



# OLR RESEARCH REPORT

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## 2011 STATE VOTING LAW CHANGES

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You asked for a summary of other states' recent voting law changes that tighten existing or establish new restrictions on voter registration or voting procedures.

### SUMMARY

According to the National Conference of State Legislatures (NCSL) and the Brennan Center for Justice, at least 12 states passed laws in 2011 that tighten existing or establish new restrictions on voter registration or voting procedures. The new laws focus on:

1. voter ID, particularly photo ID;
2. voter registration, including same day registration and groups or organizations that register voters;
3. proof of citizenship for voter registration;
4. early voting; and
5. voting rights restoration for former felons.

Table 1 shows which states passed laws in each of these areas.

**Table 1: 2011 Voting Law Changes**

<b>State</b>	<b>Photo ID</b>	<b>Voter Registration</b>	<b>Proof of Citizenship</b>	<b>Early Voting</b>	<b>Voting Rights Restoration</b>
Alabama	X		X		
Florida		X		X	X
Georgia				X	
Iowa					X
Kansas	X		X		
Ohio		X		X	
Rhode Island	X				
South Carolina	X				
Tennessee	X		X	X	
Texas	X	X			
West Virginia				X	
Wisconsin	X	X			

Sources: NCSL and Brennan Center for Justice

## **PHOTO ID**

According to NCSL, 30 states require voters to show some sort of ID before voting at the polls. Some of these states require a photo ID. Others allow officials to request a photo ID, but do not require one to vote. (In such states, including Idaho and Michigan, a person's ballot is counted after his or her identity is verified through an alternative method like a signature match or sworn affidavit.) The majority accept non-photo forms of ID.

Before 2011, two states had strict photo ID laws in place: Indiana and Georgia. These laws require voters to show a valid photo ID before they may vote at the polls. In the absence of such an ID, a voter may vote by provisional ballot. Generally, the provisional ballot is counted only if the voter provides election officials with a photo ID within a few days after the election or swears that he or she cannot provide such proof because, for example, he or she has a religious objection to being photographed.

According to NCSL and the Brennan Center for Justice, at least 34 states considered bills in 2011 requiring people to show a photo ID before voting. Seven enacted photo ID legislation. (Three of these, Alabama, South Carolina, and Texas, require pre-clearance under the Voting Rights Act by the U.S. Justice Department or a federal court before they go into effect—see BACKGROUND). Governors in another five states (Minnesota, Missouri, Montana, New Hampshire, and North Carolina) vetoed photo ID bills that legislatures passed. Other states, including Oklahoma and Missouri, passed ballot measures to amend

their constitutions to require photo ID (voters must approve these measures before they become law). And others have photo ID bills pending in ongoing legislative sessions (e.g., Pennsylvania).

Table 2 summarizes the key provisions in the seven new photo ID laws.

