

League of Women Voters of Indiana and Indianapolis write Amicus Brief in support of the unconstitutionality of the Indiana Voter ID Law

In a representative Democracy, it is a fundamental right of every US citizen to cast a vote for the representative of their choice. They vote to participate in their government and have the right to hold their representatives accountable for managing government in the best interest of the citizens and communities these elected officials represent. The League of Women Voters believes that any law which impedes this fundamental right is unconstitutional.

The Indiana Voter ID Law was enacted during the 2005 Indiana General Assembly and put into practice beginning the 2006 elections. Poll workers trained or not trained were to enforce this law that brought ambiguities into the polling center. Driver's licenses were accepted but, did it have the proper name on it; did it have the proper expiration date on it? Did the picture and name match the person using the license?

What if you did not drive and did not have a driver's license? Yes, you could obtain an Indiana ID at the Bureau of Motor Vehicles. What do you need to do this? Well, you need one document from the primary group, one document from the secondary group one document proving residency OR two documents from the primary group and one document proving residency. Below are a few examples of the documents that are acceptable but for a complete list you can go to: www.bmvexpress.IN.gov .

Primary Group

- US birth certificate with stamp or seal issued by a county or state department of health from the applicant's state of birth
- US passport
- US Veterans universal access identification card with photo

Secondary Group

- Pay check stub computer generated with applicant's name and address
- Bank statement issued within 60 days of application
- Valid banking or credit card (MC,VISA, AE, Discover ONLY) with signature of applicant
- Medicare/Medicaid card or Hoosier Works/Hoosier RX Plan card with imprinted name.

Proof of Residency

- Voter registration card
- Bill or benefit statement issued within 60 days of application
- Child support check from Indiana FSSA with name and address of the applicant

Sound easy? Not for all. There are certain demographics of our Indiana citizens who have a right to vote but can not or find it a great burden to comply with these rules. Birth certificates can be hard to come by for some individuals over the age of 65. Some do not have a home to receive bills with an address. Some are working two and three jobs to care for family and do not have the time or understanding to

work the bureaucracy to obtain the needed documents. Sometimes records are not accessible due to a fire and sometimes it is expensive to purchase a copy of a birth certificate. Here are a few stories.

I. In Nov. 2006 on Election Day, B. Faye. Buis-Ewing went to her local precinct to vote. But her driver's license from the state of Florida was not a valid ID to cast her ballot in West Lafayette, Indiana, where she has lived in for almost 50 years. She needed a valid ID issued from the state of Indiana or the federal government. Citizen Buis-Ewing was instructed on how to obtain an Indiana ID and told that she could cast a provisional ballot and come to the court house within ten days to present a valid ID so that her provisional ballot could be counted. Our citizen did not want to cast a provisional ballot and left the precinct polling place in pursuit of a valid ID. She went home to gather her birth certificate. Thinking that was all she needed since she had a credit card and voter registration card she went to the BMV to request her free IN ID. Apparently her birth certificate was not acceptable because it did not have her middle name or initial on it. Our voter was advised to go to the Social Security office and request a verification statement. She needed to go to a different city to visit a Social Security office and make this request. Once obtaining her social security number verification, she went to a different BMV office since it was closer at this point and of course they were quite helpful, accepted her documentation and provided her with an Indiana ID. Keep in mind that our citizen has waited in line at the BMV in city one and two, the Social Security office and BMV in city two. Now, back to city one and the polling place to cast a vote recognized as a constitutional right. Our persistent and persevering citizen was welcomed back to the precinct with a standing ovation and was now granted her right to vote. It is estimated that it took four hours for B.F. Buis-Ewing to obtain the proper ID to cast her vote on Election Day.

Citizen Ewing was able to follow directions, had transportation and time to take care of this important responsibility because voting is important to her. Not all eligible voters have these resources.

The question then becomes how many hoops does one need to jump to exercise their right to vote? Who has the right to say one document is acceptable and one is not? Are individuals who hold this power over their fellow citizens trained properly to carry out these duties? Do they have their own agenda and bias to withhold ID's from some and not others?

