

New State Voting Laws: Barriers to the Ballot?

*Hearing before the Senate Judiciary Subcommittee on the
Constitution, Civil Rights, and Human Rights*

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Statement for the Record

The Fair Elections Legal Network (FELN) stands opposed to changes in law and policy that needlessly restrict access to the polls. Over the past decade, advances in electoral administration have sought to meet the needs of an increasingly mobile and technologically dependent society. Innovations such as online voter registration, Election Day registration, no excuse absentee voting, and early voting recognize that previous models of election administration are outdated and no longer serve the twin goals of access and integrity. Statewide registration databases and related technological innovations now make it possible for elections officials to simultaneously pursue these goals while also promoting efficiencies and cost-savings. Unfortunately, however, the wave of electoral “reforms” currently being pursued in state legislature across the country puts all of these goals in jeopardy, with no clear benefit to voters or the democratic process.

For years, FELN has worked to protect the voting rights of foreclosure victims and other mobile voters. While the statements of other advocates will focus on the direct impact that these new state voting laws have on certain groups, we would like to call attention to their impact on a broader, overarching category of American voters: the mobile electorate.

Each year, roughly 12.5% of U.S. households move to a new address.¹ Movers are retirees, students, victims of foreclosure,² victims of a poor economy, job seekers, adventure seekers, and upwardly mobile individuals. They are your neighbors, parents, children, friends, enemies, and acquaintances, and at some point, “they” are probably you. Whatever the motivation for moving may be, people are changing addresses now more than ever, and

¹ United States Census Bureau, Director’s Blog, “Quality in a Census, Some Overview Thoughts,” Sept. 9, 2010, <http://bit.ly/oIza35>.

² In 2010, banks repossessed [1.05 million homes](#). According to the 2010 census, there was an average of [2.59 people per household](#) in the U.S. This adds up to a total of approximately 2.7 million people who were forced to move because of foreclosures. Corbett B. Daly, *Home foreclosures in 2010 top 1 million for first time*, REUTERS, Jan. 13, 2011, available at <http://bit.ly/g1Pzhu>; Press Release, U.S. Census Bureau, U.S. Census Bureau Reports Men and Women Wait Longer to Marry (Nov. 10, 2010), available at <http://1.usa.gov/oGv42G>. In addition to the regular barriers faced by movers, victims of foreclosure face additional barriers to voting due to misinformation, lack of clear policies, and difficulty establishing and proving residency. For more information, see Fair Elections Legal Network, *Lose Your Home, Keep Your Vote: How to Protect Voters Caught Up in Foreclosure*, 2010, available at: <http://bit.ly/roMM97>.

movers face very specific barriers to access that are remnants of a less mobile time. These include:

- **Getting registered to vote in the new community.** Voter registration may not be the first thing on a mover's mind, but deadlines for registration or for updating an address in the voter registration file can be as long as 30 days. By the time a new resident becomes aware of an election or has a chance to think about voter registration, it may already be too late. Shorter registration deadlines, same day registration periods, Election Day registration options, and statewide registration portability are innovations that recognize that American voters are far less stationary than ever before. Same day and Election Day options generally include safeguards, such as requiring proof of residency, which balance the need for later deadlines with the concern that registration systems not be vulnerable to abuse. Also, now that states have computerized statewide registration databases as required by HAVA, allowing for in-state address changes up to and including Election Day is a practice that can be administered without jeopardizing the integrity of the rolls.
- **Being required to show a very specific type of identification that reflects the new address.** Movers, especially in urban environments, may not have other reason to get a new driver's license upon moving to a new address. By the time Election Day rolls around, it may be too late to take the necessary steps to get the required identification. Voter ID laws that require a current address on a specific type of photo ID conflate the issues of identity and residency. Allowing voters a variety of options for demonstrating their identity and residency, where proof of either is required, simply makes sense in a mobile era.
- **Not knowing where to go or how to get there.** With all the other details surrounding a move, figuring out how/where to get registered and how/where to go vote can be challenging, and mistakes happen. Even for non-movers, redistricting and polling place consolidation can lead to confusing changes. Allowing people to register and vote at the same time simplifies the process and respects voters' time, an increasingly valuable resource in modern society. Other sensible policies that address these challenges include systematically assisting voters in finding the correct voting location,³ and counting provisional ballots cast in the wrong precinct for all offices/issues that a voter is eligible to vote for.

