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Ryan Voris

University of Kentucky, [ryan.voris@uky.edu](mailto:ryan.voris@uky.edu)

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Ryan Voris, Student

Dr. Mark Peffley, Major Professor

Dr. Clayton Thyne, Director of Graduate Studies

THE PARTISAN STRATEGY OF VOTER IDENTIFICATION REQUIREMENTS:  
BARRIER TO THE BALLOT OR MOBILIZER OF MINORITIES?

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DISSERTATION

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A dissertation submitted in partial fulfillment of the  
requirements for degree of Doctor of Philosophy in the  
College of Arts and Sciences  
at the University of Kentucky

By  
Ryan Edward Voris

Lexington, Kentucky

Director of Dissertation: Dr. Mark Peffley, Professor of Political Science

Lexington, Kentucky

2016

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## ABSTRACT OF DISSERTATION

### THE PARTISAN STRATEGY OF VOTER IDENTIFICATION REQUIREMENTS: BARRIER TO THE BALLOT OR MOBILIZER OF MINORITIES?

The 2000 US Presidential Election brought the confusing array of electoral rules to the minds of many in the mass media and politics. One reform advocated to improve the integrity of elections was to require voters to present identification at the polls prior to receiving a ballot. This particular reform generated much controversy, as critics worried that millions of citizens would be denied a ballot because they lacked government-issued photo ID, a form of ID advocated by many Republican officials. The controversy extended to the courts, with photo ID requirements upheld by a 6-3 US Supreme Court decision in 2008 in part due to the lack of evidence that ID laws prevented any citizens from voting. Consequently, over 30 states now require some form of ID of all voters in elections prior to receiving a ballot. Surprisingly, extant research has failed to uncover evidence of a consistent impact on voter participation. My research shows that the best way to understand whether and how voter ID laws impact turnout in national elections is to begin with a theory of how these laws are shaped by the strategic environment faced by the state political parties whose job is to win elections.

Using a variety of data sources, I examine how ID laws impact political participation in the US. This includes examining both what factors led some states to adopt these laws as well as their impact on voter participation and mobilization. I find that laws appear to be adopted primarily for strategic reasons rather than to combat voter fraud. States with growing minority populations and large gaps between midterm and presidential election turnout are more likely to enact photo ID laws than other states. Showing that partisan concerns impact adoption. However, using aggregate turnout from both states and counties in past federal elections I do not find any consistent negative impact. Surprisingly, photo ID laws appear to increase turnout in states with large African American populations, with a significant negative impact only in areas with few minority voters. I attribute this to a change in campaign strategy where Democratic groups are using laws to mobilize minority voters. Using survey data from 2010 and 2012 I show that African Americans are more likely to be contacted in states with photo ID laws, which helps explain the surprising impact of these laws on voter turnout. While

ID laws may have been enacted to achieve a partisan advantage for Republicans, these reforms do not take place in a vacuum where they are immune to any response. Critics and opponents of voter ID requirements may be successfully using these laws to mobilize the very groups they are thought to suppress.

**KEYWORDS:** Election Law, Electoral Behavior, Voter Identification, State Politics, Ballot Access

Ryan Edward Voris

June 24, 2016

Date

THE PARTISAN STRATEGY OF VOTER IDENTIFICATION REQUIREMENTS:  
BARRIER TO THE BALLOT OR MOBILIZER OF MINORITIES?

By

Ryan Edward Voris

Mark Peffley

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Director of Dissertation

Clayton Thyne

---

Director of Graduate Studies

June 24, 2016

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## **Chapter 1: Voter Identification: A Positive Reform?**

### *Introduction*

Elections are the most direct link between citizens and their government, and even the most minimal definitions of democracy require elections to be both free and open to all segments of society. In the United States, citizens are confronted with elections that enable them to have a say in who their elected officials are, from the local school board to the President, and in policy decisions through state constitutional amendments, referendums, and tax levies. It is not surprising that most battles for civil rights centered on access to the ballot box to allow groups to pressure the government for their concerns. The broad swath of election reform in the US has thus been characterized by expanding access to voting rights, first with the fall of property requirements in the early 1800s, to the Civil Rights Movement of the 1960s, to the expansion of absentee and early voting in the 1990s.

The numerous reforms have dramatically increased the ease with which citizens can both register to vote and cast a ballot in all elections. On the other hand, some argue that these reforms also open the door to potential election fraud and other irregularities, a claim disputed by many. Particularly after the 2000 Presidential Election recount in Florida, many believed that steps needed to be taken to modernize elections and protect confidence in the electoral system. One reform, often championed by Republican politicians, is to require photo identification of all voters. In 2002, the US Congress passed the Help America Vote Act (HAVA) to provide federal assistance to states in the hopes of spurring state election reform. One provision required first-time voters to present some identification at the polls, and shortly afterward states began to require ID

of all voters. In 2006, Indiana became the first state to require government-issued photo ID of all voters. As in other states, supporters of ID laws in Indiana argued ID requirements were necessary to prevent election fraud from altering election outcomes.

National surveys often show that many citizens express concern about the potential for voter fraud. Alvarez et al.'s (2009) survey of voters following the 2008 US Presidential election showed that 8.1 percent of respondents believed voter fraud to be "very common," with a further 17.4 percent thinking fraud occurred occasionally, and a further 19.4 percent not sure how common voter fraud was (Alvarez et al. 2009, 10). Additionally, roughly 18 percent of respondents believed that both vote theft and voter impersonation were common in US elections (Alvarez et al. 2009, 11).<sup>1</sup> Relying on survey evidence from three states, Pastor et al. (2010) estimates that 16.6 percent of respondents saw or heard of voter fraud at their own polling place and nearly 64 percent heard about voter fraud at other polling places (Pastor et al. 2010, 475).<sup>2</sup> On the other hand, it is important to note that empirical research shows that *actual occurrences of voter fraud* are rare and pose no threat to election outcomes (Minnite 2010).

Rather than a means to prevent election fraud, critics maintain that voter ID requirements are a calculated plan to reduce turnout among specific segments of the population. The ID requirement in HAVA was strongly opposed by Senate Democrats, who successfully softened the requirement from the initial photo ID requirement for all

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<sup>1</sup> Alvarez et al.'s (2009) survey asked 200 respondents in each state their attitudes towards voter fraud, vote theft, and voter impersonation following the 2008 Presidential Election. A majority of respondents believed each occurred either infrequently or almost never (54.8 percent for voter fraud, 62.4 percent for vote theft, and 62.6 percent for voter impersonation) (p10-11). Roughly 19 percent of respondents were not sure how common each was (19.4 percent for voter fraud, 18.6 percent for vote theft, and 19.6 percent for voter impersonation).

