

**Picturing Democracy:  
An Empirical Analysis of the Impact on Voter Turnout of Photographic Voter  
Identification Requirements in Georgia**

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**Abstract:**

Following the 2000 presidential election, there was a public outcry over the manner in which elections were conducted in the United States. This outcry led to the creation of the Commission on Comprehensive Reform which published its recommendations in a report entitled *Building Confidence in U.S. Elections*. Among the recommendations presented was a requirement for electors to present a photographic identification when casting a ballot in person. The State of Georgia implemented this requirement in 2005 with House Bill 244, which was struck down in court, and again in 2006 with Senate Bill 84. The requirements in Georgia, as well as in Indiana which also adopted photographic identification requirements, were challenged as being an unconstitutional imposition on the right to vote, a challenge which rose all the way to the United States Supreme Court in *Crawford v. Marion County Elections Board*. This paper will empirically examine the 2008 elections in contrast to the 2004 elections, which was the last presidential election year under the previous requirements. While controlling for various socioeconomic factors, the turnout rates from these two years are analyzed at the county level leading to results which seem to indicate the photographic identification requirements have no negative impact on voter turnout, either on the whole, or among various racial or economic demographics.

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## Overview and Background

When one of the most fundamental rights of a representative republic is at issue, it is understandable that proposed changes in the requirements of participation would create controversy. Yet, lawmakers and those subject to those laws, must balance the conflicting needs of open access to the polls and protecting the election against fraud. The principle of “One person, one vote” set forth in *Reynolds v. Sims*<sup>1</sup> is the overreaching goal. Nevertheless the question remains, how should the government both ensure the right of every citizen to vote and yet verify that each individual is allowed to vote only once? It is a balancing act which has faced state legislatures across the nation in the past, in the present, and will continue to be an issue into the future.

The 2000 presidential election led to an increased interest in the topic of election administration and a heightened interest in procedures, protocol, and technique. Following the 2000 election and the ensuing public outcry, Congress implemented the Help America Vote Act of 2002<sup>2</sup> (HAVA) which required the consolidation of voter lists into a statewide database, mandated all states to provide provisional ballots for electors who believed they were registered voters but whose names did not appear on a registration list, and set minimum standards for identification verification, accessibility, over-vote review procedures, and auditing methods. HAVA also provided federal funding to implement these requirements. (Commission on Federal Election Reform, 2005)

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<sup>1</sup> *Reynolds v. Sims*, 377 U.S. 533 (1964)

<sup>2</sup> Help America Vote Act of 2002, 42 USC § 15301, (2002)

The controversies of the 2000 presidential election also led to the creation of the Commission on Federal Election Reform. The Commission was co-chaired by former President of the United States Jimmy Carter, who had, since his presidency, founded The Carter Center which is dedicated to “resolving conflict, fighting disease, strengthening democracy, and advancing human rights (Commission on Federal Election Reform, 2005, p. 93).” For his efforts, he received the 2002 Nobel Peace Prize. The other co-chair of the commission was former Secretary of State James Baker. Secretary Baker, in addition to serving as Secretary of State in the George H.W. Bush administration, also led the presidential campaigns of Presidents Ford, Reagan, and Bush. At the time of the commission’s formation, he also served as the honorary chairman of the James A. Baker III Institute for Public Policy at Rice University (p. 93).

The commission’s report, *Building Confidence in U.S. Elections*, made over 87 specific recommendations. Among these recommendations was an urging to implement a photographic voter identification requirement.

To ensure that persons presenting themselves at the polling place are the ones on the registration list, the Commission recommends that states require voters to use the REAL ID card, which was mandated in a law signed by the President in May 2005. The card includes a person’s full legal name, date of birth, a signature (captured as a digital image), a photograph, and the person’s Social Security number. This card should be modestly adapted for voting purposes to indicate on the front or back whether the individual is a U.S. citizen. States should provide an EAC-template ID with a photo to non-drivers free of charge. (Commission on Federal Election Reform, 2005, p. 21)

The commission also recommended that states should allow voters without valid photograph identification to cast a provisional ballot by signing an affidavit under penalty of perjury. The signature would then be compared to the signature on file in the voter registration database. Following these recommendations, Georgia and Indiana were the first two states to implement the photographic identification requirement.

The push for photographic identification requirements in Georgia began with House Bill 244<sup>3</sup> sponsored by Rep. Sue Burmeister (R-119). This new requirement, found in Section 59 of the legislation, was decried by many civil rights groups including the NAACP who claimed it was a “poll tax on the right to vote because the fees [required for a state issued ID] are a financial condition for the right to vote<sup>4</sup>” and the requirement “imposes an undue burden on the right to vote of voters who will be required to expend time and money to acquire the underlying documents needed to be issued a Photo ID card and to travel to state offices to be issued a Photo ID.<sup>5</sup>”

The requirements of HB 244 were soon suspended. U.S. District Judge Harold Murphy of Rome barred the state from requiring photographic identification. In his ruling, he stated, “The photo ID requirement is most likely to prevent Georgia’s elderly, poor, and African-American voters from voting. For those citizens, the character and magnitude of their injury – the lost of their right to vote – is undeniably demoralizing and extreme<sup>6</sup>.” Speaker Glenn Richardson, presiding officer of the Georgia House of Representatives, retorted, “The U.S. Justice Department reviewed and approved this law, saying it complied with the Voting Rights Act of 1965. Despite this review and approval, a Jimmy Carter-appointed judge has now ignored that decision, thwarting the best interests of the people of this state.” (Rankin, 2005)

In the next Georgia Legislative session, the General Assembly passed Senate Bill 84<sup>7</sup>. Sponsored by Sen. Cecil Staton (R-18<sup>th</sup>), SB 84 reinstated the requirements struck down the previous year with a new addition. The new legislation contained the following requirement in Section 2.

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<sup>3</sup> 2005 Ga Laws p. 253

<sup>4</sup> Complaint at 21, *Common Cause v. Billups*, 554 F.3d 1340 (N.D.G.A. 2005) (Case 4:04-cv-00201-HLM)

<sup>5</sup> Complaint at 22, *Common Cause v. Billups*, 554 F.3d 1340 (N.D.G.A. 2005) (Case 4:04-cv-00201-HLM)

<sup>6</sup> *Common Cause v. Billups*, 554 F.3d 1340 (N.D.G.A. 2005) (Case 4:04-cv-00201-HLM) qtd in Rankin (2005)

<sup>7</sup> 2006 Ga. Laws p. 3

Each county board of registrars shall provide at least one place in the county at which it shall accept applications for and issue Georgia voter identification cards to registered Georgia electors which shall under state law be valid only for purposes of voter identification under Code Section 21-2-417 and available only to registered electors of this state. No fee shall be charged or collected for the application for or issuance of a Georgia voter identification card.<sup>8</sup>

This new provision rebutted the main complaints with the previous law, that is, a fee being charged for an official state identification card and a requirement for excessive travel to a Department of Driver Services location to obtain a photographic identification (ACLU Voting Rights Project). Under the requirements of SB 84, it was also allowable for individuals who did not possess the necessary identification to cast a provisional ballot and be able to return within a set period of time, present the identification, and have the ballot counted (See requirements for provisional ballots in Appendix G)<sup>9</sup>.

The case, with the new provisions, was appealed to the 11<sup>th</sup> Circuit Court of Appeals which denied the stay of the injunction.<sup>10</sup> In February 2006, The Circuit Court remanded the case to the District Court.<sup>11</sup> On April 21, 2006, the United States Department of Justice pre-cleared the requirements of SB 84<sup>12</sup> as is required by the *Voting Rights Act of 1965*.<sup>13</sup> On the same day, the district court resumed the proceedings in the case.<sup>14</sup> On August 22, 2007, the case proceeded to a full bench trial.<sup>15</sup> Finally, on September 6, 2007, the district court issued its final decision. Citing a failure to demonstrate the 2006 Photo ID requirements create an undue burden on the right to vote and a failure “to show that they [the plaintiffs] will suffer irreparable harm if

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<sup>8</sup> Ibid

<sup>9</sup> Ga. Code Ann. § 21-2-418 (2005)

<sup>10</sup> Order of 11th Circuit Court of Appeals Denying Stay of Injunction, *Common Cause v. Billups*, 554 F.3d 1340; 2009 U.S. App. LEXIS 593

<sup>11</sup> Order granting remand, *Common Cause v. Billups*, 554 F.3d 1340; 2009 U.S. App. LEXIS 593

<sup>12</sup> Notice of Section 5 Preclearance of Act No. 432 (S.B. 84), *Common Cause v. Billups*, 554 F.3d 1340 (N.D.G.A. 2005) (Case 4:04-cv-00201-HLM)

<sup>13</sup> *Voting Rights Act of 1965* §5, 42 U.S.C. § 1973c, (1965)

<sup>14</sup> ORDER Dismissing this case and Directing the Clerk to CLOSE this case at 8, *Common Cause v. Billups*, 554 F.3d 1340 (N.D.G.A. 2005) (Case 4:04-cv-00201-HLM)

<sup>15</sup> Ibid at 20

the Court does not grant a permanent injunction, much less that any harm to Plaintiffs outweighs the harm to Defendants that would occur if the Court granted permanent injunctive relief.”<sup>16</sup> Furthermore, the Court also stated a permanent injunction would not serve the public interest.<sup>17</sup> Therefore, the District Court closed the case and entered a judgment in favor of the state defendants<sup>18</sup>.

