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College Students and State Voter ID Laws: Can I Vote in the State Where I Attend College? I Have a Student ID Card

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College Students and State Voter ID Laws: Can I Vote in the State Where I Attend College? I Have a Student ID Card

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I. INTRODUCTION

When students leave home to attend college, some students want to vote in the state where they attend college. Therefore, college students must understand “the logistics of voting in elections,” but “the process can . . . be relatively simple if [they] know what to do.”¹ It is well known that “[c]ollege students are a critical—and very large—voting constituency who are often at the forefront of political activism.”² In fact, “[i]t’s not an accident presidential debates are historically held on college campuses!”³ However, college students must be knowledgeable about state voter identification (“ID”) laws. Voter ID laws require voters to show some form of identification to vote at the polls. Before and after the monumental United States Supreme Court decision in *Crawford v. Marion County Election Board*,⁴ many state legislatures considered voter ID laws in their respective states.⁵ Some states passed legislation that made it easy for college students to vote in the state where they attend college, whereas other state voter ID laws made

1. Kelci Lynn Lucier, *Voting as a College Student: Being in School Doesn’t Have to Mean Not Being Involved*, ABOUT.COM, <http://collegelife.about.com/od/cocurricularlife/a/studentvoting.htm> (last visited Dec. 13, 2014).

2. *Id.*

3. *Id.*

4. 553 U.S. 181 (2008).

5. See *Voter ID: State Requirements*, NAT’L CONF. ST. LEGISLATURES (Oct. 24, 2012), <http://web.archive.org/web/20121017013228/http://www.ncsl.org/legislatures-elections/elections/voter-Id.aspx> [hereinafter *NCSL State Requirements: Oct. 24, 2012*] (displaying legislative action taken between 2003 and 2012 by various states on voter ID laws, including information on states that passed new voter ID laws or tightened existing voter ID laws to require a photo ID between 2003 and 2012) (accessed by searching for the 2012 URL in the Internet Archive index); see also Matthew McGuane, Note, *Crawford v. Marion County Election Board: The Disenfranchised Must Wait*, 64 U. MIAMI L. REV. 713, 713 (2010) (“Since the controversial presidential election in 2000, states have enacted more restrictive election laws resulting in an increased number of lawsuits alleging disenfranchisement. Indiana enacted one of the most restrictive voter-identification laws in the country” (footnotes omitted)). Prior to the *Crawford* decision, the Supreme Court’s key decision in *Bush v. Gore* led to various changes to election laws. See generally 531 U.S. 98 (2000).

it harder or impossible for college students to use their college IDs to vote.⁶

As of the November 6, 2012 Presidential Election, various state voter ID laws were inequitable as they applied to college students. Whereas some states allowed college student IDs as acceptable forms of identification for voting, other states did not.⁷ In fact, Tennessee's voter ID law specifically excluded such IDs for voting purposes.⁸ In certain other states, students could use their college IDs to vote if the IDs were issued by public higher education institutions; however, students could not use their college IDs to vote if they attended private higher education institutions in the same state.⁹

This article provides a comprehensive analysis of state voter ID laws across the country as of the November 2012 Presidential Election, with an emphasis on those states that allowed college student IDs to be used for voting purposes and those states that did not. It discusses a college student's right to vote and examines states with college student friendly voter ID laws wherein students were allowed to use their college IDs to exercise their constitutional right to vote in the November 2012 Election. Part II provides the constitutional framework and U.S. Supreme Court precedent regarding college students' voting rights. Part III provides a brief synopsis about voter ID laws in general and examines the states that did and did not allow students to use their college IDs to vote at the polls during the November 2012 Election and categorizes

6. *The Battle to Protect the Ballot: Voter Suppression Measures Passed Since 2011*, AM. CIV. LIBERTIES UNION, <http://web.archive.org/web/20130910135438/http://www.aclu.org/maps/battle-protect-ballot-voter-suppression-measures-passed-2011> (last visited Dec. 13, 2014) (stating "voter suppression measures" make it extremely difficult for certain groups, including students, to vote) (accessed by searching for the 2013 URL in the Internet Archive index).

7. See *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. In addition, for each state listed by the NCSL, the day before the November 6, 2012 Presidential Election, the author analyzed each state's voter ID statute and Secretary of State website to obtain each state's current voter ID requirements immediately prior to Election Day.

8. TENN. CODE ANN. § 2-7-112(c)(2)(B) (2012); *Voter Identification Requirements*, TENN. DEP'T ST., <http://www.tn.gov/sos/election/photoID.htm> (last visited Dec. 13, 2014).

9. See, e.g., *infra* notes 32–34.

each state as either a “college student friendly state” or a “college student unfriendly state.” Part IV discusses the pros and cons of state photo voter ID laws, as well as the major arguments articulated by both supporters and opponents of permitting college student IDs to be used as acceptable forms of identification for voting at the polls. In addition, Part IV also states the major arguments made for and against allowing students to vote in their college towns. Part V discusses the inequities and the questionable constitutionality of certain state voter ID laws, including the major barriers to using college student IDs, and finds that certain state voter ID laws should be declared unconstitutional to the extent they create unnecessary burdens for college students and suppress their equal rights to vote at the polls on Election Day. Part V also includes an update regarding major litigation and changes affecting voter ID laws after a landmark U.S. Supreme Court decision in 2013. Part VI concludes that states with voter ID laws should ensure that college students have easy access to the voting booths on Election Day. It also concludes that certain states should enact less restrictive requirements to their current voter ID laws to allow all college students, whether they are attending public or private higher education institutions, to use their student IDs to vote at the polls in the state where they attend college, as opposed to being forced to absentee vote or travel back to their home state to participate in the electoral process.

II. CONSTITUTIONAL FRAMEWORK AND KEY U.S. SUPREME COURT DECISION REGARDING COLLEGE STUDENTS’ VOTING RIGHTS

Historically, the right to vote begins with the U.S. Constitution.¹⁰ The Twenty-Sixth Amendment of the U.S. Constitution is one of the constitutional amendments most applicable to a college student’s right to vote and explicitly states that “[t]he right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.”¹¹ Also, the Equal Protection Clause

10. Kelly E. Brilleaux, Note, *The Right, the Test, and the Vote: Evaluating the Reasoning Employed in Crawford v. Marion County Election Board*, 70 LA. L. REV. 1023, 1024 (2010).

11. U.S. CONST. amend. XXVI, § 1.

of the Fourteenth Amendment gives all citizens, including college students, the right to vote.¹² The Fourteenth Amendment states, in relevant part, that “[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . . nor deny to any person within its jurisdiction the equal protection of the laws.”¹³ Therefore, the Equal Protection Clause of the Fourteenth Amendment contributes to the protection of college students’ voting rights.

Moreover, the U.S. Supreme Court, in its 1979 *Symm v. United States* decision, affirmed the United States District Court for the Southern District of Texas’s holding that students have the constitutional right to register and vote where they attend college.¹⁴ In 1971, the U.S. Senate discussed college students’ voting rights and stated the following in reference to the Twenty-Sixth Amendment:

[F]orcing young voters to undertake special burdens obtaining absentee ballots, or traveling to one centralized location in each city, for example in order to exercise their right to vote might well serve to dissuade them from participating in the election. This result and the election procedures that create it, are at least inconsistent with the purpose of the Voting Rights Act, which sought to encourage greater

12. U.S. CONST. amend. XIV, § 1.

13. *Id.*

14. *Symm v. United States*, 439 U.S. 1105, 1105 (1979); *see also* Richard G. Niemi, Michael J. Hanmer, & Thomas H. Jackson, *Where Can College Students Vote? A Legal and Empirical Perspective*, 8 ELECTION L.J. 327, 332 (2009) (“[A] bedrock principle is that states *cannot* make it more difficult for students than for others to vote (or ask them questions that they would not ask others who are similarly situated).” (citing *Symm*, 439 U.S. at 1105)); *Student Voting*, FAIR ELECTIONS LEGAL NETWORK, <http://fairelections-network.com/resources/student-voting> (last visited Dec. 13, 2014) (“Students have the right to vote in the towns and cities where they attend college. The U.S. Supreme Court upheld this right in 1979.” (emphasis omitted)); *Student Voting Guide*, BRENNAN CENTER FOR JUST., <http://www.brennan-center.org/analysis/student-voting-guide> (last visited Dec. 13, 2014) (“As a student, you have a constitutional right to register and vote in the place you truly consider to be ‘home’—whether that’s your parents’ house, your apartment, or your dorm room.”).

political participation on the part of the young; such segregation might even amount to a denial of their 14th Amendment right to equal protection of the laws in the exercise of the franchise.¹⁵

In addition, the “Higher Education Reauthorization Act requires [college] campuses to make an effort to enable students to vote.”¹⁶ “However, students have confronted false information and hostile community members that have tried to prevent them from voting where they attend school.”¹⁷ Also, key U.S. Supreme Court decisions, such as *Crawford*, have upheld certain voting restrictions imposed by states, including strict photo ID requirements,¹⁸ which has had an impact on college students when they go to vote on Election Day.

III. STATUS OF STATE VOTER ID LAWS AND COLLEGE STUDENT IDS IN 2012

In general, voter ID laws fall within one of the following three categories: (1) strict photo ID; (2) photo ID; or (3) non-photo ID.¹⁹ Voters are required to show a photo ID to vote at the polls in

15. *United States v. Texas*, 445 F.Supp. 1245, 1254 (S.D. Tex. 1978) (quoting S. REP. NO. 92-26, at 14 (1971)), *aff'd sub nom., Symm*, 439 U.S. at 1105.

16. Allie Grasgreen, *You Got ID?*, INSIDE HIGHER ED (Sept. 24, 2012), <http://www.insidehighered.com/news/2012/09/24/colleges-help-students-deal-state-voter-id-laws>.

17. *Student Voting*, *supra* note 14. In response, “FELN has been active in supporting students [sic] right to vote by encouraging election officials and college administrators to work closely with students to ensure that students have equal access to voter registration and voting.” *Id.*

18. *See Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 202–03 (2008); ERWIN CHEMERINSKY, *CONSTITUTIONAL LAW* 1091 (3d ed. 2009); Brilleaux, *supra* note 10, at 1023.

19. *Voter ID: State Requirements*, NAT’L CONF. ST. LEGISLATURES (May 22, 2012), <http://web.archive.org/web/20120522065203/http://www.ncsl.org/legislatures-elections/elections/voter-Id.aspx> [hereinafter *NCSL State Requirements: May 22, 2012*] (accessed by searching for the 2012 URL in the Internet Archive index); *see also NCSL State Requirements: Oct. 24, 2012*, *supra* note 5 (categorizing voter ID laws into four types: (1) strict photo ID; (2) photo ID; (3) strict non-photo ID; and (4) non-strict, non-photo ID). The Help America Vote Act of 2002 (HAVA), mandates that states have photo or non-photo ID verifica-

“strict photo ID” states.²⁰ In “photo ID” states, voters are simply asked, but are not required, to show a photo ID in order to vote at the polls.²¹ In “non-photo ID” states, voters are required to show some form of acceptable ID to be allowed to vote at the polls.²² Several states allow voters who fail to meet the ID requirements to cast provisional ballots. While the specific requirements for a provisional ballot to count vary from state to state, generally these states allow a voter, who is unable to meet the voter ID requirements, to verify his or her identity shortly after Election Day in order to have the ballot counted.²³

Voter ID was an important issue throughout 2012, with legislation introduced in thirty-two (32) states.²⁴ As of October 2012,

tion requirements for any first time voter in a federal election who registered by mail. 42 U.S.C. § 15483(b) (2012). To vote in person at the polls on Election Day, HAVA only requires voters to provide local election officials with a current and valid photo ID or with a non-photo ID (e.g., a utility bill, a bank statement, or paycheck) that shows the voter’s name and address. *Id.* § 15483(b)(2)(A)(i). However, some states have imposed stricter requirements pursuant to their own state laws.

20. *NCSL State Requirements: May 22, 2012, supra* note 19. A voter who does not present a photo ID at the polls can be given a provisional ballot. *Id.* However, the provisional ballot is never counted unless the voter returns to election officials within a few days after the election presenting a photo ID that confirms their identity. *Id.* If the voter fails to return and present a photo ID, that voter’s provisional ballot is not counted. *Id.*

21. *Id.* A voter who is unable to present a photo ID has other options and is still allowed to cast a regular ballot at the polls if the voter satisfies other state requirements, which are specific to individual states. *Id.* Voters without a photo ID are not required to cast provisional ballots. *Id.* Therefore, such voters are not required to return to election officials within a few days after the election and present a photo ID confirming their identity in order for their ballots to be counted. *Id.*

22. *Id.* Non-photo ID states allow voters to use various forms of IDs without a photo to vote (e.g., a utility bill, bank statement, or paycheck). *Id.* However, some non-photo ID states require such ID to include the voter’s current name and address. *Id.*

23. *See, e.g., Purcell v. Gonzalez*, 549 U.S. 1, 2 (2006).

24. *NCSL State Requirements: Oct. 24, 2012, supra* note 5; *Voter ID: 2012 Legislation*, NAT’L CONF. ST. LEGISLATURES, <http://web.archive.org/web/20130608220547/http://www.ncsl.org/legislatures-elections/elections/voter-id-2012-legislation.aspx> (last updated Jan. 10, 2013) [hereinafter *NCSL 2012 Legislation*] (accessed by searching for the 2013 URL in the Internet Archive index).

thirty-three (33) states had enacted voter ID laws, but only thirty (30) of those states had voter ID laws in effect during the November 2012 Election.²⁵ Below is a synopsis of the thirty-three (33) states that had enacted either strict photo ID, photo ID, or non-photo ID laws as well as an analysis as to whether any of these thirty-three (33) states considered or permitted college IDs to be used for voting purposes at the polls during the November 2012 Election.

The National Conference of State Legislatures (“NCSL”) provided pertinent information as it applied to states that allowed and did not allow students to use their college IDs to vote during the November 2012 Election. “The [NCSL] is a bipartisan organization that serves the legislators and staffs of the nation’s 50 states, its commonwealths and territories,”²⁶ and is an important resource for tracking state voter ID laws. The NCSL regularly provides updates pertaining to state voter ID requirements.²⁷

A. Strict Photo ID States

The nine (9) states that enacted strict photo ID requirements were Georgia, Indiana, Kansas, Mississippi, Pennsylvania,

25. Tracey B. Carter, *Post-Crawford: Were Recent Changes to State Voter ID Laws Really Necessary to Prevent Voter Fraud and Protect the Electoral Process?*, 12 CONN. PUB. INT. L.J. 283, 310 (2013); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. The 33 states that had enacted voter ID laws were Georgia, Indiana, Kansas, Mississippi, Pennsylvania, South Carolina, Tennessee, Texas, and Wisconsin (strict photo ID); Alabama, Florida, Hawaii, Idaho, Louisiana, Michigan, New Hampshire, and South Dakota (photo ID); and Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Kentucky, Missouri, Montana, North Dakota, Ohio, Oklahoma, Rhode Island, Utah, Virginia, and Washington (non-photo ID). *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

26. *About Us*, NAT’L CONF. ST. LEGISLATURES, <http://web.archive.org/web/20121103192505/http://www.ncsl.org/about-us.aspx> (last visited Dec. 13, 2014) (accessed by searching for the 2012 URL in the Internet Archive index).

27. *See NCSL State Requirements: May 22, 2012*, *supra* note 19; *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. In addition, states have websites specifically related to voter ID requirements in their respective states, and these websites also provide information regarding the voter registration process in the state for all voters. The Brennan Center’s *Student Voting Guide*, *supra* note 14, is also a helpful resource, providing key voting information for college students related to registration, residency, and ID requirements in various states.

South Carolina, Tennessee, Texas, and Wisconsin.²⁸ Below is a summary regarding each of these states' laws and whether the state considered and/or permitted college IDs to be used for voting purposes during the November 2012 Election.

1. Georgia

Georgia law required "Georgia residents to show photo identification when voting in person."²⁹ Georgia residents could present one of the following six photo ID options at the polls on Election Day: (1) any valid state or federal issued photo ID; (2) a current or expired Georgia driver's license; (3) a valid employee photo ID from any branch, department, agency, or entity of the U.S. government, State of Georgia, or any county, municipality, board, authority or other entity of the State of Georgia; (4) a valid U.S. passport; (5) a valid U.S. military photo ID; or (6) a valid tribal photo ID.³⁰ If a voter did not have one of the above-listed acceptable forms of photo ID, Georgia offered a free Voter ID card.³¹

In addition, Georgia allowed students attending certain colleges, universities, and technical colleges to use their student photo ID for voting purposes in the November 2012 Election.³² However, any student not enrolled in one of the sixty-two (62) designated state colleges, universities, and technical colleges could not use their student ID to vote at the polls in Georgia.³³ Therefore, any

28. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. However, as of the November 6, 2012 Election, only the states of Georgia, Indiana, Kansas, and Tennessee had strict photo ID requirements in place. *Id.*

29. *Georgia Voter Identification Requirements*, GA. SECRETARY ST., http://sos.ga.gov/index.php/elections/georgia_voter_identification_requirements 2 (last visited Dec. 14, 2014); *see also* GA. CODE ANN. § 21-2-417 (2008).

30. GA. CODE ANN. § 21-2-417(a) (2008).

31. *Id.* § 21-2-417.1(a); *Georgia Voter Identification Requirements*, *supra* note 29.

