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House of Representatives

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*Voter Identification and Verification Act HB 589, SL2013-381*

During the 2013 legislative session, the North Carolina General Assembly passed House Bill 589. This included, among other provisions, the elimination of One Stop, Early Voting, also known as Same Day Registration, along with the elimination of out-of-precinct voting, the reduction of early voting days (but not hours) from 17 to 10, and a voter identification requirement.

SL2013-381 moved North Carolina into the mainstream of election administration across the country. However, that did not stop groups from across the state, along with the US Department of Justice, from filing suit against the State of North Carolina, claiming that this law had a disparate impact on low-income, minority voters – particularly African-Americans.

### Early Voting

- HB 589 reduced the number of early voting days from 17 to 10. While the days have been reduced, counties must offer the same number of cumulative hours for the most recent, previous election of that type. For example: counties must offer the same number of hours in 2014 as in 2010 and the same number of hours for 2016 as in 2012.
  - The effect is the same in that boards of election increased hours of operation at polling locations. Think of the worker whose hours of employment are 8:00-5:00pm. Polls used to be open 9:00-5:00pm, now he/she can early vote due to later evening hours.
- Of the 37 states that offer early voting, only 18 offer Saturday early voting (this includes NC)
- The reduction in days DID NOT eliminate Sunday voting. Typically one Sunday will be included- the second to last Sunday before the election.
- Early voting, as with overall turnout, increased dramatically in 2014 among African American voters, despite the reduction from 17 to 10 days.

Early Voting, Voter Turnout, by Race					
Race	11/02/2010	%	11/04/2014	%	Change
AFRICAN AMERICAN	195,068	36.00%	283,416	45.03%	<b>9.03%</b>
WHITE	685,975	33.12%	777,115	35.53%	<b>2.41%</b>
OVERALL	905,256	33.55%	1,097,919	37.36%	<b>3.81%</b>

### Out-Of-Precinct Voting

- HB 589 eliminated the counting of ballots cast outside of the voter’s assigned precinct. (4<sup>th</sup> Circuit Court of Appeals restored this, so OOP voting was in place for the 2015 and 2016 elections)
- Allowing voters to vote outside of their assigned precinct actually prevents them from voting in all races for which they are eligible to participate otherwise. Each polling site within a county would need each and every ballot type on hand. In some counties there are several dozen ballot types.
- During the 2016 March Primary election, 99.7% of voters voted in the correct precinct. That includes voters who had an unreported move, in which case their out of precinct ballot would be counted for the races for which they were entitled to vote at their correct address.

### One Stop, Early Voting (Same Day Registration)

- HB 589 eliminated the use of same day registration. (4<sup>th</sup> Circuit Court of Appeals restored this, so SDR voting was in place for the 2015 and 2016 elections)
- Allowing individuals to register and vote on the same day does not allow for the normal voter registration and verification process to occur. This results in ballots being cast and counted prior to verifying voter registration.
- 34 states do not allow Same Day Registration.
- State Board of Elections data indicates that 22,563 individuals made use of SDR during early voting for the March Primary in 2016. Of those, 514 (2.28%) of those SDR registrations are now *inactive, removed, or denied*. 514 individuals influenced the outcome of elections without ever being verified by the board of elections.
- The SDR mail verification failure rate is 2.44% versus 0.34% for non-SDR registrants. SDR voters are 7 times more likely to fail verification than those who register the traditional way
- United States District Judge Schroeder of the 4<sup>th</sup> Circuit had this to say in his opinion: *“These data merely confirm what logic reveals must be the case — SDR’s proximity to Election Day, well inside the twenty-five day registration cut-off, simply does not provide a sufficient number of days for the mail verification process to work, and thus effectively frustrates – or negates — North Carolina’s process for verifying a voter’s residence.”*<sup>1</sup>

### Voter ID Provision

<sup>1</sup> *N. Carolina State Conference of NAACP v. McCrory*, \_\_\_ F. Supp. 3d \_\_\_, 296-97 (M.D.N.C.) 2016 WL 1650774.

North Carolina's Voter Identification requirement requires voters to present an acceptable form of photo identification beginning with the 2016 elections.

### **Ensuring the "gold standard" of election administration**

North Carolina's voter identification law ensures that everyone who is eligible to vote has the opportunity to vote, and that those votes cumulatively determine who wins and loses elections.

#### **Acceptable forms of identification:**

- NC Driver's License/Permit
- NC Identification Card
- US Passport/Passport Card
- Military Identification Card
- Veterans Identification Card
- Certain Tribal Enrollment Cards

#### **What if you don't have an acceptable form of photo identification?**

- If an individual cannot afford a government-issued ID, the Division of Motor Vehicles will issue a Voter ID Card free of charge. Citizens over the age of 70-years-old may present an expired form of photo identification

#### **Reasonable Impediment**

Legislation passed during the 2015 session of the General Assembly (and in effect for March 2016 primary) ensures that voters who are unable to obtain an acceptable photo ID due to a reasonable impediment may still vote a provisional ballot at the polls.<sup>2</sup> Voters must sign a declaration describing their impediment; and provide their date of birth and last four digits of their Social Security number, or present their current voter registration card or a copy of an acceptable document bearing their name and address. (Acceptable documents include a current utility bill, bank statement, government check, paycheck, or other government-issued document.)