### *The Indiana Requirements*

Indiana has instituted similar legislation<sup>19</sup>. The major difference between the Indiana and Georgia requirements is the definition of acceptable forms of identification. While Georgia lists specific acceptable forms of identification, Indiana allows any form of identification that meets certain requirements containing information included on the identification. Another difference between the Georgia and Indiana versions is the amount of controversy generated. The legal challenge to the Indiana law reached the Supreme Court and was decided in April of 2008.

At the heart of the legal claim is the assertion that the requirement for a photographic identification, “substantially burdens the exercise of a fundamental constitutional right – the right to vote in public elections for federal, state and local offices and to have one’s vote counted – in violation of the Fourteenth Amendment.” In addition to the alleged violation of the Fourteenth Amendment, opponents also argue that the monetary and time expense necessary to obtain a photographic identification constitute a poll tax in violation of the Twenty-fourth Amendment. Since the law would also apply to primary elections, there is also a challenge on the First Amendment grounds due to the limitation of association.

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<sup>16</sup> Ibid at 158

<sup>17</sup> Ibid at 158

<sup>18</sup> Ibid at 159

<sup>19</sup> 2005 Indiana Senate Enrolled Act 483

The respondents argue that no discrimination exists. Instead, the photographic identification requirement “establishes reasonable, long-overdue election-security reform in a state highly vulnerable to in-person election fraud.”<sup>20</sup>

It represents one among many attempts by Indiana, other States, and Congress to modernize dysfunctional voting practices. Far from being a novel, partisan, voter-suppression gimmick, the Voter ID Law is a mainstream outgrowth of the election modernization movement. Given both this utterly benign historical context and Petitioners’ impassioned accusations of discrimination, perhaps the most instructive fact about this case is that none of the Petitioners has identified even one member or constituent unable to vote because of the Voter ID Law. This resounding failure defeats Petitioners’ case for unconstitutionality at every level.<sup>21</sup>

In April of 2008, the Supreme Court upheld the voter identification requirements in Indiana. Justice Stevens, writing for the court, stated flagrant examples of such fraud in other parts of the country have been documented throughout this Nation’s history by respected historians and journalists.” He continued:

There is no question about the legitimacy or importance of the State’s interest in counting only the votes of eligible voters. Moreover, the interest in orderly administration and accurate recordkeeping provides a sufficient justification for carefully identifying all voters participating in the election process. While the most effective method of preventing election fraud may well be debatable, the propriety of doing so is perfectly clear.<sup>22</sup>

Addressing the issue of some individuals not possessing photographic identifications, Justice Stevens stated:

The fact that most voters already possess a valid driver’s license, or some other form of acceptable identification, would not save the statute under our reasoning in *Harper*, if the state required voters to pay a tax or a fee to obtain a new photo identification. But just as other States provide free voter registration cards, the photo identification cards issued by Indiana’s BMV are also free. For most voters who need them, the inconvenience of making a trip to the BMV, gathering the required documents, and posing for a photograph surely does not qualify as a

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<sup>20</sup> Crawford, et al. v. Marion County Election Board et al., 553 U.S. \_\_\_\_ (2008)

<sup>21</sup> Ibid

<sup>22</sup> Ibid

substantial burden on the right to vote, or even represent a significant increase over the usual burdens of voting.<sup>23</sup>

Once the normative and legal arguments have been made, the question remains. Is there a disparate impact on minority voting? Are the less-educated unable to understand the requirements and thus not being allowed suffrage? This question will only be answered through empirical analysis. The assertions have been made that the photographic voter identification requirement would adversely affect the elderly, the impoverished, racial minorities, and those without adequate education. This research will examine the effects on voter turnout of the new policy controlling for each of these variables to test the hypothesis that the implementation of the voter identification requirement decreases turnout with respect to these socioeconomic variables.

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<sup>23</sup> Ibid

### Literature Review

There has been an ongoing struggle among lawmakers and election administrators to find proper balance between preserving ballot integrity and ballot access. One viewpoint strives to insure each elector is only allowed to cast one ballot and each elector is by right allowed to vote. Conversely, there is also the duty to ensure no eligible elector is turned away from the polls. Following the 2000 elections and the implementation of the *Help America Vote Act of 2002*<sup>24</sup>, the recommendations of the Commission on Federal Election Reform, states implementing stringent voter identification requirements, and the Supreme Court decision in *Crawford*<sup>25</sup>, this debate has been brought to the forefront of election administration and policy analysis in America.

This debate is nothing new. In the midst of the civil rights movement, Riker and Ordeshook (1968) published “A Theory of the Calculus of Voting.” In this paper, they applied the economic theory of expected utility to the voting process and determined that  $R = (BP) - C$  where  $R$  was the reward that the individual receives from the act of voting,  $B$  is the differential benefit that an individual voter receives from the success of his or her more preferred candidate over the lesser preferred candidate,  $P$  is the probability<sup>26</sup> that the vote will influence the outcome of the election, and  $C$  is the cost of the individual of the act of voting. *Ceteris paribus*, if the benefit of an electoral victory increases, the individual is more likely to vote. If the probability

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<sup>24</sup> Help America Vote Act of 2002, 42 USC § 15301 (2002).

<sup>25</sup> Crawford, et al. v. Marion County Election Board et al., 553 U.S. \_\_\_\_ (2008)

<sup>26</sup>  $0 \leq P \leq 1$

that the vote cast will make a more significant difference in the outcome, as would be the case in a close election, the individual is more likely to vote.

However, also *ceteris paribus*, if the costs of voting increases, the individual is less likely to vote. So, the question becomes how much of an increase in cost would be required of an individual to decide not to vote. Moreover, do laws requiring an individual to present a photographic form of identification would provide that increase in cost.

Von Spakovsky asserts that voter fraud is a big enough problem in the United States that something must be done to prevent it. In the continuum between access and integrity, the integrity has been compromised enough that limiting the access is not only allowable, it is necessary.

While it is safe to say that many elections are conducted without voter fraud affecting the outcome or representing a significant factor in the race, there are sufficient cases of proven fraud and convictions by both state and federal prosecutors to warrant taking the steps necessary to improve the security and integrity of elections. (von Spakovsky, 2006, p. 1)

Von Spakovsky utilizes a report in the *Atlanta Journal-Constitution* which found over five thousand votes by deceased persons within the State of Georgia and over fifteen thousand deceased voters still on registration rolls (Davis, 2000; von Spakovsky, 2006).

The solution to preventing fraudulent votes from being cast in polling places is to require all voters to present photo identification, a recommendation made by the bipartisan Carter-Baker Commission on Federal Election Reform. The Commission's recommendation was based on photo identifications issued under the REAL ID Act of 2005, which requires states to verify each individual's full legal name, date of birth, address, social security number, and U.S. citizenship before the individual is issued a driver's license or personal identification card. Similarly, the solution to preventing noncitizens from registering and voting in elections is to require all individuals registering to vote to provide proof of citizenship (von Spakovsky, 2006, p. 3).

Von Spakovsky asserts that there is "no evidence that minority voters have less access to identification documents than other voters." (p. 3) He also quotes Congresswoman Susan

Molinari as saying “[f]ar from discriminatory, a mandatory voter ID provides means by which more Americans may obtain the identification already required for daily functions – such as cashing a check, entering a federal building, or boarding an airplane.” (pp. 3-4)

Von Spakovsky concludes with the following statement:

The turnout of voters in presidential elections in South Carolina, Virginia, Georgia, and Louisiana, states with significant African-American populations, as well as in Alabama and Florida, reveals no evidence substantiating the claim that the turnout of minority voters is negatively affected by identification requirements for voters. Available data indicates that the overwhelming percentage of the voting age population, black and white, already have a form of photo identification. It is, therefore, highly unlikely that new and stricter identification requirements for voters will adversely affect the turnout of minority voters, especially given the fail-safe provisional voting requirements in effect across the country as required by HAVA. Many critics of HAVA’s identification requirements made exactly the same claims, and the turnout in the first presidential election after those requirements became effective saw an upsurge in black voting.

Given the numerous prosecutions for voter fraud that have occurred across the United States in recent years, the thousands of fraudulent voter registration forms submitted to election officials, the types of problems cited in the Wisconsin fraud investigation after the 2004 election, and registration and voting by noncitizens, requiring proof of citizenship to register and photo identification to vote is an important means of ensuring the integrity of our election process. It is not a requirement that will prevent or deter minority voters from casting their ballots, but will help guarantee that their votes are not devalued by fraudulent or noncitizen voting (p. 19).

Lott asserts:

There is some evidence of vote fraud. Regulations meant to prevent fraud can actually increase the voter participation rate. It is hard to see any evidence that voting regulations differentially harm either minorities, the elderly, or the poor. While this study examines a broad range of voting regulations, it is still too early to evaluate any possible impact of mandatory photo IDs on U.S. elections. What can be said is that the non-photo ID regulations that are already in place have not had the negative impacts that opponents predicted (2006, p. 11).