<sup>2</sup> Pastor et al. (2010) surveyed a total of 1,994 registered voters in Mississippi (N=662), Indiana (N=666), and Maryland (N=666).

voters in federal elections. Since then ID laws have passed in states predominantly under unified Republican control, and often pass without a single Democratic vote of support. Chief among critics' concerns are that millions of citizens lack access to photo IDs. The American Civil Liberties Union (ACLU), for example, estimates that over 21 million citizens, including as many as 1 in 4 African Americans, would be denied a ballot under photo ID requirements. Research consistently shows that racial minorities, the elderly, college age, and low income voters are less likely to have photo ID than other segments of society (Hershey 2009; Baretto, Nuno, and Sanchez 2008; Pastor et al. 2010).

ID laws have become increasingly controversial as more states begin to require identification of all voters. Currently, 34 states oblige voters to present some form of identification at the polls on Election Day. For the 2016 Presidential Election, both North Carolina and New Hampshire will join the 17 other states that ask voters to present a photo ID at the polls. However, the actual impact of these laws on political participation in the US remains unclear. Are they adopted by partisans seeking to strategically manipulate the electorate? Do they prevent citizens from participating in elections, or do they actually boost participation? These are questions that have not been fully examined that I plan to answer by placing these laws into the strategic context of how political parties use ID laws to increase their chances of winning elections.

### *The Two Sides of the Debate*

Public opinion polls often show that majorities support requiring voters to show ID at the polls. Surveys following the 2008 Presidential Election showed that 76 percent of all respondents supported voter ID requirements, including majorities of both Republicans (90 percent supported) and Democrats (65 percent supported) (Alvarez et al.

2009, 52). Numerous other surveys have found high support among all racial, socio-economic, and ideological distinctions (Alvarez et al. 2009; Pastor et al. 2010; von Spakovsky 2012). Many further believe that requiring IDs of all voters can help improve public confidence in the electoral process (Delaney 2008; Pastor et al. 2010). This high public support has not translated into agreement by political elites, however, and partisan allegiances remain a strong predictor of support for voter ID requirements. Each party has developed a consistent position they used to lobby for and against voter ID laws.

Republican officials push for ID requirements, and in the past several years have been the primary push behind the spread of these laws across the country. Chief among their justifications for ID requirements is the role ID laws can play in maintaining voter confidence in the US electoral process. In a review of the HAVA election reforms the 2005 Commission on Federal Election Reform (Carter-Baker Commission) proposed voter ID as one of five pillars to restore voter confidence in the fairness of elections (Carter-Baker 2005, 6). Among the proposed reforms the Carter-Baker Commission expressly rejected is the elimination of any ID requirements, instead pushing for a photo ID phased in over a series of elections. In addition to restoring voter confidence, Republicans also state that photo ID requirements provide a necessary protection against the threat of election fraud.

Few, if any, deny that this would present additional barriers to participation. Instead, supporters argue that the prevalence of photo IDs in everyday life minimizes the hardship a photo ID law would impose. Surveys often show that large proportions of the public has access to government-issued photo ID, and states that require photo ID of all voters also make free ID cards available for those in need. What is argued to be a slight

hardship is justified in the face of the potential problems of election fraud altering election outcomes or eroding voter confidence, thus deterring individuals from participating in future elections.

In response, Democratic officials often point to the lack of widespread evidence to suggest voter fraud poses any problems to US elections. Numerous studies show that election fraud is a rare occurrence, and does not threaten to alter election outcomes (Minnite 2010). To the extent fraud does exist it is often in forms, such as vote buying or miscounting of ballots, that would not be addressed by requiring IDs of potential voters. News 21, an investigative journalist organization, found that between 2000 and 2012 there were only 600 cases of individuals being either convicted of or pleading guilty to election fraud out of a total over 825 million vote cast (News21 2012). Critics thus often characterize ID requirements as a solution in search of a problem.

Combined with the lack of any voter fraud to justify such laws, many fear these laws will have a disproportionate impact on racial minorities, groups that have historically be subject to both overt and veiled attempts at voter suppression. Several groups have estimated that racial minorities are more likely to lack access to government-issued photo ID than whites and would be effectively denied a ballot under many forms of ID law. Even though many states make free IDs available to those in need, critics point out that to obtain these free IDs individuals must travel to a specified location, often the same group that issues driver's licenses, with multiple documents to prove identity that must be either original or certified copies. These steps then impose costs on those without IDs that would still prevent them from voting. More seriously is the fact that those who lack photo ID are more likely to be members of the Democratic coalition, and



preventing their access could bias election outcomes (Baretto, Nuno, and Sanchez 2008). Critics see ID laws as a thinly veiled attempts by Republican officials to discourage opponents from casting a ballot in elections.

The U.S. Supreme Court had an opportunity to weigh in on this debate in 2008, when a case involving an Indiana photo ID law was heard by the Court. The Indiana law, considered at the time to be the strictest in the county, required all voters to produce government-issued photo identification in order to receive a ballot (Stout 2008). In upholding the law, the Court gave great weight to a lower court's finding that no evidence "of a single, individual Indiana resident who [would] be unable to vote as a result of [Indiana's ID law] or who [would] have his or her right unduly burdened" (Crawford 2008, 3). Justice Stevens, writing for the Court, found that these laws met the state's need to prevent election fraud and protect the integrity of the electoral process even though they place a burden on some voters. Altogether the opinion largely upheld the Court of Appeals' decision that determined the motivation behind the suit to be that the law would "require the Democratic Party and other organizational plaintiffs to work harder to get every last one of their supporters to the polls" (Crawford 2008, 4).

Fast forward a few years and the author of the Appellate Court upholding Indiana's law, Judge Richard Posner, received a similar case and struck down the law. Although there are some differences between the laws, namely in regard to individuals without proper identification, both required all voters to present photo identification at the polls. In the years since upholding Indiana's law, Judge Posner's opinion changed largely because of the context surrounding the passage of ID laws. He noted that since 2008, more evidence has been compiled on who lacks access to photo ID and the burdens

of obtaining the free photo ID required. Posner also referenced the increasingly partisan nature of the ID laws as reason to have suspicion over whether they are genuinely enacted to protect voter confidence in elections.

Over 30 states have adopted voter identification laws since the Help America Vote Act of 2002 placed ID requirements on first time voters. More recently, states have begun adopting laws that follow Indiana's model and require all voters to present photo identification. Of these laws, many passed along strict party line votes after Republicans took unified control of state governments. In 2012, a Pennsylvania State Representative claiming the law will enable Gov. Mitt Romney to win the state in the Presidential Election (Blake 2012). This played into opponent's arguments that the purpose behind these laws was to prevent Democratic voters from getting to the polls on Election Day. As more states face legal challenges regarding their ID requirements it is more important to understand the effects ID laws have on political participation in the United States.