**Table 2: New Photo ID Laws**

<b>State</b>	<b>Acceptable Forms</b>	<b>Applicability</b>	<b>Exemptions</b>	<b>Alternative Voting Procedure</b>	<b>Free Government ID</b>
<b>Alabama*</b>  Ala. Code § 17-9-30  Effective for the 2014 primary	<ul style="list-style-type: none"> <li>▪ Student ID</li> <li>▪ Any photo ID issued by state or federal government</li> <li>▪ Tribal ID card</li> </ul>	<ul style="list-style-type: none"> <li>▪ People appearing to vote in person at a polling place</li> <li>▪ Certain people voting by absentee ballot (must submit copy)</li> </ul>	<ul style="list-style-type: none"> <li>▪ People entitled under federal laws to vote by absentee (e.g., military, overseas, and elderly voters)</li> </ul>	Provisional ballot	Yes
<b>Kansas</b>  Kan. Stat. Ann. §§ 25-409, 25-2908, 25-1122, 25-3002, and 8-1324(g)(2)  Effective January 1, 2012	<ul style="list-style-type: none"> <li>▪ Student ID</li> <li>▪ Following government-issued photo IDs: <ul style="list-style-type: none"> <li>- Unexpired driver's license</li> <li>- Non-driver's ID issued by motor vehicle department</li> <li>- U.S. passport</li> <li>- U.S. Military photo ID</li> <li>- Concealed handgun license</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ People appearing to vote in person at a polling place</li> <li>▪ Certain people voting by absentee ballot (must submit copy)</li> </ul>	<ul style="list-style-type: none"> <li>▪ People who have a permanent disability</li> <li>▪ Military service men and women and their spouses voting by absentee</li> <li>▪ People with a religious objection to being photographed</li> <li>▪ People over age 65 may show an expired photo ID</li> </ul>	Provisional ballot	Yes, with affidavit stating the ID is needed for voting purposes
<b>Rhode Island</b>  R.I. Gen. Laws §17-19-24.2  Non-photo ID required beginning Jan. 1, 2012. Photo ID required beginning Jan. 1, 2014.	<ul style="list-style-type: none"> <li>▪ Non-governmental photo ID</li> <li>▪ Any photo ID issued by state or federal government including: <ul style="list-style-type: none"> <li>- Unexpired driver's license</li> <li>- Non-driver's ID issued by motor vehicle department</li> <li>- U.S. passport</li> <li>- U.S. Military photo ID</li> <li>- U.S. naturalization documents bearing photo</li> <li>- Concealed handgun license</li> </ul> </li> </ul>	People appearing to vote in person at a polling place	<ul style="list-style-type: none"> <li>▪ Absentee voters</li> </ul>	Provisional ballot	Yes
<b>South Carolina*</b>  S.C. Code Ann. § 7-13-710	Government-issued photo IDs: <ul style="list-style-type: none"> <li>▪ Unexpired driver's license</li> <li>▪ Non-driver's ID issued by motor vehicle department</li> <li>▪ U.S. passport</li> <li>▪ U.S. Military photo ID</li> </ul>	People appearing to vote in person at a polling place, including absentee voters who vote in person	<ul style="list-style-type: none"> <li>▪ Absentee voters who vote by mail</li> <li>▪ People who state in an affidavit that they have a reasonable impediment to obtaining a photo ID or a religious objection to being photographed</li> </ul>	Provisional ballot	Yes

**Table 2 (continued)**

<b>State</b>	<b>Acceptable Forms</b>	<b>Applicability</b>	<b>Exemptions</b>	<b>Alternative Voting Procedure</b>	<b>Free Government ID</b>
<p><b>Tennessee</b></p> <p>Tenn. Code. Ann. § 2-7-112</p> <p>Effective January 1, 2012</p>	<p>With the exception of student IDs, any photo ID issued by state or federal government</p>	<p>People appearing to vote in person at a polling place, including absentee voters who vote in person</p>	<ul style="list-style-type: none"> <li>▪ Absentee voters who vote by mail</li> <li>▪ People who are hospitalized or in a nursing home</li> <li>▪ People who are indigent or cannot afford a photo ID</li> <li>▪ People with a religious objection to being photographed</li> </ul>	<p>Provisional ballot</p>	<p>Yes, with affidavit stating the ID is needed for voting purposes</p>
<p><b>Texas*</b></p> <p>Tex. Elec. Code Ann. § 63.001 <i>et seq.</i></p> <p>Effective January 1, 2012</p>	<p>Government-issued photo IDs:</p> <ul style="list-style-type: none"> <li>▪ Unexpired driver's license</li> <li>▪ Non-driver's ID issued by motor vehicle department</li> <li>▪ U.S. passport</li> <li>▪ U.S. Military photo ID</li> <li>▪ U.S. naturalization documents bearing photo</li> <li>▪ Concealed handgun license</li> </ul>	<p>People appearing to vote in person at a polling place, including absentee voters who vote in person</p>	<ul style="list-style-type: none"> <li>▪ Absentee voters who vote by mail</li> <li>▪ People with disabilities who produce statement that they have been determined to have a disability by a government agency and do not have proper ID</li> <li>▪ People who do not have any photo identification as a result of certain natural disasters</li> <li>▪ People who have a consistent religious objection to being photographed</li> </ul>	<p>Provisional ballot</p>	<p>Yes</p>
<p><b>Wisconsin</b></p> <p>Wis. Stat. Ann. §§ 5.02, 6.79(2)(a), 6.97</p> <p>Required beginning February 2012</p>	<ul style="list-style-type: none"> <li>▪ Student ID (apparently few school IDs meet the law's ID requirements)</li> <li>▪ Tribal ID card</li> <li>▪ Following government-issued photo IDs: <ul style="list-style-type: none"> <li>- Unexpired driver's license</li> <li>- Non-driver's ID issued by motor vehicle department</li> <li>- U.S. passport</li> <li>- U.S. Military photo ID</li> <li>- U.S. naturalization documents bearing photo</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ People appearing to vote in person at a polling place</li> <li>▪ Permanent absentee voters—the first time they vote absentee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Military and overseas voters</li> <li>▪ "Confidential" voters (e.g., police and domestic violence victims)</li> <li>▪ Elderly and people with disabilities who are indefinitely confined to a care facility</li> </ul>	<p>Provisional ballot</p>	<p>Yes</p>

