



“I waited forty years before I could vote privately and I cherish that.”

—Fran Fulton, manager at an independent living center in Philadelphia, testifying about being a party in a successful lawsuit against the City of Philadelphia which resulted in the retrofitting of voting machines to accommodate blind and visually impaired voters.

SECTION III: Expanding Access And Engaging All Eligible Voters

VOTING RIGHTS FOR AMERICANS WITH DISABILITIES

In some respects, voting rights for people with disabilities have improved significantly in the last decade. As a result of the tireless efforts of advocates and people with physical challenges themselves, there is greater awareness of the right of the disabled to vote at the same time and place and in the same manner as everyone else. Federal legislation has also created opportunities for more voters with disabilities to exercise their fundamental right to vote.

Passed in 1990, the Americans with Disabilities Act (ADA) established public accessibility standards, with Title II of the ADA requiring state and local governments (“public entities”) to ensure that people with disabilities have a full and equal opportunity to vote. The ADA’s provisions apply to all aspects of voting, including voter registration, site selection, and the casting of ballots, whether on Election Day or during an early voting process.¹⁰⁴ Title III of the ADA is relevant on those occasions when the jurisdiction might use commercial or public facilities for polling places:

Public accommodations must make reasonable modifications in policies, practices, or procedures to facilitate access for people with disabilities. These facilities are also required to remove physical barriers in existing buildings when it is ‘readily achievable’ to do so; that is, when the removal can be done without much difficulty or expense, given the entity’s resources.¹⁰⁵

In addition, HAVA required for the first time that there be at least one voting machine accessible to people with disabilities at every polling place. This was a major advance in ensuring that people with disabilities are able to vote in person. Section 301(a) specifically requires that each polling place have at least one direct recording electronic voting machine (DRE) or other voting system equipped for people with disabilities, including those with limited vision and/or hearing.

Yet despite these advances, at virtually all of the hearings held over the course of 2013 and 2014, the NCVR heard testimony about continuing challenges facing people with disabilities. The NCVR developed a very detailed picture of the status of voting rights for the disability community in America today.

Voting Gap Narrows but Persists

At least 35 million voting-age people with disabilities live in the United States, and this group consistently has lower voter turnout than people without disabilities.¹⁰⁶

Rutgers University Professors Lisa Shur and Douglas Kruse have studied the voting patterns of people with disabilities in recent elections and found that in 2012, the voter turnout rate of people with disabilities was 5.7 percentage points lower than that of people without disabilities. A comparable study conducted in 2000 found a 12 percentage point voting gap.¹⁰⁷ Together, these studies suggest that the situation has improved in the last three presidential election cycles. Nevertheless, the NCVR heard from witnesses about the persistent voting gaps between those with disabilities and those without.

	Voter Turnout			Disability Gap		Number of voters (millions)			
	2008		2010		2012	2012			
No Disability	64.5%		45.9%		62.5%	117.3			
Any Disability	57.3%		42.8%		56.8%	15.6			
Disability Gap	-7.2%	**	-3.1%	**	-5.7%	**			
Type of disability:									
Hearing impairment	63.1%		50.0%		63.2%	0.7%	5		
Visual impairment	56.8%	**	39.5%	**	57.3%	**	-5.2%	**	2.4
Cognitive impairment	46.1%	**	29.6%	**	44.8%	**	-17.7%	**	3.7
Mobility impairment	56.8%	**	43.5%	**	56.3%	**	-6.2%	**	9.3
Difficulty dressing or bathing	46.4%	**	32.4%	**	46.7%	**	-15.8%	**	2.2
Difficulty going outside alone	45.7%	**	32.9%	**	47.3%	**	-15.2%	**	4.6

*Difference from non-disability sample is significant at 95% level **99% level

Source: Lisa Shure, Meena Adya and Douglas Kruse, "Disability, Voter Turnout and Voter Difficulties in the 2012 Elections," July 18, 2013

For example, at the Nashville regional hearing, the NCVR heard that Tennessee had seen a 12 percentage point voting gap in 2000 and a 6.5 percentage point gap in 2008, representing major progress. However, advocates were then surprised when the gap shot back up to 9.5 percentage points in 2012. Carol Westlake, Executive Director of the Tennessee Disability Rights Coalition, attributed the increase in part to Tennessee's new voter identification law, which she said voters with disabilities "have trouble with."¹⁰⁸

In North Carolina, Mercedes Restucha-Klem, a staff attorney with Disability Rights North Carolina, told the NCVR that the 14 percentage point voting gap in that state has consistently been double the gap at the national level:

“Barriers include not being able to access the polling site because it’s not physical accessible, and not being able to cast a private and independent vote ... We also routinely hear of complaints to local boards of election that people who arrive at the polls in a van or a bus from a facility do not appear to be eligible to vote and are presumed to be incapable of voting and subject to coercion by facility staff or others.”¹⁰⁹

The extent to which people with disabilities are less likely to vote indicates that there are still access barriers, and likely continued unease with the in-person voting process.¹¹⁰ Almost one-third (30.1 percent) of voters with disabilities reported difficulty in voting at a polling place in 2012, compared to 8.4 percent of voters without disabilities. The most common problems reported were difficulty in reading or seeing the ballot, and understanding how to vote or use voting equipment.¹¹¹ Not surprisingly, voters with disabilities were more likely than those without disabilities to vote by mail before Election Day (25 percent compared to 14 percent) for varied reasons.¹¹² Yet, even voting by mail presented challenges. Close to ten percent had difficulty with absentee balloting and required assistance.¹¹³

The Accessibility Problem

One issue identified at the NCVR hearings that may contribute to the voting gap is the ongoing challenge of access to the ballot for voters with disabilities. Although a large scale federal review of voting access for voters with disabilities found that the number of polling places without barriers to access had gone up between 2000 and 2008,¹¹⁴ the study also shows how often jurisdictions continue to fail to provide fully accessible polling sites—meeting all requirements of accessibility for persons with physical and sensory disabilities—and too often assume that alternative methods of voting are sufficient to serve disabled voters.