*The provisional ballot will be counted when the information on the declaration is verified and all other eligibility requirements are met.*

- Since the law passed in 2013, the North Carolina State Board of Elections has implemented a robust public information campaign that includes a mobile DMV unit able to travel and produce free identification cards to those who lack the resources for one.

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<sup>2</sup> (Examples of a reasonable impediment include, but are not limited to, the lack of proper documents, family obligations, transportation problems, work schedule, illness or disability, among other reasonable impediments faced by the voter.)

## Voter ID across the United States

- There are 19 states that have stricter voter identification requirements than North Carolina. These include states with “strict” photo ID laws, “strict” non-photo ID laws, and non-strict photo ID laws. The National Conference of State Legislatures considers the North Carolina voter ID law to be a “non-strict” non-photo ID law after the implementation of the reasonable impediment provision.<sup>3</sup>
- North Carolina is one of 27 states that offers no excuse absentee voting and one of 34 states that offers in person early voting. No excuse absentee voting provides for verification of voters through requiring an individual’s last four digits of the social security number and two witness signatures.

## Voter Turn Out in North Carolina Since the passage of H589, compared with previous elections.

Voter Turnout Across North Carolina, by Race										
Race	11/02/2010	%	11/04/2014	%	Change	05/08/2012	%	03/15/2016	%	Change
AFRICAN AMERICAN	541,884	40.40%	629,417	42.20%	<b>1.80%</b>	346,515	16.10%	435,473	19.05%	<b>2.95%</b>
WHITE	2,070,908	45.49%	2,187,354	46.77%	<b>1.28%</b>	1,756,588	81.60%	1,781,335	77.92%	<b>-3.68%</b>
OVERALL	2,699,108	43.48%	2,938,972	44.34%	<b>0.86%</b>	2,182,675	34.63%	2,332,045	35.79%	<b>1.16%</b>

Participation among African Americans increased 1.80% from November 2010 to November 2014 and by 2.95% from the 2012 Primary to the 2016 Primary. Participation among white voters when comparing the 2010 vs. the 2014 General election only increased 1.28% and for the 2012 vs. 2016 Primary it actually DECREASED by 3.68%.

<sup>3</sup> Wendy Underhill, *Voter Identification Requirements, Voter ID Laws*, National Conference of State Legislatures, (April, 11, 2016), <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>.

**NORTH CAROLINA:**

*Acceptable Forms of ID:*

*Voters without ID:*

<p>-NC driver's license (can be expired)</p> <p>-US passport (unexpired)</p> <p>-US military or veterans identification card, issued by the Department of Defense or Department of Veterans Affairs, containing a photo. An ID containing an expiration date must be unexpired, but IDs without an expiration date are also accepted.</p> <p>-A tribal enrollment card issued by a federally recognized tribe. If the card does not have an expiration date, it may still be used if the card has a date of issuance that is within 8 years of the date it is presented.</p> <p>A tribal enrollment card issued by a tribe recognized by North Carolina under Chapter 71A that is (i) issued in accordance with a process approved by the State Board of Elections requiring an application and proof of identity equivalent to the requirements for issuance of a special identification card by the Division of Motor Vehicles, and (ii) signed by an elected official of the tribe.</p> <p>-Driver's license or special identification card issued by another state, D.C., or a territory or commonwealth of the U.S. only if the voter's registration was within 90 days of the election.</p> <p>-Voters who are over the age of 70 may use acceptable photo ID that has been expired for any length of time, provided the ID expired after the voter turned 70.</p>	<p>Voters who are unable to obtain an acceptable photo ID due to a reasonable impediment can vote a provisional ballot if they also sign a declaration describing the impediment and provide date of birth and last four digits of social security number, or an acceptable document bearing their name and address (i.e. a current utility bill, bank statement, paycheck or other government-issued document). The ballot will be counted when the information on the declaration is verified and all other eligibility requirements are met.</p> <p>An individual who voted a provisional ballot due to lack of photo ID can also come in person to the CBOE no later than 12:00 noon on the day before the election canvass to seek the counting of the ballot. If the voter does one of the following at the CBOE, unless otherwise disqualified, the ballot will be counted:</p> <p>Present Photo ID – A voter may present photo ID that bears a reasonable resemblance to the voter. The elections officials are to determine if the photo ID bears a reasonable resemblance.</p> <p>Religious Objection – A voter who had not previously filed a religious objection declaration may show a HAVA document and sign a declaration of their religious objection, as well as have an opportunity to complete a declaration for future elections.</p> <p>A voter may also choose to apply for an absentee ballot, which does not require a photo ID.</p>
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This table is from the National Conference of State Legislatures showing acceptable forms of identification and what voters may do without IDs. <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>