32. *Acceptable Student ID: College, University, Technical College*, GA. SECRETARY ST., <http://sos.ga.gov/admin/files/acceptableID.pdf> (last visited Dec. 14, 2014) [hereinafter *Georgia Acceptable Student ID*] (listing 36 state colleges and universities and 26 state technical colleges in Georgia where students could use their student photo IDs to vote during the November 2012 Election).

33. *Student Voting Guide: Georgia*, BRENNAN CENTER FOR JUST. (Aug. 15, 2014), <http://www.brennancenter.org/analysis/student-voting-guide-georgia>.

student enrolled in a private college or university in Georgia had to present one of the other above listed forms of acceptable photo ID in order to be permitted to vote at the polls in Georgia during the November 2012 Election.³⁴

2. Indiana

Indiana law required its “residents to present a government-issued photo ID before casting a ballot at the polls on Election Day.”³⁵ In Indiana, an ID had to meet the following four criteria in order to be considered acceptable for voting purposes in that state: (1) the ID must show the voter’s photo; (2) the ID must show the voter’s name and the name must conform, but does not have to be identical, to the name on the voter’s voter registration record; (3) the ID must include an expiration date and must either be current or have expired sometime after the most recent General Election; and (4) the ID must have been issued by the U.S. government or the State of Indiana.³⁶ Therefore, “[i]n most cases, an Indiana driver license, Indiana photo ID card, Military ID or U.S. Passport is sufficient.”³⁷

Similar to Georgia, Indiana students attending state higher education institutions could use their student IDs for voting purposes as long as the student IDs “me[t] all of the 4 criteria specified above.”³⁸ However, a “student ID from a private institution [could] not be used for voting purposes” in Indiana.³⁹

34. *Id.* (“If you attend a public college or university in Georgia, you can use your student ID.” (citing *Georgia Acceptable Student ID*, *supra* note 32)). “Students who attend private colleges or universities cannot use their student ID and must provide one of the other acceptable forms of ID.” *Id.* at n.30 (citing *Georgia Acceptable Student ID*, *supra* note 32). The public versus private college/university distinction for college students using their student ID for voting purposes in Georgia was still applicable as of the author’s completion of this article.

35. *Photo ID Law*, IND. SECRETARY ST., <http://in.gov/sos/elections/2401.htm> (last visited Dec. 14, 2014) [hereinafter *Indiana Photo ID Law*]; *see also* IND. CODE ANN. § 3-5-2-40.5 (LexisNexis 2012).

36. IND. CODE ANN. § 3-5-2-40.5(a).

37. *Indiana Photo ID Law*, *supra* note 35.

38. *Id.*; *see also* *College Students*, IND. SECRETARY ST., <http://in.gov/sos/elections/2626.htm> (last visited Dec. 14, 2014).

39. *Indiana Photo ID Law*, *supra* note 35.

3. Kansas

Effective January 1, 2012, Kansas voters were required to present a photo ID when voting at the polls in person.⁴⁰ To be considered valid, a photo ID did not have to display an expiration date.⁴¹

In November 2012, registered voters in Kansas could bring a student college ID “issued by an accredited postsecondary institution of education in the state of Kansas” to the polls for voting as long as the ID showed the name of the voter, contained a photograph of the voter, and had not expired (unless the voter was age 65 or older).⁴² Therefore, in contrast to both Georgia and Indiana, during the November 6, 2012 Presidential Election, students were able to use student photo IDs provided by both public and private institutions of higher education in Kansas for voting purposes as long as the institution was accredited.⁴³

4. Mississippi

On November 8, 2011, Mississippi citizens approved a voter identification initiative and voted to amend the Mississippi Constitution to require voters to present a government-issued photo ID

40. See *Valid Forms of Photographic Identification*, STATE KAN. SECRETARY ST., <http://www.gotvoterid.com/valid-photo-ids.html> (last visited Dec. 14, 2014) [hereinafter *Kansas Valid Photo IDs*].

41. *Id.* However, any photo ID that displayed an expiration date could not have expired at the time of voting, unless the voter was 65 years old or older. *Id.*

42. *Id.*; see also KAN. STAT. ANN. § 25-2908 (2012). Additionally, Kansas voters could use: (1) a driver’s license issued by Kansas or another state or district of the United States; (2) a non-driver’s ID card issued by Kansas or by another state or district of the United States; (3) a concealed carry of handgun license issued by Kansas or a concealed carry of handgun or weapon license issued by another state or district of the United States; (4) a U.S. passport; (5) an employee ID issued by any municipal, county, state, or federal government office or agency; (6) a U.S. military ID; (7) a public assistance ID card issued by any municipal, county, state, or federal government office or agency; or (8) an Indian tribe ID. *Kansas Valid Photo IDs*, *supra* note 40.

43. See KAN. STAT. ANN. § 25-2908; *Kansas Valid Photo IDs*, *supra* note 40.

before being allowed to vote at the polls.⁴⁴ However, despite strict photo ID legislation being signed into law by Mississippi's Governor Phil Bryant in 2012, Mississippi's strict photo ID law was "NOT . . . in effect for the November 6, 2012, General Election."⁴⁵ Mississippi's new photo ID law required voters to provide a "current and valid photo identification" prior to being allowed to vote.⁴⁶ The statute cited some of the acceptable forms of photo ID, including a student photo ID card issued by any accredited university, college, community college, or junior college in the State of Mississippi.⁴⁷ Although Mississippi's strict photo ID law was not

44. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *see also Voter Identification Initiative*, MISS. SECRETARY ST., <http://web.archive.org/web/20121107122146/http://www.sos.ms.gov/Elections/Initiatives/Initiatives/27text.pdf> (last visited Nov. 5, 2012) (accessed by searching for the 2012 URL in the Internet Archive index).

45. *Voter ID*, MISS., SECRETARY ST., <http://web.archive.org/web/20121025162706/http://www.msvoterid.ms.gov/> (last visited Nov. 5, 2012) (accessed by searching for the 2012 URL in the Internet Archive index); *see also NCSL State Requirements: Oct. 24, 2012*, *supra* note 5 (stating that for the November 6, 2012 Election, Mississippi did not have a voter ID requirement, despite a strict photo ID requirement being signed into law in the state, because the new law required approval (i.e., preclearance) and was still pending federal preclearance from the U.S. Department of Justice under Section 5 of the Voting Rights Act on Election Day.). In 2012, the U.S. Department of Justice listed the following nine states with a history of racial discrimination in voting as subject to preclearance by the federal government under Section 5 prior to making any voting law changes: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia. *Section 5 Covered Jurisdictions*, U.S. DEP'T JUST., http://web.archive.org/web/20130127041403/http://www.justice.gov/crt/about/vot/sec_5/covered.php (last visited Feb. 22, 2013) (accessed by searching for the 2013 URL in the Internet Archive index). Certain counties and townships in seven other states (i.e., California, Florida, Michigan, New Hampshire, New York, North Carolina, and South Dakota) were also covered under Section 5. *Id.*

46. MISS. CODE ANN. § 23-15-563(1) (Supp. 2013).

47. *Id.* § 23-15-563(2)(h). Mississippi's new law also cited additional acceptable photo IDs, including, but not limited to: (1) a Mississippi driver's license; (2) a government-issued ID card by a branch, department, agency or entity of the State of Mississippi; (3) a U.S. passport; (4) an employee photo ID card issued by a branch, department, agency or entity of the U.S. government, the State of Mississippi, or any county, municipality, board, authority or other entity of the State of Mississippi; (5) a Mississippi license to carry a pistol or revolver; (6) a tribal photo ID; (7) a U.S. military ID card; and (8) an official

in effect during the November 6, 2012 Election, Mississippi's legislature and governor approved of a student photo ID card provided by both public and private institutions of higher education in the state as an acceptable form of ID for voting purposes as long as the institution was accredited, and the student's photo ID card was current.⁴⁸

5. Pennsylvania

Pennsylvania passed a new strict photo ID law that became effective on March 14, 2012.⁴⁹ The law required voters to present proof of identification prior to being allowed to vote at the polls on Election Day.⁵⁰ For the April 24, 2012 Primary Election, Pennsylvania voters were requested, but not required, to present a photo ID to vote at the polls.⁵¹ Voters could continue to vote without an ID, except for first-time voters who were required to present acceptable forms of ID.⁵²

For the November 6, 2012 Election, under Pennsylvania's new voter ID law, all Pennsylvania voters were to be required to present a photo ID prior to being allowed to vote at the polls.⁵³ To be valid, all photo IDs had to include an expiration date and be current, except for limited circumstances.⁵⁴ Pennsylvania allowed

Mississippi voter ID card displaying the voter's photo. *Id.* § 23-15-563(2)(a)-(i).

48. *Id.* § 23-15-563(2)(h).

49. 25 PA. CONS. STAT. ANN. § 3050 (West Supp. 2013); *see also* Sarah Smith, *Pa. Governor Signs Voter ID Bill into Law*, THE DAILY PENNSYLVANIAN (Mar. 14, 2012, 11:43 PM), http://www.thedp.com/article/2012/03/pa_governor_signs_voter_id_bill_into_law.

50. 25 PA. CONS. STAT. ANN. § 3050(a).

51. *What to Bring*, PA. DEP'T ST., http://web.archive.org/web/20120518222050/http://www.votespa.com/portal/server.pt/community/preparing_for_election_day/13517/what_to_bring/585320 (last visited May 30, 2012) (accessed by searching the 2012 URL in the Internet Archive index).

52. *Id.*

53. *Id.*; *see also* *New Voter ID Law*, PA. DEP'T ST., http://web.archive.org/web/20120529154542/http://www.votespa.com/portal/server.pt/community/preparing_for_election_day/13517/voter_id_law/1115447 (last visited May 30, 2012) [hereinafter *Pennsylvania New Voter ID Law*] (accessed by searching the 2012 URL in the Internet Archive index).

54. *Pennsylvania New Voter ID Law*, *supra* note 53. A Pennsylvania driver's license or a non-driver's license photo ID were considered valid for

the use of student photo ID cards issued by an accredited Pennsylvania public or private institution of higher learning.⁵⁵

However, shortly after the April 24, 2012 Primary Election and prior to the November 6, 2012 Election, several individuals and organizations filed a lawsuit challenging the constitutionality of Pennsylvania's new photo ID law.⁵⁶ On October 2, 2012, Pennsylvania state judge Robert Simpson "temporarily enjoined enforcement of the state's [new] voter ID law, citing the fact that too few IDs had been issued for voting purposes at the five-week mark prior to the election."⁵⁷ Judge Simpson further held that poll workers could ask voters for ID, but all voters were to be allowed to vote using a regular ballot "regardless of whether or not they ha[d] or present[ed] ID" at the November 6, 2012 Election.⁵⁸ Therefore, although the new strict photo ID law was not in effect, students attending both public and private institutions of higher education in the State of Pennsylvania were able to use their student ID cards as an acceptable form of ID for voting purposes during the November 6, 2012 Election.

voting purposes a year past the expiration date. *Id.* A military or veteran's ID had to include an expiration date or state that the expiration date was indefinite. *Id.*

55. *Id.* Pennsylvania also allowed the use of the following photo IDs: (1) a Pennsylvania driver's license; (2) a non-driver's license photo ID; (3) a valid U.S. passport; (4) a U.S. military ID for both active duty and retired military personnel; (5) an employee photo ID card issued by the U.S. government, Commonwealth of Pennsylvania, or any county or municipal government of the Commonwealth of Pennsylvania; and (6) photo ID cards issued by Pennsylvania care facilities. *Id.*

56. *See* Applewhite v. Commonwealth, No. 330 M.D. 2012, 2012 WL 4497211, at *1 (Pa. Commw. Ct. Oct. 2, 2012). The lawsuit, filed on May 1, 2012, alleged that the newly enacted Act 18 violated the fundamental right to vote guaranteed by the Pennsylvania Constitution. Subsequently, Pennsylvania's new photo ID law has been ruled unconstitutional. *See* Applewhite v. Commonwealth, No. 330 M.D. 2012, 2014 WL 184988, at *18, 24 (Pa. Commw. Ct. Jan. 17, 2014).

57. *NCSL State Requirements: Oct. 24, 2012, supra* note 5; *see also* Applewhite, 2012 WL 4497211, at *8.

58. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

6. South Carolina

In 2011, South Carolina changed its existing voter ID requirements by passing a strict photo ID law.⁵⁹ However, South Carolina's new strict photo ID law could not become effective until it was approved under Section 5 of the Voting Rights Act.⁶⁰ South Carolina requested preclearance for its new photo ID law from the U.S. Department of Justice, which was denied in December 2011.⁶¹ In February 2012, South Carolina filed a lawsuit and sought from a federal district court reconsideration of the U.S. Department of Justice's denial of preclearance of its strict photo ID law.⁶² In October 2012, "[a] federal district court in Washington, D.C. . . . granted pre-clearance for South Carolina's [strict new photo] voter ID law, but delayed implementation until 2013. The state's older, less strict [non-photo] ID law [was] in effect for the November 2012 election."⁶³ For the November 6, 2012 Election, South Carolina's non-photo voter ID law required voters to present one of the following forms of ID to vote at the polls on Election Day: (1) a voter registration card; (2) a South Carolina driver's license; or (3) a DMV-issued ID card.⁶⁴ Therefore, South Carolina

59. *Id.*; see also S.C. CODE ANN. § 7-13-710 (Supp. 2012).

60. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; Carter, *supra* note 25, at 292 (noting that Section 5 of the Voting Rights Act authorized the Department of Justice to either approve or deny voting law changes in certain states that had a history of racial discrimination in voting.); see also Emma Redden, Note, *Changing Focus and Exposing a Solution: Using Section 2 of the Voting Rights Act to Defeat Tennessee's Voter Photo ID Law*, 44 U. MEM. L. REV. 229, 245 n.92 (2013) ("Section 5 preclearance requires states with a history of racial discrimination in voting to get prior approval from the Department of Justice before introducing laws affecting voting rights."); *supra* note 45 (listing the states subject to Section 5 preclearance). However, the U.S. Supreme Court in the recent *Shelby County v. Holder* case, held that states previously covered under Section 5 of the Voting Rights Act are no longer required to seek federal approval prior to making voting law changes. 133 S. Ct. 2612, 2631 (2013).

61. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *South Carolina v. Holder*, BRENNAN CENTER FOR JUST. (Oct. 15, 2012), <http://www.brennancenter.org/legal-work/south-carolina-v-holder>.

62. See BRENNAN CENTER FOR JUST., *supra* note 61.

63. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

64. *Id.*; see also *South Carolina Voting Information Page*, S.C. ST. ELECTION COMMISSION, http://www.scvotes.org/south_carolina_voting_infor

did not accept student IDs issued by higher education institutions at the polls in November 2012. In fact, House Bill 3180 that would have allowed student photo IDs to be used for voting purposes in South Carolina failed.⁶⁵

7. Tennessee

In 2011, Tennessee enacted a strict photo ID law that went into effect on January 1, 2012.⁶⁶ Tennessee's new strict photo ID law mandated that all voters show a government-issued photo ID to vote at the polls.⁶⁷ Tennessee House Bill 1727 and Senate Bill 1381 would have allowed student photo IDs to be used for voting purposes, but these bills failed.⁶⁸ Therefore, despite Tennessee

mation_page (last visited Dec. 15, 2014). However, any voter who registered to vote by mail, who was voting for the first time, and who did not submit proof of identification with their application was not allowed to vote with only their voter registration card. Such voters were required to present additional identification, such as a driver's license, prior to being allowed to vote at the polls.

65. *NCSL 2012 Legislation*, *supra* note 24.

66. *See NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

67. TENN. CODE ANN. § 2-7-112(a) (2012); *see also* TENN. DEP'T ST., *supra* note 8; Spencer Overton, *Voter Identification*, 105 MICH. L. REV. 631, 678 (2007) (noting that prior to passage of Tennessee's new strict photo ID law in 2011, Tennesseans were permitted to present either a photo ID or non-photo ID to vote on Election Day at the polls). Tennessee voters were required to present one of the following forms of photo ID at the polls, even if the ID had expired: (1) a Tennessee driver's license with the voter's photo; (2) a valid photo ID card issued by a branch, department, agency or entity of the State of Tennessee, by any other state, or by the U.S. government; (3) a valid photo ID card issued by the Tennessee Department of Safety and Homeland Security; (4) a valid U.S. passport; (5) a valid employee photo ID card issued by a branch, department, agency or entity of the State of Tennessee, by any other state, or by the U.S. government (including employee IDs issued by state universities); (6) a valid U.S. military photo ID; or (7) an employee ID card for retired state employees. TENN. CODE ANN. § 2-7-112(c); *see also* TENN. DEP'T ST., *supra* note 8. A state-issued handgun carry permit card containing a voter's photo was also considered a valid form of photo ID for voting purposes in Tennessee. *Id.*

68. *NCSL 2012 Legislation*, *supra* note 24. In addition to Tennessee House Bill 1727 and Senate Bill 1381, NCSL also noted that other legislation to amend Tennessee's voter ID law related to college student IDs included House Bill 2242, House Bill 2730, Senate Bill 2379, and Senate Bill 2447. These bills would have allowed student photo IDs for voting purposes. However, all of these bills failed. *Id.*

having a strict photo ID law effective as of January 2012, it did not allow student photo ID cards issued by higher education institutions as acceptable forms of photo IDs for voting purposes at the polls during the November 2012 Election.⁶⁹ In fact, Tennessee's statute also made this fact very clear by explicitly stating that "[a]n identification card issued to a student by an institution of higher education containing a photograph of a student shall not be evidence of identification for [voting] purposes."⁷⁰

8. Texas

Like Tennessee, in 2011, Texas enacted a new strict photo ID law.⁷¹ This new voter ID law, known as the "Texas Voter ID bill," precluded students from using their student IDs to vote.⁷² Historically, college students were permitted to register on campus and show any photo ID in order to be allowed to vote.⁷³ Under the new law, student IDs were no longer considered as acceptable forms of identification.⁷⁴ In fact, "[a]n amendment was presented and rejected by legislators that would have added student IDs issued from state universities as valid forms of identification accepted to vote" under Texas's new strict photo ID law.⁷⁵

Section 5 of the Voting Rights Act required Texas to be precleared by the U.S. Department of Justice prior to implementing its new law, which the Department of Justice denied in March 2012.⁷⁶ Subsequently, Texas filed a lawsuit and sought from the

69. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

70. TENN. CODE ANN. § 2-7-112(c)(2)(B).

71. *NCSL State Requirements: Oct. 24, 2012, supra* note 5; *see also* TEX. ELEC. CODE ANN. § 63.0101 (West Supp. 2014) (noting that Texas's new strict photo ID law was to become effective on January 1, 2012).