Furthermore, the measures and methods used to ensure accessibility compliance are discretionary. As a result, some parts of the country perform better than others, as is the case in most areas of election administration. During the hearings, the Commission received substantial testimony about the various problems— as well as some successes—relating to accessibility.

For example, Chris Rodriguez, Director of Governmental Affairs and Media Relations at Michigan Protection and Advocacy, reported on his organization's efforts to encourage accessibility compliance:

“In 2010, we were able to survey, approximately, 95 percent of all polling locations, and found that... 25 [percent] of them had compliance issues that were non-compliant with Federal or State law. Since then, we believe that the non-compliant locations have gone down to somewhere around 10 percent. Hopefully, due to some of our efforts. Having made what we feel is a significant difference statewide, we have changed our focus now to a more targeted approach, concentrating on areas in the state in which we feel have the most numerous and egregious violations, and those are going to be in the city of Detroit and the city of Flint.”¹¹⁵

Likewise, Peri Jude Radevic, Executive Director of the Arizona Center for Disability Law, reported that,

“... in the early stages of our work under the Help America Vote Act, only 20 percent of the polling places we surveyed were accessible. Thanks to the work we have done with county election directors and monies that have flowed from the Help America Vote Act, I can now say 80 percent of those polling sites around Arizona are now accessible.”¹¹⁶

Yet according to Radevic, two of her partner organizations, the Navajo Nation Advisory Council on Disabilities and the Hopi Disability Advocacy Group, issued a voter survey and report in 2013 finding “voter accessibility issues for people on the Hopi and Navajo Nations. Those surveys found that there were accessibility problems, like a dirt parking lot or loose gravel, and entrances that were not accessible to people in wheelchairs.”¹¹⁷



Peri Jude Radecic, Executive Director of the Arizona Center for Disability Law, spoke about the positive effects of the Help American Vote Act, yet noted several areas for improvement on Native American reservations at the NCVR Arizona state hearing. PHOTO CREDIT: MIKE ELLER (HMA PUBLIC RELATIONS)

At the Denver regional hearing, Judd Choate, the Director of Elections for the Secretary of State's office, testified that "our real problem appears to be from the parking lot to the front door. And that's historically been the major problem with ADA compliance with people with disabilities, and it remains so."¹¹⁸ Choate's comments echoed the Government Accounting Office (GAO)'s finding that, despite improvements nationally, there seemed to be a persistent problem for voters with disabilities outside the polling location, such as getting through the entrance and providing accessible parking.¹¹⁹

Lack of curbside voting is another problem. Unfortunately, it is still often the case that such curbside balloting is nonexistent or poorly executed. The percentage of sites that did not offer curbside voting where it was necessary stayed virtually unchanged from 2000 to 2008, 28 percent and 27 percent respectively.¹²⁰

Melissa Picciola, Staff Attorney at Equip for Equality, the Illinois statewide protection and advocacy organization for people with disabilities, estimates that about a third of all polling places are inaccessible and that, "[e]ven if a polling place is accessible... one of the issues that we hear about is the path of travel from when one exits the vehicle or the entrance to the actual polling place is not being accessible."¹²¹

At the Texas state hearing, Robin Chandler, Policy Specialist for Disability Rights Texas, told the Commission that her group had surveyed 121 polling locations over an 18-month period and that “up to 90 to 95 percent had some type of accessibility problem. You know, some aren’t that serious, some are more serious.”¹²²

The GAO, in its recommendations, suggested that the Department of Justice (DOJ) could do more to oversee implementation of the ADA.¹²³ One positive step DOJ has taken is to develop and disseminate technical guidelines for ensuring that polling places are accessible and compliant with ADA, including how best to take the measurements to ensure wheelchair accessibility. The checklist emphasizes issues such as:

- Accessible parking at the poll site;
- Accessibility of the exterior route into the polling place;
- Accessible entrances and hallways leading to the polling place that are free of objects that could not be detected by a visually impaired or blind voter; and
- Accessibility of the voting area, including sufficient room for maneuverability for wheelchair users.¹²⁴

Poll Workers Need More Training

The lack of training of poll workers to implement the accessibility requirements of the voting process adequately – and while respecting the dignity of those with disabilities – was frequently cited as a problem at the NCVR hearings. Witnesses to the NCVR described interactions with poll workers who seemed ill-equipped to help voters with disabilities. Many of these workers did not know how to operate accessible voting machines and showed a lack of understanding about the importance of treating people with disabilities without making them feel embarrassed or humiliated.