#### *Questions Left to Answer*

Current research in the field has yet to uncover consistent effects of these laws on political participation. One reason for this is that ID laws have yet to be placed into the context of the wider political system. Researchers assume that because these laws increase the costs associated with voting, citizens will be less likely to participate in elections (Downs 1957, Riker and Ordeshook 1968). ID laws increase the costs of voting for citizens who do not already possess an acceptable form of government-issued ID. Much of the blame from low turnout rates in the US relative to other advanced democracies has already been placed on administrative barriers, a barrier increased by voter ID laws (Powell 1986; Alvarez et al. 2008; Barreto, Nuno, and Sanchez 2008).

However, research also shows that election reforms have the greatest impact for those already on the fringe of voting (Gaimmo and Brox 2010; Gronke et al. 2008). While it may be possible to ID laws to drive down voter turnout it may also be likely these laws have no effect given the widespread access to photo ID in modern society. However, given that the right to vote of millions hangs in the balance understanding the impact of voter ID is extremely important.

Studies of election reforms must always keep in mind that reforms are enacted by political parties whose primary goal is to win elections (Birch 2008; Aldrich 1993). Often election laws are adopted to increase the burden on supporters of the opposition party and remove barriers for their supporters. Voter identification laws are no exception to this pattern. Laws are often enacted by the Republican Party, and the groups most thought to be impacted are traditional Democratic constituencies (Hicks et al. 2015; Barreto, Nuno, and Sanchez 2008). A key contribution of this study is that it places these laws into this strategic context to examine their adoption in the states, how groups respond to their enactment, and the ultimate impact of these laws on voter turnout and the wider political system.

Accordingly, this project continues in several steps to examine the adoption of these laws in the states and their impact on the political system. Political parties are no stranger to the practice of using neutral sounding laws to give themselves an advantage in upcoming elections, and voter ID requirements may be the latest tool designed for partisan advantage. The next chapter, Chapter Two, lays out a broad theory of why ID laws have become so controversial in recent American politics. This general framework will provide an understanding that can then be used to examine why ID laws are adopted

and how they have impacted voter turnout in recent elections. Chapter Three will provide some historical context surrounding these laws in the US. Early ID laws often had bipartisan support, which quickly faded as requirements became stricter. In the past several years a number of court cases have explicitly addressed the concerns raised by both sides of the voter ID debate. Courts cases and other recent actions will not only show the current lay of the land in regards to this issue, but also why academic research is vital for assessing the future of these laws.

Chapters Four, Five, and Six will empirically test the role of voter ID laws in the American political system. Chapter Four will look specifically at the adoption of these laws since 2000. Using data on state demographics, voter turnout, and voter fraud I show that the adoption of voter ID laws is primarily driven by strategic and partisan concerns. Chapter Five examines how these laws have impacted voter turnout in recent elections. Using data from both state and county-level voter turnout I find that rather than depress voter turnout, voter photo ID laws increase turnout in states with large African American populations. This surprising results indicates that opposition groups may be mobilizing to counter these laws. Chapter Six then uses data from a national survey to examine reported campaign contact in the US to demonstrate that African Americans living in states with voter photo ID laws are more likely to report being contacted by a campaign or other organization during the 2012 presidential election. Together this suggests that voter ID laws have been used by both Republicans and Democrats to boost their chances of winning state elections. I then conclude with a discussion of how election reforms act to change the strategic environment of elections and spur a change in party election strategy.

## Chapter 2: The Partisan Strategy of Voter ID Requirements

### *Election Law: A Neutral Force in Elections?*

“Close elections reveal the ugliness of how the political game is played. Anything that is within the rules is exploited by partisans to gain electoral advantage...After all, one can win an election by getting more supporters to the polls or, conversely, having fewer of the opposition’s backers show up.”

-Hicks et al. 2015

Elections are an ever changing battleground between the major political parties.

One primary motivation for political parties is to win elections, and all policy and governing successes are built around placing members into elected office (Aldrich 1995). The most visible aspect of this battle occurs is in the months preceding an election where parties craft a message, use mass media to educate voters and engage in Get-Out-the-Vote (GOTV) efforts to get supporters to the polls. A key strategy to win in November is to turn uninformed, uncommitted or uninterested citizens into supporters and then turn these supporters into voters. In the past several elections, both parties have been working in an environment of increasing political polarization that makes each of these steps more critical to party success (Bartels 2000). This environment enables both parties to effectively target segments of the population with laws and messaging to increase their chances of winning in the general election.

As both major parties have become more ideologically consistent and cohesive, the share of undecided voters the parties fight over has shrunk dramatically. Even among the large share of voters who identify as independent, most feel strong attachments to one of the major parties with little movement between the two groups (Schier and Eberly 2014; Klar and Krupnikov 2016). In fact, the number of true independents in the US has been declining over the past several election cycles as individuals refuse to identify with

either party but continue to behave similar to those who do (Klar and Krupnikov 2016). For the parties, there is a tremendous advantage in knowing which groups in the electorate are their key supporters. The Democratic coalition, for example, draws key support from racial and ethnic minorities (blacks and Latinos, and to a lesser degree, Asian Americans), low-income individuals, and other historically marginalized groups, while the Republican Party is primarily comprised of older, white and religiously conservative voters. Political pundits have noted that the electoral coalition of the Republican Party is in particular danger of long-term demographic shrinkage, and after Mitt Romney's loss in 2012 the GOP conducted an extensive review of how to become more competitive in the future (GOP 2013).<sup>3</sup> These efforts highlighted a need to expand the party message to a more diverse group of supporters.

However, the Republican Party's control of many state governments following the 2010 elections offered another strategy. Election reforms are a constant struggle between the parties, as they seek reforms that will be advantageous in future elections. Election reform in the US has followed two broad historic patterns: expanding the electorate to ensure all citizens can participate and ensuring each citizen votes only once and votes are counted accurately. Past reforms have sought to regulate the electorate, first to ensure that voting is limited to eligible voters, a major motivation for the Progressives' push to register eligible voters in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries (Keysser 2000); and second to expand opportunities for voting, such as expanding suffrage to women, blacks and 18 year-olds, and allowing no-excuse absentee or early voting. Administrative requirements (e.g., registration) have long been seen as significant barriers to participation (Powell 1986; Rosenstone and Wolfinger 1978). Such

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<sup>3</sup> [http://goproject.gop.com/RNC\\_Growth\\_Opportunity\\_Book\\_2013.pdf](http://goproject.gop.com/RNC_Growth_Opportunity_Book_2013.pdf)

rules are not beyond partisan manipulation, as both parties have pushed for reforms that are thought to benefit their party over the opposition.