Yet, instead of improving upon the advances of recent years and implementing new reforms that meet the needs of today's electorate, the policies currently being pursued generally fit into the following categories, each of which poses its own set of obstacles for increasingly mobile Americans:

³ Notably, Ohio's new law, if implemented, will remove the duty of poll workers to direct voters to the correct precinct.

- **Reducing Opportunities for Voter Registration.** State legislatures have lengthened the residency requirement for voter registration (WI), restricted the ability of third party voter registration groups to conduct voter registration drives (FL, TX), and eliminated (or tried to eliminate) modern registration options that allow voters to register and vote at the same time (ME, MN, NC). Florida also restricted the ability of movers to update their address at the polls on Election Day and still receive a regular ballot, a practice that has been in place for decades and which preserved the integrity of the process by requiring a voter's registration in the state to be verified before the voter received a ballot. Instead of recognizing that people, especially in a bad economy, need more opportunities and outlets through which to get registered or to update their address, these changes make it harder for the average American to participate in elections.
- **Reducing Early Voting Locations/Hours.** Ohio and Florida reduced access to early in-person absentee voting options, and a similar effort was pursued in North Carolina. These changes move election administration backwards instead of continuing the progress made over the past decade towards expanding access. In states that have implemented early voting procedures, reducing these options has negative effects in terms of both access and costs, as voters are forced to make use of fewer days, hours, and locations and elections officials find it necessary to increase staff and/or locations that they were able to reduce when early voting was implemented.⁴ For movers, shorter voting periods also reduces the timeframe during which they can identify and solve problems preventing them from successfully voting in their new community.
- **Strict Voter ID Requirements.** The photo ID bills being pursued and implemented this year require voters to produce very specific types of photo ID in order to successfully cast a ballot. The model tends to require a current, valid, U.S. government or state-issued photo ID with an unexpired expiration date. Some laws require a current address and/or only allow for very specific types of acceptable ID. Common forms of ID held by movers, such as out-of-state driver's licenses or student IDs, are often excluded. Proponents are unable to offer factual arguments as to why these requirements must be so narrowly drawn, relying instead on the rhetoric of "voter fraud." This in turn does a disservice to the American people by confusing unrelated issues; the examples of fraud that proponents can point to are not problems that strict photo ID requirements can solve. Instead, these changes operate to exclude otherwise eligible voters, and mobile Americans pay the price.

Though we are all movers at some point or another, some people move more than others. Between 2009 and 2010, 16.7 per cent of Blacks and 15.6 per cent of Hispanics moved,

⁴ See Appendix 1: Gary O. Bartlett, Executive Director, North Carolina State Board of Elections, "Memorandum on House Bill 658," May 18, 2011, available at: <http://bit.ly/nGR3bW>. Also see "Leon County supervisor of elections: Early voting compromise won't save money," THE FLORIDA INDEPENDENT, April 29, 2011, available at <http://bit.ly/iXGHqy>.

compared to 13.9 percent of Asians and 10.8 per cent of Whites.⁵ And in 2010, “23.6 percent of people with incomes below 100 percent of the poverty line had moved within the last year as compared with 16.5 percent of people with incomes between 100 and 149 percent of the poverty line.”⁶ Thus, failing to pursue policies that reflect an increasingly mobile population, or moving backwards by retracting such reforms where they have already been implemented, has disproportionately harmful effects for low-income Americans and certain racial minorities.

To serve the modern American electorate, our elections processes are in need of reform. Policy proposals must carefully balance multiple goals, including access, accuracy, and integrity. Unfortunately, the current trend is to pursue policies that do not achieve any of these goals; instead, they circumscribe the universe of eligible voters by eliminating options and reducing access. Systematically making it more difficult for everyone to vote is profoundly harmful to our democracy and should be of concern to all citizens, including this Subcommittee.

⁵ U.S. Census Bureau, “Census Bureau Reports Housing is Top Reason People Moved Between 2009 and 2010, May 23, 2011, <http://1.usa.gov/j4Q32o>.

⁶ Id.