Sources: NCSL and Brennan Center for Justice

\*Requires pre-clearance under the Voting Rights Act (see BACKGROUND).

## ***Student IDs***

According to the Brennan Center for Justice, three of the seven states that enacted photo ID laws, specifically exclude student IDs from the list of acceptable forms: South Carolina, Texas, and Tennessee. Another, Wisconsin, allows student IDs that meet specified criteria. However, few state educational institutions, including the University of Wisconsin, have IDs meeting these criteria.

## **VOTER REGISTRATION**

Before 2011, people could register and vote at their polling place on Election Day in eight states: Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin, and Wyoming. Additionally, two states, North Carolina and Ohio, allowed people to register and vote on the same day, other than Election Day (i.e., same day registration). (A number of other states allow early voting, which is discussed later in this report.) During the 2011 legislative session, five of these states considered bills eliminating Election Day registration (EDR) or same day registration. The bills passed in three states and became law in one: Ohio. (Maine voters overturned its act during the November 2011 election through a referendum question and the Montana governor vetoed its act.) The bill to end same day registration is pending in North Carolina.

Similarly, at least seven states considered bills in 2011 placing new restrictions on groups or organizations that register voters (e.g., League of Women Voters). Bills in two of these states, Florida and Texas, became law. However, Florida requires pre-clearance under the Voting Rights Act before it goes into effect. Bills in a few other states are pending.

Table 3 summarizes significant changes in 2011 to voter registration laws.

**Table 3: Changes to Voter Registration Laws**

<b>State</b>	<b>EDR and Same Day Registration</b>	<b>Voter Registration Groups</b>	<b>Other</b>
<b>Florida*</b>  Fla. Stat. Ann. § 97.0575	N/A	Voter registration groups must now: <ul style="list-style-type: none"> <li>▪ Pre-register with the state before engaging in registration activity</li> <li>▪ Have volunteers and employees sign a sworn affidavit under penalty of perjury for false registration</li> <li>▪ Submit completed registration forms to county officials within 48 hour of signature or risk civil penalties and fines</li> <li>▪ Put a government-issued organization code on each registration form they obtain or receive, track registration data, and report the figures to the state monthly in electronic format</li> </ul>	Voters who move into the state can no longer update their address at the polling place and, after having existing registration cross-checked in state database, vote.
<b>Ohio**</b>  Ohio Rev. Code Ann. §§ 3509.01 and 3503.19	Start of the early voting period shortened, from 35 to 17 days before the election, thus eliminating its one-week overlap with voter registration period (deadline is 30 days before an election). Voters may no longer register and also vote on the same day.	N/A	N/A
<b>Texas</b>  Tex. Elec. Code Ann. §§ 11.002, 13.008, 13.031, and 13.047	N/A	<ul style="list-style-type: none"> <li>▪ People who register voters must be deputized first and attend training, which may include an exam</li> <li>▪ Only state residents and qualified voters may register voters; they cannot receive performance-based compensation; violators are guilty of a Class A misdemeanor</li> </ul>	N/A
<b>Wisconsin</b>  Wis. Stat. § 6.15(1)	N/A (EDR in place)	N/A	Increases, from 10 to 28 days before a presidential election, the length of time that an otherwise eligible voter must reside in the state before he or she may vote for president and vice president (and no other offices).

