

**United States Senate Judiciary Committee**  
**Subcommittee on the Constitution, Civil Rights and Human Rights**  
**Senator Richard J. Durbin, Chairman**

New State Voting Laws: Barriers to the Ballot?  
Thursday, September 8, 2011

**Opening Statement**  
(As Prepared for Delivery)

This hearing of the Subcommittee on the Constitution, Civil Rights, and Human Rights will come to order. Today's hearing will examine whether a number of new state voting laws threaten the right to vote.

This year we have watched young people in places like Egypt and Tunisia take to the streets to fight for what we in America sometimes take for granted: the right to elect our leaders. In our country, regardless of how divisive the disagreement or how intense the debate, we settle our political differences at the ballot box.

**Constitutional Expansion of Voting Rights**

Let us be clear. Throughout our history, the right to vote has been honored in principle but dismissed in practice, in the law and even in our Constitution. Despite enshrining voting as "the right preservative of all other rights," it is a right often honored in the breach.

This is a relatively new development. Only in the last century did Americans win the right to directly elect their U.S. Senators. And for more than half the life of our Republic, a majority of the adult population, the majority of Americans, were not allowed to vote. Even after the franchise was legally expanded, for close to a century, a well-organized, violent, racist campaign successfully prevented many African Americans from exercising the right to vote.

Fortunately, our country – over time – learned from these mistakes and expanded the franchise and the reach of our democracy.

In fact, our Constitution has been amended more to expand and protect the right to vote than for any other issue. Six Constitutional Amendments – the 15<sup>th</sup>, 17<sup>th</sup>, 19<sup>th</sup>, 23<sup>rd</sup>, 24<sup>th</sup>, and 26<sup>th</sup> – ratified over the course of 100 years underscore our nation's commitment to ensuring that all adult citizens enjoy free and full access to the ballot.

Courageous Americans fought for these Constitutional Amendments in order to guarantee the right to vote to all citizens -- regardless of race, sex, class, income, or state of residency. We must be constantly vigilant against threats to these hard-fought victories.

That's why earlier this year I held a hearing on the threat to our democracy posed by the Supreme Court's *Citizens United* decision and the flood of special interest cash into elections, and the need to fundamentally reform the way we finance our campaigns.

### **New State Laws Threaten the Right to Vote:**

Today we will examine another potential threat to our democracy: recently passed state voting laws designed to restrict voting.

I am deeply concerned by this coordinated, well-funded effort to pass laws that could have the impact of suppressing votes in some states, including Wisconsin, Texas, Florida, Indiana, Georgia, Alabama, Tennessee, and South Carolina.

Regardless of the stated intention or goals, many analysts believe these laws will cause widespread voter suppression and disenfranchisement by making it harder for millions of disabled, young, minority, rural, elderly, homeless, and low income Americans to vote.

Let's take a moment to consider some of the new restrictions on voting that we'll discuss today.

### **Photo Identification**

Since the beginning of this year, 7 states have passed laws requiring certain forms of photo identification prior to voting.

- At first blush, it might appear that ID requirements are reasonable. *After all, who can't produce an ID?*
- Well, there is an old saying that applies here: "The devil is in the details." The way these laws are written, not just any ID will do. According to numerous studies, millions of Americans who are currently eligible to vote do not have an ID that would satisfy these new restrictive laws, and these individuals are disproportionately young, low-income, senior citizens, African Americans, and Latinos.
- It is unclear what, if any, efforts are being made to make sure that those who do not have IDs will be able to obtain them before the next election.

### **Reducing Early Voting**

Some states have also passed laws drastically reducing the early voting period.

- Early voting is primarily used by our fellow citizens who cannot get to the polls on Election Day for a variety of reasons.

- They may not have reliable transportation. They may work at a job that does not allow them to take time off on Election Day. They may have trouble finding child care. If they are disabled or elderly, they may not be able to count on receiving the assistance they need to get to the polls on Election Day.
- For these reasons and many others, the number of people voting early has increased with each election. In 2008, for example, 30% of all votes were cast before Election Day.
- Which causes one to ask: *Why are some states reducing the early voting period when the number of early voters is clearly on the rise?*

### **Restrictions on Voter Registration Drives**

Finally, there are two states – Florida and Texas – that have enacted laws that threaten to end voter registration drives by non-partisan organizations.

- The Florida law places onerous administrative burdens on volunteers who sign up to help their neighbors register to vote. If a volunteer fails to meet a series of cumbersome administrative requirements, they could be prosecuted and fined.

This law is so bad that, for the first time ever, the League of Women Voters – a highly respected and nonpartisan organization – indefinitely suspended all voter registration drives in Florida.

### **Conclusion**

These are just three examples of laws that may roll back voting rights.

The proponents of these new restrictive state laws argue they are efforts to reduce voter fraud. Yet as Professor Levitt, a witness on our second panel, has demonstrated, the incidence of voter fraud in America is minimal and the reported fraud is often anecdotal, unsubstantiated and contrived.

I am particularly concerned that the states where these laws were passed have not taken adequate measures to ensure that affected individuals will be able to vote. That is why today I am sending a letter to the governors in three of these states – Florida, Wisconsin, and Tennessee – asking them to inform the Subcommittee of their plans for ensuring that the laws they have enacted will not disenfranchise the citizens of their state.

Protecting the right of every citizen to vote and ensuring that our elections are fair and transparent are not Democratic or Republican values, they are American values.