At the Georgia state hearing, the Georgia Advocacy Office’s Protection and Advocacy for Voting Access Director Ruby Moore reported hearing stories of poll workers,

“refusing to assist people with disabilities, refusing to let the person of their choice assist them, making people with disabilities feel like second class citizens, or telling people that, You have a disability, so you’re not competent. I’ve heard guardians, family members, and staff refusing to let a person with disabilities vote or refusing to support them to vote.”¹²⁵

During the New York City regional hearing, Mary Ciccone, Managing Attorney for Disability Rights New Jersey, reported on poll workers' struggles to operate the accessible machines, a common refrain among hearing participants:

“Unfortunately because of technology, many poll workers do not understand it, do not know how to operate it, are scared to death that they don't know what they are doing so they don't have a lot of people using them. They just don't know how to do it. So they just sit there and go 'I don't know how to do it, it is not working.' So people who have visual impairments, they have the right to vote independently, but they wind up having to take someone to the polling place because the machine is not working or the person operating it does doesn't know how it works.”¹²⁶

Ciccone summarized other issues facing voters with disabilities:

“They didn't put signage at the proper entrance. They didn't unlock the door. They didn't know how to operate the machines. Those are things that are solely in the realm of poll worker training, and that tends to be a problem. Every election, the biggest issue that we see are actual on election day problems with people with disabilities that tend to result from lack of poll worker training.”¹²⁷

Maggie Knowles, the Protection and Advocacy for Voting Access Coordinator at the South Carolina non-profit Protection and Advocacy for People with Disabilities, described the poor treatment of voters with disabilities by poorly trained workers:

“At one polling location a surveyor was told by a poll worker, honestly, someone with a disability cannot drive here. At another location an individual was told that was trying to vote, your problem must be mental. You don't look handicapped to me.”¹²⁸

Knowles also discussed how many of the accessibility problems at the polls could be solved with better training that prepares poll workers to remedy barriers when they arise:

“The purpose of curbside voting is to allow people with disabilities to vote on Election Day. Yet, we found that a third of all locations we surveyed did not have a sign up indicating that curbside voting was available to them. At nearly half of the locations curbside voting was not checked every 15 minutes as it was supposed to be. At one location a man told us he was leaving after one hour waiting in his car. He had sent a passerby inside and asked them to help but, still, no one came out. At another location a 72-year-old man with Parkinson’s disease was denied curbside voting because he did not have a parking placard on his car. One of his children had driven him that day. He then went inside to vote, he was determined to vote, but was denied a chair to sit in because he had the long wait. He ended up sitting on the floor for hours.”¹²⁹

As referenced earlier in this report, several organizations who testified before the NCVR conducted their own poll worker trainings to try to address these shortcomings.

Voter Identification Laws Hurt Voters with Disabilities

People with disabilities are less likely to have the mandated ID because many do not have driver’s licenses. Even getting to the Department of Motor Vehicles (DMVs) and waiting in line to get an ID for voting presents challenges that other citizens would not face. Several people who testified before the Commission raised serious concerns about the impact of new voter ID laws on the disability community. Not surprisingly, this came up in North Carolina, which enacted a new strict voter identification law. Mercedes Restucha-Klem, Staff Attorney with Disability Rights North Carolina told the Commission that,

“People with disabilities will be disproportionately affected by the photo identification requirement in two key ways: Compared to the general population, they’re less likely to have access to the necessary documents to obtain identification. People struggling with maintaining their physical and their mental health, living on low incomes, and who already have a difficult time meeting their daily needs will find it difficult to prioritize obtaining the identification in order to vote. Many individuals with disabilities do not currently have a driver’s license or a photo identification card. They don’t receive bills or other documentation and they may often move or are homeless and do not have the required documentation to verify their residence. The second limitation is that photo identifications are currently only available through the Division of Motor Vehicles. The DMV is not well-positioned or equipped to meet the access needs of people with disabilities, many of whom do not drive, and rely on public transportation.”¹³⁰



Public Policy Director of the Arc of North Carolina Erika Hagensen, who herself has cerebral palsy, highlighted the challenges that voter identification laws place on the disabled community at the North Carolina state hearing. PHOTO CREDIT: ERIC PRESTON

Erika Hagensen, from Arc of North Carolina, also talked about the problems of getting “free” ID from the DMV, explaining that

“many counties don’t have a DMV office itself but a mobile DMV station. Similarly, the location of DMVs are designed with drivers in mind, many are off major transportation lines, and this really curtails the access for people who require transportation assistance.”¹³¹

Voters Face Hurdles to Receive Assistance

Section 208 of the Voting Rights Act requires that any voter with a disability or inability to read or write is eligible to receive assistance from a person of his or her choice, provided that the person is not the voter’s employer or union agent. At two hearings, the NCVR heard about challenges voters with disabilities face in having the person of their choice assist them in the voting process.

In Louisiana, voters need to provide documentary proof of their disability, and there are restrictions on who can help. Stephanie Patrick with the Louisiana-based Advocacy Center, told the Commission that:

“Louisiana’s laws regarding assistance in voting are onerous. People with physical disabilities who require an individual to accompany them into the polling booth are required to provide proof of disability. While the list of documents accepted as proof was expanded several years ago, it is still difficult for people with disabilities to obtain the required documents, for example, a note from a doctor, eligibility letters, or other official documents. People with the most significant disabilities are those most likely to encounter problems in obtaining these documents.”¹³²

Patrick added that some voters have also encountered problems with poll workers allowing them to get help from the person of their choice.

In Texas, Robin Chandler of Disability Rights Texas talked about that state’s confusing policy of who can help a disabled voter and under what circumstances.