Lott (2006) cites the National Commission on Electoral Reform’s claim that approximately 92 percent of the voting age population have driver’s licenses and that other forms

of acceptable photographic identification “probably only increases this percentage slightly” (p. 3)

Yet, the author argues:

[T]his provides only a very crude measure of whether photo ID requirements will prevent people from voting. Some people without driver’s licenses will not vote even when there are no photo ID requirements and others will go out to get a photo ID in order to vote. Just because they don’t have a photo ID at some point in time (when they may not have any reason to have such an ID), doesn’t imply that they won’t get one when they have a good reason to do so.

A better measure of how difficult it is to meet the ID requirement is the percent of registered voters who have driver’s licenses. (Brace, 2005) But even this measure ignores that people can adjust their behavior and that some of those who currently don’t have a photo ID might acquire one once it is required. Others have pointed out that even these estimates are unnecessarily alarmist because the lists of registered voters have not been updated to remove people who have died or moved away, and the statistics thus exaggerate the number of voters who are listed by motor vehicle bureaus as not currently having driver’s licenses. (Bensen, 2005, cited in Lott, 2006, p. 3)

Lott continues to explain that strict identification requirements could easily increase or decrease voter participation rates. Just as there is an increased cost to voting, which would decrease participation; there is also an increased integrity which can increase the benefits of people voting.<sup>27</sup> He lists three possible positions:

- 1) The Discouraging Voter Hypothesis: With little or no fraud to eliminate, the regulations discourage legitimate voters from voting, this hypothesis predicts that to the extent that regulations have any effect they will reduce the number of people who vote. Critics of stricter regulations argue that minorities, the elderly, and the poor are most affected.
- 2) The Eliminating Fraud Hypothesis: If there is indeed substantial fraud and that the regulations eliminate it, the measured voter participation rate will decline. Votes that shouldn’t have been recorded will now no longer be recorded and voter participation will decline.
- 3) The Ensuring Integrity Hypothesis: Greater confidence that the election is fair and that votes will be counted accurately encourages additional voter participation. (Similarly, if the regulations reduce confidence, depending on the extent of the drop in participation suggested by the two previous

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<sup>27</sup> See Riker and Ordeshook

hypotheses, this hypothesis of greater participation may be true even if overall voter participation declines) (pp. 4-5).

Vercellotti and Anderson argue flatly against any identification requirement beyond the elector being required to state his or her name, or even voter registration requirements.

While serving as a necessary check against voter fraud, registration has been continually demonstrated to systematically depress voter turnout, typically by around 10 percent, by creating an additional hurdle that qualified citizens must overcome in order to cast a ballot.

The distribution of this effect among the electorate has not been so random as to be considered negligible. If turnout was depressed uniformly across the electorate, in a random manner, it could be dismissed as neither damaging the legitimacy of the results, nor as being in such a systematic fashion as to deter the participation of the general population (2006, p. 2).

Their final conclusion was that requirements beyond stating one's name had a negative effect on voter turnout. Some specific groups, African-American and Hispanics, had a more noticeable reduction in turnout. Finally, this reduction reduced the probability of voting between three and four percent across the entire sample, with a larger difference with specific subgroups (p. 13). Also, they put forth the possibility that "strict voter identification requirements, designed to promote legitimate election results, could actually undermine that legitimacy instead" (p. 14).

Muhlhausen and Sikich (2007) directly contradicted the Vercellotti and Anderson study which had been published the previous year. Muhlhausen and Sikich stated their analysis was performed because, "several aspects of the Eagleton Institute study (performed by Vercellotti and Anderson) cast doubt on the validity of its findings" (p. 2)

The Eagleton Institute used one-tailed hypothesis tests instead of the more commonly accepted two-tailed tests. The one-tailed test allows researchers to double their chances of finding statistically significant results.

The 2004 voter identification laws of certain states were misclassified. For example, Arizona and Illinois were incorrectly classified as requiring voters to provide identification and state their name for authentication, respectively. However, in 2004 Arizona only required voters at polling stations to sign their name for authentication, while Illinois required poll workers to match the signatures of voters.

Some of the variables used to predict the decision to vote were used inappropriately. For example, the Eagleton Institute study used the November 2004 CPS family income variable, which is an ordinal variable of unequal income ranges, as an interval-ratio variable. Using categorical variables as interval-ratio variables can lead to estimation problems (p. 2).

After the above issues were addressed, a reanalysis found that the Vercellotti and Anderson findings were largely unfounded. When other control variables were entered into the analysis, it was found that identification laws largely do not have the negative impact on turnout as was reported by the Eagleton Institute report. Instead, what statistically significant and negative relationships were found led to effects so small that they offered “little policy significance” (pp. 2-3).

White survey respondents in photo identification states are 0.002 percent less likely to report voting than white respondents from states that only required voters to state their name.

African–American respondents in non-photo identification states are 0.012 percent less likely to report voting than African–American respondents from states that only required voters to state their name. In other cases, no effect was found.

In general, respondents in photo identification and non-photo identification states are just as likely to report voting compared to respondents from states that only required voters to state their name.

African–American respondents in photo identification states are just as likely to report voting compared to African–American respondents from states that only required voters to state their name.

Hispanic respondents in photo identification states are just as likely to report voting compared to Hispanic respondents from states that only required voters to state their name. (Muhlhausen & Skich, 2007, p. 3)

Their final finding was there was no effect from the strict voter identification requirements. The report concluded:

controlling for factors that influence voter turnout, voter identification laws largely do not have the claimed negative impact on voter turnout based on state-to-state comparisons. When statistically significant and negative relationships are found, the effects are so small that the findings offer little policy significance...

In other cases, no effect was found. In general, respondents in photo identification and non-photo identification states are just as likely to report voting compared to respondents from states that only required voters to state their name. African–American respondents in photo identification states are *just as likely* to report voting compared to African–American respondents from states that only required voters to state their name. Hispanic respondents in photo identification states are *just as likely* to report voting compared to Hispanic respondents from states that only required voters to state their name (p. 22).

Milyo (2007) examined the overall change in voter turnout in Indiana. He found, like Lott, that turnout actually increased following the implementation of the requirement. He concluded:

given the context of the existing research on voter turnout, my findings for Indiana are completely unsurprising. Despite the attention-grabbing and often strident claims that voter identification is the modern version of the poll tax and the like, nothing could be further from the truth. Existing theory and evidence from decades of social science research do not support the contention that photo ID requirements are likely to have a large and detrimental impact on turnout; nor does the previous empirical evidence find any significant impact of photo identification on racial or ethnic minorities. Further, the best previous evidence to date also finds no significant impact of photo ID on the poor or the elderly.

In this study, I exploit the existence of a natural experiment on the impact of photo ID: the change in turnout between the 2002 and 2006 midterm elections in Indiana. My analysis is novel not only for its focus on the effects of photo ID in Indiana, but because I subject my findings to a battery of sensitivity checks. This is also the first study to analyze the differential impact of photo ID requirements on turnout among more Democrat-leaning voters.

The findings that emerge from my analysis are that photo ID is associated with: i) an overall county-level turnout increase of almost two percentage points, ii) an insignificant increase in relative turnout for counties with a greater percentage of minority and poor population, iii) no consistent or significant impact on relative turnout in counties with a greater percentage of less educated or elderly voters, and iv) a significant relative increase in turnout for counties with a higher percentage of Democrat voters. (Milyo, 2007, p. 7)

Alvarez, Bailey, and Katz (2008), acknowledging the methodological flaws of the Vercellotti and Anderson study, re-examined their dataset with a different methodology. This re-examination found “no evidence that voter identification requirements reduce participation at the aggregate level.” (p. 21) However, they did find, in the individual level data, that the strictest

form of identification requirements<sup>28</sup> have a negative impact on voter participation relative to the weakest requirement of stating one's name. However, there did not seem to be a discriminatory impact on specific subgroups, including nonwhite registered voters.

Barreto, Nuño, and Sanchez examined Arizona's requirements in 2006. (2007)

Exit polls in each state asked voters to check which forms of identification they would be able to provide if voter ID laws were passed in their state. Controlling for age, income, and education, we find that immigrant and minority voters are significantly less likely to be able to provide multiple forms of identification, such as a copy of their original birth certificate, or a recent bank statement. In full, we asked respondents about their ability to provide approximately six unique forms of identification, and immigrant and minority voters were consistently less likely to have each form of identification. Because our data reflects the identification trends of actual voters, not just adult citizens, the findings go far to suggest that voter identification laws could immediately disenfranchise many Latino, Asian and African-American citizens (p. 1).

They point to the strict voter identification requirements being born out of a pool of public opinion instead of documented vote irregularities.

Despite the clear lack of convincing evidence to support the claim that voting fraud is occurring at rates high enough to dilute the "the lawful votes of the vast majority of Americans", it appears as though voter fraud exemplifies the notion of perception being reality. Recent public opinion polls have indicated that a large segment of the American population believes that voting fraud is prevalent, and lacks confidence in our election systems. Specifically, a Rasmussen Report poll found that 58 percent of Americans believed that there was a lot or some fraud in American elections, while 67 percent of respondents to a 2000 Gallup poll had only some of very little confidence in the way votes are cast and counted in our country (Wang, 2006). Therefore, regardless of concrete evidence, it appears as though public opinion will continue to support efforts to tighten election laws, including the implementation of photo or multiple forms of identification at the polls. However, strategies to implement greater regulation of the voting process may negatively impact the participation levels of large segments of the American electorate. Although very little research exists on voter ID laws, there is a preponderance of scholarship on electoral rules, institutional regulations, and voter participation from which we draw. (pp. 7-8)

The authors conclude:

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<sup>28</sup> These requirements being combinations of presenting identification and matching signatures, as well as photo identification requirements.