Sources: NCSL and Brennan Center for Justice

N/A means not applicable

\*Currently being considered for pre-clearance under the Voting Rights Act (see BACKGROUND)

\*\* A question will appear on the November 2012 ballot asking whether voters want to overturn the law that eliminated same day registration; in the meantime, the state is operating under prior law.

## PROOF OF CITIZENSHIP

Before 2011, two states had laws requiring people to show documentary proof of citizenship to register to vote: Arizona and Georgia. (Arizona's law was challenged in federal court and a decision is pending. Georgia has not yet implemented its law.) During the 2011 session, at least 12 other states considered similar proof of citizenship bills. Of these, three enacted such legislation: Alabama, Kansas, and Tennessee. However, federal pre-clearance is required before Alabama's law takes effect.

Table 4 summarizes the proof of citizenship provisions in the new laws.

**Table 4: New Proof of Citizenship Laws**

<b>State</b>	<b>Acceptable Documents</b>	<b>Applicability</b>
<b>Alabama*</b>  PA 2011-535, § 29 (HB 56)	<ul style="list-style-type: none"> <li>▪ Driver's license or non-driver's ID with notation that person submitted proof of citizenship</li> <li>▪ Certain tribal IDs</li> <li>▪ U.S. birth certificate</li> <li>▪ U.S. passport</li> <li>▪ Valid federal, state, or local ID that requires proof of lawful presence in the U.S. for issuance</li> <li>▪ Naturalization documents</li> <li>▪ Other documents or methods of proof of U.S. citizenship issued by the federal government pursuant to the Immigration and Nationality Act of 1952, including its amendments</li> <li>▪ Certification of report of birth issued by U.S. Department of State</li> <li>▪ Final adoption decree showing the applicant's name and U.S. birthplace</li> <li>▪ Official U.S. military record of service showing the applicant's birthplace in the U.S.</li> <li>▪ An extract from a U.S. hospital birth record created at the time of a U.S.-born applicant's birth</li> </ul>	New applicants
<b>Kansas</b>  Kan. Stat. Ann. § 25-2309 (l)  Beginning January 1, 2013	<ul style="list-style-type: none"> <li>▪ Driver's license or non-driver's ID with notation that person submitted proof of citizenship</li> <li>▪ U.S. birth certificate</li> <li>▪ U.S. passport</li> <li>▪ U.S. naturalization documents</li> <li>▪ Other documents or methods of proof of U.S. citizenship issued by the federal government pursuant to the Immigration and Nationality Act of 1952, including its amendments</li> <li>▪ Certain tribal IDs</li> <li>▪ Consular Report of Birth Abroad of a U.S. citizen</li> <li>▪ Final adoption decree showing the applicant's name and U.S. birthplace</li> <li>▪ Official U.S. military record of service showing the applicant's birthplace in the U.S.</li> <li>▪ An extract from a U.S. hospital birth record created at the time of a U.S.-born applicant's birth</li> </ul>	New applicants

**Table 4 (continued)**

<b>State</b>	<b>Acceptable Documents</b>	<b>Applicability</b>
<b>Tennessee</b>  Tenn. Code. Title 2, Ch. 2, Part 1 (S.B. 352, 2011)	<ul style="list-style-type: none"> <li>▪ The number of the applicant's driver license issued by the department of safety or a driver license, driver certificate, or non-operating identification</li> <li>▪ License issued by the equivalent governmental agency of another state with notation that person submitted proof of citizenship</li> <li>▪ U.S. birth certificate</li> <li>▪ U.S. passport</li> <li>▪ U.S. naturalization documents</li> <li>▪ Other documents or methods of proof established pursuant to the federal Immigration Reform and Control Act of 1986; or</li> <li>▪ Certain tribal IDs</li> </ul>	People whom state officials flag as potential non-citizens based on a database check

Sources: NCSL and Brennan Center for Justice

\*Requires pre-clearance under the Voting Rights Act (see BACKGROUND)

### **EARLY IN-PERSON VOTING**

Some states allow voters to cast their ballot before Election Day through early in-person voting, vote-by-mail, or no-excuse absentee voting. (The latter is different from absentee voting laws that require voters to provide a reason as to why they are unable to vote in person on Election Day, such as a physical disability.) In 2011, at least nine states considered bills to reduce the early in-person voting period. Bills passed in five states (Florida, Georgia, Ohio, Tennessee, and West Virginia) and are pending in three (Georgia, New Jersey, and North Carolina).