“They have helpers called witnesses, helpers called assistants, helpers called agents, they’re all allowed to do different things. And, you know, basically the way I explain it is they speak very specifically to who can help, how many people they can help, what they need to do in order to legally provide assistance to every kind of voting related activity, filling out forms... And so what we found even with registration is that we go into institutions—my co-worker does training, she’s in institutions a lot, and the staff doesn’t know—they’re even afraid to help with voter registration.”¹³³

WITNESS Sec. 1.011; 84.003; and 86.001	When an individual cannot sign their own name, they may have a “witness” sign on their behalf. If the individual can make a mark, they will do so and the witness will attest. If they cannot make a mark, the witness will state that fact. The witness must print the name of the individual they are witnessing for and then sign and print their own name and residence address (unless they are an election officer). ALL THIS MUST BE DONE IN THE VOTERS PRESENCE.
ASSISTANT Sec. 64.031 – person And 86.010 for ballot by mail	Person of choice by voter who will assist the voter in marking an application, ballot by mail or ballot in person (if assisting with a ballot, they will be required to sign an oath and give their name and address).
AGENT Sec. 13.003	Parent, spouse or child of the individual with a disability and registered or eligible and applied to vote. If appointed by the individual, the agent may complete and sign a registration application, submit the application, act on the applicants behalf... (does not have to be in the presence of the voter) <i>*Many rules about assisting and witnessing do not apply if the person is an agent</i>

Categories of Poll Assistance in Texas. Source: Disability Rights Texas, April 2014

DISENFRANCHISEMENT OF PERSONS WITH FELONY CONVICTIONS

“When people ask me the question, ‘Why should I vote?’ ‘Why should I care about the civic engagement process?’ I tell people that’s where our power lies. Our power lies in solidarity and our power lies in the ability to cast a vote and cast a ballot for our elected officials. So my life is full of that irony while I preach that power and I preach that solidarity, I myself still cannot partake of that solidarity...”

—Flaco Aleman, Executive Director of Kentucky Jobs with Justice and formerly incarcerated individual

In its first report, the NCVR described in detail the legal disenfranchisement of millions of voters with prior felony convictions.¹³⁴ The Report discussed the range of laws on this subject, from the two states that allow people in prison to vote, to states that disenfranchise for life anyone convicted of a felony, and everything in between, including states that allow people to regain the right to vote after probation and/or parole. Despite measures to ease the requirements of the restoration process and improvements in data and information sharing,¹³⁵ an estimated 5.85 million individuals with prior felonies still face significant barriers to voting.¹³⁶

Flaco Aleman, Executive Director of Kentucky Jobs with Justice, spoke as a formerly incarcerated individual about his experience and the need to broaden access to the ballot at the NCVR Nashville regional hearing.

PHOTO CREDIT: JOSEPH GRANT



As discussed in that report, the disproportionate disenfranchisement of minority voters as a result of these laws is dramatic.

At numerous hearings across the country, the NCVR heard about the disenfranchising effect of the tangle of administrative hurdles to voting rights restoration for persons with felony convictions. Many witnesses told troubling stories of people eligible to vote who have been blocked from voting because of the unnecessary bureaucracy.

Elections and Criminal Justice Administrators Confused about the Law

One of the major problems identified at the NCVR hearings was that, oftentimes, election officials are confused about the laws and procedures governing the restoration of someone's right to vote. At the South Carolina hearing, Brett Bursey, the Executive Director of the South Carolina Progressive Network, told the Commission that his group partnered with the ACLU to do a statewide survey of 46 county elections offices.

“We...called all 46 county offices and asked them, well, we're just—you know, we're an ex-felon, what do we do to vote? Out of 46 counties, six counties got it right... Most of the counties said, you've got to bring something in to prove that you've finished your sentence. A few of the counties said, well, you can't vote.”¹³⁷

The ACLU of Arizona conducted a similar survey and found widespread misunderstanding of the complex system of felon disenfranchising laws and procedures.¹³⁸ Alessandra Soler, the Executive Director of the ACLU of Arizona, spoke about the study at the NCVR hearing for the state:

“Arizona is one of only eight states in the country to bar individuals with certain felonies from ever voting again unless they go through an extremely complicated process that even county officials have a hard time understanding. We issued a report in 2006 where we analyzed how the civil rights restoration process here in Arizona worked and found that 54 percent of election officials are unable to answer elementary eligibility questions concerning individuals with felony convictions. And our survey showed that election officials are confused as to what the law is in Arizona and are dispensing incorrect and false information.”¹³⁹

Testimony received by the NCVR mirrored many of the findings from a five-year survey of election administrators conducted by the ACLU, the Brennan Center for Justice, and state partners. Election officials in 15 states were interviewed between 2003 and 2008 about felony disenfranchisement laws to determine the level of knowledge of their state's law.¹⁴⁰ The interviews found that election officials often “did not understand the difference between misdemeanors and felonies and improperly stated a person with a misdemeanor conviction was not eligible to vote.”¹⁴¹

Poor Administration of Notification Laws

If election administrators do not understand the confusing array of provisions in the law, it is no surprise that people completing their prison terms, probation or parole who may be able to vote are similarly ill-informed. Data support this. A Sentencing Project survey of 334 individuals under various forms of court supervision in Connecticut, New York and Ohio found that nearly half answered incorrectly or responded they did not know what their voting rights were.¹⁴² Similarly, an article for *Colorlines* found that many voters with prior felony convictions in Florida were unaware of their right to vote and had received conflicting information and instructions from county authorities.¹⁴³

