



# VOTING WHILE TRANS: PREPARING FOR THE NEW VOTER ID LAWS

August 2012

*Regardless of whether you have ever had trouble voting in the past, this year new laws in dozens of states will make it harder for many trans people to vote. Even if you have the required ID, the new laws may encourage additional scrutiny toward and bias against trans voters. It is important that every trans person takes steps **now** to make sure they are permitted to vote on Election Day. This document was written to give all trans people the information they need to be able to cast their votes and to respond to problems at polling places.*

## THE PROBLEM: NEW VOTER ID LAWS

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Strict new identification requirements in many states may prevent transgender voters from having their votes counted in the upcoming election cycle. Other voter suppression laws include unnecessary cuts to early voting in some states. **Even if you have never had a problem voting in the past, it is important to know that you may encounter problems this year.** The more prepared you are, the better your chances of having your vote counted.

The new laws affect transgender voters in two important ways. First, these requirements create barriers for anyone who has difficulty obtaining the required forms of ID. Second, the new laws increase the likelihood that transgender voters will encounter confusion, bias, and discrimination because of scrutiny of their ID documents and gender at the polling place. According to a report released in April 2012 by the Williams Institute, more than 25,000 transgender voters may be affected by these new laws.

Because of these new laws, some states now require government-issued photo ID (examples include driver licenses, passports, military ID, and state employee ID cards) in order to vote. Voters who do not present proper photo ID may be asked to sign an affidavit confirming their identity, or in some states may be given a “provisional ballot” and required to prove their identity within a few days (usually by visiting an election office) in order for their vote to be counted. Be aware that types of ID accepted vary by state; some states will not accept passports or out-of-state student ID, for example, even though they are photo IDs. Social Security cards and birth certificates are not accepted in states that require a photo ID.

Many states request photo ID, but do not require it in order to obtain a regular ballot; some other form of ID, like a birth certificate, social security card, or even a utility bill at your registered address may be enough. A non-photo ID of some kind may be required, so check your state’s law.

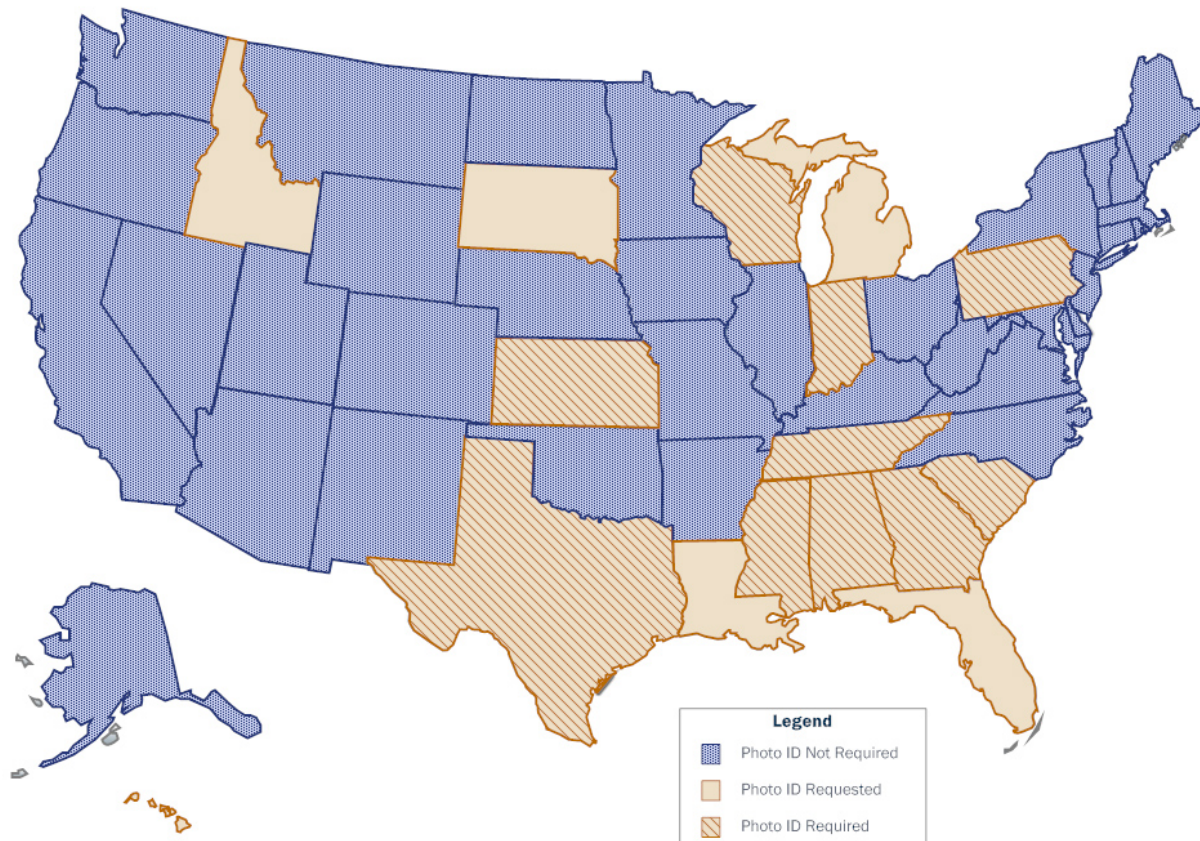
The type of identification necessary depends on which state you vote in and what that state’s identification requirements are. The following is a summary of ID requirements that states have in effect now or that have been passed and may come into effect by Election Day. In several states that passed strict new photo ID laws, the new laws are being challenged in the courts or by the Justice Department. You should assume that the laws will be in effect on Election Day, because it is better to have a correct ID and not need it than to need it and not have it.