In fact, history is filled with legal attempts to prevent certain groups from having unfettered access to the polls. The most infamous example is the adoption of Jim Crow restrictions by southern Democrats to prevent African Americans from participating in elections. Laws that prevent felons from voting have also been shown to increase as other barriers to participation fell (Manza and Uggen 2004), enabling officials to continue to deny suffrage to many African Americans, who were disproportionately impacted by these laws. More recently, state officials have used election laws to both expand and contract the electorate.

Pundits and scholars alike believe that Democrats receive an electoral benefit when voter turnout increases (Gomez, Hansford, and Krause 2007; Tucker and DeNardo 1986). Not surprisingly, we see the major parties continue to favor policies that broadly impact the electorate. Democrats often introduce reforms to increase access to early or absentee voting, for example, and Republicans often resist such efforts. And in some states, this struggle even becomes part of the partisan wrangling over election laws. The Help America Vote Act (HAVA) of 2002 originally contained a photo ID requirement for all voters, which was lessened in the face of Democratic opposition in the Senate. One interesting example of the competing actions towards election reform can be seen looking at early in-person voting in Ohio. Democrats in the state legislature had pushed to liberalize voting requirements in the state, but Republican control of the state government frustrated those efforts. In response, Democratically allied groups placed both no-excuse absentee ballots along with a 35-day period of early in-person voting on

the 2005 November ballot. Using the off year election would allow reforms to go into effect in time for the 2006 open-seat race for Ohio governor. In response, Ohio Republican legislators quickly passed a bill that implemented both no-excuse absentee voting as well as incorporated a voter ID requirement for all voters, a provision not included in the Democratic ballot initiative. After the bill was signed into law, Republicans argued the ballot initiative was not needed, and it was subsequently voted down. A further wrinkle in the dilemma was that the 35-day early voting period overlapped with Ohio's 30 day registration requirement.

Many Democrats argued that this overlap resulted in a "golden week" during which voters could register to vote and vote on the same day. Republicans disagreed, arguing that one had to be registered for 30 days before being allowed to cast a ballot. Republican Secretary of State Kenneth Blackwell issued a directive to all state board of elections that the overlapping period did not allow those who resisted to vote the same day, and that those individuals would need to return 30 days after registering to cast a ballot. In 2006 Democrats took control of all statewide offices, and Democratic Secretary of State Jennifer Brunner ruled, in the lead up to the 2008 Presidential Elections, that the "golden week" *did* allow for same day registration and voting. The debate was not over until Republicans retook state government in 2010 and moved legislatively to remove the overlapping period, shirking the time available for early voting leading up to the 2012 Presidential Election (Carr-Symth 2015). This example shows how election law becomes a partisan tool to help the major parties win elections.

To date, studies of voter identification laws have not been placed into this broader context of partisan competition for electoral advantage. Recent research indicates that



there is a strong partisan and electoral incentive motivating passage of these laws (Hicks et al. 2015). However, studies of the impact of ID laws continue to yield conflicting results. By placing voter ID laws into this partisan context we can see how all aspects of these requirements, from initial passage to the partisan response afterward, are a result of strategic actions by the major parties to win elections. Parties can use election laws to expand or contract the electorate for their own advantage and subsequent chapters will apply this theory specifically to the issue of voter identification in the U.S.

### *The Political Parties as Strategic Actors in Elections*

Political parties are commonly defined as organized groups of individuals that seek to influence government actions by electing members to public office. Aldrich (1995) notes that “democracy is *unworkable* save in terms of parties” (3). Numerous other scholars have commented on the link that parties serve between citizens and the government. Indeed the essential difference between political parties and interest groups is that parties run candidates for office. Thus it should not be surprising that parties desire to win elections.

Unfortunately for parties, elections are inherently risky endeavors and there are few legal means of ensuring victory prior to the counting of ballots (Przeworski 1991). Parties thus have two major options to better their chances of winning. First, they can use time and money to ensure their supporters get to the polls on Election Day (Schattschneider 1960; Aldrich 1995). Through get-out-the-vote (GOTV) efforts parties can attempt to get more of their supporters to participate and tip the electorate into their favor. Conversely, parties can attempt to alter the legal framework of participation. Through manipulation of the electoral rules parties can dis-incentivize participation for

the other party's supporters. The highly polarized nature of the American electorate in recent elections provides both parties with key groups of supporters (Bartels 2000).

Despite the availability of these two options, both are not readily available at all times to parties. GOTV efforts require large investments of money and volunteers to staff efforts to make supporters aware of the election, the party's preferred outcomes, and then to assist supporters in getting to the polls. Likewise, altering the legal framework of elections is only available when the other party is either complicit in the change or unable to block the change (Sides et al. 2012). This makes campaign strategy a mix of both options, as parties compromise on election reform and place substantial effort into getting supporters to the polls.

This does not mean that all legal changes are off the table. In fact, a large body of research shows that issue framing can alter support for specific issues (Kinder and Sanders 1996; Druckman and Nelson 2003; Citrin et al. 2014). Thus parties may be able to alter the legal framework if they are successful in presenting potential reforms as serving an important purpose other than merely to create for themselves a more favorable electorate. Voting is seen as a key right by most Americans, and thus parties attempt to cast any reform that helps them win elections as an attempt to improve the overall quality and fairness of elections.

For most election reforms there are two generally applicable frames that can be used to either justify or critique a proposed legal change. One of the most relevant issues is access to the ballot. Historically, voting rights have centered on the idea that all citizens should have voting rights to ensure an equal opportunity for participation in American politics. This argument has been used to justify expanding suffrage to African

Americans after the Civil War, to women in the Progressive Era, to fight Jim Crow laws in the 1960s and to expand suffrage to 18 year olds. The Democratic Party, which is generally viewed as being advantaged by increasing the size of the electorate, uses this argument to fight for election reforms that increase opportunities to participate for all citizens. Same-day registration, no-excuse absentee ballots, and periods of early voting are all excellent examples of reforms framed as efforts to increase the franchise that were also motivated by an attempt by Democrats to gain some electoral advantage.