Table 5 summarizes the changes to these laws.

**Table 5: Changes to Early Voting Laws**

<b>State</b>	<b>Early In-Person Voting Restrictions</b>
<b>Florida</b>  Fla. Stat. § 101.657(1)	Changes early voting period from 15 through two days before an election to 10 through three days before an election for federal or state office.
<b>Georgia*</b>  Ga. Code Ann. § 21-2-385	Reduces early voting period from 45 to 21 days.
<b>Ohio</b>  Ohio Rev. Code Ann. § 3509.01	Reduces early voting period from 35 to 11 days and eliminates option to vote early on Saturdays or Sundays.
<b>Tennessee</b>  Tenn. Code. Ann. § 2-6-102(a)	Reduces early voting period by two days.
<b>West Virginia</b>  W. VA. Code Ann. § 3-3-3	Reduces early voting period by five days, but for the first time allows early voting on Saturdays.

Sources: NCSL and Brennan Center for Justice

\*A separate pending bill (H.B. 138) reduces the period during which certain in-person absentee ballots may be cast.

## VOTING RIGHTS RESTORATION

According to the Brennan Center for Justice, 23 states changed their disenfranchisement laws since 1997 to expand restoration eligibility for former convicted felons. But in 2011, the governors of two, Florida and Iowa, tightened restoration rules through executive action. Five states considered legislation to restrict the restoration process but the bills died.

Table 6 summaries the executive actions.

**Table 6: Voting Rights Restoration Changes**

<b>State</b>	<b>Executive Action</b>
<b>Florida</b>	<p>In 2006, then-Governor Christ amended the clemency rules to streamline the restoration process for certain non-violent offenders, which led to voting rights restoration for at least 150,000 people.</p> <p>In 2011, Governor Scott <a href="#">amended the clemency rules</a>, reversing the 2006 change. Under Governor Scott's amended rules, convicted felons must now wait between five and seven years, depending on the crime, after completing their sentence until they may apply for restoration of voting rights. If the individual is arrested for any reason during that time (e.g., misdemeanor), the clock resets.</p>
<b>Iowa</b>	<p>Governor Branstad issued <a href="#">Executive Order 70</a>, revoking Executive Order 42. Under Executive Order 42, convicted felons automatically regained their voting rights after completing their sentence.</p>

## BACKGROUND

### *Pre-Clearance*

Section 5 of the Voting Rights Act of 1965 (P.L. 89-110) requires certain state and local governments (“covered jurisdictions”) with a history of discriminatory voting practices to obtain approval from the U.S. Justice Department or the U.S. District Court for the District of Columbia before implementing any change affecting voting. Specifically, preclearance applies to any attempt to change “any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting...” in any “covered jurisdiction.”

For approval, a covered jurisdiction must demonstrate that a proposed voting change does not have the purpose and will not have the effect of discriminating based on race or color. In some cases, they must also show that the proposed change does not have the purpose or effect of discriminating against a language minority group (i.e., American Indian, Asian American, Alaskan Natives or people of Spanish heritage). The burden of proof is on the covered jurisdiction.

The following states are covered jurisdictions: Alabama, Alaska, Arizona, Georgia (except the city of Sandy Springs), Louisiana, Mississippi, South Carolina, Texas, and Virginia (except certain counties and municipalities). Several other states have countries or municipalities that are considered covered jurisdictions.

## **HYPERLINKS**

### ***Amended Clemency Rules – Florida***

[https://fpc.state.fl.us/PDFs/clemency\\_rules.pdf](https://fpc.state.fl.us/PDFs/clemency_rules.pdf)

### ***Executive Order 70 - Iowa***

[https://governor.iowa.gov/wp-content/uploads/2011/03/Exec\\_Order\\_70.pdf](https://governor.iowa.gov/wp-content/uploads/2011/03/Exec_Order_70.pdf)

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