Our results clearly suggest that voting laws which require specific or multiple forms of identification will disproportionately impact racial and ethnic minorities, immigrant populations, and those with lower incomes. These results are compelling due to the nature of our data and the established literature on the impact increased costs has on voter turnout. Because we analyze the impact of these laws on voters from the 2006 Election, our results provide a clear diagnosis of how voter ID laws will impact voter turnout even among the most active participants in our political system.

With the inability of scholars or political pundits to provide clear evidence that these laws decrease vote fraud, we should be very concerned with the potential negative impact these laws will have on the electorate. Further, our results suggest that the implementation of voter ID laws could have major implications to party politics. We find compelling evidence that those less likely to have access to multiple forms of identification are disproportionately Democrat. To determine the possible electoral consequences of this trend, we isolate the congressional districts that moved from Republican to Democratic control in addition to the tightest races in 2006. Our results suggest that seats that were picked up by Democrats, as well as other tight races, could have been substantially impacted by more stringent voter ID laws. The use of common sense mechanisms to secure the democratic process is necessary, but without an established record of widespread voter fraud to justify the suppressive impact we know to exist as a result of increased voting barriers, we encourage a greater examination into secure but non-discriminatory voting procedures. (pp. 21-22)

Project Vote (2007), in its policy brief on the subject, agrees that the identification laws are unnecessary. In fact, the report went as far as to say that the requirements, “while increasingly popular in state legislatures around the country, are a solution without a problem.” (p. 2)

There is virtually no evidence that voters engage in voter impersonation - the only kind of fraud addressed by additional ID requirements - with any frequency. As noted by the Brennan Center for Justice at New York University School of Law, “This rare kind of fraud is very risky and promises little reward.”

...The fact that this crime is almost never committed can be attributed in part to the severe penalties already in place under existing law. Most states and the federal government have criminalized election fraud, and the crime may result in fines up to \$10,000 and up to five years in prison. (p. 2)

The main objection raised was not in the requirement to present a photographic identification. Instead, the issue was with acquiring acceptable identification which met the photographic requirements.

While it may seem benign to require voters to present a state-issued photo ID, in fact, there are multiple barriers to obtaining this ID. For those who are most likely not to have the identification, it is a significant burden to obtain the necessary back-up documentation, take time off during business hours, find transportation to offices that issue the ID, and find the funds for application fees and transportation.

Beyond the costs of money and time, voters face other barriers as well. Most states require a government-issued birth certificate (or the equivalent, such as a US passport) in order to issue a state ID. Many citizens do not have a birth certificate or, if they do, they have one issued by a hospital, not a state or local government. There are often fees associated with ordering a birth certificate, ranging from \$7 to \$26, and paradoxically, many state agencies require photo identification in order to obtain a birth certificate. (p. 3)

Hood and Bullock (2007) performed a study to examine “the extent to which Georgia’s registered voters lack a valid driver’s license or state issued identification card.” (p. 10) Their study pointed to a report that:

Matching records in their database with the voter registration database, the DMV determined that 305,074 registered voters (6.04%) likely did not possess a valid driver’s license or state identification card. Of these, it was determined that 106,522 registrants were never issued either of these forms of identification. The remaining 198,552 registrants had expired, revoked, or suspended driver’s licenses or identification cards. (Campos, 2006, cited in Hood & Bullock, 2007, p. 11)

Hood and Bullock used a copy of the state voter registration database acquired from the Office of the Secretary of State. This was compared to a list acquired from the Department of Motor Vehicles. A comparison of these two lists was able to match 93 percent of the cases. This methodology is in stark contrast to earlier studies (e.g. Vercellotti & Anderson, 2006) which focused on the results of a national survey.

Using the state registration and history databases gives us some degree of additional leverage over similar studies that have examined effects related to voter requirements. To begin, these data sources provide information on the population of registrants and voters in Georgia. While it is risky to argue that one has data encompassing the entire population of a given group this large, using such data does make generating inferences about the target population all the more straightforward. Second, while other research has made use of individual-level data in this area, we do not have to worry about questions relating to the inflation of self-reported turnout. In addition, as opposed to measuring laws concerning voter identification at the contextual level (i.e. state), we know which Georgia registrants do not possess a valid driver's license or state identification card (p. 12).

The study concluded that registered voters are less likely to possess a driver's license if they are from minority groups or if they are older. The data also suggested that Democrats are less likely to possess a valid driver's license. Furthermore, it appears that those registrants who do not possess driver's licenses are already less politically engaged and may be even less inclined to participate if more restrictive requirements are in place. However, there is no information available as to if those without a driver's license may have some other acceptable form of identification such as a passport or student ID. The paper concludes:

Finally, it should be noted that concerns over voter disenfranchisement must be viewed in the same context with efforts to reduce voter fraud. While social scientists are beginning to provide some degree of insight concerning the effects of voter identification laws, little systematic research has been performed to determine the extent to which voter fraud may exist and what types of voter fraud may be more prevalent than others. For example, in the Georgia case any registrant can request an absentee ballot by mail without providing photo identification. If research finds evidence of voter fraud and such fraud is primarily confined to the area of absentee voting by mail, the ability of voter identification requirements to curb this type of fraud would rightly be called into question. Future research efforts in this area must also concentrate on the issue of voter fraud, as any policy evaluation of voter identification requirements must also weigh the ability of these statutes to offset or counteract fraud. (p. 21)

Logan and Darrah (2008) released a report prepared for the American Communities Project of Brown University which asserted that voter identification requirements increased the odds of registration for whites, decreased the odds for Asians, and reduced turnout for every

group, especially Hispanics. They found no differential effect on the elderly. However, they did find an adverse impact on those of low socioeconomic status and those who had recently relocated. They concluded that voter identification was one of several factors which influenced participation and the overall impact was suppression of turnout. The authors assert, “Even aside from placing a greater burden on some groups than on others, this is a policy that has not been shown to have any benefits. If reversing this policy in the 20 states that implemented it in 2004 could have increased overall turnout by registered voters by 1.6 million – from a rate of 67.7% to 70.3% - that is a strong argument in itself.” (Logan & Darrah, 2008, p. 8)

Segal (2008) writes for the *Policy Studies Journal* “Voter ID laws sacrifice the poor, the elderly, the young, and many minorities as collateral damage. The Law is tantamount to a modern day ‘poll-tax,’ that forces many eligible voters to pay for a government-issued photo ID.” (p. 657) He continues, “If our elected officials are truly committed to full participatory democracy, then they will hold hearings to consider the populations disenfranchised by current voter ID requirements and introduce legislation increasing acceptable alternative forms.” (Segal, 2008, p. 658)

In conclusion, the literature is highly polarized. Both sides of the debate submit empirical evidence to support their position. If voter identification requirements do suppress turnout in certain racial or socioeconomic groups, the requirements should be revisited. However, if the effect is minimal and they do prevent voter fraud – thereby increasing ballot integrity – the requirement is not only acceptable but also necessary.

## Methods

This analysis will seek to examine the relationship, if any, between the implementation of the photographic voter identification requirements and voter turnout among Georgia counties. Using multivariate regression analysis of turnout data along with socioeconomic controls, the author will examine the hypothesis that the more stringent identification requirements, that is the photographic requirements in the 2008 election, will have a negative effect on voter turnout as compared to the 2004 election which required identification, but did not require the identification to be photographic. This data will be compiled from the Georgia Secretary of State's report *Active Voters by Race/Gender* issued for each election and by using data from the Georgia Statistic System.

### *Dependent Variable*

The dependent variable will be an index of voter turnout across the presidential preference primary, the general primary, and the general election. Each unit of analysis (ie, county) will have a value for the 2004 election cycle and the 2008 election cycle. Therefore, there will be a total of 318 cases. Turnout will be measured as the number of ballots cast as a percentage of registered voters.

Because there are multiple elections in each year studied, the turnout rates are combined using the formula:  $\frac{V_{PP} + V_{GP} + V_{GE}}{R_{PP} + R_{GP} + R_{GE}}$  where  $V$  is the total number of individuals who voted and  $R$  is the total number of individuals registered to vote in each election. The different elections are designated as *PP* for the Presidential Preference Primary, *GP* for the General Primary, and *GE* for

the General Election. The 2004 Presidential Preference Primary was held on March 2, 2004. The General Primary was held on July 20, 2004, and the General Election was November 2, 2004. These same elections for the 2008 election cycle were held on February 5, 2008, July 15, 2008, and November 4, 2008 respectively.

### ***Independent Variables***

Identification type will be coded using “0” for the requirements in place for the 2003 statute and “1” for the 2006 statute. A summary of the differences in these two requirements can be found in the Appendix C. If the increased identification requirements have the suppressive effect suggested in much of the literature and in the legal challenges, voter turnout will have a negative relationship to identification type.