72. Christina Sanders, *Proposed Texas Voter ID Law Would Suppress Student Voters*, ALTERNET (June 12, 2012), http://www.alternet.org/story/155811/proposed_texas_voter_id_law_would_suppress_student_voters.

73. *Id.*

74. *Id.*

75. *Id.*

76. *NCSL State Requirements: Oct. 24, 2012, supra* note 5; *see also* Julián Aguilar, *Feds Reject Texas Voter ID Law*, TEX. TRIB. (Mar. 12, 2012), <http://www.texastribune.org/texas-politics/voter-id/feds-reject-texas-voter-id-law/> ("The U.S. Department of Justice has rejected Texas' application for pre-

federal district court reconsideration of the U.S. Department of Justice's denial of preclearance of its strict photo ID law.⁷⁷ In August 2012, the "federal district court in Washington, D.C. . . . denied pre-clearance for Texas's [new strict photo] voter ID law."⁷⁸ Therefore, Texas's non-strict, non-photo ID law that existed prior to passage of the state's new strict photo ID law in 2011 remained in force during the November 2012 Election.⁷⁹

Under Texas's non-strict, non-photo ID law, when voting at the polls during the November 2012 Election, registered voters had to show their voter registration certificate or provide another form of acceptable ID, but the list of acceptable IDs did not specifically cite a student ID.⁸⁰ However, under its non-strict, non-photo ID law, Texas allowed student photo ID cards issued by higher education institutions as acceptable forms of photo IDs for voting at the polls during the November 2012 Election.⁸¹

clearance of its voter ID law, saying the state did not prove that the bill would not have a discriminatory effect on minority voters.").

77. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *Texas v. Holder*, BRENNAN CENTER FOR JUST. (Mar. 12, 2012), <http://www.brennancenter.org/legal-work/texas-v-holder>.

78. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *see also* *Texas v. Holder*, 888 F. Supp. 2d 113, 115 (D.D.C. 2012) (upholding denial of preclearance), *vacated by*, 133 S. Ct. 2886 (2013). The Supreme Court vacated *Texas v. Holder* due to the decision in *Shelby County v. Holder*, 133 S. Ct. 2612 (2013).

79. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

80. *See id.* (listing "any other form of ID prescribed by the secretary of state" as an acceptable form of ID in Texas under the state's existing law during the November 2012 Election). Acceptable proof of identification at the polls included the following: (1) a Texas driver's license or driver's license issued by an agency of another state, even if the license had expired; (2) a personal ID card issued by the Texas Department of Public Safety or by an agency of another state, even if the card had expired; (3) a photo ID that established the voter's identity; (4) a birth certificate or other document confirming the voter's birth that was admissible in a court of law and that established the voter's identity; (5) U.S. citizenship papers; (6) a U.S. passport; (7) official mail addressed to the voter by a governmental entity; and (8) a copy of a current utility bill, bank statement, government check, paycheck, or other government document displaying the voter's name and address. *Id.*

81. *See id.*; Sanders, *supra* note 72.

9. Wisconsin

In 2011, Wisconsin's legislature, for the first time, enacted a voter ID law.⁸² Before 2011, Wisconsin did not require any form of voter ID at the polls.⁸³ Wisconsin's new voter ID law mandated that voters show a photo ID in order to be allowed to vote at the polls, making it a "strict photo ID" state.⁸⁴ The new voter ID law went into effect on June 10, 2011 wherein Wisconsin required voters to sign the poll list and present a photo ID to vote at the polls.⁸⁵ Under the new law, voters were not actually required to show a photo ID to receive a ballot to vote until the February 2012 Primary Election.⁸⁶ However, effective February 2012, Wisconsin voters were required to present an acceptable photo ID at the polls with their name conforming to the poll list and that was either unexpired or expired after the most recent general election.⁸⁷ Students were allowed to present an unexpired student ID card issued by an accredited university or college in Wisconsin that contained an issue date, the student's signature, and "an expiration date [that indicated] that the card expire[d] no later than 2 years after the date of issuance if the individual establishe[d] that he or she [was] enrolled as a student at the university or college on the date that the card [was] presented" to vote.⁸⁸

In 2012, there were various bills introduced in Wisconsin's legislature to amend its new voter ID law passed in 2011, including bills specifically related to college student IDs being used for vot-

82. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

83. *See id.*

84. *Id.*; *see also* WIS. STAT. ANN. § 6.79(2)(a) (West 2013).

85. *Voter ID: Frequently Asked Questions*, ST. WIS.: GOV'T ACCOUNTABILITY BOARD, <http://gab.wi.gov/taxonomy/term/137> (last visited Dec. 15, 2014). The new voter ID law was referred to as "2011 Wisconsin Act 23." *Id.*

86. *Id.*

87. *See* WIS. STAT. ANN. §§ 5.02(6m), 6.79(2)(a) (West 2013); *see also NCSL State Requirements: Oct. 24, 2012, supra* note 5. An acceptable photo ID included: (1) a Wisconsin driver's license; (2) a Wisconsin non-driver ID card; (3) a U.S. military ID card; (4) a U.S. passport; (5) a certificate of U.S. naturalization issued not earlier than 2 years before the election at which it was presented; or (6) an ID card issued by a federally recognized Indian tribe in Wisconsin. WIS. STAT. ANN. § 5.02(6m).

88. WIS. STAT. ANN. § 5.02(6m)(f).

ing purposes.⁸⁹ On January 6, 2012, Wisconsin Assembly Bill 460 was introduced to amend 2011 Wisconsin Act 23 as it related to college students using their university, college, or technical college student ID cards as proof of identification for voting in Wisconsin.⁹⁰ Specifically, Assembly Bill 460 permitted the following:

This bill permits any photo identification card issued by a university or college, or by a technical college that is part of the state technical college system, to be used as proof of identification if the card contains the name of the person to whom it is issued. Under the bill, the card need not contain a date of issuance or expiration date and no proof of current enrollment is required to be presented by the holder of the card.⁹¹

A month later, on February 15, 2012, Senate Bill 481 was introduced to amend 2011 Wisconsin Act 23's proof of identification requirements for voting by university, college, or technical college students in Wisconsin.⁹² Specifically, Senate Bill 481 permitted the following:

This bill permits an unexpired identification card issued by a technical college that is a part of the state technical college system to be used as proof of identification if the card contains the date of issuance if the individual establishes that he or she is enrolled as a student at the technical college on the date that the card is presented, and if the identification card meets the same requirements that are applicable to other identification documents under current law except that, under the bill, if any individual uses an identification card issued by an accredited university or college, or by a technical college, as proof of

89. See *NCSL 2012 Legislation*, *supra* note 24.

90. Assemb. B. 460, 100th Sess. (Wis. 2012), available at <http://docs.legis.wisconsin.gov/2011/related/proposals/ab460>.

91. *Id.*

92. S.B. 481, 100th Sess. (Wis. 2012), available at <http://docs.legis.wisconsin.gov/2011/related/proposals/sb481>.

identification, the card need not contain the signature of the cardholder and need not contain an expiration date.⁹³

A few weeks later, on February 28, 2012, Wisconsin Assembly Bill 639 was introduced that contained verbatim language to Senate Bill 481.⁹⁴ In sum, both Senate Bill 481 and Assembly Bill 639 “allow[ed] technical college IDs for voting purposes,” and “remove[d the] requirement that any college/university ID bear a signature and expiration date in order to suffice for voting purposes.”⁹⁵

Wisconsin’s new voter ID law, 2011 Wisconsin Act 23, was not in effect long because on March 6, 2012, a circuit court judge issued an injunction prohibiting Wisconsin’s Government Accountability Board from enforcing the photo ID requirements set out in 2011 Wisconsin Act 23.⁹⁶ In fact, “Dane County Circuit Court Judge David Flanagan ordered the Government Accountability Board and Governor Walker to ‘cease immediately any effort to enforce or implement the photo identification requirements of 2011 Wisconsin Act 23, pending trial of [the] case and further order of the court.’”⁹⁷ Less than a week later, another Dane County Circuit Judge issued an injunction prohibiting enforcement of the photo ID requirements set out in 2011 Wisconsin Act 23.⁹⁸ On March 12, 2012, “Judge Richard Niess declared ‘2011 Wisconsin Act 23’s photo ID requirements unconstitutional to the extent they serve as a condition for voting at the polls.’ The judge also permanently enjoined the defendants ‘from any further implementation or en-

93. *Id.*

94. *See* Assemb. B. 639, 100th Sess. (Wis. 2012), *available at* <http://docs.legis.wisconsin.gov/2011/related/proposals/ab639>.

95. *NCSL 2012 Legislation*, *supra* note 24.

96. *Voter Photo ID Law Information*, ST. WIS.: GOV’T ACCOUNTABILITY BOARD, <http://web.archive.org/web/20121031175732/http://gab.wi.gov/elections-voting/photo-id> (last visited Nov. 5, 2012) [hereinafter *Wisconsin Voter Photo ID Information*] (accessed by searching for the 2012 URL in the Internet Archive index).

97. *Id.*

98. *Id.*; *see also* League of Women Voters of Wis. Educ. Network, Inc. v. Walker, No. 11 CV 4669, 2012 WL 763586, at *7–8 (Wis. Cir. Ct., Mar. 12, 2012) (pagination in original document).

forcement of those provisions.”⁹⁹ Moreover, on March 23, 2012, Wisconsin Assembly Bill 460, Wisconsin Senate Bill 481, and Wisconsin Assembly Bill 639 all failed.¹⁰⁰

The Wisconsin Department of Justice appealed the March 2012 injunctions to the Court of Appeals, where the cases remained as of the November 2012 Election.¹⁰¹ In fact, the Wisconsin Supreme Court on September 27, 2012 “declined for a second time to hear the cases prior to action by the Court of Appeals.”¹⁰² Therefore, the strict photo ID requirements of 2011 Wisconsin Act 23 were not in effect during the November 2012 Election.¹⁰³

Although Wisconsin’s strict photo ID law was not in effect during the November 6, 2012 Election, as noted above, one of the seven approved forms of identification enacted by Wisconsin’s legislature in 2011 included an unexpired student photo ID card issued by an accredited postsecondary institution of education in Wisconsin that met certain requirements. Therefore, Wisconsin’s legislature approved of a student photo ID card as an acceptable form of ID for voting purposes.

99. *Wisconsin Voter Photo ID Information*, *supra* note 96.

100. *Assembly Bill 460*, WIS. ST. LEGISLATURE, <http://docs.legis.wisconsin.gov/2011/proposals/AB460> (last visited Dec. 15, 2014); *Senate Bill 481*, WIS. ST. LEGISLATURE, <http://docs.legis.wisconsin.gov/2011/proposals/sb481> (last visited Dec. 15, 2014); *Assembly Bill 639*, WIS. ST. LEGISLATURE, <http://docs.legis.wisconsin.gov/2011/proposals/ab639> (last visited Dec. 15, 2014); *NCSL 2012 Legislation*, *supra* note 24.

101. *Wisconsin Voter Photo ID Information*, *supra* note 96.

102. *Id.*

103. *Federal Court Decision and Status of Voter Photo ID Law*, ST. WIS.: GOV’T ACCOUNTABILITY BOARD (May 1, 2014), <http://gab.wi.gov/node/3178>. As of November 5, 2012, Wisconsin’s Government Accountability Board’s website stated, “Voter Photo ID Law Status: No ID Currently Required for Voting.” *Wisconsin Voter Photo ID Information*, *supra* note 96 (emphasis removed); *see also NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. At the time of this article’s writing, the Court of Appeals entered an Order allowing the state to implement its photo ID requirements for the November 2014 Election while the issue is still on appeal before the court. *Frank v. Walker*, 769 F.3d 494, 496–97 (7th Cir. 2014).

B. Photo ID States

The eight (8) states that enacted photo ID requirements were Alabama, Florida, Hawaii, Idaho, Louisiana, Michigan, New Hampshire, and South Dakota.¹⁰⁴ Below is a summary regarding whether any of these eight (8) states considered and/or permitted college IDs to be used for voting purposes during the November 2012 Election.

1. Alabama

In 2003, Alabama enacted its new voter ID law.¹⁰⁵ In 2011, Alabama amended its existing non-strict, non-photo voter ID law and passed legislation to become a photo ID state in 2014.¹⁰⁶ Prior to Alabama's proposed new photo ID law becoming effective, the state needed to receive approval from the U.S. Department of Justice under Section 5 of the Voting Rights Act.¹⁰⁷ Therefore, as of the November 2012 Election, Alabama's non-strict, non-photo voter ID law remained in effect.¹⁰⁸ The law required voters to show one form of identification to election officials prior to being allowed to vote, or if the voter did not have an acceptable ID, the voter could vote a challenged or provisional ballot.¹⁰⁹ Alabama

104. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

105. ALA. CODE § 17-9-30 (LexisNexis 2007); *see also NCSL State Requirements: Oct. 24, 2012, supra* note 5.

106. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

107. *Id.*

108. *Id.*

109. ALA. CODE § 17-9-30(b), (f); *NCSL State Requirements: Oct. 24, 2012, supra* note 5; *Voter ID Implementation*, ALA. SECRETARY ST., <http://web.archive.org/web/20121022110418/http://www.sos.state.al.us/Elections/VoterID.aspx> (last visited Nov. 5, 2012) (accessed by searching for the 2012 URL in the Internet Archive index). Alabama voters had the following options in terms of acceptable forms of ID they could take to the polls to vote: (1) a current valid government-issued photo ID; (2) a current valid photo ID card produced by employers for employees; (3) a current valid photo ID card produced by a public or private college, university, or postgraduate technical or professional school located within Alabama; (4) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and address of the voter; (5) a valid ID card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the U.S. authorized by law to issue personal identification; (6) a valid U.S. pass-

allowed a current valid photo ID card produced by a public or private college, university, or postgraduate technical or professional school located within Alabama to be used as an acceptable form of ID for voting at the polls during the November 2012 Election.

2. Florida

During the November 2012 Election, Florida was a photo ID state.¹¹⁰ Under Florida law, voters were asked, but not required, to present a current valid photo ID with the voter's signature to election officials prior to being allowed to vote.¹¹¹ If the voter's photo ID failed to show the voter's signature, the voter was required to provide an additional form of ID that included the voter's signature.¹¹² Florida did allow a student photo ID card as an acceptable form of photo ID for voting at the polls during the November 2012 Election.¹¹³

port; (7) a valid Alabama hunting or fishing license; (8) a valid Alabama permit to carry a pistol or revolver; (9) a valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States; (10) a valid U.S. military ID card; (11) a certified copy of the voter's birth certificate; (12) a valid Social Security card; (13) certified naturalization documentation; (14) a certified copy of court records showing an adoption or name change; and (15) a valid Medicaid card, Medicare card, or an Electronic Benefits Transfer card. *Voter ID Implementation, supra.*

110. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

111. FLA. STAT. ANN. § 101.043 (West 2008 & Supp. 2014); *General Voting Information*, FLA. DIVISION ELECTIONS, <http://election.dos.state.fl.us/voting/voting-info.shtml> (last visited Dec. 15, 2014); *NCSL State Requirements: Oct. 24, 2012, supra* note 5. Florida voters had to present one of the following current and valid acceptable forms of photo IDs to vote at the polls: (1) a Florida driver's license; (2) a Florida ID card issued by the Department of Highway Safety and Motor Vehicles; (3) a U.S. passport; (4) a debit or credit card; (5) a military ID; (6) a student ID; (7) a retirement center ID; (8) a neighborhood association ID; or (9) a public assistance ID. FLA. STAT. ANN. § 101.043(1)(a).

112. FLA. STAT. ANN. § 101.043(1)(b) (West Supp. 2014).

113. *Id.* § 101.043(1)(a)(6).

3. Hawaii

Similar to Florida, Hawaii was also a photo ID state.¹¹⁴ Hawaiian law required a voter to present a photo ID if so requested by precinct officials prior to being allowed to vote.¹¹⁵ Although Hawaiian law allowed poll workers to request that a voter provide a photo ID, the law failed to provide a list of acceptable forms of ID for voters to take to the polls on Election Day.¹¹⁶ Voters could be asked to present a photo ID with the voter's signature (such as a Hawaii driver's license or state ID card) when they arrived at the polls to vote.¹¹⁷ Therefore, in Hawaii, a college student ID that met certain requirements could be presented during the November 2012 Election.

114. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

115. HAW. REV. STAT. § 11-136 (LexisNexis 2012); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

116. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5 (“Pollworkers request photo ID with a signature. Acceptable types of ID are not specified by law.”); *see also Student Voting Guide: Hawaii*, BRENNAN CENTER FOR JUST. (Aug. 15, 2014), <http://www.brennancenter.org/analysis/student-voting-guide-hawaii> (“Although [Hawaii] law does not specify what form that identification should take, the Election Commission website instructs voters to bring a signed picture ID to the polls.” (citing *Voting in Hawaii*, OFF. ELECTIONS, <http://hawaii.gov/elections/voters/votehi.htm> (last updated Dec. 12, 2014))). Hawaii's Office of Elections confirmed via telephone on March 3, 2014 that acceptable IDs are not stated in the law, but during the November 2012 Election, photo IDs were accepted as long as they had not expired and had the voter's name and address. Moreover, because of HAVA, voters also had a lot of non-photo IDs options for identity (e.g., utility bill, bank statement, and government check) as long as the ID had the voter's name and address. Hawaii's Office of Elections “informed precinct workers about the acceptable forms of IDs,” and “if there were any concerns or questions, they were told to call the Control Center.” In addition, “in 2014, Hawaii will accept student IDs if the student ID is ‘valid,’ meaning ‘not expired,’ and the [student voter's] name matches the name in the poll book.”

117. *Student Voting Guide: Hawaii*, *supra* note 116.

4. Idaho

In 2010, Idaho enacted its new voter ID law.¹¹⁸ Idaho's law allowed a voter to either present personal identification such as a photo ID or complete an affidavit in lieu of the personal identification.¹¹⁹ One of the six forms of acceptable IDs for voting purposes during the November 2012 Election was a current student photo ID card issued by any accredited public or private higher education institution in Idaho.¹²⁰

5. Louisiana

Similar to Idaho, Louisiana was a photo ID state.¹²¹ Louisiana's law allowed a voter to present a photo ID or sign an affidavit if the voter did not have an acceptable ID.¹²² Under Louisiana law, acceptable forms of ID included: (1) a Louisiana driver's license; (2) a Louisiana special ID card; or (3) other generally recognized picture ID with the voter's name and signature.¹²³ Specifically, an acceptable ID included "any current and valid photo identification (including a recognizable student ID)."¹²⁴ During

118. IDAHO CODE ANN. § 34-1113—1114 (Supp. 2014); see *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

119. IDAHO CODE ANN. § 34-1114. During the November 2012 Election, Idaho voters were required to show one of the following forms of photo ID to be allowed to vote at the polls: (1) an Idaho driver's license; (2) an ID card issued by the Idaho Transportation Department; (3) a U.S. passport; (4) a photo ID card issued by an agency of the U.S. government; (5) a tribal photo ID card; or (6) a current student photo ID card issued by a high school or an accredited institution of higher education, including a university, college or technical school, located in Idaho. IDAHO CODE ANN. § 34-1113; *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

120. IDAHO CODE ANN. § 34-1113(4); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

121. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

122. LA. REV. STAT. ANN. § 18:562(A)(2) (2012); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

123. LA. REV. STAT. ANN. § 18:562(A)(2); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

124. *Student Voting Guide: Louisiana*, BRENNAN CENTER FOR JUST. (Aug. 31, 2010), <http://web.archive.org/web/2013020520737/http://www.brennancenter.org/analysis/student-voting-guide-louisiana> (noting that an acceptable ID included "any current and valid photo identification (including a recognizable

the November 2012 Election, voters at the polls were asked to present a generally recognizable picture ID such as a Louisiana driver's license or a Louisiana special ID card that included the voter's name, address, and signature.¹²⁵ A student ID would "likely count if it include[d] all of these components."¹²⁶

Louisiana allowed voters without an acceptable photo ID to sign an affidavit and provide further identifying information as requested by the commissioners.¹²⁷ Voters without a photo ID who signed an affidavit could present a utility bill, payroll check, or government document that contained the voter's name and current Louisiana address in order to be allowed to vote.¹²⁸ Therefore, in Louisiana, one of the acceptable IDs for voting purposes during the November 2012 Election included a current and valid student photo ID.

6. Michigan

Michigan was also a photo ID state.¹²⁹ Michigan law required every voter to either show a photo ID at the polls during the

student ID), a Louisiana driver's license, a Louisiana special identification card, a social security number, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows [the voter's] name and address." (footnotes omitted)) (accessed by searching for the 2012 URL in the Internet Archive index).

125. *Id.*; see also LA. REV. STAT. ANN. § 18:562(A)(2).

126. *Student Voting Guide: Louisiana, supra* note 124. The website stated that this information was based upon the Brennan Center's "Phone Correspondence with Louisiana Division of Elections (April 19, 2012)." *Id.*

127. LA. REV. STAT. ANN. § 18:562(A)(2); *NCSL State Requirements: Oct. 24, 2012, supra* note 5; see also *Student Voting Guide: Louisiana, supra* note 124 ("If [college students] do not have a photo ID at the polls, [they] may still vote by signing an affidavit Voting by affidavit, however, may subject [them] to a challenge by a watcher, poll worker, or another qualified voter." (footnote omitted)).

128. *Election Day Voting*, LA. SECRETARY ST., <http://web.archive.org/web/20121021211826/http://www.sos.la.gov/tabid/151/Default.aspx> (last visited Nov. 5, 2012) (accessed by searching for the 2012 URL in the Internet Archive index); see also *Student Voting Guide: Louisiana, supra* note 124 (listing a copy of a current utility bill, bank statement, government check, paycheck, or other government document that showed the voter's name and address as acceptable proof of the voter's identity).

129. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

November 2012 Election or sign an affidavit attesting that the voter did not possess or simply forgot to bring an acceptable photo ID to the polls.¹³⁰ During the November 2012 Election, current student photo IDs from accredited institutions of higher education in Michigan were considered acceptable IDs at the polls.¹³¹

7. New Hampshire

In 2011, New Hampshire's governor vetoed the state's new strict photo ID bill.¹³² In 2012, the state considered and ultimately enacted into law another new voter ID bill.¹³³ However, prior to the new photo ID law becoming effective, New Hampshire needed to receive preclearance from the U.S. Department of Justice,¹³⁴ which the Department of Justice granted in September 2012.¹³⁵

As of the November 2012 Election, New Hampshire was a photo ID state.¹³⁶ New Hampshire's law required the ballot clerk to request that a voter either show a valid photo ID or, if the voter

130. MICH. COMP. LAWS ANN. § 168.523 (West 2008 & Supp. 2013); *A Guide to Voter Identification at the Polls*, MICH. SECRETARY ST., http://www.michigan.gov/sos/0,1607,7-127-1633_8716-178123--,00.html (last visited Dec. 17, 2014); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. During the November 2012 Election, Michigan voters were required to show one of the following forms of photo ID to be allowed to vote at the polls: (1) a Michigan driver's license; (2) a Michigan personal ID card; (3) a current driver's license issued by another state; (4) a current personal ID card issued by another state; (5) a current federal or state government-issued photo ID; (6) a current U.S. passport; (7) a current military photo ID card; (8) a current student photo ID from a high school or an accredited institution of higher education; or (9) a current tribal photo ID card. *Notice to Voters: Voter Identification Requirement in Effect*, MICH. DEP'T ST.: BUREAU ELECTIONS, http://michigan.gov/documents/sos/Notice_To_Voters_209297_7.pdf (last visited Dec. 17, 2014); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

131. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

132. *NCSL 2012 Legislation*, *supra* note 24.

133. N.H. REV. STAT. ANN. § 659:13 (LexisNexis 2013); S.B. 289, 2012 Reg. Sess. (N.H. 2012), available at <http://www.gencourt.state.nh.us/legislation/2012/SB0289.pdf>; *NCSL 2012 Legislation*, *supra* note 24 (noting that Senate Bill 289 was enacted in New Hampshire).

134. *NCSL 2012 Legislation*, *supra* note 24; *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

135. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

136. *Id.*

did not have a valid photo ID, the law required the ballot clerk to inform the voter that he or she could execute a qualified voter affidavit.¹³⁷ One of the acceptable forms of photo ID that could be used during the November 2012 Election included a valid college student ID card.¹³⁸

8. South Dakota

South Dakota was a photo ID state at the time of the November 2012 Election.¹³⁹ South Dakota's law required any voter requesting a ballot to either show a valid form of personal identification such as a photo ID or, if the voter was unable to do so, the voter could sign an affidavit and still vote on Election Day.¹⁴⁰

137. N.H. REV. STAT. ANN. § 659:13(I); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. Under New Hampshire law, each voter was required to present one of the following forms of photo ID: (1) a driver's license issued by the State of New Hampshire or any other state (regardless of expiration date); (2) an ID card issued by the Director of Motor Vehicles; (3) a U.S. armed services ID card; (4) a U.S. passport (regardless of expiration date); (5) any other valid photo ID issued by the federal, state, county, or municipal government; (6) a valid student ID card; or (7) a photo ID not authorized by (1)–(6) above that was determined by the supervisors of the checklist, the moderator, or the town or city clerk to be legitimate. N.H. REV. STAT. ANN. § 659:13(II).

138. N.H. REV. STAT. ANN. § 659:13(II)(f).

139. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

140. *See id.*; *see also* S.D. CODIFIED LAWS § 12-18-6.1 (2004 & Supp. 2013) (requiring presentation of voter ID prior to voting); S.D. CODIFIED LAWS § 12-18-6.2 (2004) (“If a voter is not able to present a form of personal identification as required by § 12-18-6.1, the voter may complete a [signed] affidavit in lieu of the personal identification.”); *Elections: More Information*, S.D. SECRETARY ST., <http://web.archive.org/web/20121116024009/http://sdsos.gov/content/viewcontent.aspx?cat=elections&pg=/elections/Moreinformation.shtm> (last visited Nov. 5, 2012) [hereinafter *South Dakota's First-Time Voter ID Guide*] (accessed by searching for the 2012 URL in the Internet Archive index). Under South Dakota law, each voter was required to present one of the following approved forms of photo ID: (1) a South Dakota driver's license; (2) a South Dakota nondriver ID card; (3) a U.S. passport; (4) a U.S. government photo ID card; (5) a U.S. armed forces ID; (6) a tribal photo ID card; or (7) a current student photo ID card issued by a high school or an accredited institution of higher education, including a university, college, or technical school, in South Dakota. S.D. CODIFIED LAWS § 12-18-6.1; *South Dakota's First-Time Voter ID Guide*, *supra*; *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

Voters who did not have an acceptable photo ID or simply forgot to bring an acceptable photo ID to the polls on Election Day could still cast a regular ballot like any other voter by signing a personal identification affidavit.¹⁴¹ South Dakota Secretary of State also provided a “Guide for College Students” that provided useful information to guide college students who wanted to register and vote at South Dakota’s polls on Election Day.¹⁴² In sum, during the November 2012 Election, any college student who was a registered voter could vote in South Dakota as long as the student went to the correct polling place to vote and presented one of the acceptable forms of photo ID, which included a current student photo ID card from an accredited institution of higher education in South Dakota.

C. Non-photo ID States

As of the November 2012 Election, the sixteen (16) states that had enacted non-photo ID requirements were Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Kentucky, Missouri, Montana, North Dakota, Ohio, Oklahoma, Rhode Island, Utah, Virginia, and Washington.¹⁴³ Below is a summary regarding whether any of these sixteen (16) states considered and/or permitted college IDs to be used for voting purposes during the November 2012 Election.

1. Alaska

Alaska was a non-strict, non-photo ID state at the time of the November 2012 Election.¹⁴⁴ Alaska allowed voters without an ID to still vote.¹⁴⁵ Upon entering an Alaskan polling place, an election worker was required to ask each voter for one form of ID,

141. See S.D. CODIFIED LAWS § 12-18-6.2; *South Dakota’s First-Time Voter ID Guide*, *supra* note 140; *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

142. *South Dakota’s First-Time Voter ID Guide*, *supra* note 140.

143. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. As previously discussed in this article, Alabama, *see supra* note 108, South Carolina, *see supra* note 63, and Texas, *see supra* note 79, had non-photo ID requirements that remained in effect during the November 2012 Election, although these states had enacted photo ID and strict photo ID requirements respectively.

144. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

145. *Id.*

and any voter who was unable to present a required ID could vote with a questioned ballot.¹⁴⁶ One of the acceptable forms of ID that could be presented at the polls if it included the voter's name and current Alaskan address was a "student ID or student housing bill issued by an Alaska state college or university."¹⁴⁷ Therefore, during the November 2012 Election, any college student who was a registered voter in Alaska could vote and present at the polls a student ID card as long as a public college or university located within the state issued the ID and it included the student's name and current Alaskan address.

2. Arizona

Arizona was a strict non-photo ID state at the time of the November 2012 Election.¹⁴⁸ Some form of "ID at the polls [was] required for all Arizona elections."¹⁴⁹ Arizona's law required every qualified voter to provide proof of their identity before receiving a ballot at the polls on Election Day.¹⁵⁰ The law required each qualified voter to show at least one of the following IDs: first, one form of identification that "[bore] the name, address, and photograph of the elector;" second, "[t]wo different forms of identification that [bore] the name and address of the elector;" or third "[o]ne form of acceptable photo identification with one form of

146. ALASKA STAT. § 15.15.225 (2012); *Voting at the Polls on Election Day*, ST. ALASKA: DIVISION ELECTIONS, http://www.elections.alaska.gov/vi_hv_vote_polls.php (last visited Dec. 17, 2014); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. Acceptable forms of ID included: (1) an official voter registration card; (2) a driver's license; (3) a state ID card; (4) a current and valid photo ID; (5) a birth certificate; (6) a U.S. passport; (7) a hunting or fishing license; and (8) an original or a copy of a current utility bill, bank statement, paycheck, government check, or other government-issued document that showed the voter's name and current address. ALASKA STAT. § 15.15.225(a). Alaska's website also listed a "military ID card" as an acceptable ID for presentation at the polls. *Voting at the Polls on Election Day*, *supra*.

147. *Student Voting Guide: Alaska*, BRENNAN CENTER FOR JUST. (Aug. 15, 2014), <http://www.brennancenter.org/analysis/student-voting-guide-alaska>.

148. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

149. *Proof of Identification at the Polls*, ARIZ. SECRETARY ST., http://www.azsos.gov/election/Prop_200/poll_identification.htm (last visited Dec. 17, 2014) [hereinafter *Proof of Identification at the Polls in Arizona*].

150. *Id.*

non-photo identification that [bore] the name and address of the elector.”¹⁵¹

Any voter who failed to provide the required identification was “only eligible to vote a provisional ballot.”¹⁵² A student ID counted as a valid form of voter ID if it showed the student’s current voting address and if it was issued by a state college or university.¹⁵³ However, “Arizona’s state guidelines [did] not specifically

151. *Id.*; see also ARIZ. REV. STAT. ANN. § 16-579 (2006 & Supp. 2012); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. One acceptable form of photo ID that could be presented on Election Day that showed the voter’s name and address that met the requirements under the first option included: (1) a valid Arizona driver’s license; (2) a valid Arizona non-operating ID license; (3) a tribal enrollment card or other form of tribal ID; or (4) a valid U.S. federal, state, or local government-issued ID. ARIZ. REV. STAT. ANN. § 16-579(A)(1)(a) (Supp. 2012). Such identification was considered “valid unless it [could] be determined on its face that it ha[d] expired.” ARIZ. REV. STAT. ANN. § 16-579(A)(1)(b); *Proof of Identification at the Polls in Arizona*, *supra* note 149. Two forms of acceptable non-photo ID that could be presented on Election Day that showed the voter’s name and address that met the requirements under the second option included: (1) a utility bill that was dated within 90 days of Election Day; (2) a bank or credit union statement that was dated within 90 days of Election Day; (3) a valid Arizona vehicle registration; (4) an Indian census card; (5) a property tax statement; (6) a tribal enrollment card or other form of tribal ID; (7) a Arizona vehicle insurance card; (8) a recorder’s certificate; (9) a valid U.S. federal, state, or local government-issued ID; (10) a voter registration card; and (11) any mailing to the voter marked as “Official Election Material.” ARIZ. REV. STAT. ANN. § 16-579(A)(1)(b); *Proof of Identification at the Polls in Arizona*, *supra* note 149; see also *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. One acceptable form of photo ID that showed the voter’s name along with one form of non-photo ID that showed the voter’s name and address that could be presented on Election Day that met the requirements under the third option included: (1) “[a]ny valid photo identification from List 1 in which the address [did] not reasonably match the precinct register accompanied by a non-photo identification from List 2 in which the address [did] reasonably match the precinct register”; (2) a “U.S. Passport without [an] address and one valid item from List 2”; or (3) a “U.S. Military identification without [an] address and one valid item from List 2”. *Proof of Identification at the Polls in Arizona*, *supra* note 149; see also ARIZ. REV. STAT. ANN. § 16-579(A)(1)(c).

152. ARIZ. REV. STAT. ANN. § 16-579(A)(2); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

153. *Student Voting Guide: Arizona*, BRENNAN CENTER FOR JUST. (Aug. 31, 2010), http://web.archive.org/web/20130205202947/http://www.brennancenter.org/analysis/student-voting-guide-arizona#_ftn24 (citing ARIZ. REV.

mention other student IDs issued by private schools, so their acceptance may be up to [the] local county poll workers.”¹⁵⁴ Therefore, Arizona allowed student IDs issued by public colleges and universities in the state as acceptable forms of IDs for voting at the polls during the November 2012 Election as long as the ID displayed the college student’s current voting address in Arizona.