In contrast to each of these expansions of the electorate, opponents have argued that restrictions are necessary to protect the integrity of the electoral process. The argument goes that as barriers to voting fall, opportunities for misconduct increase. Just as Progressive Era impulses to expand the electorate led to the passage of women's suffrage, Progressives also championed residency requirements and voter registration to prevent political elites and party bosses from rigging the process (e.g., voting the graveyard?). Contemporary Republican elites use a similar argument to oppose the expansionist reforms that Democrats favor, arguing that some reforms open the door for potential election fraud which dilutes the votes of other citizens as evidenced by the declining share of the public that believes votes across the country are counted accurately.<sup>4</sup>

All election reforms have consequences, and parties intend for those consequences to help them win elections. A fruitful field of research has developed around the adoption of election reforms, and many have sought to find how particular

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<sup>4</sup> In post-election surveys in 2012, 2008, and 2004 Pew Research Center found that the share of voters who believed votes were counted accurately declined following each election, from 48 percent in 2004 to 43 percent in 2008 and a low of 31 percent following the 2012 election (Pew Research 2012). Of course, the decline likely reflects the arguments being pressed by Republican Party elites.

reforms impact voter turnout and confidence in elections. While scholars have found few consistent results for the impact of these laws on voter turnout (see Gronke, Galanes-Rosenbaum, and Miller 2007), empirical findings are not a prerequisite for forming judgments among the public and politicians. Persily and Lammie (2004) examine public opinion towards campaign finance restrictions and the Supreme Court's handling of these issues and find that the appearance of corruption, and not proof of actual corruption, is sufficient for both the public and the courts to uphold restrictions. While the Supreme Court has consistently sided with freedom of speech concerns in federal cases, it has upheld restriction on donations to candidates because of these concerns. This provides a compelling argument for opponents who note that appearances of electoral misconduct generate "second-order effects" that are bad for the political system including declining political participation (Persily and Lammie 2004; Norris 2008). Voter ID laws increasingly are debated on the grounds of these effects, with supporters arguing that incidental barriers are justified because of the role they play in protecting voter confidence. Additionally we see the debate sharply divided along partisan lines.

Researchers have long known that political parties play an important role in shaping mass opinion (Zaller 1993, Converse 1964). Such influence is especially likely when party elites take distinctive positions on issues (Blass, Roberts, and Shaw 2012; Zaller 1992). Not all individuals are equally likely to receive party cues, a process which Zaller (1992) refers to as the "polarization effect." As both major parties are framing the issue in specific ways, individuals are most likely to accept the cue provided by the party they with which they identify. Additionally, partisans who are more politically aware and attentive to elite political messages are the most likely to adopt the positions of their

party. It is at this point that voter identification laws become somewhat different from other election reforms.

While many reforms have mixed rates of support among the public, requiring voters to show identification has shown consistently high support (Alvarez et al 2011). This enables Republican political elites to pass legislation that may restrict the rights of some to vote but does not have obvious political side effects—i.e., does not appear as an effort to suppress Democratic supporters. Although many Democratic partisans and liberal groups believe these laws will disenfranchise many voters (Keyssar 2009; Minnite 2010), others have been less willing to support this reasoning.

Writing for the U.S. 7<sup>th</sup> Circuit Court of Appeals in upholding Indiana’s 2006 law, Judge Richard Posner stated that although the law would create some barriers to participation, at the time of his writing they were only viewed as minor barriers that would be easily trumped by the law’s ability to prevent fraud and the dilution of legitimate votes (Delaney 2008). Public opinion polls show that ID laws routinely receive the support of majorities in just about every demographic and political grouping (Alvarez et al. 2008; Pastor et al. 2010). On the other hand, Wilson and Brewer (2013) also find that substantial portions of the public believe that both voter fraud *and* voter suppression are “major problems” —48 percent and 41 percent, respectively. Not surprisingly, support for these laws may be conditioned on what impact individuals believe these laws have on participation, although few researchers have examined xxx.

It seems logical to assume that the fight over voter identification is primarily one of the framing of the issue. One side frames these laws as a necessary safeguard of American elections and a needed reform to ensure the accuracy and security of the

system for all voters. The other maintains that ID laws are simply the most recent attempt by politicians to lock specific groups out of the voting booth in order to win elections. Public support for these laws is likely to be driven by both of these dueling partisan frames, with more politically involved partisans being more likely to follow the cues of their party, as well as individuals' beliefs about the prevalence of voter fraud and the need to protect elections from it.

### *Using Election Law to Maintain a Winning Electoral Coalition*

Aside from the public opinion battle over the propriety and legitimacy of these laws, political elites must also fight inside the legislature to enact their preferred reform. This is the largest roadblock faced by parties seeking to enact reforms that blatantly advantage their side over the other. In most states, lawmaking power is divided between a bicameral legislature and the governor. While variation exists across the states, at a minimum, parties must obtain majority approval in both houses and the approval of the governor for policy to become law.<sup>5</sup> On top of this, legislators must get past the various institutional veto players that exist inside the legislative body. Therefore, some level of bipartisan support is often required to enable major policy changes.

However, when a party has legislative majorities in both chambers and controls the governor's mansion they are in much better position to alter laws over any protestations by the opposition party. In area of election reform, the incentive under unified control is to enact laws that advantage the incumbent party at the expense of the opposition (Bali and Silver 2007; Birch 2007). Voter identification laws are no different, with the majority of adoptions coming along partisan lines. Erikson and Minnite (2009)

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<sup>5</sup> Of all states, only Nebraska has a single chamber legislature. All other states have legislatures divided between a larger House and smaller Senate chamber.

note that over 95 percent of Republican legislators voted for at least one ID law introduced in their state between 2005 and 2007, compared to 2 percent of Democratic legislators. Others have noted that switching to unified Republican control is the best predictor of adopting a voter ID law (Hicks et al. 2015; Biggers and Hanmer 2011).

The passage of restrictive voting laws is potentially dangerous, however. Parties hope that the laws will not only pass through the state government, but that when implemented they will help them secure an advantage in the next election (Keyssar 2000). Most activists and scholars operate from the assumption that the Democratic Party benefits more from increases in voter turnout, and the Republican Party is advantaged when turnout rates remain low (Hansford and Gomez 2010; Piven and Cloward 2000). It is no surprise, then, that Democratic elites have championed reforms that attempt to expand the electorate, through no-excuse absentee ballots or same-day registration. Conversely, Republicans have sought to attach voter identification requirements to these same reforms as well as to restrict periods of early voting.

Changes in voter coalitions have made changes in voter ID laws more appealing for Republican politicians seeking to maintain a partisan advantage. Bartels (2000) describes the increase in partisan voting in presidential and congressional elections since the 1970s, which not only helps to divide the electorate between the two parties, but identifies groups that fall primarily into one party coalition or the other. In recent elections, racial and ethnic minorities (i.e., blacks and Latinos) are more likely to vote for Democratic candidates that make up an increasing share of the electorate (Abranson, Aldrich, and Rohde 2002). As the Republican share of the overall electorate shrinks, party elites feel a need to find other means of maintaining their advantage (Karol 2009).