The NCVR also heard about this problem at its hearings. For example, Barbara Yeomans, Executive Director of the League of Women Voters of D.C., explained that,

“DC law says a person otherwise eligible to vote may do so long as he or she is not currently incarcerated for a felony... However, many persons who have a ‘criminal record’ think that they are not allowed to vote in D.C. and that they have lost this right when they were convicted of a crime. League members... found that many citizens returning to the community from jail are unaware of their ability to vote in the district. Also, although DC’s laws regarding their voting rights have been in place for some time, it seems that there is not a lot of information directed toward those returning.”¹⁴⁴

Approximately half of the states require persons completing their requisite sentences to be notified of their right to vote. However, methods and procedures for notifying these individuals vary widely, including who is responsible for issuing the notification—a judge, a correctional officer, etc.—and how the information is communicated—verbally or in written form, in person or via mail.¹⁴⁵

Jed Oppenheim from Jackson, Mississippi told the NCVR that,

“Often times I’ve encountered people who think they can’t vote because of misdemeanors. I will say there’s a list of 22 felony disenfranchising crimes out on the table over here. I could read them if you want me to. But, for example, one of the things that’s not on here that people always think they can’t vote, if they have a [conviction] around particular drug crimes or drug offenses. And that is not one of the disenfranchising crimes.”¹⁴⁶

Several organizations including Project Vote and the ACLU have advocated for reforms to notification laws and processes to help individuals understand their rights clearly. Among the recommendations are: notifying individuals before sentencing that they will lose the right to vote and mandating that entities within the criminal justice system correctly and systematically inform people of rights restoration procedures before the completion of their sentences and when they become re-eligible.¹⁴⁷

Confusing Maze of Requirements for Re-Enfranchisement

The vast array of laws under which individuals can get their rights back—depending on when they were released, the type of crime committed, whether they have paid restitution or even child support, and so on—creates additional barriers to re-enfranchisement. It is a confusing and burdensome system for all involved that is exacerbated by rules often changing.

Research by Project Vote details the bureaucratic hurdles many states force people with felony convictions to overcome in order to have their voting rights restored, including:

- Completing an application including character references and an essay on why voting rights should be restored,¹⁴⁸ which is then sent through a long approval process;¹⁴⁹
- Payment of all fines and fees;¹⁵⁰
- And in the case of Florida, either waiting as long as seven years after completion of a sentence to argue before a clemency board for why voting rights should be restored, or waiting five years to apply to have voting rights restored without a hearing.¹⁵¹

Mark Schneider of the Voting Rights Coalition of Palm Beach County, Florida elaborated on the State's maze of requirements for restoring voting rights in testimony to the NCVR:

“The regulation of the petition process is entirely in the hands of the Governor and his cabinet, acting as the Clemency Board... This has led to wild swings in the number of felons who petition successfully... Currently, non-violent felons must wait five years after completion of their sentence, probation, and, where required, their financial restitution, before being allowed to petition... Violent felons must wait seven years to petition for a hearing, and each case must be dealt with individually. Petitioners in either case must meet onerous documentation requirements.”¹⁵²

In Virginia, Mercedes Harris from the Hollaback and Restore Project (HARP) told the NCVR that even though former governor Bob McDonnell made restoration of voting rights for a non-violent felony “automatic,” that has not meant it is easy. In fact, according to Harris, it takes even longer than it did before.

“First, identifying you as the person that you say you are... Second, the need to have your sentence order, proof of fines, court costs, and restitution have to be satisfied. Third, these things are checked by Virginia State Police and each Circuit Court via the Secretary of the Commonwealth, which takes time. For example, at one time the state police was only processing about 70 background checks per week. Fourth, getting your restoration record to the State Board of Elections so it is placed in voter files and placed in the databank where it can be retrieved by registrars before you vote. If you don't have your certificate of proof, you can't vote.”¹⁵³

Referring to Harris' testimony that at one point the state police were doing 70 background checks a week, Guest Commissioner and Executive Director of the ACLU of Virginia Claire Gastanaga pointed out that the numbers add up to “3640 background checks a year, which means we only have 96 years to get the 350,000 people who are currently on the disenfranchised list off at the rate we're going.”¹⁵⁴

At the same hearing, Rebecca Green, Co-Director of the Election Law Program at William & Mary Law School, discussed the impact of complicated re-enfranchisement procedures on elderly voters:

“Many callers to Revive My Vote hotline are elderly. Several callers have expressed that they’re reaching the end of their lives and would like to restore their rights as a matter of principle before it’s too late. Felony convictions for some callers are often in a distant past and can be very difficult to recall where their conviction or convictions took place and whether their fees and fines have been paid. Many have lost payment receipts years ago. Some callers to the Revive My Vote hotline, particularly older callers, are not technologically savvy or lack access to the Internet. One elderly caller convicted of a crime over 30 years ago reported that he did not believe in computers and did not have one or know how to use one. For some callers we’ve determined that online document retrieval may be difficult, if not impossible...”¹⁵⁵

Green added that the process of determining what is owed in fees and fines can be very complicated:

“We’ve also encountered a perception that the rights restoration process is costly when, in fact, the Secretary of the Commonwealth does not charge a fee for the process... The requirements of payment of all fines, fees, and restitution adds to the public perception that rights restoration is costly.”¹⁵⁶

Later at that hearing, Guest Commissioner Claire Gastanaga asked Mercedes Harris, “are you aware of anybody who has done everything but can’t afford to pay the court costs that are owed from when they were sentenced?” Mr. Harris replied, “85 percent of them.”¹⁵⁷

PAVING THE WAY FOR A NEW GENERATION OF VOTERS

“I have always considered myself a citizen first and foremost and I truly am passionate about these types of issues, but when we are not allowed to have a voice, you take away that ability.”