3. Arkansas

Arkansas was a non-strict, non-photo ID state at the time of the November 2012 Election.¹⁵⁵ Under Arkansas law, poll workers simply requested each voter to show ID.¹⁵⁶ Acceptable forms of ID included: (1) a current and valid photo ID (such as a driver’s license); and (2) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that displayed the voter’s name and address.¹⁵⁷ Any voter unable to comply with the ID requirements above and who was not a first-time Arkansas voter was able to cast a regular ballot.¹⁵⁸ However, any first-time Arkansas voter who failed to present acceptable ID when voting at the polls could cast a provisional ballot.¹⁵⁹

In terms of college student IDs meeting Arkansas’s ID requirements, college student IDs were “unlikely to fulfill this requirement because the document must have both an individual’s

STAT. ANN. § 16-579(A)(1)) (accessed by searching for the 2013 URL in the Internet Archive index).

154. *Id.* (citing ARIZ. REV. STAT. ANN. § 16-579(A)(1); ARIZ. SEC’Y OF STATE, ELECTIONS SERVS. DIV., ELECTIONS PROCEDURE MANUAL, 131 (Copper Ed. 2012)).

155. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

156. ARK. CODE ANN. § 7-5-305 (2011 & Supp. 2012); *Voting in Arkansas*, ARK. SECRETARY ST., <http://www.sos.arkansas.gov/elections/Pages/voting-InArkansas.aspx> (last visited Dec. 17, 2014); *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

157. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

158. *Student Voting Guide: Arkansas*, BRENNAN CENTER FOR JUST. (Aug. 31, 2010), <http://web.archive.org/20130204005020/http://www.brennancenter.org/analysis/student-voting-guide-arkansas> (citing ARK. CODE ANN. § 7-5-305(a)(8)(A)) (accessed by searching for the 2012 URL in the Internet Archive index).

159. ARK. CODE ANN. § 7-5-305(a)(8)(B)(ii); *Student Voting Guide: Arkansas, supra* note 158.

name and address.”¹⁶⁰ Therefore, student IDs in Arkansas were not eligible to be used for voting purposes, unless Arkansas higher education institutions issued student IDs that displayed both the college student’s name and address. However, any college student IDs that met the above requirement could be used for voting purposes during the November 2012 Election.

4. Colorado

Colorado was a non-strict, non-photo ID state at the time of the November 2012 Election.¹⁶¹ Prior to being allowed to cast a ballot on Election Day, each voter was required to present identification.¹⁶² Any voter who was not able to provide ID as required under Colorado law could cast a provisional ballot.¹⁶³

160. *Campus Vote Project: Student Voting Guide for Arkansas*, FAIR ELECTIONS LEGAL NETWORK (Sept. 11, 2012), http://web.archive.org/web/2013062180649/http://www.fairelectionsnetwork.com/webfm_send/156 (accessed by searching for the 2012 URL in the Internet Archive index).

161. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

162. COLO. REV. STAT. ANN. § 1-7-110 (2012); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. Acceptable forms of ID included the following: (1) a valid Colorado driver’s license; (2) a valid ID card issued by the Department of Revenue; (3) a valid U.S. passport; (4) a valid employee photo ID issued by any branch, department, agency, or entity of the U.S. government or the State of Colorado, or by any county, municipality, board, authority, or other political subdivision of the State of Colorado; (5) a valid pilot’s license issued by the Federal Aviation Administration or other authorized agency of the United States; (6) a valid U.S. military photo ID card; (7) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that displayed the voter’s name and address; (8) documentation from a public institution of higher education in Colorado that included at least the student voter’s name, date of birth, and legal residence address; (9) a Certificate of Degree of Indian or Alaskan Native Blood; (10) a valid Medicare or Medicaid card issued by the Centers for Medicare and Medicaid Services; (11) a certified copy of a U.S. birth certificate issued in the United States; (12) certified documentation of naturalization; (13) a valid student photo ID card issued by an institution of higher education in Colorado; (14) a valid veteran photo ID card issued by the U.S. Department of Veterans Affairs Veterans Health Administration; and (15) a valid ID card issued by a federally recognized tribal government certifying tribal membership. *Acceptable Forms of Identification*, COLO. SECRETARY ST., <http://www.sos.state.co.us/pubs/elections/vote/acceptableFormsOfID.html> (last visited Dec. 15, 2014); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. To be considered valid, any form of identification listed above that displayed the

Colorado law considered a valid student photo ID card issued by a Colorado higher education institution to be an acceptable form of identification for voting purposes during the November 2012 Election. Colorado's law is very specific in terms of what is considered an "institution of higher education," but it includes both public and private educational institutions.¹⁶⁴

5. Connecticut

Similar to Colorado, Connecticut was a non-strict, non-photo ID state at the time of the November 2012 Election.¹⁶⁵ Connecticut required each voter to present identification.¹⁶⁶ However, there were two types of in-person voter ID requirements, which could be met without producing a photo ID.¹⁶⁷

voter's address was required to show a Colorado address. COLO. REV. STAT. ANN. § 1-1-104(19.5)(b); *Acceptable Forms of Identification, supra*.

163. COLO. REV. STAT. ANN. § 1-7-110(4); *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

164. *See* COLO. REV. STAT. § 23-3.1-102(5) (2012).

165. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

166. *See* CONN. GEN. STAT. ANN. § 9-261(a) (West 2009) (amended 2014); *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

167. *FAQ: Voter ID*, CONN. SECRETARY ST., <http://www.sots.ct.gov/sots/cwp/view.asp?a=3179&q=511132> (last visited Dec. 18, 2014) [hereinafter *Connecticut FAQ: Voter ID*]. Under the first type of voter ID requirements, if a voter was a first-time voter who registered by mail after January 1, 2003, was voting for the first time in a primary election with federal candidates on the ballot, and if the voter had a "mark" next to their name on Connecticut's official registry list, the voter was required to present one of the following forms of ID in order to vote at the polls: (1) a copy of a current and valid photo ID that showed the voter's name and address; or (2) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that showed the voter's name and address. *Id.*; *see also* CONN. GEN. STAT. ANN. § 9-261(a); *NCSL State Requirements: Oct. 24, 2012, supra* note 5. Otherwise, the voter was required to cast a provisional ballot. CONN. GEN. STAT. ANN. § 9-23r(d) (West 2009 & Supp. 2013). Under the second type of voter ID requirements, which included most Connecticut voters, a voter needed to present one of the following forms of ID to cast a vote at the polls on Election Day: (1) a Social Security card; (2) any pre-printed form of ID that displayed the voter's name and address; (3) any pre-printed form of ID that displayed the voter's name and signature; or (4) any pre-printed form of photo ID that displayed the voter's name. *Id.* Otherwise, the voter was required to "[s]ign a statement under penalty of false statement . . . that the elector whose name appears on the

Connecticut permitted student photo IDs as an acceptable form of identification for voting purposes during the November 2012 Election.¹⁶⁸ However, a college student photo ID was not required to have the student voter's address displayed on it.¹⁶⁹

6. Delaware

Delaware was also a non-strict, non-photo ID state during the November 2012 Election.¹⁷⁰ Prior to voting on Election Day, Delaware law required each voter to present one form of proof of identification.¹⁷¹ Acceptable forms of ID included the following: (1) a current, valid photo ID; or (2) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that displayed the voter's name and address.¹⁷² The law required any eligible registered voter who did not have the required ID to sign an affidavit.¹⁷³ Moreover, the law required any eligible, registered voter whose name did not appear on the official poll list on Election Day to sign an affidavit and vote by provisional ballot.¹⁷⁴

official check list [was] the same person who [was] signing the form." *Connecticut FAQ: Voter ID, supra*.

168. See *Connecticut FAQ: Voter ID, supra* note 167.

169. *Id.*

170. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

171. DEL. CODE ANN. tit. 15, § 4937(a) (2007); *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

172. *Provisional Ballots*, DEL. COMMISSIONER ELECTIONS, <http://elections.delaware.gov/voter/provisional.shtml> (last visited Dec. 18, 2014); *Provisional Ballots: How to Vote When You're Not on the Poll List*, ST. DEL.: DEP'T ELECTIONS (June 4, 2014), <http://elections.delaware.gov/voter/pdfs/Provisional%20Ballots.pdf>; *Student Voting Guide: Delaware*, BRENNAN CENTER FOR JUST. (Aug. 15, 2014), <http://www.brennancenter.org/analysis/student-voting-guide-delaware> (citing DEL. CODE ANN. tit. 15 § 2033(a)); see also *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

173. DEL. CODE ANN. tit. 15, § 4937(a); see also *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

174. *Provisional Ballots: How to Vote When You're Not on the Poll List, supra* note 172; *Provisional Ballots, supra* note 172. Provisional ballots were only allowed for voting in federal, not local, elections for offices such as the President, the Vice President, U.S. Senate, and U.S. Congress. *Provisional Ballots: How to Vote When You're Not on the Poll List, supra* note 172.

Delaware included a student ID as a valid form of photo ID.¹⁷⁵ Therefore, Delaware allowed college student photo IDs as an acceptable form of identification for voting purposes during the November 2012 Election if the ID met the state's requirements.

7. Kentucky

Kentucky was a non-strict, non-photo ID state at the time of the November 2012 Election.¹⁷⁶ Prior to voting, Kentucky law required a voter's identity to be confirmed by a precinct election officer by the personal knowledge of the officer, a motor vehicle operator's license, Social Security card, or credit card.¹⁷⁷ Voters could also present "another form of identification containing both [the voter's] picture and signature."¹⁷⁸ Any voter residing in a Kentucky voting precinct who did not have an acceptable ID but who was voting in the November 2012 Election for federal offices could vote using a provisional ballot.¹⁷⁹

Regarding whether college student IDs could be used for voting purposes in Kentucky, one type of ID that could be presented by voters to precinct election officials on Election Day included

175. *Student Voting Guide: Delaware*, *supra* note 172; *see Campus Vote Project: Student Voting Guide for Delaware*, FAIR ELECTIONS LEGAL NETWORK (Aug. 14, 2012), http://web.archive.org/web/20121111061618/http://fairelectionsnetwork.com/webfm_send/121 ("Some student IDs meet voting requirements while others do not.") (accessed by searching for the 2012 URL in the Internet Archive index).

176. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

177. KY. REV. STAT. ANN. § 117.227 (LexisNexis 2004); 31 KY. ADMIN. REGS. 4:010 (2014); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *Voter Information Guide*, KY. ST. BOARD ELECTIONS, [http://elect.ky.gov/SiteCollectionDocuments/Voter%20Information/SBE%201000%20-%20Voter%20Information%20Guide%20\(BQ\)\(LZ\).pdf](http://elect.ky.gov/SiteCollectionDocuments/Voter%20Information/SBE%201000%20-%20Voter%20Information%20Guide%20(BQ)(LZ).pdf) (last visited Dec. 18, 2014).

178. *Voter Information Guide*, *supra* note 177; *see also* 31 KY. ADMIN. REGS. 4:010 ("In addition to the forms of identification specifically provided for by KRS 117.227, any identification card that bears both the picture and signature of the voter, or any identification card that has been issued by the county, and which has been approved in writing by the State Board of Elections, shall be acceptable for confirmation of the voter's identity.").

179. *Voter Information Guide*, *supra* note 177.

a photo ID that displayed the voter's signature.¹⁸⁰ Therefore, Kentucky allowed college student photo IDs as an acceptable form of identification for voting purposes during the November 2012 Election as long as the student photo ID showed the student's signature.

8. Missouri

Missouri was also a non-strict, non-photo ID state at the time of the November 2012 Election.¹⁸¹ Prior to receiving a ballot to vote, Missouri law required a registered voter to present one form of personal identification to prove his or her identity and eligibility to vote at the polling place.¹⁸²

180. 31 KY. ADMIN. REGS. 4:010; *Student Voting Guide: Kentucky*, BRENNAN CENTER FOR JUST. (Aug. 15, 2014), <http://www.brennancenter.org/analysis/student-voting-guide-kentucky> ("You can show a driver's license from Kentucky or from another state, your Social Security card, a credit card, or any other ID card issued to you by the county in Kentucky you are voting in, as well as any photo ID with your signature. You may not use your student ID unless it has both your photo and signature." (footnote omitted) (citing KY. REV. STAT. § 117.227; 31 KY. ADMIN. REGS. 4:010)); *Voter Information Guide*, *supra* note 177.

181. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

182. *Id.*; see *Acceptable IDs to Vote*, MO. SECRETARY ST.: ELECTIONS DIVISION, <http://web.archive.org/web/20121031184152/http://www.sos.mo.gov/elections/voterid/default.asp> (last visited Nov. 5, 2012) (accessed by searching for the 2012 URL in the Internet Archive index). Acceptable forms of ID included the following: (1) an ID issued by the federal government, State of Missouri, or a local election authority; (2) an ID issued by a Missouri institution (public or private) of higher education, including a university, college, vocational and technical school; (3) a copy of a current utility bill, bank statement, paycheck, government check, or other government document that showed the voter's name and address; (4) a driver's license issued by another state; and (5) a state ID card issued by another state. *Acceptable IDs to Vote*, *supra*; see also *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *Student Voting Guide: Missouri*, BRENNAN CENTER FOR JUST. (Aug. 15, 2014), <http://www.brennancenter.org/analysis/student-voting-guide-missouri>. Examples of acceptable forms of photo IDs included the following: (1) a Missouri driver's license; (2) a Missouri non-driver's license; (3) a U.S. military ID card; (4) a U.S. passport; (5) a college student photo ID card issued by a Missouri higher education institution; and (6) an out-of-state driver's license. *Acceptable IDs to Vote*, *supra*. Examples of acceptable forms of non-photo IDs included the following: (1) a voter notification card from the local election authority; (2) a bank statement; and (3) a utility bill. *Id.* If a voter did not have any of the forms of ID listed

Missouri specifically included a college student ID issued by both public and private institutions of higher education in Missouri as a valid form of ID to vote in the state.¹⁸³ Therefore, Missouri allowed college student IDs as an acceptable form of identification for voting at the polls during the November 2012 Election.

9. Montana

Montana was a non-strict, non-photo ID state during the November 2012 Election.¹⁸⁴ To receive a ballot and vote, the state required each voter to present to the election official either a current photo ID displaying the voter's name or one non-photo ID that displayed the voter's name and current address.¹⁸⁵ If a voter did not have one of the items listed or forgot their ID, the voter could still vote if the voter requested and filled out a "Polling Place Elector ID" form, or the voter could cast a provisional ballot and later provide one of the acceptable forms of ID or documentation listed.¹⁸⁶ In addition, "[i]f the identification presented [was] insufficient to verify the elector's identity and eligibility to vote or if the

above, the voter was still allowed to vote "if two supervising election judges, one from each major political party, attest[ed] they [knew the voter]." *Id.*

183. *Acceptable IDs to Vote*, *supra* note 182; *Student Voting Guide: Missouri*, *supra* note 182.

184. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

185. *See* MONT. CODE ANN. § 13-13-114(1)(a) (2011); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. The forms of acceptable IDs included, but were not limited to, the following: (1) a valid driver's license; (2) a school district or postsecondary education photo ID; (3) a tribal photo ID; and (4) a current utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check, or other government document that displayed the voter's name and current address. MONT. CODE ANN. § 13-13-114; *see also State of Montana Voter Guide*, MONT. SECRETARY ST.: ELECTIONS & GOV'T SERVICES DIVISION, <http://sos.mt.gov/MontanaVoterGuide.pdf> (last visited Dec. 18, 2014); LINDA MCCULLOCH, MONT. SEC'Y OF STATE, VOTER INFORMATION PAMPHLET: YOUR GUIDE TO THE 2012 GENERAL ELECTION BALLOT ISSUES INFORMATION 41 (2012), *available at* http://sos.mt.gov/Elections/2012/2012_VIP.pdf (noting that a state ID was also an acceptable form of photo ID); *Student Voting Guide: Montana*, BRENNAN CENTER FOR JUST. (Aug. 15, 2014), <http://www.brennancenter.org/analysis/student-voting-guide-montana> ("Almost any type of unexpired photo ID displaying your name is accepted, including a . . . school ID [or] state ID.").

186. MCCULLOCH, *supra* note 185, at 42.

elector's name [did] not appear in the precinct register, the elector [could] sign the precinct register and cast a provisional ballot."¹⁸⁷

Regarding college students who wanted to vote in the state on Election Day, Montana's Secretary of State provided helpful information specifically for college students.¹⁸⁸ A current student photo ID issued by a postsecondary higher education institution was an acceptable form of ID to vote in Montana.¹⁸⁹ Therefore, Montana allowed college students to use their college student photo IDs for voting at the polls during the November 2012 Election.

10. North Dakota

North Dakota was also a non-strict, non-photo ID state during the November 2012 Election.¹⁹⁰ Prior to receiving a ballot, the poll clerk requested each voter to present proof of identification that included the voter's residential address and date of birth.¹⁹¹

187. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

188. *Montana Voter Information*, MONT. SECRETARY ST.: ELECTIONS & GOV'T SERVICES DIVISION, <http://sos.mt.gov/Elections/Vote/index.asp> (last visited Dec. 18, 2014).