Other independent variables included in the analysis as controls include:

- Minority rate measured as the total population, less the percentage of Caucasians, for 2007.
- Poverty Rate measured as the 2005 model based estimate of the total percentage of persons living below the federally established poverty line.
- Elderly Rate measured as the total percentage of the population aged over sixty-five years as of 2007.
- Veteran Rate measured as the total number of veterans for 2008 as a percentage of the Census estimated population for July 1, 2007.
- Population Density measured as the density per square mile for the year 2007.
- Homebound Rate measured as the percentage of disabled individuals who are not able to go outside the home for the year 2000.

**Table 1: Unstandardized Coefficients of the Models with Model Summary**

	<b>Model 1A</b>	<b>Model 1B</b>	<b>Model 2A</b>	<b>Model 2B</b>
<b><i>R</i></b>	.494	.651	.493	.650
<b><i>R</i><sup>2</sup></b>	.244	.424	.243	.422
<b><i>Adj. R</i><sup>2</sup></b>	.227	.410	.228	.410
<b><i>D-W</i></b>	2.160	2.027	2.156	2.072
<b><i>N</i></b>	318	290	318	293
<b><i>Constant</i></b>	.130** (2.707)	.040 (.919)	.118** (2.637)	-.010 (.244)
<b><i>ID Type</i></b>	.027*** (4.690)	.021*** (4.875)	.027*** (4.694)	.023*** (5.028)
<b><i>Minority Rate</i></b>	.000 (.682)	.000* (2.289)		
<b><i>Poverty Rate</i></b>	.000 (.369)	-.001 (.905)	.00006173 (.116)	.000 (.502)
<b><i>Elderly Rate</i></b>	.013*** (7.987)	.018*** (12.067)	.013*** (7.998)	.019*** (12.463)
<b><i>Veteran Rate</i></b>	3.238*** (7.345)	4.959*** (11.303)	3.272*** (7.477)	5.241*** (11.756)
<b><i>Population Density</i></b>	-.00001941* (-2.018)	-.00003758*** (4.542)	-.00001752 (1.904)	-.0000331*** (4.075)
<b><i>Homebound Rate</i></b>	.003 (1.701)	.001 (.706)	.003* (2.186)	.002 (1.958)

\*p ≤ .05; \*\*p ≤ .01; \*\*\* p ≤ .001

**Table 1 con't: Unstandardized Coefficients of the Models with Model Summary**

	<b>Model 3A</b>	<b>Model 3B</b>	<b>Model 4A</b>	<b>Model 4B</b>
<i>R</i>	.493	.654	.494	.652
<i>R</i> <sup>2</sup>	.243	.427	.244	.425
<i>Adj. R</i> <sup>2</sup>	.231	.417	.229	.413
<i>D-W</i>	2.156	1.996	2.158	1.964
<i>N</i>	318	295	318	293
<i>Constant</i>	.119** (2.686)	-.006 (.153)	.124** (2.745)	.029 (.699)
<i>ID Type</i>	.027*** (4.702)	.022*** (4.999)	.027*** (4.697)	.022*** (4.967)
<i>Minority Rate</i>			.000 (.586)	.000* (2.334)
<i>Poverty Rate</i>				
<i>Elderly Rate</i>	.013*** (8.034)	.019*** (12.748)	.013*** (8.046)	.018*** (12.285)
<i>Veteran Rate</i>	3.260*** (7.687)	5.150*** (12.093)	3.279*** (7.701)	5.121*** (12.071)
<i>Population Density</i>	-.00001782* (2.020)	-.0000346*** (4.380)	-.00001802* (2.039)	-.00003592*** (4.593)
<i>Homebound Rate</i>	.003* (2.367)	.003* (2.366)	.003 (1.724)	.001 (.560)

\*p ≤ .05; \*\*p ≤ .01; \*\*\* p ≤ .001

**Table 2: Standardized Coefficients and Model Summaries**

	<b>Model 1A</b>	<b>Model 1B</b>	<b>Model 2A</b>	<b>Model 2B</b>
<b>R</b>	.494	.651	.493	.650
<b>R<sup>2</sup></b>	.244	.424	.243	.422
<b>Adj. R<sup>2</sup></b>	.227	.410	.228	.410
<b>D-W</b>	2.160	2.027	2.156	2.072
<b>N</b>	318	290	318	293
<b>ID Type</b>	.232*** (4.690)	.221*** (4.875)	.232*** (4.694)	.226*** (5.028)
<b>Minority Rate</b>	.054 (.682)	.169* (2.289)		
<b>Poverty Rate</b>	-.029 (.369)	-.067 (.905)	.007 (.116)	.028 (.502)
<b>Elderly Rate</b>	.720*** (7.987)	1.085*** (12.067)	.720*** (7.998)	1.110*** (12.463)
<b>Veteran Rate</b>	.694*** (7.345)	1.087*** (11.303)	.702*** (7.477)	1.117*** (11.756)
<b>Population Density</b>	-.126* (-2.018)	.264*** (4.542)	-.114 (1.904)	-.224*** (4.075)
<b>Homebound Rate</b>	.103 (1.701)	.039 (.706)	.230* (2.186)	.097 (1.958)

\*p ≤ .05; \*\*p ≤ .01; \*\*\* p ≤ .001

**Table 2 Con't: Standardized Coefficients and Model Summaries**

	<b>Model 3A</b>	<b>Model 3B</b>	<b>Model 4A</b>	<b>Model 4B</b>
<i>R</i>	.493	.654	.494	.652
<i>R</i> <sup>2</sup>	.243	.427	.244	.425
<i>Adj. R</i> <sup>2</sup>	.231	.417	.229	.413
<i>D-W</i>	2.156	1.996	2.158	1.964
<i>N</i>	318	295	318	293
<i>ID Type</i>	.232*** (4.702)	.223*** (4.999)	.232*** (4.697)	.223*** (4.967)
<i>Minority Rate</i>			.034 (.586)	.129* (2.334)
<i>Poverty Rate</i>				
<i>Elderly Rate</i>	.719*** (8.034)	1.101*** (12.748)	.722*** (8.046)	1.076*** (12.285)
<i>Veteran Rate</i>	.699*** (7.687)	1.082*** (12.093)	.703*** (7.701)	1.097*** (12.071)
<i>Population Density</i>	-.116* (2.020)	-.232*** (4.380)	-.117* (2.039)	-.246*** (4.593)
<i>Homebound Rate</i>	.122* (2.367)	.108* (2.366)	.104 (1.724)	.031 (.560)

\**p* ≤ .05; \*\**p* ≤ .01; \*\*\* *p* ≤ .001

### *Analysis*

Model 1A begins with all 318 cases with all seven independent variables. This model has an adjusted  $R^2$  value of .227. The following models begin the process of removing insignificant variables. Models 2A and 2B removed the minority rate variable, which was not significant in Model 1. Models 3A and 3B removed both the minority rate and the poverty rate, both of which were not significant within the original model. Finally, Models 4A and 4B removed the poverty rate. In the models, the number refers to which variables are included and the letter refers to the number of cases. “A” models have all cases included in the analysis. “B” models have outliers removed using Cook’s  $D$ <sup>29</sup>.

### *Discussion*

Most notable is that across all the models, the variable for identification type remained a positive significant slope. Had the photographic requirements led to the suppressive effects asserted in the legal challenges and in some of the literature, this variable would have had a negative relationship. In addition, the two primary demographics set forth as bearing the brunt of the negative impact, minorities and the impoverished, did not have a significant impact on the any model except for Model 1B, and that was an extremely weak relationship. Therefore, it seems unlikely, at least based on the data from these elections, that the photographic identification requirements had a disparate impact on voter turnout, either in general or based on any particular demographic. The only variable with a negative relationship was population density, which is notable since the suppressive effects were argued to be even more noticeable in rural areas due to the difficulty in acquiring the required identification.

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<sup>29</sup> For more information regarding the testing of the models, please see Appendix E.

One variable which did have a consistent, if variably significant, impact was the homebound rate. However, these voters are most likely to use absentee ballots instead of voting in person<sup>30</sup>.

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<sup>30</sup> Please see Appendix F for absentee voting requirements.

### **Conclusion**

“Although photo ID requirements have incited a great deal of passion, they have generated little hard data to support the claims that the requirements discriminate against certain segments of society (Hood & Bullock, 2007).” Depending on the source, voter ID laws are either a legitimate tool to fight against voter fraud or a blatantly racist attempt to return to the days of Jim Crow laws and poll taxes.

One might ask themselves, “Why is this so important?” In a nation founded upon the principles of freedom and liberty, where the right to self-expression is guaranteed in the very first article of the Bill of Rights, it is understandable that voters also want their right to political self-expression ensured. Pure liberty is not possible. When an individual takes advantage of that liberty and abuses the system, they in fact deprive another of their liberty. When a greater influence than is allowable is expressed, others are deprived of their influence.

When any requirement is introduced which may suppress the right to vote for any individual, it should be scrutinized closely. The Georgia photographic voter identification requirement has certainly received that scrutiny. It is unfortunate that such a requirement is even necessary, but James Madison stated, “If men were angels, no government would be necessary (Madison, 1788).” Nevertheless, men are not angels. Therefore, government, and its requirements and limitations, is necessary. Government, and its laws, exists to prevent those who would infringe upon another’s rights from achieving their goals.