—Former Temple University student Chance Toland-Wilson testifying at the NCVR Pennsylvania state hearing on February 6, 2014

There have been concerted efforts in the last several election cycles to improve the participation rates of young voters, who had been voting at lower levels than other age groups. This work has been incrementally successful over the last decade, as the youth vote inched upward, culminating in a high point in 2008 when many young people were particularly enthusiastic about voting for presidential candidate, Barack Obama. African American youth voted at higher rates than any other young group in that election.¹⁵⁸

In the years since, however, many state legislatures have passed bills that have had a negative impact on young voter turnout, either directly or indirectly. These measures have included legislation that does not allow student IDs to be used as valid identification at the polls; roll-backs in same day registration; efforts to change residency rules; and attempts to repeal registration laws that would allow 16 and 17-year-olds to “pre-register” to vote. Data collected by the Center for Information and Research on Civic Learning and Engagement (CIRCLE), a research center at Tufts University, shows a six percentage point drop in youth turnout between the 2008 and 2012 elections that may be attributed to these rollback measures.¹⁵⁹ The turnout of young voters in certain states such as Texas was particularly low in 2014, with the state ranking 47th in turnout among voters 18 to 29 years of age.¹⁶⁰ At the Texas state NCVR hearing, a University of Houston student cited these statistics while testifying about the need to increase youth civic engagement.¹⁶¹ Additional NCVR hearing witnesses gave other examples of best practices for increasing youth voting participation as well as barriers that students and young people face when voting.

Encouraging Youth Turnout with Same Day and Online Registration

The registration process is a major obstacle for young people: a 2014 study showed that 24 percent of young people were not registered because of lack of knowledge about requirements such as voter registration deadlines, while only 14 percent of older Americans cited those reasons. Younger people were no more likely to cite lack of interest in the elections than any other group as the reason for not registering.¹⁶² The good news is that there are ways to make registration easier that have proven to increase participation rates. This is

especially true with respect to same day registration (SDR), which allows a person to both register and cast their ballot on the same day. Research also shows that providing the opportunity to register to vote online increases youth participation.

In states with SDR, 47 percent of young voters registered when they went to vote, while only 10.3 percent of youth registered at a DMV.¹⁶³ According to Demos, SDR could also increase youth turnout in presidential elections by as much as 14 percentage points.¹⁶⁴

At the NCVR North Carolina state hearing, the Commission heard that young people between the age of 18 and 25 are 12 percent of the voters, but 33 percent of those who used SDR.¹⁶⁵ Bryan Perlmutter, Director of Ignite North Carolina and the North Carolina Vote Defenders Project, described why SDR was so important for students:

“Students often times move dorm addresses or move apartments on a yearly basis and so this means that folks have to reregister continuously. And before, students used to know--they could go to the campus polling site and change their address and vote at the same time. So, the removal of same-day registration creates this huge barrier that students are going to have to register and need that infrastructure on campus to be able to do that, which is often times inadequate.”¹⁶⁶

At the Pennsylvania state NCVR hearing, former Temple University student Chance Toland-Wilson (center) testified about residency requirements and student voting. PHOTO CREDIT: BEN BOWENS



Data also show that online registration is utilized much more by young people than other age groups, although its impact on actual turnout is less clear at this time given the newness of the option. A 2008 study of the online registration system in Washington State in 2008 found that 61 percent of voters who registered online were under 34 years of age.¹⁶⁷ The same study found that in Arizona, people under 40 composed almost 55 percent of people who registered online, while overall only 31 percent of registered voters in Arizona are under 40.¹⁶⁸

Residency Requirements: A Barrier to Student Voting

In order to be eligible to vote, one must be a resident of the state in which he or she is voting. However, states have different definitions of what legally constitutes residency, not just for voting but also for myriad other government services. In 1979, the U.S. Supreme Court summarily affirmed a lower court ruling that students can vote from their campus addresses if they “establish residency,” but the Supreme Court did not consider the details of what constitutes “residency.”¹⁶⁹ As a result, some states and some election administrators have sought to define residency in a way that prevents students from voting where they attend school.

At the Pennsylvania state NCVR hearing, former Temple University student Chance Toland-Wilson recounted the challenges he faced when attempting to vote for the first time in 2012. Toland-Wilson was in the process of moving between off-campus housing locations and was repeatedly shuffled between two polling locations at the Temple campus.