189. MONT. CODE ANN. § 13-13-114(1)(a).

190. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

191. N.D. CENT. CODE ANN. § 16.1-05-07(1) (2009); *NCSL State Requirements: Oct. 24, 2012, supra* note 5. Such identification could include: (1) an official ID issued by the State of North Dakota; (2) an official ID issued by a tribal government; (3) a form of ID prescribed by the Secretary of State; or (4) a combination of IDs listed under (1)–(3) above. N.D. CENT. CODE ANN. § 16.1-05-07(1); *Student Voting Guide: North Dakota*, BRENNAN CENTER FOR JUST. (Aug. 31, 2010), <http://web.archive.org/web/20130205203126/http://www.brennancenter.org/analysis/student-voting-guide-north-dakota> (noting that a voter could use two different acceptable forms of ID if the voter did not have one ID that listed both the voter's address and date of birth) (accessed by searching the 2013 URL in the Internet Archive index). Examples of the acceptable forms of ID displaying the voter's residential address included the following: (1) a valid driver's license; (2) a valid state ID card; (3) a valid passport; (4) a valid federal agency ID card; (5) a valid tribal government-issued ID card; (6) a valid student ID card; (7) a valid U.S. military ID card; (8) a utility bill dated with 30 days prior to Election Day showing the voter's name and residential address; and (9) a change of address verification letter from the U.S. Postal Service. *NCSL State Requirements: Oct. 24, 2012, supra* note 5; *see also I.D. Required for Voting in North Dakota*, N.D. SECRETARY ST.: ELECTIONS DIVISION, <https://vip.sos.nd.gov/pdfs/Portals/id-requirements.pdf> (last updated Mar. 2014)

Any voter who was not able to verify their residency and date of birth by presenting one of the forms of ID listed could still vote if the voter provided their date of birth and if an election poll worker could personally “vouch” for the voter’s identity and residential address.¹⁹² Otherwise, the voter was required to complete an affidavit to be allowed to vote at the polls on Election Day.¹⁹³

Regarding college students who wanted to vote in North Dakota, North Dakota’s Secretary of State provided extensive information for college students regarding (1) voting in the student’s hometown, (2) voting in the student’s college town, and (3) voting absentee in the student’s home state.¹⁹⁴ In terms of college student IDs, a valid student ID card displaying the student’s residential address or their date of birth was an acceptable form of ID to vote in North Dakota.¹⁹⁵ Therefore, North Dakota allowed current college students to use their college student IDs to vote at the polls during the November 2012 Election.

11. Ohio

Ohio was a strict, non-photo ID state during the November 2012 Election.¹⁹⁶ To vote at the polls on Election Day, the state required voters to provide election officials with one form of proof of the voter’s identity that showed the voter’s name and address.¹⁹⁷

[hereinafter *North Dakota I.D. Requirements*]; *Student Voting Guide: North Dakota*, *supra* (noting that a utility bill included cell phone bills and student housing bills and that online printouts were permissible).

192. N.D. CENT. CODE ANN. § 16.1-05-07(2); *North Dakota I.D. Requirements*, *supra* note 191; *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

193. N.D. CENT. CODE ANN. § 16.1-05-07(3); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

194. *See College Student Voting*, N.D. SECRETARY ST.: ELECTIONS DIVISION, <https://vip.sos.nd.gov/pdfs/Portals/Voting-CollegeStudents.pdf> (last modified Aug. 2013).

195. *North Dakota I.D. Requirements*, *supra* note 191.

196. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

197. OHIO REV. CODE ANN. § 3505.18(A)(1) (LexisNexis 2013 & Supp. 2014); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *Student Voting Guide: Ohio*, BRENNAN CENTER FOR JUST. (Sept. 9, 2014), <http://www.brennan-center.org/analysis/student-voting-guide-ohio>. One form of acceptable ID to prove a voter’s identity included the following: (1) a current and valid photo ID card issued by the State of Ohio or the U.S. government; (2) a driver’s license;

Ohio defined a current and valid photo ID “as a document that show[ed] the individual’s name and current address, include[d] a photograph, include[d] an expiration date that ha[d] not passed, and was issued by the U.S. government or the state of Ohio.”¹⁹⁸ Any voter who failed to provide one of the above listed required forms of ID or documentation at the polls on Election Day could still vote by using a provisional ballot.¹⁹⁹

Regarding college students, Ohio allowed a “copy of a current (within the last 12 months) utility bill (including cell phone bill), bank statement, government check, paycheck, or other government document . . . that show[ed the voter’s] name and current address (including from a public college or university)” as acceptable proof of identity for voting purposes.²⁰⁰ Therefore, Ohio college students attending a public higher education institution could present their student photo ID as long as it was “current and valid” or college students could show one of the above listed forms of non-photo ID displaying the student’s name and current college address in Ohio in order to cast a ballot during the November 2012 Election.

12. Oklahoma

Oklahoma was a non-strict, non-photo ID state at the time of the November 2012 Election.²⁰¹ Oklahoma law required every

(3) a state ID card; (4) a military ID; or (5) an original or copy of a current utility bill, bank statement, government check, paycheck, or other government document, excluding a voter registration acknowledgement notification mailed by the board of elections, that displayed the voter’s name and current address. *Student Voting Guide: Ohio, supra; Frequently Asked Questions About Voter Identification*, OHIO SECRETARY ST., <http://www.sos.state.oh.us/sos/elections/Voters/FAQ/ID.aspx> (last visited Dec. 18, 2014).

198. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

199. OHIO REV. CODE ANN. § 3505.18(A)(2)–(6); *see NCSL State Requirements: Oct. 24, 2012, supra* note 5; *Frequently Asked Questions About Provisional Voting*, OHIO SECRETARY ST., <http://web.archive.org/web/20121104114318/http://www.sos.state.oh.us/sos/elections/Voters/FAQ/provisional.aspx> (last visited Nov. 5, 2012) [hereinafter *Ohio FAQs About Provisional Voting*] (accessed by searching for the 2012 URL in the Internet Archive index).

200. *Ohio FAQs About Provisional Voting, supra* note 199.

201. *NCSL State Requirements: Oct. 24, 2012, supra* note 5 (noting that while some people categorize Oklahoma as a “photo ID” state since most voters

voter who came to the polls on Election Day to present “proof of identity,” which required, among other things, a document showing the voter’s photo prior to receiving a ballot to vote.²⁰² Oklahoma law also included two IDs as valid proof of identity: (1) an Oklahoma ID card issued to a person sixty-five (65) years of age or older, even if the card did not have an expiration date; and (2) a voter registration card issued by the appropriate county election board, even if the card did not show the voter’s photo or have an expiration date.²⁰³ Any voter who declined or was unable to produce proof of identity on Election Day was allowed to cast a provisional ballot.²⁰⁴

Regarding college students using their student IDs to vote, House Bill 3003, introduced on February 6, 2012, would have

present a photo ID before voting, “Oklahoma law also permits a voter registration card issued by the appropriate county elections board to serve as proof of identity in lieu of photo ID”). Oklahoma was properly categorized by the National Conference of State Legislatures as a “non-photo ID” state since a photo ID was not required to vote in the state, and a non-photo ID option (e.g., a voter registration card) was also available to voters to prove their identity.

202. OKLA. STAT. ANN. tit. 26, § 7-114(A) (Supp. 2013); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *Facts About Proof of Identity for Voting in Oklahoma*, OKLA. ST. ELECTION BOARD, http://www.ok.gov/elections/Candidates_&_Elections/Facts_about_Proof_of_Identity_for_Voting_in_Oklahoma/ (last modified Oct. 29, 2013) (stating that “substantially conform” meant that the voters’ “name on [their] proof of identity must match [their] name in the Precinct Registry.”); *Frequently Asked Questions*, OKLA. ST. ELECTION BOARD, <http://www.ok.gov/elections/faqs.html> (last visited Dec. 18, 2014) [hereinafter *Oklahoma FAQs*]. “Proof of identity” meant documentation that met all of the following four requirements: (1) the document contained the voter’s name and the voter’s name on such documentation “substantially conformed” to the name showing in the Precinct Registry; (2) the document showed the voter’s photo; (3) the document had an expiration date that was after Election Day; and (4) the document was issued by the U.S., State of Oklahoma, or the government of a federally recognized Indian tribe or nation. *Facts About Proof of Identity for Voting in Oklahoma*, *supra*. Examples of acceptable forms of ID meeting these requirements included the following: (1) an Oklahoma driver’s license; (2) an Oklahoma ID card; (3) a U.S. passport; and (4) a U.S. military ID. *Oklahoma FAQs*, *supra*.

203. OKLA. STAT. ANN. tit. 26, § 7-114(A)(3)–(4); *see also Oklahoma FAQs*, *supra* 202; *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

204. OKLA. STAT. ANN. tit. 26, § 7-114(B)(1); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

amended Oklahoma's existing voter ID law regarding "proof of identity" and would have allowed student IDs issued by both public and private educational institutions in the State of Oklahoma to be used as an acceptable form of ID for voting.²⁰⁵ However, the bill failed after being sent to the House Rules Committee.²⁰⁶ Therefore, Oklahoma did not allow students to use their student IDs to vote during the November 2012 Election.²⁰⁷

13. Rhode Island

Rhode Island was a non-strict, non-photo ID state at the time of the November 2012 Election.²⁰⁸ The state's new voter ID requirements became law in 2011 and effective on January 1, 2012.²⁰⁹ The new law required every voter to present proof of their identity.²¹⁰ However, the law took effect in two different stages with the photo ID requirement becoming effective for the 2014 elections.²¹¹

205. H.B. 3003, 53rd Leg., 2nd Sess. (Okla. 2012), available at http://webserver1.lsb.state.ok.us/2011-12bills/HB/HB3003_int.rtf. House Bill 3003 would have modified requirement four (4) of title 26, section 26-7-114 of the Oklahoma Statutes regarding "proof of identity" to state "[t]he document was issued by the United States, the State of Oklahoma, a higher education institution within The Oklahoma State System of Higher Education, a private educational institution coordinated with a state system, or the government of a federally recognized Indian tribe or nation." *Id.* (emphasis added); see also *NCSL 2012 Legislation*, *supra* note 24.

206. *2011-2014 Elections Legislation Database*, NAT'L CONF. ST. LEGISLATURES, <http://www.ncsl.org/research/elections-and-campaigns/2011-2013-elections-legislation-database.aspx> (last visited Dec. 18, 2014).

207. See *Campus Vote Project: Student Voting Guide for Oklahoma*, FAIR ELECTIONS LEGAL NETWORK, http://web.archive.org/web/20130612110727/http://fairelectionsnetwork.com/webfm_send/161 (last updated Aug. 29, 2012) ("Student IDs are not acceptable ID for voting purposes.") (accessed by searching the 2012 URL in the Internet Archive index).

208. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

209. R.I. GEN. LAWS § 17-19-24.2 (Supp. 2012); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

210. R.I. GEN. LAWS § 17-19-24.2(a).

211. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; see also *Voter ID*, R.I. OFF. SECRETARY ST.: ELECTIONS & VOTING, <http://web.archive.org/web/20121103050713/http://sos.ri.gov/elections/voterid/> (last visited Nov. 5, 2012) [hereinafter *Rhode Island Voter ID*] ("Voter ID will

As of January 1, 2012, Rhode Island law required all Rhode Island voters to present to poll workers a valid and current ID, but not necessarily a photo ID, in order to vote at polling places on Election Day.²¹² Moreover, poll workers also accepted other valid and current forms of non-photo ID as long as the ID included the voter's name and address as it appeared in the poll book and was dated after November 2, 2010.²¹³ However, any document that was intended to be of a permanent nature (e.g., a birth certificate, Social Security card, or a government issued medical card) was only required to display the voter's name.²¹⁴ Any voter who was unable to produce proof of identity during the November 2012

be phased in over two election cycles. In 2012 and 2013, voters can also use a variety of non-photo IDs including a Social Security or Medicare card. Beginning in 2014, only Photo IDs will be accepted at the polls.”) (accessed by searching the 2012 URL in the Internet Archive index).

212. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *see also* R.I. GEN. LAWS §17-19-24.2. Examples of acceptable IDs included the following: (1) a Rhode Island driver's license; (2) a Rhode Island photo voter ID card; (3) a U.S. passport; (4) a photo ID card issued by a U.S. educational institution; (5) a U.S. military photo ID card; (6) a photo ID card issued by the U.S. government or the State of Rhode Island; (7) a government-issued medical card with the voter's photo; (8) a birth certificate; (9) a Social Security card; and (10) a government-issued medical card (e.g., Medicare card). R.I. GEN. LAWS § 17-19-24.2(a)(1)–(2); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *see also* *Acceptable Voter IDs*, R.I. OFF. SECRETARY ST.: ELECTIONS & VOTING, <http://web.archive.org/web/20121029075457/http://sos.ri.gov/elections/voterid/acceptableID/> (last visited Nov. 5, 2012) [hereinafter *Rhode Island Acceptable Voter IDs*] (accessed by searching the 2012 URL in the Internet Archive index). Additional examples of valid and current photo IDs that polls workers accepted during the November 2012 Election included the following: (1) a RIPTA bus pass; (2) an employee ID card; (3) an ID card provided by a commercial establishment; (4) a credit or debit card; (5) a health club ID card; (6) an insurance plan ID card; and (7) a public housing ID card. *Rhode Island Acceptable Voter IDs*, *supra*.

213. *Rhode Island Acceptable Voter IDs*, *supra* note 212. Examples of acceptable non-photo IDs included the following: (1) a utility bill; (2) a bank statement; (3) a document issued by a government agency; (4) a lease or rental statement; (5) a student ID; (6) a tuition statement or bill; and (7) an insurance plan card. *Id.*

214. *Id.*

Election could vote a provisional ballot after “completing a provisional ballot voter’s certificate and affirmation.”²¹⁵

In terms of college student IDs, poll workers considered both a valid and current photo ID issued by a U.S. educational institution or a non-photo student ID displaying the student’s name and address as acceptable forms of ID to vote in Rhode Island in 2012.²¹⁶ Therefore, Rhode Island allowed college students to use their college student IDs for voting purposes during the November 2012 Election.²¹⁷

14. Utah

Utah was a non-strict, non-photo ID state during the November 2012 Election.²¹⁸ Prior to receiving a ballot to vote at the polls on Election Day, Utah law required each voter to present a poll worker with “valid voter identification.”²¹⁹ The law required

215. R.I. GEN. LAWS § 17-19-24.2(d); see also *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *Rhode Island Voter ID*, *supra* note 211.

216. R.I. GEN. LAWS § 17-19-24.2(a)(1)(iv); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; *Rhode Island Acceptable Voter IDs*, *supra* note 212.

217. *Campus Vote Project: Student Voting Guide for Rhode Island*, FAIR ELECTIONS LEGAL NETWORK, http://web.archive.org/web/20130612170508/http://www.fairelectionsnetwork.com/webfm_send/162 (last updated Sept. 5, 2012) (accessed by searching the 2012 URL in the Internet Archive index); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5; see also *Student Voting Guide: Rhode Island*, BRENNAN CENTER FOR JUST. (Aug. 31, 2010), <http://web.archive.org/web/20130205203146/http://www.brennancenter.org/analysis/student-voting-guide-rhode-island> (“ID includes any valid and current document that shows your photograph, such as . . . a student ID from a U.S. educational institution.”) (accessed by searching the 2012 URL in the Internet Archive index).

218. *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5.

219. UTAH CODE ANN. § 20A-3-104(1)(b) (LexisNexis 2010); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. “Valid voter identification” included the following: (1) a currently valid Utah driver’s license; (2) a currently valid ID card issued by the State of Utah or by a branch, department, or agency of the U.S. government; (3) a currently valid Utah concealed weapon permit; (4) a currently valid U.S. passport; (5) a currently valid U.S. military ID card; (6) a valid tribal ID card; (7) a Bureau of Indian Affairs card; (8) a tribal treaty card; or (9) two forms of ID that showed the voter’s name as well as provided evidence that the voter resided in the precinct. UTAH CODE ANN. § 20A-1-102 (82) (Supp. 2013); *NCSL State Requirements: Oct. 24, 2012*, *supra* note 5. Moreo-

the poll worker to “issue the voter a provisional ballot” when the voter failed to provide a satisfactory “valid voter identification.”²²⁰

In terms of college students being able to use their IDs to vote in 2012, “valid voter identification” included a currently valid student ID card issued by higher education institutions within the State of Utah.²²¹ Therefore, Utah allowed college students to use their college student IDs for voting purposes during the November 2012 Election.²²² However, Utah required student voters to produce another form of ID that showed the student voter’s name and that proved the student voter resided in the precinct.²²³

ver, the forms of IDs that satisfied requirement (9) above included the following: (1) a current or legible copy of a utility bill dated within 90 days before the election; (2) a bank or other financial account statement or a legible copy of such statement; (3) a certified birth certificate; (4) a valid Social Security card; (5) a check issued by the State of Utah or the federal government or a legible copy of such check; (6) a paycheck from the voter’s employer or a legible copy of a work paycheck; (7) a currently valid Utah hunting or fishing license; (8) certified naturalization documentation; (9) a currently valid license issued by an authorized U.S. agency; (10) a certified copy of court records showing the voter’s adoption or name change; (11) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer card; (12) a currently valid ID card issued by a local government within the State of Utah; (13) a currently valid employee ID card issued by an employer; (14) a currently valid ID card issued by a college, university, technical school, or professional school located within the State of Utah; and (15) a current Utah vehicle registration. UTAH CODE ANN. § 20A-1-102(82)(b).

220. *Id.* § 20A-3-104(1)(c) (2010).

221. *Id.* § 20A-1-102(82)(c)(xi)(C) (Supp. 2013).