This analysis could find no disparate impact on voter turnout at the county level. Voter turnout actually increased following its implementation. Granted, 2008 was an historical year with a highly motivated minority-voting base, but the fact remains that they did vote. If the requirement had indeed suppressed turnout, overall turnout in general, and minority turnout in particular would have decreased. While these results may change as more data becomes available, for now, the requirement appears to be valid and non-discriminatory. It may be the individuals without necessary identification have turned to absentee voting<sup>31</sup>, but they still vote.

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<sup>31</sup> For requirements, see Appendix F.

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**Appendix A: Language of House Bill 244 § 59**

05 HB 244/AP

House Bill 244 (AS PASSED HOUSE AND SENATE)

By: Representative Burmeister of the 119<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

**SECTION 59.**

Said chapter is further amended by striking Code Section 21-2-417, relating to form of proper identification at polls, and inserting in lieu thereof a new Code Section 21-2-417 to read as follows:

"21-2-417.

(a) ~~Each~~ Except as provided in subsection (c) of this Code section, each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such person's admission to the enclosed space at such polling place. Proper identification shall consist of any one of the following:

(1) ~~A valid Georgia driver's license~~ which was properly issued by the appropriate state agency;

(2) A valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;

(3) A valid United States passport;

(4) A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state;

~~(5) A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;~~

~~(6) A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;~~

~~(7) A valid Georgia license to carry a pistol or revolver;~~

~~(8) A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;~~

~~(9)~~(5) A valid United States military identification card; provided that such identification card contains a photograph of the elector; or

~~(10)~~(6) A certified copy of the elector's birth certificate; A valid tribal identification card containing a photograph of the elector.

~~(11) A valid social security card;~~

~~(12) Certified naturalization documentation;~~

~~(13) A certified copy of court records showing adoption, name, or sex change;~~

~~(14) A current utility bill, or a legible copy thereof, showing the name and address of the elector;~~

~~(15) A bank statement, or a legible copy thereof, showing the name and address of the elector;~~

~~(16) A government check or paycheck, or a legible copy thereof, showing the name and address of the elector; or~~

~~(17) A government document, or a legible copy thereof, showing the name and address of the elector.~~

~~(b) If Except as provided in subsection (c) of this Code section, if an elector is unable to produce any of the items of identification listed in subsection (a) of this Code section, he or she shall sign a statement under oath in a form approved by the Secretary of State, separate and distinct from the elector's voter certificate, swearing or affirming that he or she is the person identified on the elector's voter certificate. Such person shall be allowed to vote without undue delay; provided, however, that an elector who registered for the first time in this state by mail and did not provide one of the forms of identification set forth in subsection (a) of this Code section at the time of registration and who is voting for the first time may vote a provisional ballot pursuant to Code Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in subsection (a) of this Code section within the time period for verifying provisional ballots pursuant to Code Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement.~~

(c) An elector who registered to vote by mail, but did not comply with subsection (c) of Code Section 21-2-220, and who votes for the first time in this state shall present to the poll workers either one of the forms of identification listed in subsection (a) of this Code section or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of such elector. If such elector does not have any of the forms of identification listed in this subsection, such elector may vote a provisional ballot pursuant to Code Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in this subsection within the time period for verifying provisional ballots pursuant to Code Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement."

## **Appendix B: Language of Senate Bill 84**

Senate Bill 84

By: Senators Staton of the 18th, Williams of the 19th, Chapman of the 3rd, Rogers of the 1st, Chance of the 16th and others

**AS PASSED**

### AN ACT

To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, and Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to authorize the State Election Board to conduct certain voter education programs; to change provisions relating to required presentation of identification by voters; to specify the types of identification which may be used; to provide for Georgia voter identification cards to be issued by each county board of registrars to registered electors who do not have a valid driver's license or identification card issued by the Department of Driver Services; to provide for the contents and appearance of such cards; to provide for applications and supporting documentation; to provide for the supply of equipment and the adoption of rules and regulations by the State Election Board; to change provisions relating to issuance of free identification cards by the Department of Driver Services to registered electors; to provide for other related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

#### **SECTION 1.**

Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, is amended by striking Code Section 21-2-31, relating to the duties of the State Election Board, and inserting in lieu thereof a new Code Section 21-2-31 to read as follows:

∇21-2-31.

It shall be the duty of the State Election Board:

- (1) To supervise and coordinate the work of the office of the Secretary of State, superintendents, registrars, deputy registrars, poll officers, and other officials so as to obtain uniformity in their practices and proceedings and legality and purity in all primaries and elections;
- (2) To formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections; and, upon the adoption of each rule and regulation, the board shall promptly file certified copies thereof with the Secretary of State and each superintendent;
- (3) To publish and furnish to primary and election officials, from time to time, a sufficient number of indexed copies of all primary and election laws and pertinent rules and regulations then in force;

- (4) To publish and distribute such explanatory pamphlets regarding the interpretation and application of primary and election laws as in the opinion of the board should be distributed to the electorate;
- (5) To investigate, or authorize the Secretary of State to investigate, when necessary or advisable the administration of primary and election laws and frauds and irregularities in primaries and elections and to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney who shall be responsible for further investigation and prosecution. Nothing in this paragraph shall be so construed as to require any complaining party to request an investigation by the board before such party might proceed to seek any other remedy available to that party under this chapter or any other provision of law;
- (6) To make such recommendations to the General Assembly as it may deem advisable relative to the conduct and administration of primaries and elections;
- (7) To promulgate rules and regulations to define uniform and nondiscriminatory standards concerning what constitutes a vote and what will be counted as a vote for each category of voting system used in this state;
- (8) To employ such assistants as may be necessary;
- (9) Subject to funds being specifically appropriated by the General Assembly, to formulate and conduct a voter education program concerning voting procedures for voting by absentee ballot and at the polls with particular emphasis on the proper types of identification required for voting; and
- (10) To take such other action, consistent with law, as the board may determine to be conducive to the fair, legal, and orderly conduct of primaries and elections.√

## **SECTION 2.**

Said title is further amended by striking Code Section 21-2-417, relating to presentation of identification by voters, and inserting in its place new Code Sections 21-2-417 and 21-2-417.1 to read as follows:

√21-2-417.

- (a) Except as provided in subsection (c) of this Code section, each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such persons admission to the enclosed space at such polling place. Proper identification shall consist of any one of the following:
  - (1) A Georgia driver's license which was properly issued by the appropriate state agency;
  - (2) A valid Georgia voter identification card issued under Code Section 21-2-417.1 or other valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;
  - (3) A valid United States passport;
  - (4) A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state;

(5) A valid United States military identification card, provided that such identification card contains a photograph of the elector; or

(6) A valid tribal identification card containing a photograph of the elector.

(b) Except as provided in subsection (c) of this Code section, if an elector is unable to produce any of the items of identification listed in subsection (a) of this Code section, he or she shall be allowed to vote a provisional ballot pursuant to Code Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in subsection (a) of this Code section within the time period for verifying provisional ballots pursuant to Code Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement.

(c) An elector who registered to vote by mail, but did not comply with subsection (c) of Code Section 21-2-220, and who votes for the first time in this state shall present to the poll workers either one of the forms of identification listed in subsection (a) of this Code section or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of such elector. If such elector does not have any of the forms of identification listed in this subsection, such elector may vote a provisional ballot pursuant to Code Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in this subsection within the time period for verifying provisional ballots pursuant to Code Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement.

21-2-417.1.

(a) Each county board of registrars shall provide at least one place in the county at which it shall accept applications for and issue Georgia voter identification cards to registered Georgia electors which shall under state law be valid only for purposes of voter identification under Code Section 21-2-417 and available only to registered electors of this state. No fee shall be charged or collected for the application for or issuance of a Georgia voter identification card.

(b) No person shall be eligible for a Georgia voter identification card if such person has a valid unexpired driver's license or identification card issued under Code Section 40-5-100.

(c) The Georgia voter identification card shall be captioned 'GEORGIA VOTER IDENTIFICATION CARD' and shall contain a prominent statement that under Georgia law it is valid only as identification for voting purposes. The Georgia voter identification card shall be laminated, shall contain a digital color photograph of the applicant, and shall include the following information:

- (1) Full legal name;
- (2) Address of residence;
- (3) Birth date;
- (4) Date identification card was issued;

- (5) Sex;
  - (6) Height;
  - (7) Weight;
  - (8) Eye color;
  - (9) County where the identification card was issued including a county number to be assigned for each county by the Secretary of State; and
  - (10) Such other information or identification as required by rule of the State Election Board.
- (d) The application for a Georgia voter identification card shall elicit the information required under subsection (c) of this Code section and such other information as may be required by rule of the State Election Board. The application shall be signed and sworn to by the applicant and any falsification or fraud in the making of the application shall constitute a felony offense under Code Section 16-10-71, relating to the offense of false swearing.
- (e) The board of registrars shall require presentation and verification of the following information before issuing a Georgia voter identification card to a person:
- (1) A photo identity document, except that a nonphoto identity document is acceptable if it includes both the person's full legal name and date of birth;
  - (2) Documentation showing the person's date of birth;
  - (3) Evidence that the person is registered to vote in this state; and
  - (4) Documentation showing the person's name and address of principal residence.
- (f) A Georgia voter identification card shall remain valid so long as a person resides at the same address and remains qualified to vote. It shall be the duty of a person who moves his or her residence within the State of Georgia to surrender his or her card to the board of registrars of the county of his or her new residence; and such person may after such surrender apply for and receive a new card if such person is otherwise eligible under this Code section. It shall be the duty of a person who moves his or her residence outside the State of Georgia or who ceases to be qualified to vote to surrender his or her card to the board of registrars by which it was issued.
- (g) The State Election Board shall provide each county board of registrars with the necessary equipment, forms, supplies, and training for the production of the Georgia voter identification cards and shall maintain such equipment.
- (h) The State Election Board shall adopt rules and regulations for the administration of this Code section and, without limiting the generality of the foregoing, such rules and regulations may further define or prescribe the types of documentation required under subsection (e) of this Code section.