“At Temple University, there are two different polling locations within two square blocks of each other, so we have a lot of access to polling machines. I was shuffled back and forth between those two polling locations three times in the 2012 presidential election. Each time, when I went and gave my initial address so they could process me, I was told ‘you have been given the wrong information.’ I took my phone...someone had installed an official website that allowed you to check where you’re supposed to go. I would show this to poll workers and they would say, I’m sorry, it’s not that I don’t believe you, it’s just there’s nothing I can do. That phrase was used over and over again. I had made sure, long before November, that I was able to vote and I would be able to vote in the normal fashion. I was still denied.”¹⁷⁰

In Michigan, Jesse Buchsbaum, Chair of the University of Michigan’s Voice Your Vote Commission, explained the additional burdens on students who register with their campus addresses instead of their permanent residences. After submitting a voter registration form at the university address, a student will receive a change of address sticker in the mail, which

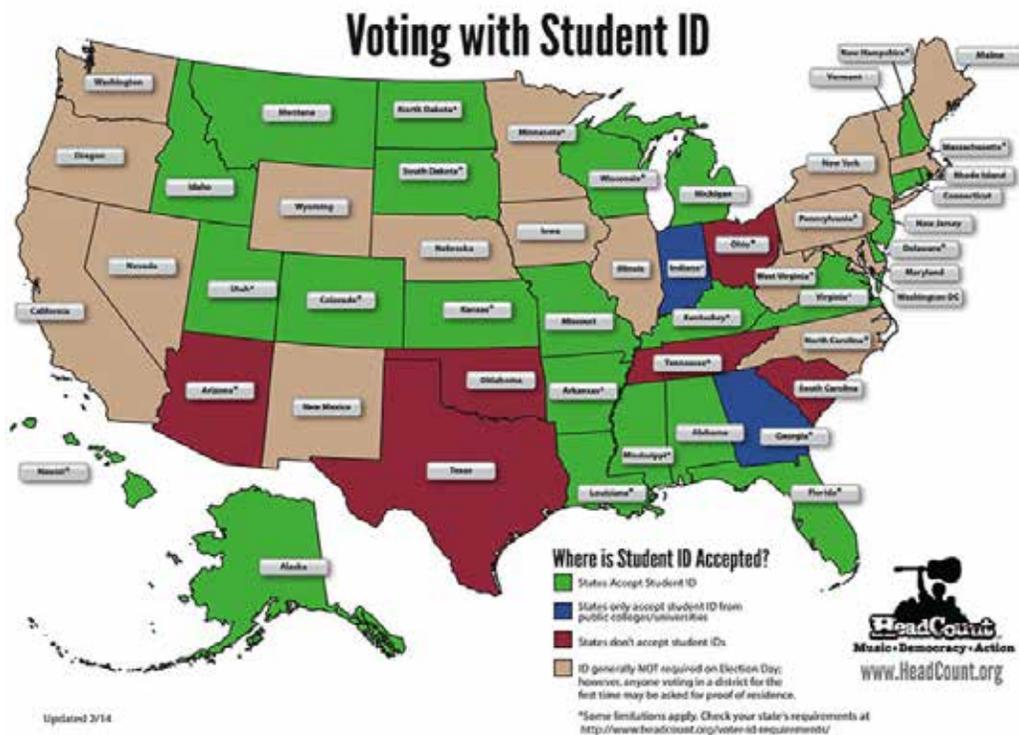
can be put on the back of a driver's license. In the course of his work for Voice your Vote, Buchsbaum notes that, many students do not attach this change of address sticker to the backs of their license. "Therefore, when they go to the polling place to vote, they do not have their current address on their driver's license, so they must fill out an additional change of address form in order to vote at that polling place, despite being previously registered to vote there," said Buchsbaum. He summarized at the NCVR hearing the implications of this process on youth voting:

“...It can increase the amount of time it takes for students to vote by a large magnitude. Especially in popular campus voting places, where voters already face longer lines than other citizens. As I have seen personally, students who need to fill out additional forms or wait in longer lines, they are discouraged from voting in future elections.”¹⁷¹

Buchsbaum adds that the lack of communication about the purpose of the change of address forms creates confusion and worry among some students: “[s]tudents fear that switching their address, they may no longer be able to list themselves as dependents of their parents. Others are afraid that they are forfeiting their citizenship in other states.”¹⁷²

Voter ID Creates Barriers to Youth Voting

Often exacerbating the confusion over residency requirements are new voter ID laws passed in many states (see map below). While voter identification is problematic for many groups of Americans, as detailed further in NCVR's first report, it presents particular challenges for students. Compounding the problem is that some states have intentionally excluded student ID cards, even IDs from state universities and colleges, from the types of identification accepted for voting. This is particularly problematic because most of these ID laws require that the identification—most commonly a driver's license—be from the state where the person is voting and have a current address. Even with ID, a student who is not living with his or her parents is unlikely to meet these requirements, particularly if he or she is not attending school in his or her home state. Many students, including student witnesses at the hearings, have expressed frustration about this and perceive it to be a way of intentionally excluding students from voting where they go to school.



With the passage of North Carolina's omnibus voter restriction law in 2013, identification will be required to vote in 2016 (pending legal challenges) and student IDs will not be accepted. Indeed, college students have joined the legal challenge to the North Carolina election law, arguing that by not allowing student ID, the law violates the 26th Amendment.¹⁷³

Other states that notably exclude student ID from the types of identification accepted for casting a ballot are Texas and Tennessee. Originally, New Hampshire's identification law excluded student ID, but a bill amending the law to include student identification was passed in 2013.¹⁷⁴ The Texas law, as noted above, has been found to be racially discriminatory in violation of Section 2 of the Voting Rights Act by the Fifth Circuit Court of Appeals.