222. *Id.*; *Campus Vote Project: Student Voting Guide for Utah*, FAIR ELECTIONS LEGAL NETWORK, http://web.archive.org/web/20130612155023/http://fairelectionsnetwork.com/webfm_send/134 (last updated Aug. 27, 2012) (“In the alternative [to presenting an acceptable photo ID], a voter may provide two forms of ID that bear the name of the voter and provide evidence that the voter resides in the precinct. One of these forms of ID may be a Utah student ID.” (emphasis omitted)) (accessed by searching the 2012 URL in the Internet Archive index); *see also Student Voting Guide: Utah*, BRENNAN CENTER FOR JUST. (Aug. 31, 2010), <http://web.archive.org/web/20130205202817/http://www.brennancenter.org/analysis/student-voting-guide-utah> (“Your student ID, from any college, university, technical school, or professional school within the state, may be used for ID at the polls, but only when presented with a second ID.”) (accessed by searching the 2012 URL in the Internet Archive index).

223. *Student Voting Guide: Utah*, *supra* note 222.

15. Virginia

Virginia was a strict, non-photo ID state during the November 2012 Election.²²⁴ To vote at the polls on Election Day, the state required voters to present election officials with one form of ID.²²⁵ Any voter who arrived at the polls without ID or who failed to present an acceptable ID could vote by provisional ballot.²²⁶

In terms of college students being able to use their ID cards to vote during the November 2012 Election, acceptable IDs included a valid student ID card issued by higher education institutions within the Commonwealth of Virginia.²²⁷ Virginia considered a student ID “valid” if it had not expired, expired within 30 days of Election Day, or contained no expiration date at all.²²⁸ Therefore, the Commonwealth of Virginia permitted college students attending both private and public higher education institutions to use their college student IDs to vote at the polls during the November 2012 Election as long as the student ID was “valid.”

224. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

225. VA. CODE ANN. § 24.2-643(B) (2011 & Supp. 2013); *NCSL State Requirements: Oct. 24, 2012, supra* note 5. An acceptable ID included one of the following: (1) a Virginia voter registration card; (2) a Social Security card; (3) a valid Virginia driver’s license; (4) a concealed handgun permit; (5) any other ID card issued by a government agency of the Commonwealth of Virginia, one of its political subdivisions, or the United States; (6) any valid student ID issued by any institution of higher education located in the Commonwealth of Virginia; (7) any valid employer-issued employee photo ID card; or (8) a copy of a current utility bill, bank statement, government check, or paycheck that showed the voter’s name and address. VA. CODE ANN. § 24.2-643(B); *Voting in Person*, VA. ST. BOARD ELECTIONS, <http://web.archive.org/web/20121001195848/http://www.sbe.virginia.gov/votinginperson.html> (last visited Nov. 5, 2012) (accessed by searching the 2012 URL in the Internet Archive index); *Student Voting Guide: Virginia*, BRENNAN CENTER FOR JUST. (Aug. 31, 2010), <http://web.archive.org/web/20130205202823/http://www.brennancenter.org/analysis/student-voting-guide-virginia> (accessed by searching the 2012 URL in the Internet Archive index).

226. VA. CODE ANN. § 24.2-643(B); *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

227. VA. CODE ANN. § 24.2-643(B); *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

228. *Student Voting Guide: Virginia, supra* note 225.

16. Washington

Washington was a non-strict, non-photo ID state during the November 2012 Election.²²⁹ Ballots were mailed to all Washington voters.²³⁰ For those voters who went to a county voting center on Election Day, the state required each voter to sign a ballot declaration or present a valid photo ID to a county auditor.²³¹ Acceptable valid photo ID included the following: (1) a driver's license; (2) a state ID card; (3) a student ID card; (4) a tribal ID card; or (5) an employer ID card.²³² In-person voters without an acceptable ID received a provisional ballot.²³³

In terms of college student IDs, as noted in (3) above, acceptable photo IDs for in-person voting in Washington included a valid student photo ID card.²³⁴ Therefore, Washington allowed college students to use their student photo IDs for voting purposes during the November 2012 Election.

D. Summary of State Voter ID Laws and College Student IDs as of the November 2012 Presidential Election

As shown in Part II, some state voter ID laws appeared on their face to be more college student friendly than other states during the November 2012 Presidential Election. The states with voter ID laws may be categorized as either a "college student friendly state" or a "college student unfriendly state" based solely upon whether college student IDs were an acceptable form of ID for voting purposes during the November 6, 2012 Presidential Election.

Twenty-seven (27) states had college student friendly voter ID laws in effect during the November 2012 Presidential Elec-

229. *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

230. *See Student Voting Guide: Washington*, BRENNAN CENTER FOR JUST. (Aug. 15, 2014), <http://www.brennancenter.org/analysis/student-voting-guide-washington>.

231. WASH. REV. CODE ANN. § 29A.40.160(7) (West Supp. 2013).

232. *Id.* § 29A.40.160(7)(b); *NCSL State Requirements: Oct. 24, 2012, supra* note 5; *Student Voting Guide: Washington, supra* note 230.

233. WASH. REV. CODE ANN. § 29A.40.160(7)(b); *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

234. WASH. REV. CODE § 29A.40.160(7)(b); *NCSL State Requirements: Oct. 24, 2012, supra* note 5.

tion.²³⁵ These states were Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Kentucky, Louisiana, Michigan, Missouri, Montana, New Hampshire, North Dakota, Ohio, Rhode Island, South Dakota, Texas, Utah, Virginia, and Washington.

Three (3) states had college student unfriendly voter ID laws which prohibited college students from using their student ID cards for voting purposes at the time of the November 2012 Presidential Election. These states were Oklahoma, South Carolina, and Tennessee.

IV. PROS AND CONS OF STATE PHOTO VOTER ID LAWS, INCLUDING COLLEGE STUDENT IDS

A. Major Arguments For and Against Photo ID Laws

Various arguments have been made on both sides of the debate regarding why voter ID laws, especially photo ID laws, are and are not necessary.²³⁶ In the pivotal 2008 *Crawford* decision, the U.S. Supreme Court upheld the State of Indiana's arguments that (1) election modernization, (2) prevention and detection of in-person voter fraud, and (3) safeguarding voter confidence in the integrity of the electoral process were justifiable state interests for

235. Although Hawaiian law did not list specific forms of acceptable photo ID, a signed, current college student photo ID could be presented at the polls during the November 2012 Election. Therefore, Hawaii could be considered a college student friendly state. See *supra* text accompanying notes 114–17. Although the new strict photo ID laws in Mississippi, Pennsylvania, and Wisconsin were not in effect during the November 2012 Election, each state's enacted voter ID law included college student photo IDs as acceptable for voting purposes. See *supra* text accompanying notes 44–58, 82–103.

236. See Shelley de Alth, *ID at the Polls: Assessing the Impact of Recent State Voter ID Laws on Voter Turnout*, 3 HARV. L. & POL'Y REV. 185, 185–86 (2009) (citing arguments from both supporters and challengers of state voter photo ID laws, which were generally the same major arguments cited in the *Crawford* decision by both the plurality and the dissenters). Compare *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (“There is no question about the legitimacy or importance of the State's interest in counting only the votes of eligible voters. . . . [T]he propriety of [preventing election fraud] is perfectly clear.”), with *id.* at 236 (Souter, J., dissenting) (“Without a shred of evidence that in-person voter impersonation is a problem in the State, . . . Indiana has adopted one of the most restrictive photo identification requirements in the country.”).

enactment of the state's strict photo ID law.²³⁷ In contrast, major arguments against the state's strict photo ID laws noted by the dissenters included (1) the imposition of serious and great burdens on the right to vote for a significant percentage of voters, (2) deterrence of voting by eligible voters, and (3) the lack of evidence of in-person voter impersonation fraud at the polls.²³⁸ Despite the dissenters' concerns expressed in *Crawford*, the U.S. Supreme Court in a plurality decision upheld Indiana's strict photo ID law as constitutional.²³⁹ In addition to the Supreme Court justices, politicians often disagree over voter ID laws. Democrats assert Republicans are trying to deter citizens from voting, while Republicans cite the need to prevent voter fraud to support voter ID laws.²⁴⁰

237. *Crawford*, 553 U.S. at 187–91; see also de Alth, *supra* note 236, at 185–86 (noting that supporters “argue that ID laws are necessary to prevent voter fraud and restore public confidence in elections” (citing Amy Goldstein, *Democrats Predict Voter ID Problems*, WASH. POST, Nov. 3, 2006, at A1)).

238. *Crawford*, 553 U.S. at 209–41 (Souter, J., dissenting; Breyer, J., dissenting); de Alth, *supra* note 236, at 186 (noting that opponents respond that “voter impersonation fraud is rare” (citing Goldstein, *supra* note 237)); WENDY WEISER & VISHAL AGRAHARKAR, THE BRENNAN CTR. FOR JUSTICE, BALLOT SECURITY AND VOTER SUPPRESSION: INFORMATION CITIZENS SHOULD KNOW 1, 1 n.1 (2010), available at http://brennan.3cdn.net/e2d20eec819018aa49_xp m6iixd.pdf (“[S]tudy after study shows that actual voter fraud is extraordinarily rare,” and that “Americans are more likely to be struck by lightning than to commit voter fraud.”); see also JUSTIN LEVITT, THE BRENNAN CTR. FOR JUSTICE, THE TRUTH ABOUT VOTER FRAUD, 3 (2007), available at <http://www.brennancenter.org/sites/default/files/legacy/The%20Truth%20About%20Voter%20Fraud.pdf> (“Allegations of widespread voter fraud . . . often prove greatly exaggerated.”). “Allegations of widespread fraud by malevolent voters are easy to make, but often prove to be inaccurate. The Brennan Center has analyzed public materials in some of the areas branded as notorious election fraud ‘hot spots,’ finding that various election irregularities led to inflated claims of widespread fraud.” LEVITT, *supra* at 23.

239. *Crawford*, 553 U.S. at 203–04.

240. Jessica Iannetta, *New Voter ID Laws: How Students Are Affected*, NEXTGEN J. (May 24, 2012), <http://www.nextgenjournal.com/2012/05/new-voter-id-laws-how-students-are-affected/>; see also Assoc. Press, *Supreme Court Upholds Voter ID Law*, NBC NEWS (Apr. 28, 2008, 11:50 AM), <http://www.msnbc.msn.com/id/24351798/ns/politics/t/supreme-court-upholds-voter-id-law> (noting that while *Crawford* “validat[es] Republican-inspired voter ID laws,” Democrats and civil rights organizations often fight against voter ID laws because they “deter poor, older and minority voters from casting ballots.”).

Some researchers have found that voter ID laws are voter suppression measures that disenfranchise particular groups of voters, including college students.²⁴¹ Voting advocates such as attorney David Halperin, who is the former director of the national youth organization Campus Progress, describe new voter ID laws as “absolutely perfectly rigged to prevent students from voting.”²⁴² Halperin argues that Republicans would prefer that students did not vote, particularly non-residents attending college in swing states.²⁴³ In fact, Congressman Rick Larsen (D-Wash.) co-sponsored the America Votes Act of 2012 to combat attempts to block the student vote.²⁴⁴ This legislation, which was introduced in September 2012, would have allowed voters without state IDs to vote, as long as they confirmed their identity in a signed affidavit.²⁴⁵

241. See, e.g., Jonathan Brater, *The Past is Not Past: Why We Still Need Section 5 of the Voting Rights Act*, BOS. REV. (Feb. 7, 2012), <http://www.bostonreview.net/jonathan-brater-voting-rights-laws-south-carolina> (“[L]aws recently passed in a number of states constitute the greatest threat to voting rights since the 1960s, threatening to disenfranchise up to 5 million American citizens in 2012”); Iannetta, *supra* note 240 (“New voter ID laws being enacted in states across the nation could prevent many college students from voting in the next election. . . . [T]hese laws may have unintended consequences, both for young people and the two presidential candidates. Heather Smith, president of Rock the Vote, a nationwide organization that mobilizes young voters, said that while these laws vary from state to state, they all make it harder for young people to register and vote.”); *The Battle to Protect the Ballot*, *supra* note 6; Jim Vassallo, *College Students Target of Voter ID Laws*, JD J. (Sept. 24, 2012), <http://www.jdjjournal.com/2012/09/24/college-students-target-of-voter-id-laws/#> (“Voter identification laws across the country have taken aim at college students from Tennessee to Florida to Wisconsin to Pennsylvania.”).

242. Dan Froomkin, *Voter ID Laws Take Aim at College-Student Voters*, HUFFINGTON POST (Sept. 22, 2012, 10:16 AM), http://www.huffingtonpost.com/2012/09/22/voter-id-laws-gop-college-student_n_1791568.html (quoting David Halperin).

243. *Id.*; see also Vassallo, *supra* note 241.

244. Grasgreen, *supra* note 16.

245. *Id.* (“Cases of voter fraud would be subject to five years in prison or a \$10,000 fine.”).

B. Major Arguments For and Against Allowing Students to Vote in College Towns

College students, especially out-of-state students, sometimes face difficulties when voting in the state where they attend college. For example, these students are forced to pick between traveling back to their home state to vote, jumping through procedural hurdles for filing an absentee ballot in their home state, or facing criticism from local residents in the state where they attend school.²⁴⁶ In fact, New Hampshire Republican State Representative Gregory Sorg attempted in 2011 to prevent New Hampshire college students from voting unless they lived in New Hampshire prior to starting college.²⁴⁷ Sorg indicated that college students reside on isolated campuses with no community ties, which “distorts the way a community is run,” allowing transients to “descend on a community and take it over.”²⁴⁸ In addition, New Hampshire Republican State House Speaker William O’Brien received national attention when he remarked, in response to the new voting restrictions in the state impacting college students, that “[v]oting as a liberal, that’s what kids do. . . . They lack the life experience and they just vote their feelings.”²⁴⁹ This is why O’Brien supported legislation ending same-day registration and barring students from voting using their college addresses.²⁵⁰ It has also been argued that students living on college campuses in dorms are only temporary

246. Jack Fitzpatrick, *Some Voter ID Laws Keep College Students from Voting*, LEDGER (Aug. 23, 2012, 3:52 PM), <http://www.theledger.com/article/20120823/POLITICS/120829744?p=1&tc=pg> (“Out-of-state students must choose which state they want to vote in—their home state, where they may have to file an absentee ballot, or at school, where they face scrutiny from local residents.”). As noted previously, the U.S. Supreme Court’s 1979 *Symm* decision upheld the constitutional right of college students to register and vote in their college town. See *Symm v. United States*, 439 U.S. 1105, 1107 (1979); see also *supra* text accompanying note 14.

247. Fitzpatrick, *supra* note 246.

248. *Id.*

249. *Id.* (quoting Speaker O’Brien); Editorial, *Keeping Students From the Polls*, N.Y. TIMES (Dec. 26, 2011), <http://www.nytimes.com/2011/12/27/opinion/keeping-college-students-from-the-polls.html>.

250. *Keeping Students from the Polls*, *supra* note 249.

residents, and that living in a college dorm room is not sufficient to meet the residency requirement for voting.²⁵¹

Conversely, it has been argued that students live in their college towns for a majority of the four years they attend college, and therefore do not move any more than most American families.²⁵² In addition, the U.S. Census Bureau counts college students as residents of their college towns, and federal funds are dispersed to local municipalities based upon statistics that include college students.²⁵³ Moreover, college students are a valuable resource to their college communities by serving as volunteers, creating jobs in the local community, providing an economic boost to the community, and paying taxes (e.g., gasoline and sales taxes).²⁵⁴ Other reasons that have been cited for allowing college students to register and vote in their college towns include the fact that college students “have a vested interest in the local issues” that have an effect on their quality of life, including how the community deals with “off-campus housing and zoning restrictions, the environment, taxes, transportation and personal safety.”²⁵⁵ In addition, allowing students to vote where they attend college alleviates the inconvenience of students having to obtain and return an absentee ballot.²⁵⁶ In fact, college students have been encouraged to vote where they attend college because the absentee ballot process is too complex, and students are not likely to properly register and fill out the absentee ballot application correctly.²⁵⁷ Therefore, if a college student considers the community where they attend college as

251. Anne Blythe, *County Elections Boards in NC Challenging College Student Voting Patterns*, NEWS & OBSERVER (Aug. 19, 2013), <http://www.news-observer.com/2013/08/19/3120626/county-elections-boards-in-nc.html>.

252. *Should I Register and Vote in My College Community?*, LEAGUE WOMEN VOTERS: MASS., <http://www.votinginfo.info/2009/07/should-i-register-and-vote-in-my.html> (last visited Dec. 19, 2014).

253. *Id.*

254. *Id.*

255. *Id.*

256. *Id.*

257. Fitzpatrick, *supra* note 246 (“[S]tudents [should] vote in the state where they go to school because the process of receiving an absentee ballot is so complicated. ‘The likelihood of students registering at their parent’s house and then correctly filling out the application for an absentee ballot is low.’” (quoting Sarah Stern)).

their primary residence, the student should vote in the college community.²⁵⁸

C. Pros and Cons of Using College Student IDs for Voting

Similar to the major arguments expressed for and against photo ID laws, arguments have been made on both sides of the issue regarding permitting college students to vote where they attend college as well as using their college student IDs for voting at the polls on Election Day. One major argument for accepting college student IDs for voter verification purposes is to provide college students with access to voting at the polls on Election Day.²⁵⁹ Moreover, some argue that student IDs increase convenience because many students lack driver's licenses and do not carry any other ID.²⁶⁰ In addition, many feel that there is unnecessary controversy associated with student IDs.²⁶¹ In fact, students have already provided the requisite information to attend college and obtain a student ID, "including filing the FAFSA, having a proper immunization record, and submitting standardized test scores and high school transcripts."²⁶² The expiration date should not matter when the voter is identifiable from the student ID and the name on the voter roll matches the name on the ID.²⁶³ When this happens, the ID has accomplished its job of assuring that the person is who

258. *Should I Register and Vote in My College Community?*, *supra* note 252. However, the Massachusetts League of Women Voters also noted that it is possible for college students to still be subject to taxes and student loan or scholarship regulations at their prior home address. In fact, they advised if a student has a state-funded scholarship, or a privately funded scholarship that is designated for a local student, that the student should "be sure to check the terms of [his or her] scholarship before registering in [his or her] local college community" because the student "could lose [his or her scholarship] eligibility." *Id.*

259. Froomkin, *supra* note 242. Hedy Weinberg, Executive Director of the American Civil Liberties Union in Tennessee, stated that "banning student IDs as voter verification 'makes it really obvious that the goal is to suppress the students' access to the ballots.'" *Id.*

260. Fitzpatrick, *supra* note 246.

261. Jacob Porter, *Pennsylvania Voter ID Law Will Prevent College Students from Voting*, POLICYMIC (June 25, 2012), <http://www.policy-mic.com/articles/10081/pennsylvania-voter-id-law-will-prevent-college-students-from-voting>.

