reform. Their "Take Action" page, provides a list of problems with descriptions and a way to take action on each issue. Examples: too much money in politics, voter turnout, and polarization in Congress.

**Project Vote** is a national, nonpartisan, nonprofit organization that focuses on educating and empowering under-represented voters such as low-income individuals, minorities, youth and other marginalized groups. The organization works primarily through research, legal services and advocacy. By visiting their mission page at <http://projectvote.org/our-mission.html> one can learn more about their work.

The **Brennan Center for Justice** is a nonpartisan law and policy institute at New York University School of Law working to promote equal justice and democracy in both public institutions and laws. The Brennan Center focuses on voting rights, campaign finance reform, and racial justice in criminal law, among other issues. There is a full list of the Center's issues at

<http://www.brennancenter.org/issues>, with information on research and advocacy efforts on each issue.

By organizing in one's own community and advocating for those who cannot advocate for themselves, we encourage all individuals and organizations to join the fight against voter suppression and defend our democratic process.

### **Additional Resources**

**Early Voting: What Works**, by Diana Kasdan, Brennan Center for Justice at New York University School of Law (2013) [http://www.brennancenter.org/sites/default/files/publications/VotingReport\\_Web.pdf](http://www.brennancenter.org/sites/default/files/publications/VotingReport_Web.pdf)

**Voting Rights & Elections**, Brennan Center for Justice at New York University School of Law  
<http://www.brennancenter.org/issues/voting-rights-elections>

**Right to Vote Amendment, FairVote**  
<http://www.fairvote.org/reforms/right-to-vote-amendment/>

**Women's Representation, FairVote**  
<http://www.fairvote.org/research-and-analysis/womens-representation/>

**The Rising American Electorate: Their Growing Numbers and Political Potential**  
[http://www.lakeresearch.com/news/RAE/SHORT\\_RAE.pdf](http://www.lakeresearch.com/news/RAE/SHORT_RAE.pdf)

**Get Ready to Vote, American Civil Liberties Union (ACLU)**  
<https://www.aclu.org/know-your-voting-rights-state-state-voter-information>

**Voting Laws Roundup 2014**, Brennan Center at New York University School of Law (June 16, 2014)  
<http://www.brennancenter.org/analysis/voting-laws-roundup-2014#ftnref11>

**Voter Identification Requirements**, Wendy Underhill, National Conference of State Legislatures (NCSL) (Sept. 12, 2014)  
<http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>

**Voter ID Laws and Questions about Voter Identification**, NCSL, Feb. 28. 2014  
<http://www.ncsl.org/research/elections-and-campaigns/voter-id-faqs.aspx>

**Costs of Voter Identification**, Karen Shanton and Wendy Underhill, NCSL (June, 2014)  
[http://www.ncsl.org/documents/legismgt/elect/Voter\\_ID\\_Costs\\_June2014.pdf](http://www.ncsl.org/documents/legismgt/elect/Voter_ID_Costs_June2014.pdf)

**The Rising American Electorate**, The Voter Participation Center  
<http://www.voterparticipation.org/the-rising-american-electorate/>

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<sup>i</sup> <https://www.aclu.org/maps/battle-protect-ballot-voter-suppression-measures-passed-2013>