## THE PROBLEM: NEW VOTER ID LAWS (CONTINUED)

Every state has somewhat different requirements, and more detailed information for every state is available from Election Protection (see Resources below).

Photo ID		Photo ID Not Required		
Required	Requested			
Alabama	Florida	Alaska	Massachusetts	Ohio
Georgia	Hawaii	Arizona	Minnesota	Oregon
Indiana	Idaho	Arkansas	Missouri	Oklahoma
Kansas	Louisiana	California	Montana	Rhode Island
Mississippi	Michigan	Colorado	Nebraska	Utah
Pennsylvania	South Dakota	Connecticut	Nevada	Vermont
South Carolina		Delaware	New Hampshire	Virginia
Tennessee		Iowa	New Jersey	Washington
Texas		Illinois	New Mexico	Washington, D.C.
Wisconsin		Kentucky	New York	West Virginia
		Maine	North Carolina	Wyoming
		Maryland	North Dakota	

### State Photo ID Laws



Regardless of the photo requirement, the name and address on the ID you use should match your voter registration record. In photo ID states, if you do not have ID that matches your registration, you may be given a provisional ballot.

## HOW DO VOTER ID LAWS PREVENT TRANSGENDER VOTERS FROM VOTING?

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Though transgender voters have not been specifically targeted by the new legislation, they will be disproportionately affected by the new rules. Many trans people cannot obtain updated identification, and poll workers have broadened discretion under the new laws to deny voters a regular ballot if they believe—even incorrectly – that someone is trying to vote fraudulently.

Voters may be prevented from casting a regular ballot for three main reasons:

- **Gender and other discrepancies on ID:** Because of varying state policies and laws, many transgender people are unable to update driver's licenses and other forms of ID to reflect their gender identity. Their ID may not list their name or gender correctly, or may not have a photo that reflects their current gender expression. None of these things makes a person's ID invalid or insufficient to establish voter eligibility. However, because of ignorance and bias regarding transgender people, or a misunderstanding of the law, poll workers may believe that a person's ID is invalid or suspicious and try to prevent them from voting. While bringing multiple forms of ID can sometimes be helpful in resolving any questions, if a person has multiple forms of ID with different names or gender designations this may cause more confusion.
- **Unfair suspicion or discrimination based on appearance:** Even where voters have consistent and up-to-date name and gender information on their ID, we expect many poll workers to challenge transgender people about the accuracy of their ID, often based on their appearance.
- **Lack of required ID:** While most people take having a photo ID for granted, many people with low incomes, limited access to transportation, and other resource limitations do not have them, and obtaining required ID can be a significant hurdle. Because of high rates of poverty, unemployment and discrimination facing transgender people as well as the fear of disrespect or discrimination when applying, transgender people are disproportionately likely not to have a photo ID.

## YOUR RIGHT TO VOTE

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In general, any person who is at least 18 years old, a U.S. citizen, and meets the residency requirements of their state can vote. This is true regardless of sex, race, national origin, disability status, gender identity or expression, or sexual orientation. Being transgender or gender non-conforming is not a reason that you can be denied the opportunity to vote.

### Voting While Homeless or Without a Fixed Address

Many people wrongly believe homeless people cannot vote. In fact, not having a fixed address should not be a barrier to voting. Most states allow a shelter address, a description of a general location at which the individual usually spends the night, or even a drawn map to be recorded as an address on voter registration forms. An address is needed primarily for assigning people precincts and mailing election information. Confirm what may be used as an address with your local elections office. Homeless people may, however, experience additional barriers in obtaining ID in states where it is required to vote. For more information, visit <http://866ourvote.org/state> and click on your state.