### **SECTION 3.**

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended in Code Section 40-5-103, relating to fees for personal identification cards for persons without drivers licenses, by striking subsection (d) and inserting in its place a new subsection to read as follows:

∇(d) The department shall not be authorized to collect a fee for an identification card from any person:

(1) Who swears under oath that he or she desires an identification card in order to vote in a primary or election in Georgia and that he or she does not have any other form of identification that is acceptable under Code Section 21-2-417 for identification at the polls in order to vote; and

(2) Who produces evidence that he or she is registered to vote in Georgia.

This subsection shall not apply to a person who has been issued a driver's license in this state.∇

#### **SECTION 4.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

#### **SECTION 5.**

All laws and parts of laws in conflict with this Act are repealed.

**Appendix C: Differences in the 2003 and 2008 Identification Requirements for Georgia**

<b>2003 Requirements<sup>32</sup></b>	<b>2008 Requirements<sup>33</sup></b>
<ol style="list-style-type: none"> <li>1. Valid Georgia driver’s License</li> <li>2. Valid government issued identification card.</li> <li>3. Valid U.S. Passport</li> <li>4. A governmental employee card with picture</li> <li>5. A valid employee identification card with photograph issued by any employer in the ordinary course of business</li> <li>6. A valid student identification card with a photograph from a public or private institution of higher education</li> <li>7. A valid Georgia license to carry a pistol or revolver</li> <li>8. A valid pilot’s license</li> <li>9. A valid military identification card</li> <li>10. Certified copy of birth certificate</li> <li>11. Valid Social security card</li> <li>12. Certified naturalization documentation</li> <li>13. Certified copy of court records showing adoption, name, or sex change.</li> <li>14. A current utility bill, showing the name and address of elector</li> <li>15. A bank statement showing the name and address of elector.</li> <li>16. A government check showing the name and address of the elector.</li> <li>17. A government document showing the name and address of elector.</li> </ol>	<ol style="list-style-type: none"> <li>1. Valid or expired driver’s license</li> <li>2. Any valid state or federal government issued photo ID</li> <li>3. Valid U.S. Passport</li> <li>4. Valid employee photo ID from any entity of the national, state, or local government.</li> <li>5. Valid U.S. military photo ID</li> <li>6. Valid tribal photo ID.</li> </ol>

<sup>32</sup> Ga. Code Ann. § 21-2-417 (2003)

<sup>33</sup> Ga. Code Ann. § 21-2-417 (2008)

**Appendix D: Differences between Identification Requirements in Georgia and Indiana**

<i>Georgia</i> <sup>34</sup>	<i>Indiana</i> <sup>35</sup>
<p>Proper identification shall consist of any one of the following:</p> <p>(1) A Georgia driver's license which was properly issued by the appropriate state agency;</p> <p>(2) A valid Georgia voter identification card issued under Code Section 21-2-417.1 or other valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;</p> <p>(3) A valid United States passport;</p> <p>(4) A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state;</p> <p>(5) A valid United States military identification card, provided that such identification card contains a photograph of the elector; or</p> <p>(6) A valid tribal identification card containing a photograph of the elector.</p>	<p>"Proof of identification" refers to a document that satisfies all the following:</p> <p>(1) The document shows the name of the individual to whom the document was issued, and the name conforms to the name in the individual's voter registration record.</p> <p>(2) The document shows a photograph of the individual to whom the document was issued.</p> <p>(3) The document includes an expiration date, and the document:</p> <p>(A) is not expired; or</p> <p>(B) expired after the date of the most recent general election.</p> <p>(4) The document was issued by the United States or the state of Indiana.</p>

<sup>34</sup> <sup>1</sup> Ga Code Ann. § 21-2-417(a) (2006)

<sup>35</sup> <sup>2</sup> 2005 Indiana Senate Enrolled Act 483

### Appendix E: Model Tests

Cook's D "is the F value for testing the 'hypothesis' that  $\beta = b_{(-i)}$ ." Therefore, it measures "the aggregate influence of observation  $i$  on the fitted values of  $\hat{y}$ . The formula to calculate Cook's D is:

$$D_i = \frac{e_i^2}{k + 1} \times \frac{h_i}{1 - h_i}$$

The first term is a measure of discrepancy and the second is a measure of leverage. (Fox, 1991) It has been argued that cases should be excluded from the analysis if *Cook's D* >  $\left(\frac{4}{n-k-1}\right)$  where  $n$  is the number of cases and  $k$  is the number of independent variables. (Fox, 1991)

To test for autocorrelation, the correlation of the error terms of the regression, the Durbin-Watson test was used. The Durbin-Watson statistic varies from 0 to 4. Values close to 2 indicate a small likelihood that autocorrelation exists in the model (Welch & Comer, 2001, p. 284). As is reported in Table 1 and Table 2, all values for the Durbin-Watson statistic lie between 1.996 and 2.160 which is well within acceptable levels. Therefore, it seems unlikely the models are affected by autocorrelation.

Multicollinearity is the inclusion of independent variables which are either highly or perfectly correlated. This will artificially elevate the standard errors. These inflated errors make it difficult to estimate the coefficients accurately (Welch & Comer, 2001, p. 253). This is measured by the variation inflation factor, or VIF score. VIF scores of 7 or higher are borderline. Values over 10 are considered enough to make the model unstable. As presented in Table 3, all the VIF values are well within acceptable levels. Therefore, it is assumed no unacceptable multicollinearity exists within the models.

**Table 3: VIF values among the various models**

	<b>Model 1A</b>	<b>Model 1B</b>	<b>Model 2A</b>	<b>Model 2B</b>
ID Type	1.000	1.003	1.000	1.002
Minority Rate	2.558	2.662		
Poverty Rate	2.524	2.697	1.400	1.526
Elderly Rate	3.328	3.959	3.328	3.923
Veteran Rate	3.665	4.527	3.618	4.468
Population Density	1.599	1.652	1.467	1.502
Homebound Rate	1.504	1.516	1.242	1.220
	<b>Model 3A</b>	<b>Model 3B</b>	<b>Model 4A</b>	<b>Model 4B</b>
ID Type	1.000	1.003	1.000	1.003
Minority Rate			1.419	1.525
Poverty Rate				
Elderly Rate	3.300	3.763	3.311	3.819
Veteran Rate	3.408	4.037	3.429	4.105
Population Density	1.351	1.417	1.353	1.427
Homebound Rate	1.101	1.050	1.500	1.525

According to White, heteroscedasticity, those unequal variances which render the model unreliable (Heij, de Boer, Hans Franses, Kloek, & van Dijk, 2004), can be tested for using the formula  $(R^2 \times n) < \chi^2$  (White, 1980). When  $(R^2 \times n) < \chi^2$  and  $\chi^2$  having degrees of freedom equal to  $n$  for a given probability<sup>36</sup>, “the test cannot find a problem (Gupta, 2000).” As presented in Table 4, all values for White’s test are well within acceptable levels.

**Table 4: White's Test for the Models**

	<b>Model 1A</b>	<b>Model 1B</b>	<b>Model 2A</b>	<b>Model 2B</b>	<b>Model 3A</b>	<b>Model 3B</b>	<b>Model 4A</b>	<b>Model 4B</b>
<b>White's</b>	77.59	122.96	77.27	123.64	77.27	125.96	77.59	124.52
$\chi^2$	277.68	251.55	277.68	254.35	277.68	256.21	277.68	254.35

<sup>36</sup> For this analysis, the 95% confidence level was used.

## **Appendix F: Requirements for Absentee Ballots in Georgia**

Making of application for absentee ballot; determination of eligibility by ballot clerk; furnishing of applications to colleges and universities; persons entitled to make application<sup>37</sup>

(a)(1)(A) Except as otherwise provided in Code Section 21-2-219, not more than 180 days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, by facsimile transmission, or in person in the registrar's or absentee ballot clerk's office, an application for an official ballot of the elector's precinct to be voted at such primary, election, or runoff. Persons who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, may additionally make application for an official ballot by electronic transmission.

(B) In the case of an elector residing temporarily out of the county or municipality or a physically disabled elector residing within the county or municipality, the application for the elector's absentee ballot may, upon satisfactory proof of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of 18 or over.

(C) The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot, if applicable; and the name and relationship of the person requesting the ballot if other than the elector.

(D) Except in the case of physically disabled electors residing in the county or municipality, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector's voter registration record or a temporary out-of-county or out-of-municipality address.

(E) Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true.

(F) If the elector is unable to fill out or sign such elector's own application because of illiteracy or physical disability, the elector shall make such elector's mark, and the person filling in the rest of the application shall sign such person's name below it as a witness.