262. *Id.*

263. *Id.*

they purport to be, regardless of whether the voter is currently a student.²⁶⁴ In addition, other forms of ID, such as driver's licenses, have not been scrutinized like college student IDs, which ultimately creates a "double standard" that has a negative impact upon young voters.²⁶⁵

Conversely, Tennessee's voter ID bill, sponsored by Republican Senator Bill Ketron, allowed state university-provided photo IDs as acceptable proof of identity for voting at the polls for faculty, but such IDs were not permitted for college students to vote in Tennessee.²⁶⁶ He stated the difference is because "student IDs are frequently forged so students can lie about their age."²⁶⁷ Moreover, another Tennessee Republican Senator, Stacey Campfield, expressed concern about the validity of student IDs and the ability of election workers to affirm the legitimacy of various student IDs.²⁶⁸

V. INEQUITIES AND THE QUESTIONABLE CONSTITUTIONALITY OF CERTAIN STATE VOTER ID LAWS

A. Major Barriers to Using College Student IDs

Despite state voter ID laws permitting the use of college student IDs and the fact that many state voter ID laws on their face appear to be "college student friendly," it is rare that college student IDs have expiration dates printed on them.²⁶⁹ As a result, some states have rejected public college IDs that do not include

264. *Id.*

265. *Id.* ("Other identification cards are not subjected to such scrutiny. For example, [some] driver's licenses are still valid 12 months after they expire despite there being an accessible black market for driver's licenses. Therefore, [Pennsylvania's] voter ID law makes a double standard that disadvantages young people.")

266. Froomkin, *supra* note 242.

267. *Id.* *But see* Assoc. Press, *Bill Allowing State College IDs to Vote Delayed*, NASHVILLE LEDGER (Mar. 1, 2013), <http://www.nashville-ledger.com/editorial/Article.aspx?id=64901> (noting that Senator Ketron changed his opinion and in fact, he proposed a bill in 2013 allowing college students to use their student IDs issued by state higher education institutions for voting purposes).

268. *Bill Allowing State College IDs to Vote Delayed*, *supra* note 267.

269. Grasgreen, *supra* note 16 ("'[V]ery few' campuses print expiration dates on student ID cards.")

these dates and addresses.²⁷⁰ However, recently some colleges have begun to print expiration dates on their student IDs.²⁷¹ In addition, other colleges and universities have printed stickers and placed them on student IDs in order to show their validity.²⁷²

The U.S. Supreme Court in *Crawford* did not close the possibility of future litigants being successful in having state voter ID laws declared unconstitutional when applied to certain classes of voters.²⁷³ In addition to the dissenters in *Crawford*, other researchers have concluded that voter ID laws are unconstitutional.²⁷⁴ Some voter ID laws have been considered an unconstitutional poll tax because of the costs associated with obtaining an ID.²⁷⁵ Poll taxes require citizens to pay a fee to participate in the electoral process, but imposing such taxes to vote is prohibited by the Twenty-Fourth Amendment of the U.S. Constitution as well as by U.S.

270. Fitzpatrick, *supra* note 246; *see also* Overton, *supra* note 67, at 661 (“A law that requires a voter’s current address to appear on the photo-identification card would also drive up the number of those excluded [from voting]. The University of Wisconsin-Milwaukee study confirmed that transient populations were less likely to have valid driver’s licenses. Of the 12,624 students living in residence dorms at Marquette University, the University of Wisconsin-Madison, and the University of Wisconsin-Milwaukee, less than 3% had driver’s licenses that listed their dorm’s address.” (footnote omitted)).

271. Grasgreen, *supra* note 16.

272. *Id.*

273. *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 191, 202–04 (2008); de Alth, *supra* note 236, at 185 (“Since the [U.S. Supreme] Court left open the possibility of as-applied challenges to voter ID laws, future litigants who can produce research such as this will have a much stronger case to have these laws declared unconstitutional.”).

274. *See Crawford*, 553 U.S. at 209, 237 (Souter, J., dissenting; Breyer, J., dissenting); de Alth, *supra* note 236, at 186 (concluding that since there is “scant existing evidence of voter impersonation fraud . . . the state’s interest in preventing fraud is outweighed by the burden on millions of voters, and . . . voter ID laws are therefore unconstitutional”); David Schultz, *Less than Fundamental: The Myth of Voter Fraud and the Coming of the Second Great Disenfranchisement*, 34 WM. MITCHELL L. REV. 483, 487 (2008) (“[P]hoto ID laws are unconstitutional . . .”).

275. Fitzpatrick, *supra* note 246; *see also* Emily Weaver, *Voter ID Debate May Affect College Students*, TECHNICIAN (Mar. 25, 2013, 1:22 AM), http://www.technicianonline.com/news/article_01bc8e88-950c-11e2-a601-0019bb30f31a.html?mode.

Supreme Court jurisprudence.²⁷⁶ Some colleges in Wisconsin paid for new, state-acceptable student ID cards while other colleges and universities within the state charged students for new ID cards to meet the state's voter ID requirements.²⁷⁷ For example, University of Wisconsin-Eau Claire gave students the option to receive new IDs that included the necessary information, but charged two dollars for the new IDs to reimburse the university.²⁷⁸ Democratic State Representative Gary Hebl called the charge imposed an unconstitutional, "poll tax, obviously," given that "[t]he purpose of the card is to vote with it."²⁷⁹ Hebl argues that the cost of the ID is irrelevant, claiming that "charg[ing] people to vote is unconstitutional If it costs a nickel, it's unconstitutional; \$2 could be the difference between buying a loaf of bread or voting."²⁸⁰ Despite the low cost for the new student IDs, Paydon Miller, president of the Student Democrats, argued that students should not have to "jump through hoops" because other voters do not face the same burden as the student body.²⁸¹

In addition, in states with strict photo ID requirements, people who lack acceptable IDs have to pay to obtain copies of supporting documents, such as birth certificates, prior to getting acceptable IDs.²⁸² However, as noted by Wisconsin Supreme Court Justice Patience Roggensack, "[i]t's still a payment to the state to be able to vote" because state laws often allow counties to

276. U.S. CONST. amend. XXIV, § 1 ("The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax."); *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 666 (1966) ("We conclude that a State violates the Equal Protection Clause of the Fourteenth Amendment whenever it makes the affluence of the voter or payment of any fee an electoral standard. Voter qualifications have no relation to wealth nor to paying or not paying this or any other tax."); see also CHEMERINSKY, *supra* note 18, at 940–41, 944, 1081.

277. Fitzpatrick, *supra* note 246.

278. *Id.*

279. *Id.* (quoting Representative Hebl).

280. *Id.*

281. *Id.*

282. Todd Richmond, *Wisconsin Justices Hear Voter ID Arguments*, TWINCITIES.COM (Feb. 25, 2014, 8:38 AM), http://www.twincities.com/news/ci_25222736/Wisconsin-supreme-court-hear-voter-id-arguments.

charge a fee to obtain copies of supporting documents, including birth certificates.²⁸³

Moreover, in certain states such as Georgia and Indiana, voter ID laws allowed student IDs issued by state colleges and universities, but not private institutions, to be used at the polls on Election Day.²⁸⁴ As a result of lack of uniformity between student IDs, Georgia legislators excluded student IDs issued by private colleges and universities because of the burden it would place on poll workers.²⁸⁵ The inequities of the system have been called into question:

Morehouse College students can use their ID cards to buy food and school supplies, use computer labs and get books from the library, but they can't use ID from the historic Atlanta school to vote. A few miles away, Georgia State University students use their ID in the same way, but their cards allow them to vote.²⁸⁶

Students attending private schools generally pay substantially more to attend such colleges and universities. However, student voters should not be penalized for attending private colleges. Voter ID laws such as Georgia's, which make a private versus public college distinction, should be overturned or at least be amended to allow student ID cards issued by both state and private institutions of higher education within the State of Georgia to be used for voting purposes. In sum, state voter ID laws such as Georgia's should be declared unconstitutional to the extent they create unnecessary burdens for college students and suppress their equal rights to vote at the polls on Election Day.

283. *Id.*

284. Fitzpatrick, *supra* note 246; *see also supra* notes 32–34, 38–39, and accompanying text.

285. Fitzpatrick, *supra* note 246.

286. *Id.*

B. Landmark U.S. Supreme Court Decision in 2013

After the November 2012 Presidential Election, a landmark U.S. Supreme Court decision in 2013 turned back voting rights.²⁸⁷ In *Shelby County v. Holder*, the Court held that Section 4 of the Voting Rights Act of 1965 was unconstitutional because its “coverage formula” was outdated and could no longer be used, and that the nine states (and several additional counties) previously covered under the Act were no longer required to obtain federal preclearance prior to implementing voting changes.²⁸⁸ Although the Court did not invalidate Section 5 of the Voting Rights Act of 1965 and “the principle that preclearance can be required,” without Section 4, no jurisdiction is subject to Section 5 preclearance “unless and until Congress can enact a new statute” with a new coverage formula that provides which states and counties are now covered under the Voting Rights Act.²⁸⁹

C. Major Voter ID Law Changes Immediately Post-Shelby

Immediately following the landmark decision in *Shelby*, various voter ID measures took place in several states. For example, within hours of the *Shelby* decision, Texas implemented its strict photo ID law, which had been “postponed by the Justice Department,” requiring voters to show a valid photo ID prior to casting a ballot.²⁹⁰ On the same day as the ruling, Mississippi and Alabama also announced that each state would immediately enforce

287. Adam Liptak, *Supreme Court Invalidates Key Part of Voting Rights Act*, N.Y. TIMES (Jun. 25, 2013), <http://www.nytimes.com/2013/06/26/us/supreme-court-ruling.html>; Emily Schultheis, *Supreme Court Ruling Sets Stage for Voter ID Battle*, POLITICO (Jun. 26, 2013, 5:07 AM), <http://www.politico.com/story/2013/06/supreme-court-voter-id-voting-rights-93396.html>.

288. *Shelby Cnty. v. Holder*, 133 S. Ct. 2612, 2631 (2013) (5-4 decision).

289. Amy Howe, *Details on Shelby County v. Holder: In Plain English*, SCOTUSBLOG (Jun. 25, 2013, 11:03 AM), <http://www.scotusblog.com/2013/06/details-on-shelby-county-v-holder-in-plain-english/> (noting that Section 4 of the Voting Rights Act provided a formula that was “used to determine which state and local governments must comply with Section 5’s preapproval requirement”).

290. Schultheis, *supra* note 287; see also Michael Cooper, *After Ruling, States Rush to Enact Voting Laws*, N.Y. TIMES (Jul. 5, 2013), http://www.nytimes.com/2013/07/06/us/politics/after-Supreme-Court-ruling-states-rush-to-enact-voting-laws.html?pagewanted=all&_r=0.

their voter ID laws.²⁹¹ In fact, eight states covered under Section 4 before the *Shelby* decision, have legislatively imposed new voting restrictions.²⁹² These state actions since *Shelby* have underscored the need for Congress to address the coverage of the Voting Rights Act as it applies to the states.²⁹³ The states' quickness to implement voting changes that were previously thought or suspected of being discriminatory highlights the urgency for Congressional action.²⁹⁴ However, these state election laws may still be challenged in state or federal court, despite the states no longer being required to obtain advance federal approval.²⁹⁵

VI. CONCLUSION

Young adults look forward to their first opportunity to exercise the right to vote.²⁹⁶ States have implemented voter ID requirements that restrict rather than encourage students "to take part in this rite of passage."²⁹⁷ The new laws may not initially seem overly restrictive; however when considering that students may carry only a student ID, the hurdle of presenting government issued IDs, such as passports or driver's licenses, poses a problem for students.²⁹⁸ In addition, more students may be prevented from voting if other voter ID laws are interpreted as banning out-of-state

291. Schultheis, *supra* note 287.

292. Ari Berman, *Members of Congress Introduce a New Fix for the Voting Rights Act*, NATION (Jan. 16, 2014, 12:53 PM), <http://www.thenation.com/blog/177962/members-congress-introduce-new-fix-voting-rights-act>.

293. Cooper, *supra* note 290.

294. *Id.*

295. *Id.*

296. Camira Powell, *Voter ID Laws Could Keep Students from Voting in 2012 Elections*, POLICYMIC (Dec. 29, 2011), <http://www.policymic.com/articles/3075/voter-id-laws-could-keep-students-from-voting-in-2012-elections>.

297. *Id.*

298. *Id.*; see also BRENNAN CTR. FOR JUSTICE, CITIZENS WITHOUT PROOF: A SURVEY OF AMERICANS' POSSESSION OF DOCUMENTARY PROOF OF CITIZENSHIP AND PHOTO IDENTIFICATION 1 (2006), available at http://www.brennan-center.org/page/-/d/download_file_39242.pdf; Bennet Urges DOJ to Review Voter ID Laws, U.S. SENATE DEMOCRATS (June 29, 2011, 3:03 PM), <http://democrats.senate.gov/2011/06/29/bennet-urges-doj-to-review-voter-id-laws/> (stating that the percentage of voters without a government-issued ID "is higher among seniors, racial minorities, low-income voters and students").

driver's licenses.²⁹⁹ In sum, “[p]olitical leaders should be encouraging young adults to participate in civic life,” but some “state lawmakers [were] doing everything they [could] instead to prevent students from voting in the 2012 presidential election.”³⁰⁰

In an effort to combat the backwards turn of the *Shelby* case, in January 2014, a bipartisan group of several members of Congress introduced the Voting Rights Amendment Act of 2014 “to reinstate the vital protections of the Voting Rights Act,” and to strengthen the Voting Rights Act.³⁰¹ The bill is not perfect and has “flaws,” but the legislation should be passed since it “represents a significant improvement over the disastrous post-*Shelby* status quo,” wherein certain states having been freed from federal oversight moved quickly to pass “blatantly discriminatory voting restrictions.”³⁰² The amendment helps protect citizens’ voting rights, while providing the federal government and advocates a means to prevent voter discrimination.³⁰³

College students should be provided with easy access to the voting booths on Election Day. However, depending on where they attend college, certain students can have lesser restrictions imposed on their right to vote on Election Day as opposed to students going to colleges in other states, including non-photo ID states. The least restrictive states allow college students to present either a photo ID or non-photo ID to vote at the polls on Election Day. Therefore, states identified as “college student unfriendly states” and other states with strict photo ID requirements should implement alternative forms of ID to vote if these states truly value the constitutional right under *Symm* for registered college students to vote in their local communities on Election Day. These states should enact less restrictive requirements to their current voter ID laws to allow college students, whether they are attending public or private higher education institutions, to use their student IDs to vote at the polls in the state where they attend college, as opposed

299. Powell, *supra* note 296.

300. *Keeping Students from the Polls*, *supra* note 249.

301. Berman, *supra* note 292. See generally Voting Rights Amendment Act of 2014, H.R. 3899, 113th Cong. (2014); Voting Rights Amendment Act of 2014, S. 1945, 113th Cong. (2014).

302. Berman, *supra* note 292.

303. *Id.*

to having to absentee vote or travel back to their home state to participate in the electoral process.

Students decide where they want to vote, whether it is in their home state or the state where they attend college.³⁰⁴ College students should be allowed to vote in the state where their college or university is located, if they register in that state.³⁰⁵ Some have argued that students should receive materials explaining the pertinent issues, describing candidate statements, and information about local polling places.³⁰⁶ Whether they vote in their home state or college town, college students are allowed to vote in order to “voice [their] opinions on issues, policies, candidates, and referendums” and to “[s]tand up for what [they] believe in.”³⁰⁷ The next Presidential Election is not until 2016. Therefore, college students attending both public and private institutions of higher education should combat voter suppression measures that impact any student’s ability to participate in the electoral process. There should not be any substantial barriers for college students to exercise their fundamental right guaranteed by the U.S. Constitution and by U.S. Supreme Court precedent: the right to vote.

304. See Lucier, *supra* note 1 (noting that students “can only vote in one state”).

305. *Id.*

306. *Id.* (encouraging college students to “visit some great online resources aimed at younger voters, like Rock the Vote and Project Vote Smart” to get additional information about issues affecting college students).

307. Kelci Lynn Lucier, *10 Reasons Why You Should Vote as a College Student: Thinking Your Vote Won’t Count Seriously Sells Yourself Short*, COLLEGE LIFE, <http://collegelife.about.com/od/2008votingandelection/a/whyyoushouldvote.htm> (last visited Dec. 22, 2014).