### Felony Convictions and Voting

One major exception to universal voting right is that in some states those with felony convictions may have their right to vote taken away. In some states it is possible to regain the right to vote by re-registering after finishing one's sentence or after a subsequent period of time, or by petitioning to have your rights restored. To find out if you are eligible to vote or can have your right to vote restored, visit <http://restoration.866ourvote.org/>.

## 7 STEPS EVERY TRANS PERSON SHOULD TAKE NOW

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### 1. Make Sure You Are Registered to Vote

Make sure you are registered to vote in the correct precinct and that the name and address (and, if specified, gender) in your registration record match your ID. If they do not, register with information that matches your ID. Remember, if you get a name change, you must change your name on your voter registration information. Keep your registration card or certificate when it gets mailed to you. **Make sure that you are registered at the correct address with the correct name.** And don't assume that your ID is good because it always has been in the past.

To check your voter registration status or register to vote:

- Go to <http://canivote.org>
- Under "Get registered or check your registration info," choose your state
- Follow the instructions to check your registration or register to vote

To see what types of ID will be accepted in your state go to <http://866ourvote.org/state> and click your state.

### 3. Get a Photo ID If Your State Requires One

If your state requires a photo ID and you don't have one of the required forms of ID, get one. Most states with ID requirements will accept more than one type of ID; figure out which is easiest to obtain and get one. Some states will provide a required ID free of charge to those with a limited ability to pay, and some community organizations may be able to help you with other barriers such as transportation.

### 4. Update Your Photo and Gender Marker On Your ID, If Possible

If it is possible for you to do so, having an updated photo and gender designation can lessen the risk of encountering problems. If you are unable to do so, however, you still have the right to use your ID to vote, even if a poll worker tells you otherwise. (In some states it may be easier to obtain a U.S. passport card or book with updated gender information; however, not all states accept passports as a form of voter ID.)

### 5. Update or Verify Your Voter Registration Information

Make sure your ID will match the name and address on your voter registration at election time. If you change your name or address between registering and voting, this can cause problems. If you do change either of these things before Election Day, make sure to go back and update your voter registration as well.

### 6. Find Out If You Can Vote Early

Learn more about whether early and absentee voting is available in your state. Each state has different laws about whether and how someone can vote early. Early voting is often a way to avoid hassles and other problems at your polling place on Election Day.

### 7. Call Your Local Election Office

If you are still in doubt, verify with your local election office. If you have questions about your ID or the requirements in your state, call or visit your county election office before Election Day. You can even ask them to check the ID you intend to use and verify that it is sufficient for voting.



## EARLY AND ABSENTEE VOTING

### Early Voting

Not all states allow early voting, but if it is offered in your state, early voting can be a good way to avoid trouble at the polling place. Voting early will ensure that any issues with your ID are caught in time to be corrected or addressed, and will ensure that you do not forget to vote. Dates and hours for early voting vary by state. Visit <http://866ourvote.org/> or your state or county elections website to find early voting hours, dates, and locations.

### Absentee Voting

There are two types of absentee voting. Some states have no-excuse absentee voting, in which anyone can vote absentee without giving a reason, even if they expect to be in the state on Election Day. Other states have absentee voting, but require voters to give a reason why they cannot vote in person on Election Day. Rules for who can and cannot vote absentee vary in these states.

### No-Excuse Absentee Voting

In 27 states and the District of Columbia, voters are allowed to vote absentee regardless of whether they will be able to vote in person on Election Day. If you live such a state, you should vote by absentee ballot as early as possible. By voting early, you can ensure that any ID issues are caught and that you don't forget to vote. Go to <http://866ourvote.org> and search for your state under "Absentee Voting" or go to your state's elections website to find out when the absentee voting period begins and ends, how to get an absentee ballot, and how to submit it. If you live in a state where both early voting and no-excuse absentee voting are available, you should use whichever option is most convenient for you.

### Excuse-Required Absentee Voting

In 21 states, you may only vote by absentee ballot if there is a legitimate reason that you cannot vote in person. In these states, the rules vary as to who is considered eligible to vote by absentee ballot and who is not. Go to <http://866ourvote.org> and search for your state under "Absentee Voting" or go to your state's elections website to find out whether you are eligible to vote by absentee ballot in your state, when the absentee voting period begins and ends, how to get an absentee ballot, and how to submit it. If you live in a state that has both early voting and excuse-required absentee voting, we suggest voting early.

