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VOTER PHOTO IDENTIFICATION

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This issue brief provides an overview of voter photo identification (ID) laws nationwide. It outlines which states require voters to present photo identification and explains some of the issues surrounding these laws.

Overview of Voter Photo ID Laws

Thirty-three states have laws requiring voters to show some form of ID to vote, of which 16 require voters to show a photo ID. For voters who fail to show an appropriate ID at the polls, states with non-strict laws provide alternative options, such as allowing a voter to sign an affidavit of identity, allowing a poll worker to vouch for the voter, or allowing the person to vote with a provisional ballot. States with strict ID laws require voters to vote on a provisional ballot and may not count those ballots until a voter returns to an election office within a specified amount of time, usually a few days, to present acceptable ID. Eighteen states and the District of Columbia do not require voters to show any documents before voting.

Some states enacted voter ID laws in the wake of the U.S. Supreme Court's ruling in *Shelby County v. Holder* (2013),¹ which loosened federal oversight of voting laws. Previous to this ruling, certain states were legally bound under the federal Voting Rights Act to seek approval from the U.S. Attorney General or the U.S. District Court for the District

of Columbia before enacting any new voting laws. After the Supreme Court found this provision unconstitutional, the following states no longer needed federal approval to enact stricter voting laws: Alabama, Alaska, Arizona, California, Florida, Georgia, Louisiana, Michigan, Mississippi, North Carolina, New York, South Carolina, South Dakota, Texas, and Virginia.

Voting in Colorado

Most elections in Colorado are conducted as mail ballot elections. While all registered voters receive a ballot in the mail, state law requires those who recently registered for the first time to provide a copy of acceptable identification along with their mail ballot.

Colorado does not require voters to present photo ID at the polls. Voters must present an acceptable form of identification, which can include:

- a valid Colorado driver's license;
- a valid U.S. passport;
- a valid federal, state, or local government employee photo ID card;
- a valid U.S. military photo ID card;
- a copy of a current utility bill, bank statement, paycheck, or other government document showing the voter's name and address;
- a Certificate of Degree of Indian or Alaskan Native Blood;
- a valid Medicare or Medicaid card;

¹570 U.S. (2013)

- a certified copy of a U.S. birth certificate;
- certified documentation of naturalization;
- a valid student photo ID;
- a valid veteran photo ID; or
- a valid ID card issued by a federally recognized tribal government.

Voters who do not present a form of approved ID may cast a provisional ballot. County clerks verify and count provisional ballots within 10 days of a primary election and within 14 days of a general election.

Voter Photo ID Laws in Other States

The following states require photo ID to vote:

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|-------------|----------------|
| • Alabama | • Michigan |
| • Florida | • Mississippi |
| • Georgia | • North Dakota |
| • Hawaii | • Rhode Island |
| • Idaho | • South Dakota |
| • Indiana | • Tennessee |
| • Kansas | • Virginia |
| • Louisiana | • Wisconsin |

Of these, Georgia, Indiana, Kansas, Mississippi, Tennessee, Virginia, and Wisconsin have strict ID laws.

In recent years, several voter photo ID laws have been challenged in courts across the country. Proponents of photo ID laws argue that requiring photo identification at the polls reduces voter fraud and strengthens the electoral process. Opponents counter that these laws place an undue burden on some voters without any demonstrable effect on already low instances of voter fraud.

Photo ID laws have been overturned or challenged in the following states:

Arkansas. The Arkansas Supreme Court ruled in October 2014 that the state's 2013 voter ID law was unconstitutional, affirming a circuit court's previous decision. Arkansas's

Constitution requires a voter to be 18, a citizen, an Arkansas resident, and registered to vote. The state's Supreme Court ruled that requiring photo ID to vote added a new qualification not specified in the constitution and that it would disenfranchise voters.

North Carolina. In July 2016, a federal appeals court struck down North Carolina's photo ID law, holding that it violated the U.S. Constitution and the Voting Rights Act. In August 2016, the U.S. Supreme Court denied an emergency petition filed by North Carolina officials to have the decision reversed, leaving the federal appeals court's decision in force. As a result, North Carolina voters do not have to present any documents before voting.

Pennsylvania. In January 2014, a state judge struck down Pennsylvania's 2012 photo ID law. The judge ruled that the law did not further the goal of a free and fair election, but instead placed a burden on elderly, disabled, and low-income Pennsylvanians.

Texas. In 2011, Texas replaced a non-strict, non-photo ID law with a strict voter photo ID law. A federal appeals court struck down the law in July 2016, ruling that it did not comply with the Voting Rights Act. Although an appeal to the U.S. Supreme Court is possible, the state reached an agreement with the U.S. Department of Justice that allows voters without ID to vote once they sign an affidavit that certifies they are a citizen and present proof of residence.

Wisconsin. Wisconsin's strict voter photo ID law, enacted in 2011, has faced several legal challenges. In August 2016, a federal appeals court consolidated the disputes and issued an order to keep the law in force in light of the state's promise to reform its ID petition process. As previously ordered by a district court, Wisconsin enacted a rule that allows any person who comes to the Division of Motor Vehicles to receive by mail a free photo ID. The person does not have to show a birth certificate or proof of citizenship to receive the free ID.