Republican legislators can use election reform as a means of maintaining their electoral advantage. Fortunately for Republicans, the widespread public appeal of identification requirements and the rationale of preventing election fraud provides political cover for the adoption of ID laws. In addition, according to research on policy diffusion in the states, professional networks that link (Republican) legislators can help to reveal desirable outcomes of these laws for later adopters (Volden 2006; Mooney 2001; Berry and Berry 1997). Since the passage of HAVA in 2002 some state legislators, largely Republican, have worked to implement these requirements, often citing the public appeal behind such laws. The U.S. Supreme Court even cited the role of public opinion in its 2008 decision upholding photo ID requirements. While the Supreme Court decision provides legitimacy for efforts to justify promoting voter ID laws, researchers have also noted the strong partisan motivation for passing such laws (Hicks et al. 2015; Biggers and Hanmer 2011). While these explanations have focused primarily on the partisan makeup of the state government, it is likely that both competitiveness and demographic factors, which makeup the wider context of the partisan fight, also play a role in the decision to adopt ID laws.

One of the major arguments for opposing voter ID laws is that they raise the cost of voting for many citizens and thus impose a significant barrier to participation in elections. Under the strictest forms of these laws, votes are only counted if the individual has a government-issued photo identification. Those without acceptable identification at the polls are forced to cast a provisional ballot that is only counted if the voter returns to the board of elections within a specified period with proper identification or proof of the individual's inability to have photo ID for religious or financial reasons. This procedure



not only increases the costs of voting, but likely adds them disproportionately to members of various minority groups (e.g., blacks, Latinos), who, for various reasons discussed below, are less likely to have acceptable identification (Hershey 2009; ACLU 2008).

Most studies of voter turnout follow the rational choice model originally proposed by Downs (1967). Generally stated, this theory states that individuals decide to vote if the benefits of participation outweigh the costs. The benefits of voting, as measured in the likelihood of one person's vote deciding the election, are usually quite small, so that even minor increases in voting costs can depress voter turnout (Jackman 1987; Wolfinger and Rosenstone 1980).<sup>6</sup> Powell (1986) noted that administrative barriers (e.g. requiring the individual to register themselves to vote at least 30 days prior to the election) accounted for the largest difference in the turnout rate in the United States compared to other advanced democracies. The impact of administrative barriers is greatest for individuals who are not habitual voters, as those habitually committed to voting generally take steps to overcome barriers. Consequently, evidence shows that many liberalizing reforms in the U.S. have had little *overall* impact on average turnout in national elections as these reforms did not impact those who were habitual non-voters, instead altering how voters participate (i.e. move to voting early or absentee instead of at the polls on Election Day) (Gaimmo and Brox 2010; Gronke et al. 2007, 2007; Berinsky 2005). Given the widespread access to photo ID in modern life, requiring voters to present this may have little to no impact on turnout. Those who already have access to government-issued photo ID generally fit the same profile as voters, so the requirement adds few additional costs to these voters.

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<sup>6</sup> In the traditional cost-benefit analysis of voting the primary benefit is the likelihood that an individual's vote will determine the election results (Downs 1957). Since it is highly unlikely that one vote will determine the winner in most races the benefits in this sense are small.

Additionally, administrative requirements have been known to have disproportionate impacts on different segments of the population. On the whole, this is not surprising. The multistep process of registering 30 days prior to the election and then voting midweek in the U.S. advantages those who are able and committed to take the time to register and vote. This process must also be repeated for those who have moved since the last election. Each of these costs are potentially magnified by voter ID requirements. Although most citizens have access to a driver's license, those without one tend to be poorer, less educated and non-white (Pastor et al. 2010; Hershey 2009; Baretto et al. 2007). States often make free photo-IDs available for those without, but acquiring these often requires access to a birth certificate or proof of citizenship and a trip the place issuing the ID. Again, because the actual benefits of voting are usually quite small, such costs can seriously skew the decision to vote for many citizens.

#### *Voter Identification and Voter Participation*

Many suspect that because these laws impose additional costs borne disproportionately by disadvantaged minority voters, overall turnout should decrease. Several early studies sought to explore how stricter laws impact turnout, and the results were surprisingly mixed. Some found evidence that laws actually *increased* voter turnout (Milyo 2007), others found a negative impact (Alvarez et al. 2008; Baretto et al. 2007), and still others found no impact (Mycoff, Wagner, and Wilson 2009). Moreover, many of these studies approached the problem in different ways. Some focused on aggregate turnout; others used survey data to model voting decisions at the individual level, and others explored voter turnout by focusing on a state before and after a change in ID law. Still, findings remained inconsistent.

One potential explanation for these mixed findings is the political context surrounding these laws. While Republican legislators may be passing ID laws to protect a shrinking share of the electorate and lock out groups that traditionally vote for the Democratic Party, this is only one side of the electoral fight. Reform does not happen in a vacuum, and though the Democratic Party may be unable to prevent the initial passage of these laws it may adjust GOTV efforts to counter the impact of these laws. Just as the increasingly polarized nature of American elections allows Republican officials to pass laws that may reduce participation among specific groups, it provides civic groups with specific populations to target for mobilization efforts. ID laws also provide a message of voter suppression towards minority groups, groups that have historically seen many attempts to reduce their vote, thus creating a backlash effect that mobilizes liberal groups to counter the negative impact of these laws (Valentino and Neuner 2016).

Photo ID laws have increasingly been passed in controversial party-line votes, with much criticism in the media over their potential consequences. Comments by Republican legislators also help build the case for these laws as an attempt to reduce participation among Democratic constituencies. Many groups have become active in recent elections, attempting to shape the outcome through advertising and GOTV efforts. Voting rights groups may be targeting the groups thought to be harmed by ID laws in order to help them acquire the requisite identification, or absentee ballots in states where absentee ballots do not require proof of identity, and get to the polls on Election Day.<sup>7</sup>

Political parties are not the only strategic actors in American elections. Due to the highly controversial nature of voter identification laws among committed partisans we

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<sup>7</sup> Some states do not require the same proofs of ID for in-person voting and absentee voting. *Crawford v Marion County* (2008) specifically cited this in upholding Indiana's photo ID law, that voters without acceptable photo ID still had the option of requesting an absentee ballot to vote.

may see an increase in efforts by grassroots groups to mobilize minority communities to turnout as a way of nullifying the claimed suppressive effect of ID laws. Recently efforts to mobilize minorities may have been given a boost with the increased participation of minorities with the historic candidacy of President Barak Obama on the ballot in 2008 and 2012. Given this context, we might see an increase in turnout associated with these laws as groups respond to them.