### Vote by Mail

There are two states, Washington and Oregon, which now conduct all elections by mail, and do not offer in-person voting at all. If you live in Washington or Oregon, see <http://866ourvote.org> to find out how the process works and what the important dates are to make sure you get your ballot in on time.

Voting Methods by State		
Early Voting	No-Excuse Absentee Voting	Excuse-Only Absentee Voting
Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, Wisconsin, Wyoming	Alaska, Arizona, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Maine, Maryland, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Utah, Vermont, Wisconsin, Wyoming	Alabama, Arkansas, Connecticut, Delaware, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New York, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia
Oregon and Washington residents are required to early vote by mail.		

Source: National Conference of State Legislatures <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx>

## EARLY AND ABSENTEE VOTING (CONTINUED)

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### College Students

College and graduate students have the right to establish voting residency in the place they consider their principal home. This may be your current school address, or a previous address (such as parents' address) you still consider to be "home." However, it is necessary to establish your voting residency by following the registration requirements for your state. Follow the steps above to confirm that your registration and ID are correct and sufficient, and vote early or in person or absentee as applicable. Some of the states that have passed voter ID laws will not accept student IDs and others have passed strict new requirements for student IDs that universities and colleges may not be able to comply with in time for the 2012 election. Find out if you will be voting in such a state and obtain a different type of ID, if possible. For more information on student voting, check the Brennan Center's 50-State Student Voting Guide (see Other Resources below).

## ON ELECTION DAY

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On Election Day you should bring to the polls with you:

1. Your voter registration card
2. The correct ID you verified
3. The checklist included in this report
4. If possible, a utility bill showing the address where you are registered to vote

If your identification doesn't match your gender or current appearance, it may be helpful to have additional info verifying your identity on hand. For example, take a utility bill or bank statement with your name and address on it, and consider taking additional forms of ID that match where you live and who you are. However, a poll worker should not prevent you from voting because you cannot produce additional information.

**If the poll workers question your eligibility to vote, show them the utility bill and the checklist** we have provided. If you are still not allowed to vote after showing the poll worker all these documents, ask for a provisional ballot and/or call 1-866-OUR-VOTE (1-866-687-8683) for help.

### Disability and Language Access

Voters who need assistance because of a disability or limited English proficiency have the right to bring a friend, family member, or other person of their choice with them (so long as the person is not an agent of their employer or union). Polling places are also required by law to be physically accessible to persons with disabilities. Some jurisdictions are required by law to provide bilingual ballots; the US Justice Department, Voting Rights Section maintains a list of these jurisdictions and other relevant information (see Resources below). If you encounter any problems, call 1-866-OUR-VOTE (1-866-687-8683).

### Provisional Ballots

If poll workers decide that you are ineligible to vote on a regular ballot, they will issue you a "provisional ballot" on which to cast your vote. **This is not generally an acceptable replacement for a regular ballot.** Numerous studies have established that provisional ballots often do not get counted. If you are legitimately eligible to vote in the precinct, you deserve to vote with a regular ballot.

If you are forced to use a provisional ballot, **you generally must return to election officials within a few days to prove your identity in order for your ballot to be counted.** Check with your local election office to find out what you need to bring and how many days you have to do so.

## REPORTING PROBLEMS

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### **On Election Day**

If you are told you cannot vote on Election Day, call the Nationwide Election Protection Hotline at 1-866-OUR-VOTE (1-866-687-8683) for help.

### **After You Have Been Turned Away or Have Used a Provisional Ballot**

If you are turned away from the polls on Election Day or are forced to cast a provisional ballot, call the Nationwide Election Protection Hotline, 1-866-OUR-VOTE (1-866-687-8683) to report the incident. If you cast a provisional ballot, the Election Protection Hotline can help you figure out how to make sure your ballot is counted.

### **Other Resources**

#### **Election Protection Coalition**

1-866-OUR-VOTE (1-866-687-8683) - English

1-888-VE-Y-VOTA (1-888-839-8682) - Spanish

[email@866ourvote.org](mailto:email@866ourvote.org)

<http://866ourvote.org>

#### **State-by-state guide to voter requirements and when and where to vote:**

<http://www.866ourvote.org/state>

#### **Long Distance Voter, absentee and early voting information:**

<http://www.longdistancevoter.org/>

#### **Brennan Center, 50-State Student Voter Guide:**

[http://www.brennancenter.org/content/student\\_voting/](http://www.brennancenter.org/content/student_voting/)

#### **U.S. Department of Justice, Voting Rights Section:**

<http://www.justice.gov/crt/about/vot/>

Herman, Jody L., *The Potential Impact of Voter Identification Laws on Transgender Voters*. April 2012. <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Voter-ID-Apr-2012.pdf>