II. Regularly on the news, it is stated that Indiana wants to attract new business and increase economic development. With new business, new families come to Indiana to be part of a thriving economy. They come from other states with young children and have busy lives to pursue with all the responsibilities of a new move, a new job, and a new environment entails. In Nov. 2006, Caroline Cuozzi, a young mother new to the Indianapolis area went to the polling place to cast her ballot. She was told her out of state license was not acceptable to vote. She was offered to vote provisionally which she did. To her recollection, she was not told how to obtain a valid Indiana ID and did not understand that she had to show valid ID in ten days at the County Courthouse for her provisional ballot to be counted. Needless to say her

ballot was not counted and a citizen was denied her right to vote. Not the best welcome from Indiana to a new resident.

Let's assume that she was informed of the process to obtain an Indiana ID. She would still have to gather documents find her way around town to the BMV, cross her fingers that the documents would be accepted and then find her way to the County Court House within a 10 day period for her vote to count. Did I mention that she was new to the city and had sixth month old to care for as well?

III. Ninety - two - year-old Mary Wayne Montgomery Eble was taught by her mother to cherish her right to vote, and wants to cast her vote in person at the polling place. She was unable to do so in the 2006 general election because of the Voter ID law.

A few years ago, Ms. Eble suffered a vision loss and decided she should no longer drive. When she stopped driving, she did not renew her driver's license which can serve as a voter ID. Under the Indiana Voter ID law, she can get a photo identification card, but she must do so at a branch of the Indiana Bureau of Motor Vehicles ("BMV").

As she has done for nearly all of her life, Ms. Eble lives on her family's farm in rural Spencer County, outside of Rockville, Indiana. Although Rockville is the Spencer County seat, the Rockville branch of the Indiana Bureau of Motor Vehicles ("BMV") was one of many recently closed by the state. To get her Indiana identification card, Ms. Eble will have to go to Dale, Indiana, approximately 45 minutes away. Getting there will be a problem for Ms. Eble. The rural area where she lives does not have much in the way of transportation assistance for the elderly. There is one van that serves the elderly of the area. It is kept busy and is prohibited from carrying the oxygen which Ms. Eble would require during the lengthy excursion to get her Indiana identification card.

Ms. Eble's difficulties are compounded because before she can visit the BMV in Dale, she will have to visit Rockville, Indiana to get an acceptable certified record of her birth. A round trip to Rockville will take an hour and may be in vain. Because she was born at home, the records Ms. Eble needs may not exist.

Voting in person is very important to Ms. Eble. She knows firsthand the fight to get women the vote because her mother, Judith Montgomery, was a suffragette who fought to get the right to vote for her daughter. In the past, Ms. Eble's family would take her to the polling place in Hatfield, Indiana where her granddaughter, Jennifer Byerly, works on the precinct election board. After voting, Ms. Eble would go to the Hatfield Methodist Church for its fundraising luncheon held every general Election Day.

Ms. Eble knows that she can vote absentee. But what she really wants to do is to vote in-person, a right she was taught to cherish and appreciate by her mother

IV. Seventy - eight - year-old Korean War veteran Ray Wardell of Mishawaka, Indiana, wanted to vote in November 2006. He had no driver's license or no Indiana

identification card. He knew he needed photographic identification to vote under the Indiana Voter ID law.

Mr Wardell has had two strokes. He walks with a walker and has difficulty getting around. When he went to get his identification card, he took a cab one way to the Mishawaka BMV. Because he did not have his birth certificate with him, he was told he could not get an identification card. Mr. Wardell watches his budget and cabs are a luxury, so to save the cost of the cab fare, Mr. Wardell walked home despite his disability.

Mr. Wardell's story was printed in the South Bend Tribune where it was reported that Mr. Wardell could have substituted his Medicare card for a birth certificate – a fact the BMV did not share with him. After the story ran in the newspaper, Mr. Wardell returned to the BMV and was given his identification card after presenting his Medicare card.

In October 2007, nearly a year after he went through the ordeal of getting an identification card, Mr. Wardell was robbed of his wallet which contained not only his money but also his identification. After that, he got a replacement Medicare card which he took to the BMV (via his motorized scooter) and applied for a replacement Indiana identification card. Again, Mr. Wardell presented his Medicare card, just as he did before, but was told by BMV staff that he would need to present a certified copy of his birth certificate before an identification card could be issued to him.