From the perspective of rational choice theory, the decision to vote in an election is rarely considered rational, since the odds of any individual's vote deciding the outcome of an election is minuscule (Downs 1957). To combat the low reward of voting, parties must provide either a compelling reason motivate supporters to collectively lobby the government or vote in elections (i.e., increasing the costs of non-participation) or engage in efforts to dramatically reduce the costs of participation (i.e., Get-out-the-Vote efforts or voter registration drives). Chong (1991) refers to this collective action problem during the struggle for civil rights where groups struggled to overcome the free rider problem and encourage individuals to participate in collective action. Candidates and activists routinely exhort people to the polls by telling them that their vote can turn the tide of history or affect major national changes that, from a rational choice perspective, are grandly overstated but essential to overcome rational abstention. Voter ID laws can thus serve to provide a compelling narrative to encourage participation, and in some places groups are already using voter ID laws in an attempt to mobilize racial and ethnic minorities (for recent examples see North Carolina (Fulton 2016), Wisconsin (Issenberg 2012), and Texas (Liebelson and Reilly 2014)).

The study of elections in America is a study of how political parties react to a constantly changing environment. Voter identification laws represent one of many recent changes in how elections in America are conducted. One of their distinguishing features is that while many are concerned that ID laws may prevent participation among some classes of citizens, such laws maintain broad support by the public overall. Public opinion polls routinely show laws getting broad support among various segments of the population, with majorities of Democratic identifiers support these laws (despite, however, a large gap in support between Republicans and Democrats [Beaulieu and Voris, n.d.]).

Republican elites may be using this broad public support for their own electoral advantage. Many of the groups suspected of being most impacted by these laws are core members of Democratic constituencies. By implementing these laws Republican legislators may be able to take credit for actions that protect the integrity of elections while simultaneously restricting those who would vote for the opposition party. .

However, the mobilization effects of these laws may cut both ways. Just as Republicans pass these laws to prevent opposition groups from coming to the polls, Democratic and liberal grassroots organizations have an incentive to target these groups for mobilization efforts. As the proportion of minorities (e.g., Latinos and Asian Americans) in the electorate increases, so does the potential to swing close elections. Thus the strategic counter-response to these laws may be instigating an electoral backlash that hides their potential negative impact on turnout. In summary, the discussion above identifies a number of important relationships on how voter ID laws interact with the partisan system that can be tested in this study.

First, the adoption of ID laws is often portrayed as a strategic action by the Republican Party to maintain competitiveness in the face of an increasingly diverse electorate. Whether or not this is true, both parties often operate on the assumption that increasing turnout advantages the Democratic Party, which explains why Democrats often support reforms designed to expand the electorate, such as expanded early voting or online registration procedures, and Republicans often resist these reforms. The electoral coalition of Barak Obama drew from many segments of society that historically voted at lower rates than the general population. This suggests Republicans may be using control of many state governments to pass reforms that can counter the electoral gains of their opponents. Simply stated:

*Strategic Adoption: States will be more likely to adopt voter identification laws when state electorates favor the Democratic Party; i.e. when minority populations are growing and when Presidential election year turnout in the state is high.*

Second, the impact of voter ID laws can have one of two effects. Research shows that specific segments of the populations lack access to government issued photo ID, namely racial and ethnic minorities (Hershey 2009; Pastor et al. 2010). This means that on Election Day these groups would not have the documentation required to receive a ballot, and that the larger the minority population the larger the decline in average turnout will be. However, this ignores the growing controversy surrounding these laws and the likely response of supporters of the Democratic Party, who have every incentive to mobilize those groups presumed to be negatively impacted. Specifically, Democratic groups may attempt to portray voter ID laws as just a new incarnation of an old strategy for suppressing the right of African Americans to exercise the franchise. To the extent the counter-mobilization strategy is successful, instead of suppressing the vote of racial

minorities, they could be mobilized, thus negating any strategic advantage gained by Republicans. These two predictions of the demobilization and mobilization effects of voter ID laws can be stated as follows:

*Strategic Effect: States that enact voter ID requirements for all voters will see a decline in overall turnout levels, particularly among racial minorities.*

Or,

*Strategic Response: States that enact voter ID requirements for all voters will see an increase in overall turnout levels as opposition groups mobilize minority populations in the face of these requirements.*

These hypotheses will be further specified and elaborated in the following chapters in order to explore the role played by voter ID laws in the current American political context. Chapter Four shows that ID laws appear to be adopted primarily for strategic reasons in states with large presidential election turnout and growing minority populations. However, the impact of these laws has not been as expected. Chapter Five shows that states with large African American populations see an increase in average voter turnout when photo ID laws are in effect, with declines in voter turnout only in places where the incentive to mobilize opposition is not present. Chapter Six clarifies this by showing that in states with photo ID laws, African Americans living in poorer metropolitan areas were more likely to report being contacted by a campaign or other organization than those in states without photo ID laws during the 2012 presidential election. Combined with widespread anecdotal evidence, this suggests that opponents are successfully using voter ID laws to mobilize the electorate in the face of potentially discriminatory laws.

### **Chapter 3: Voter Identification Laws in the United States**

#### *Voter Registration: Improving Elections by Limiting Participation*

In the United States the right to vote was not originally addressed by the Constitution, leaving regulation of who could vote to the individual states. Nearly all states opted to limit suffrage to white, male property owners. In addition to the limited amount of individual who could vote elections themselves were difficult to conduct. Most citizens had to travel long distances in order to cast a ballot and in practice this often limited participation to urban elites (McDonald 2010). The difficulty in monitoring eligibility requirements often meant that the parties themselves policed who was eligible to vote (Keyssar 2000).

As suffrage expanded throughout the late 1800s, the role of the parties in policing eligibility become more subject to critique. By the 1900s most states legally offered suffrage to all male citizens. During this period the parties would spearhead efforts to get supporters to the polls. In many places party machines would pay poll taxes and offer numerous other incentives to get citizens to the polls to vote for the machine (Keyssar 2000). Corruption quickly became a national concern, as reports of party machines encouraging individuals to vote multiple times fueled concerns that parties manipulated elections for their own advantage. McDonald (2010) even observes that fraud may have played a role in the record levels of turnout seen during this period.

Progressives introduced multiple reforms during the early 1900s in order to break the power of party machines and ensure that all votes were counted equally. One reform was to require voters to register prior to the election, an effort that would help to ensure individuals voted only once and prevent the party machines from diluting the votes of



eligible voters through fraud. While registration requirements varied greatly from state to state, with some even requiring voters to register prior to each election, they had the somewhat intended consequence of driving down voter turnout (Burnham 1974). The US Supreme Court has routinely sided registration requirement as a neutral “time, place, manner” restriction necessary to regulate elections (*Smiley v Holmes* 1937). Cross nationally, registration requirements have been continually used to explain the low levels of voter participation in the US (Powell 1986).

