

HOUSE BILL 1073 IMPACT REPORT

THE EFFECT ON MISSOURI VOTERS



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LEGISLATION

House Bill 1073 contains provisions that would change the identification requirements for voting in Missouri. Specifically, the major identification changes in the legislation are:

115.427. 1. [Before receiving a ballot, voters] **Persons seeking to vote in a public election** shall establish their identity and eligibility to vote at the polling place by presenting a form of personal identification to election officials. ["Personal identification" shall mean only] **No form of personal identification other than the forms listed in this section shall be accepted to establish a voter's qualifications to vote. Forms of personal identification that satisfy the requirements of this section are any** one of the following:

- (1) Nonexpired Missouri driver's license [showing the name and a photograph or digital image of the individual]; [or]
- (2) Nonexpired or nonexpiring Missouri nondriver's license [showing the name and a photographic or digital image of the individual]; [or]
- (3) A document that satisfies all of the following requirements:
 - (a) The document contains the name of the individual to whom the document was issued, and the name substantially conforms to the most recent signature in the individual's voter registration record;
 - (b) The document shows a [photographic or digital image] **photograph** of the individual;
 - (c) The document includes an expiration date, and the document is not expired, or, if expired, **the document** expired [not before] **after** the date of the most recent general election; and
 - (d) The document was issued by the United States or the state of Missouri; or
- (4) Any identification containing a [photographic or digital image] **photograph** of the individual which is issued by the Missouri national guard, the United States armed forces, or the United States Department of Veteran Affairs to a member or former member of the Missouri national guard or the United States armed forces and that **is not expired or** does not have an expiration date.

IDENTIFICATION PERMITTED AND NOT PERMITTED BY LEGISLATION

HB 1073 would change the requirements to vote by eliminating currently allowable types of identification voters can use to prove their identity at the polls.

There has not been a single case of voter impersonation fraud reported to the Secretary of State's office.

Currently Permitted	Permitted if Bill Passes
<u>Photo Identification</u> Missouri Driver's License	<u>Photo Identification</u> Missouri Driver's License (nonexpired)
Missouri Non-Driver's License	Missouri Non-Driver's License (nonexpired)
U.S. Passport	U.S. Passport
Missouri Student ID	Missouri or Federal Military ID
Missouri or Federal Military ID	Missouri or Federal ID that has a name, photo and expiration date (non-expired)
Out of State Driver's or Non Driver's License	<u>Non-Photo Identification</u> None
<u>Non-Photo Identification</u> Voter ID (from Local Election Authority)	None
Utility Bill	
Bank Statement	
Government Check	
Personal Paycheck	
Missouri or U.S. Document with Name and Address	

STATE-BY-STATE COMPARISON

According to the National Conference of State Legislatures, Missouri is currently one of 15 states that have a “non-photo” voter identification requirement. There are 20 states that only require voter identification in limited situations. Finally, there are nine states that have a photo identification requirement to vote, including six that NCSL considers “strict.”

If HB 1073 becomes law, Missouri would join the six states in the nation from that “strict” category. However, Missouri’s law would be stricter than four of those six states: Kansas and Arkansas allow a student ID, Georgia allows an expired driver license, and Tennessee allows photo identification issued by any other state.

United States Voting Identification Requirements

“Strict” Photo ID in effect	Photo ID	Non-Photo ID	Voter ID only required in limited situations
Georgia* Indiana Kansas* Tennessee* Texas Arkansas*	Florida Hawaii Idaho Louisiana Michigan New Hampshire South Dakota Rhode Island South Carolina	Alabama Alaska Arizona Colorado Connecticut Delaware Kentucky Missouri Montana North Dakota Ohio Oklahoma Utah Virginia Washington	California Illinois Iowa Maine Maryland Massachusetts Minnesota Mississippi Nebraska Nevada New Jersey New Mexico New York North Carolina Oregon Pennsylvania West Virginia Wisconsin Wyoming Vermont
*Allows additional photo identification not permitted by HB 1073			

Information current as of January 16, 2014 from the National Conference of State Legislatures

PROVISIONAL BALLOT STATISTICS

Proponents of HB 1073 claim that if voters don't have the required identification, they will not be disenfranchised because they would still be permitted to vote using a provisional ballot. The vast majority of Missourians who cast a provisional ballot do not see their votes counted.