(G) One timely and proper application for an absentee ballot for use in a primary or election shall be sufficient to require the mailing of the absentee ballot for such primary or election as well as for any runoffs resulting therefrom and for all primaries and elections for federal offices and any runoffs therefrom, including presidential preference primaries, held during the period beginning upon the receipt of such absentee ballot application and extending through the second

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<sup>37</sup> Ga. Code Ann. § 21-2-381(2009)

regularly scheduled general election in which federal candidates are on the ballot occurring thereafter to an eligible absentee elector who lives outside the county or municipality in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen.

(H) Any elector meeting criteria of advanced age or disability specified by rule or regulation of the State Election Board may request in writing on one application a ballot for a primary as well as for any runoffs resulting therefrom and for the election for which such primary shall nominate candidates as well as any runoffs resulting therefrom. If not so requested by such person a separate and distinct application shall be required for each primary, run-off primary, election, and run-off election. Except as otherwise provided in this subparagraph, a separate and distinct application for an absentee ballot shall always be required for the presidential preference primary held pursuant to Article 5 of this chapter and for any special election or special primary.

(2) A properly executed registration card submitted under the provisions of subsection (b) of Code Section 21-2-219, if submitted within 180 days of a primary or election in which the registrant is entitled to vote, shall be considered to be an application for an absentee ballot under this Code section, or for a special absentee ballot under Code Section 21-2-381.1, as appropriate.

(3) All applications for an official absentee ballot that are distributed by a person, entity, or organization shall list thereon all of the legally acceptable categories of absentee electors contained in Code Section 21-2-380 and shall require the elector to select the category which qualifies the elector to vote by absentee ballot, if applicable. Such applications, if properly completed by the elector or other authorized person and returned to the registrar or absentee ballot clerk, as appropriate, shall be processed by the registrar or absentee ballot clerk and, if the elector is found to be qualified, an absentee ballot shall be mailed or delivered in the office of the registrar or absentee ballot clerk to such elector.

(4) In extraordinary circumstances as described in Code Section 21-2-543.1, the registrar or absentee ballot clerk shall determine if the applicants are eligible to vote under this Code section and shall either mail or issue the absentee ballots for the election for representative in the United States Congress to an individual entitled to make application for absentee ballot under subsection (d) of this Code section the same day any such application is received, so long as the application is received by 3:00 P.M., otherwise no later than the next business day following receipt of the application. Any valid absentee ballot shall be accepted and processed so long as the ballot is received by the registrar or absentee ballot clerk not later than 45 days after the ballot is transmitted to the absent uniformed services voter or overseas voter, but in no event later than 11 days following the date of the election.

(b) (1) Upon receipt of a timely application for an absentee ballot, a registrar or absentee ballot clerk shall enter thereon the date received. The registrar or absentee ballot clerk shall determine, in accordance with the provisions of this chapter, if the applicant is eligible to vote in the primary or election involved. In order to be found eligible to vote an absentee ballot by mail, the registrar or absentee ballot clerk shall compare the identifying information on the application with the information on file in the registrar's office and, if the application is signed by the elector,

compare the signature or mark of the elector on the application with the signature or mark of the elector on the elector's voter registration card. In order to be found eligible to vote an absentee ballot in person at the registrar's office or absentee ballot clerk's office, such person shall show one of the forms of identification listed in Code Section 21-2-417 and the registrar or absentee ballot clerk shall compare the identifying information on the application with the information on file in the registrar's office.

(2) If found eligible, the registrar or absentee ballot clerk shall certify by signing in the proper place on the application and shall either mail the ballot as provided in this Code section or issue the ballot to the elector to be voted within the confines of the registrar's or absentee ballot clerk's office or deliver the ballot in person to the elector if such elector is confined to a hospital.

(3) If found ineligible, the clerk or the board of registrars shall deny the application by writing the reason for rejection in the proper space on the application and shall promptly notify the applicant in writing of the ground of ineligibility, a copy of which notification should be retained on file in the office of the board of registrars or absentee ballot clerk for at least one year.

(4) If the registrar or clerk is unable to determine the identity of the elector from information given on the application, the registrar or clerk should promptly write to request additional information.

(5) In the case of an unregistered applicant who is eligible to register to vote, the clerk or the board shall immediately mail a blank registration card as provided by Code Section 21-2-223, and such applicant, if otherwise qualified, shall be deemed eligible to vote by absentee ballot in such primary or election, if the registration card, properly completed, is returned to the clerk or the board on or before the last day for registering to vote in such primary or election. If the closing date for registration in the primary or election concerned has not passed, the clerk or registrar shall also mail a ballot to the applicant, as soon as it is prepared and available; and the ballot shall be cast in such primary or election if returned to the clerk or board not later than the close of the polls on the day of the primary or election concerned.

(c) In those counties or municipalities in which the absentee ballot clerk or board of registrars provides application forms for absentee ballots, the clerk or board shall provide such quantity of the application form to the dean of each college or university located in that county as said dean determines necessary for the students of such college or university.

(d)(1) A citizen of the United States permanently residing outside the United States is entitled to make application for an absentee ballot from Georgia and to vote by absentee ballot in any election for presidential electors and United States senator or representative in Congress:

(A) If such citizen was last domiciled in Georgia immediately before his or her departure from the United States; and

(B) If such citizen could have met all qualifications, except any qualification relating to minimum voting age, to vote in federal elections even though, while residing outside the United States, he or she does not have a place of abode or other address in Georgia.

(2) An individual is entitled to make application for an absentee ballot under paragraph (1) of this subsection even if such individual's intent to return to Georgia may be uncertain, as long as:

(A) He or she has complied with all applicable Georgia qualifications and requirements which are consistent with 42 U.S.C. Section 1973ff concerning absentee registration for and voting by absentee ballots;

(B) He or she does not maintain a domicile, is not registered to vote, and is not voting in any other state or election district of a state or territory or in any territory or possession of the United States; and

(C) He or she has a valid passport or card of identity and registration issued under the authority of the Secretary of State of the United States or, in lieu thereof, an alternative form of identification consistent with 42 U.S.C. Section 1973ff and applicable state requirements, if a citizen does not possess a valid passport or card of identity and registration.

(e) The State Election Board is authorized to promulgate reasonable rules and regulations for the implementation of paragraph (1) of subsection (a) of this Code section. Said rules and regulations may include provisions for the limitation of opportunities for fraudulent application, including, but not limited to, comparison of voter registration records with death certificates.

## Appendix G: Provisional Ballot Requirements

Provisional ballots<sup>38</sup>

(a) If a person presents himself or herself at a polling place, absentee polling place, or registration office for the purpose of casting a ballot in a primary or election believing that he or she has timely registered to vote in such primary or election and the person's name does not appear on the list of registered electors, the person shall be entitled to cast a provisional ballot as provided in this Code section.

(b) Such person voting a provisional ballot shall complete an official voter registration form and a provisional ballot voting certificate which shall include information about the place, manner, and approximate date on which the person registered to vote. The person shall swear or affirm in writing that he or she previously registered to vote in such primary or election, is eligible to vote in such primary or election, has not voted previously in such primary or election, and meets the criteria for registering to vote in such primary or election. The form of the provisional ballot voting certificate shall be prescribed by the Secretary of State. The person shall also present the identification required by Code Section 21-2-417.

(c) When the person has provided the information as required by this Code section, the person shall be issued a provisional ballot and allowed to cast such ballot as any other duly registered elector subject to the provisions of Code Section 21-2-419.

(d) Notwithstanding any provision of this chapter to the contrary, in primaries and elections in which there is a federal candidate on the ballot, in the event that the time for closing the polls at a polling place or places is extended by court order, all electors who vote during such extended time period shall vote by provisional ballot only. Such ballots shall be separated and held apart from other provisional ballots cast by electors during normal poll hours. Primaries and elections in which there is no federal candidate on the ballot shall not be subject to the provisions of this subsection.

(e) The registrars shall establish a free access system, such as a toll-free telephone number or Internet website, by which any elector who casts a provisional ballot in a primary or election, or runoff of either, in which federal candidates are on the ballot may ascertain whether such ballot was counted and, if such ballot was not counted, the reason why such ballot was not counted. The registrars shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by such free access system. Access to such information about an individual provisional ballot shall be restricted to the elector who cast such ballot.

(f) At the time an elector casts a provisional ballot, the poll officers shall give the elector written information that informs the elector of the existence of the free access system required by subsection (e) of this Code section by which the elector will be able to ascertain if his or her ballot was counted and, if such ballot was not counted, the reason why such ballot was not counted.

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<sup>38</sup>Ga. Code Ann. § 21-2-418 (2005)

(g) Failure to establish such free access system shall subject the registrars and the county by which the registrars are employed to sanctions by the State Election Board.

(h) Notwithstanding any other provision of this chapter to the contrary, in the event that the voting machines or DRE units at a polling place malfunction and cannot be used to cast ballots or some other emergency situation exists which prevents the use of such equipment to cast votes, provisional ballots may be used by the electors at the polling place to cast their ballots. In such event, the ballots cast by electors whose names appear on the electors list for such polling place shall not be considered provisional ballots and shall not require verification as provided by Code Section 21-2-419; provided, however, that persons whose names do not appear on the electors list for such polling place shall vote provisional ballots which shall be subject to verification under Code Section 21-2-419.