Another study by CIRCLE in 2012 found that ID laws led to lower turnout among young people without college education, even when controlling for other possible factors.¹⁷⁵

At the NCVR's Tennessee hearing, Justin Jones, from the Nashville Student Organizing Committee, and student at Fisk University expressed the multitude of problems identification requirements can create for student voters:

“Living in a dorm, you don’t have a utility bill, you don’t have a water bill, you do not have an electricity bill. Therefore, we do not—it’s impossible to get these two residency requirements. Therefore, so many students are disenfranchised by this law. At my own school alone, we took statistics, and 9 out of 10 students do not have a Tennessee ID because out-of-state IDs are excluded. And Tennessee law explicitly excludes student IDs.”¹⁷⁶ In response, Tennessee college and university students filed a federal lawsuit in March 2015 challenging Tennessee’s voter ID law.

The NCVR also heard testimony from Casey Dreher, former Organizing Director of the Arizona Students’ Association, in a state where proof of citizenship has been required for registration and where there is an ID law.¹⁷⁷

“Students come to Arizona to study, but they do so believing that they’ll be able to participate in elections like students in any and every other state. However, due to the burdensome requirements of having to have your birth certificate on hand or an Arizona driver’s license, these students will not be allowed to vote for the very legislators that will be deciding how much to fund their universities, how much state-based financial aid will be available, or the many other policies that affect students that require state legislative approval.”¹⁷⁸

Amy Umaretiya, an undergraduate student at Arizona State University, testified about her experience as a first-time student voter in the 2012 elections and the confusion over acceptable forms of ID:

“First-time student voters aren’t well-versed in voter ID laws. And so when many of them showed up to the polling location with their driver’s licenses, unfortunately, they registered to vote with their on-campus addresses, their addresses on their licenses didn’t match up. And so they needed another form of identification to go along with that. Students who live at the dorms, however, don’t receive utility bills. They don’t have bank statements or credit card statements sent to their dorms. So when they show up to vote the day of election, if it hadn’t saved that piece of mail where they got the sample ballot or saved their voter ID card or they didn’t have it anymore, they were kind of out of luck... And it turns out that the Hudson polling location was allowing students to bring in a printout of their ASU account... And it was a solution, but many students didn’t take advantage of it because they would have to go back to campus and print out that document. And many students just came to the polling location between classes when they thought they had time. They didn’t have time to come back and wait in line after they had that printout.”¹⁷⁹

Students also appeared before the NCVR in Georgia to testify about the state's strict voter ID law. Only those students attending public colleges and universities can use their ID. Those attending private schools in the state must use another form.

After waiting in a long line to vote on Election Day, former Morehouse student Ronnie Mosely testified before the NCVR that he presented identification credentials and,

“[C]ompleted forms only to be told I was not in the system on the elector's list. I knew this was not true because I had checked my registration status day after day using the Georgia Secretary of State's My Voter Page... my information was in the Secretary of State's system, yet, my polling place still would not allow me to cast a vote.”¹⁸⁰

Finally, students are often at a disadvantage when they lack information on the proper voting requirements. Mike Burns, Director of the Campus Vote Project, an organization dedicated to educating and empowering students about the importance of civic engagement, addressed this issue at the NCVR Virginia state hearing:

“One of the things I'd like to hit on is photo ID and how it actually affects students. We're very excited that they are leaving the student IDs that have photos in them as a valid form of photo ID but, likewise, we're very concerned about the fact that there's no money being allocated to do educational outreach to inform people about these new changes. Students as our newest voters frequently start at an information deficit when voting, so to have these substantial changes to rules, if they're poorly explained to the public, that has a drastic impact on them.”¹⁸¹

WHAT'S NEW IN THE STATES

As described in the section on developments in voter registration, pre-registration has been the major legislative advance in promoting youth participation. A number of states have instituted the practice successfully; North Carolina eliminated it in 2013. Other types of legislation directed at students have been passed at the state level without attracting much attention in some states. Most these developments are positive. Utah is the only other state that enacted a negative law that squarely targets youth: in 2008 it repealed its requirement that high schools provide voter registration to students.¹⁸²

By contrast, the following positive measures have been passed in the last decade:

- In 2004 South Carolina passed a law requiring high schools to provide registration forms to students.¹⁸³
- In 2005 Illinois passed legislation that requires public institutions of higher learning to post registration forms on the school website, in school mailings and provide in-person registration.¹⁸⁴
- Addressing a long-standing controversial subject in New Hampshire, the state legislature passed a bill in 2009 specifically authorizing “a student at an institution of learning to claim domicile for voting purposes in the town or city in which he or she lives while attending the institution of learning.”¹⁸⁵
- In 2009, New Jersey passed legislation requiring high schools to provide registration forms when students were graduating.¹⁸⁶
- In 2010 Arizona passed a law requiring community colleges to take a great number of measures to promote and make voter registration available to its students as part of the schools’ educational mission.¹⁸⁷
- In 2011 Kentucky passed a bill requiring high schools “to provide information to twelfth-grade students on how to register to vote, vote in an election using a ballot, and vote using an absentee ballot, recommends classroom activities, written materials, electronic communication, Internet resources, participation in mock elections, and other methods identified by the principal after consulting with teachers.”¹⁸⁸
- In 2014, California passed a law designating high school voter registration weeks and allowing voter registration activities at high schools, including allowing schools to designate students as voter outreach coordinators.¹⁸⁹