Mr. Wardell is uncertain of the process to get a copy of his birth certificate and had to cast a provisional ballot on Election Day, November 6, 2007. It is unknown if he will be able to achieve all the steps necessary to make certain his vote will count.

V. Kim Tilman is one of those who simply cannot afford to pay the costs necessary to get an Indiana driver's license or identification card. Kim is a stay-at-home mother of six children. Her husband is employed as a janitor and is the sole-source of income for the family. Kim has a Michigan's driver's license but does not have an Indiana driver's license. To get an Indiana driver's license or Indiana photo identification card, one of the documents Indiana requires Kim to provide is her birth certificate.

Kim was born in Michigan. She can make the application for a certified copy of her birth certificate by mail for a cost of \$26.00. The application states the process will take at least four weeks from the date the Michigan agency receives the request. However, when Kim spoke with an agency representative, she was told it would take eight weeks to receive the requested document. If she wishes the process to be expedited, Kim must pay an additional \$10.00.

Once Kim has a certified copy of her birth certificate, it will cost her \$14.00 for an Indiana driver's license. The Voter ID Law says that an Indiana identification card needed in order to vote is to be issued free of charge. However, Kim will need to be very clear with the BMV that she needs the card to vote other wise she may be charged \$10.00 for it. All in all, securing photo identification is a very expensive proposition for Kim and one she cannot afford to undertake at this time. Because

she had no qualifying proof of identification, Kim was unable to vote in 2006 or 2007. It is her hope that she can afford to get proof of identification in time to vote in the 2008 presidential election.

VI. When Janice Tingley tried to vote in the 2006 general election, she presented to poll workers a photo identification correctly showing her name as "Tingley." However, when she moved to her present location two years ago, from another part of Indiana and changed voter registration location, her name was apparently misspelled "Tengley on her voter registration record. Someone at the polls apparently felt this discrepancy was important because she was challenged and required to cast a provisional ballot. Although, she did not appear at the Election Board within the statutory 10 day period, her ballot was counted.

VII. Karen Webster was one of those who got caught in an adverse interpretation of the Voter ID Law by a Precinct Election Board. Ms. Webster lives in Marion County, Indiana. She was married in October 2006 and on Election Day in November 2006 she appeared at the polling place where she has been voting for fourteen years with a copy of her marriage certificate and her new driver's license. She was told that she could not change her name at the polling place, even though Indiana law clearly allows such name changes. Precinct officials appeared to be unaware of this law and very unsure about how to handle the situation. Ms. Webster voted a provisional ballot but, her vote was not counted in the end because of the "hassle" of going down to appear before the Marion County Election Board in the heart of downtown Indianapolis, Indiana, particularly as she was then working in an adjacent county.

VIII. Anne Riciardelli changed her name approximately one week before the election. When she showed-up at the polling place, she brought all her new identification and was still required to cast a provisional ballot. However, unlike Ms. Webster, Ms. Riciardelli was advised that it was unnecessary for her to go before the Election Board and so her vote was ultimately counted while Ms. Webster's ballot was not.

These are just a few stories that have been gathered since the 2006 elections from people who were denied their right to vote or had great difficulty in proving their identity to officials charged with enforcement of the Indiana Voter ID Law. The lack of proper training and misunderstanding of the Voter ID Law has caused citizens of Indiana to be deprived of their right to vote.

It should be a matter of great public concern whether the enforcement of the Indiana Voter ID Law affected the outcome of the 2006 and 2007 elections across the state. Nothing less than the integrity of Indiana elections is at stake.

The Indiana Voter ID Law was ostensibly enacted to prevent voter fraud at the polls despite the fact that there are no known instances of in-person voter fraud in Indiana and such fraud is exceedingly rare nationwide. Instead the Indiana Voter ID Law has placed barriers to voting before many Indiana citizens, has discouraged others from trying to vote and may have prevented some who tried and were otherwise qualified from exercising their right to vote.

The constitutionality of the Indiana Voter ID Law will be reviewed by the United States Supreme Court in 2008. The League of Women Voters of Indiana and its Indianapolis local League have filed a brief asking the Court to hold the law unconstitutional. We look forward to this opportunity to have the Voter ID Law considered by our nation's highest court. It is our hope that the Court will agree with us that the law unconstitutionally burdens the right to vote.