In the 2012 Presidential Election, fewer than 3 in 10 provisional ballots were counted. There were only five counties that counted more than half of their provisional ballots, and each of those counties counted just one ballot. On the other hand, there were 45 counties that counted 20 percent of their provisional ballots or fewer.

Election	Percentage of Provisional Ballots Counted
2012 General	29.4%
2012 Primary	45.0%
2012 Presidential Preference Primary	28.6%
2010 General	44.9%
2010 Primary	33.8%
2008 General	25.5%
2008 Primary	45.7%
2008 Presidential Preference Primary	33.2%
2006 General	43.7%
2004 General	40.2%

MISSOURI SUPREME COURT DECISION

On October 16, 2006, the Missouri Supreme Court ruled unconstitutional photo identification legislation similar to HB 1073 in a 6-1 decision. In *Weinschenk v. Missouri*, the Court ruled that the Photo-ID requirement “creates a heavy burden on the fundamental right to vote and is not narrowly tailored to meet a compelling state interest.”

Proponents of HB 1073 claim that they addressed the Court’s concerns about requiring Missourians to purchase photo identification if they do not have one. In this legislation, the state will be required to pay for the required identification, but not the supporting documents. But, the Court noted further issues in addition to the costs:

“...this Court has found that the Photo-ID Requirement imposes a severe burden on the right to vote, it can survive strict scrutiny only by showing it is necessary to accomplish a compelling state interest or that is “narrowly drawn to express the compelling state interest at stake.”

Yet, Appellants do not demonstrate that SB 1014’s requirement of state or federally issued, non-expired photo IDs is strictly necessary or narrowly tailored to accomplish the State’s asserted interests. To the contrary, Appellants concede that the only type of voter fraud that the Photo-ID Requirement prevents is in-person voter impersonation fraud at the polling place. It does not address absentee voting fraud or fraud in registration. While the Photo-ID Requirement may provide some additional protection against voter impersonation fraud, the evidence below demonstrates that the Photo-ID Requirement is not “necessary” to accomplish this goal. As the trial court found: “No evidence was presented that voter impersonation fraud exists to any substantial degree in Missouri. In fact, the evidence that was presented indicates that voter impersonation fraud is not a problem in Missouri.””

Under HB 1073, Missourians will still be required to pay for the underlying documentation, such as a birth certificate, necessary to obtain the photo identification required to vote a regular ballot. As the Court in *Weinschenk* referenced:

“Wealth or fee-paying has...no relation to voting qualifications; the right to vote is too precious, too fundamental to be so burdened.”

EFFECT ON REGISTERED VOTERS

Approximately 220,000 registered voters could be disenfranchised with the passage of HB 1073.

“As the state’s chief elections officer, it is my job to make sure that only eligible voters vote, but also that every eligible voter has the opportunity to vote,” Secretary of State Jason Kander said. “This proposed legislation could keep hundreds of thousands of current Missouri voters from voting, which is not only just wrong, but unconstitutional.”

Among the hundreds of thousands of eligible Missouri voters that could be kept from voting by HB 1073 are students with current school-issued photo ID’s, senior citizens who no longer drive, Missourians who rely on public transportation, and women who have changed their last names due to marriage or divorce.

“This is not just a simple identification requirement,” Kander said. “This is essentially ‘REAL ID’ all over again, as the legislature wants everyone in our state to be required to have a certain kind of identification. This idea has already been debated and defeated by the Missouri legislature.”

Kander is the first secretary of state in Missouri to formalize the elections complaint process and make his office’s findings available to Missourians. More information about the Elections Integrity Unit—including its reporting procedure and copies of its completed reviews—is available at www.sos.mo.gov/integrity.