In response to these low levels of participation many reforms have been designed to ease the voting process in the US. The federal 1993 Motor Voter Law required states to offer voter registration when individuals applied for or renewed their driver’s licenses. Other states have allowed for no-excuse absentee voting, periods of early in-person voting, and even opted to hold all elections by mail in an effort to boost participation. While these efforts have had a limited impact (Gronke, Galanes-Rosenbaum, and Miller 2007; Boix and Stokes 2010), they have dramatically increased the number of individuals who are registered to vote. Combined with the difficulty in purging voter registration lists, this has led to some concern that voter fraud is a growing problem.

Voter participation has historically been driven by a desire to expand the electorate to ensure all eligible voters are able to participate. At the same time there is a desire to see that the votes of eligible voters are not diluted by fraud or other misconduct. It is this context that drives the controversy surrounding voter ID requirements. Voter ID laws signal an attempt to constrict the electorate in the name of protecting the overall integrity of the electoral system. Prior to 2000, few states required voters to present ID prior to casting a ballot (NCSL 2015). Since that time a number of factors have more

than doubled the number of states asking voters for ID at the polls, with a growing number requiring photo ID of all voters in state elections.

*The 2000 Presidential Election, Help American Vote Act, and Voter Identification*

Few are concerned with the mechanics of elections aside from their trip to the polls on Election Day. The 2000 Presidential Election in Florida galvanized attention towards many details of the election process. On election night, Texas Governor George W. Bush (R) led sitting Vice President Al Gore (D) by 930 votes, with Florida's electoral votes and the presidency on the line (Blaz 2000). Florida law triggered an automatic recount of the vote and attention centered on several counties where multiple voters complained about the voting machines used in the election. The Gore campaign argued that a recount was the only means to ensure that the "most accurate vote count possible" was achieved with every vote counted as the voter intended (Blaz 2000).

Over the next few weeks news coverage centered on the manual recount as the courts weighed claims from both campaigns on the legality of the recount. The Gore campaign sought an injunction to prevent Bush from being certified as the winner before the total recount was finished, while the Bush campaign countered that the lack of state-wide standards in how to count ballots violated the rights of voters to have votes counted equally. The case quickly moved through the court system and reached the US Supreme Court nearly a month after the election. A 5-4 majority in *Bush v Gore* halted the recount and resulted in Bush being declared the winner of the state's electoral votes and the presidency. The Court's dissenting Justices voiced concern that the decision would "cast a cloud on the legitimacy of the election" and hold similar implications for future elections (*Bush v Gore* 2000, Stevens dissenting, 2).

Attention next turned towards ways to modernize and improve the electoral system in the United States with Congress taking the lead. In response to the irregularities seen in Florida and out of a desire to prevent future problems, Congress passed the Help America Vote Act (HAVA) of 2002. HAVA was widespread in its attention, containing a large number of provisions to improve elections across the country and providing funds to encourage states to update election machinery and other aspects of state elections. Another provision of the law provided for the first time that some voters in federal elections would be required to show proof of identity at the polls. Upon signing the bill, President Bush stated that the goal was to spur states into further reform and ensure voters would have “confidence that the system is fair and elections are honest, that every vote is recorded, and that the rules are consistently applied” (Pear 2002a).

Although HAVA passed both houses of Congress with widespread support, 357 to 48 in the House and 92 to 2 in the Senate, the identification requirement proved to be a large area of disagreement between Republicans and Democrats. Republican politicians desired a photo ID requirement of all voters in federal elections as a means to prevent voter fraud. The original draft of the legislation contained such a provision, but this ran into difficulty in the Senate. Democrats believed that a photo ID requirement would do little to prevent election fraud and only serve to prevent eligible voters from participating in elections. Senator Hillary Clinton, one of the two Senators to vote against HAVA, stated that any ID requirement would discourage participation among the many recently naturalized citizens of New York and the millions of residents who did not have a driver’s license (Pear 2002b). The requirement was then softened to apply to only first-time voters who did not present ID when they registered to vote and to remove the

requirement the ID contain a photograph of the voter. Among the public support was generally positive, but strong opposition coming from some civil rights groups.

After HAVA passed in 2002 a number of states adopted similar requirements for all voters in state elections. Generally these laws required voters to present some form of ID that contained the name and address of the voter, but laws contained provisions to allow those without proper ID to cast a ballot. After the 2004 presidential election a commission was established to review the effect of HAVA and recommend further reforms. The report was chaired by former Republican Secretary of State James Baker and former Democratic President Jimmy Carter, and among the many reforms suggested was a photo ID requirement for all voters (Baker-Carter Commission 2005, 18-21). While the commission did place this recommendation in the context of additional reforms to ease voter registration and concerns about barriers to participation, they recommend use of the REAL-ID card signed into law in 2005.

Opinion polls often show that large majorities of Americans support photo ID requirements and that they believe these would make elections more secure (Pastor et al. 2010). In the years after the 2004 elections several states adopted new voter ID requirements, with a growing number specifying photo ID. However, these laws each contained provisions to enable those without photo ID to cast a ballot in elections. In 2005 Indiana passed a law that moved the ID law debate into its current controversial territory. For the first time a state now required photo ID for all voters and held that votes would *only* be counted if voters presented photo ID.

*The Constitutionality of Voter Photo ID: Crawford v Marion County Board of Elections*

During the 2004 elections George W Bush was reelected as President of the United States, and Republicans had a good day picking up several Senate and House seats. At the state level, Republicans picked up the governorship in Indiana and a majority in the Indiana House of Representatives, giving them unified control of the state government. The next year they enacted a law requiring all voters to present photo ID at the polls on Election Day. Unlike HAVA, Indiana's law limited acceptable IDs to only those that were government-issued photo IDs with an expiration date and forced those without acceptable ID to cast a provisional ballot that would only be counted if they returned with acceptable ID within 10 days of the election. Also unlike HAVA the law was passed without the support of any Democratic legislators.

Democratic officials and civil rights groups were quick to criticize what was seen at the time as the strictest ID law in the country. Chief among their concerns were estimates that up to 13 percent of Indiana registered voters lacked acceptable photo ID and would be prevented from voting in elections (Urbina 2008). Additionally, many thought the law would primarily impact racial minorities and lower income individuals, in a calculated attempt to prevent core Democratic constituencies from voting. Nonetheless the ID law went into effect for the 2006 elections and reports quickly emerged of voters being denied a ballot. On behalf of 32 Marion County voters the League of Women Voters challenged the law as an unconstitutional barrier to voter participation. The law was upheld by federal courts with Judge Richard Posner writing the opinion for the 7<sup>th</sup> Circuit Court of Appeals holding the law was not a significant

barrier to participation given the limited evidence of any voters being permanently denied a ballot or of any disproportionate impact of the ID law on racial minorities.

The case was appealed to the US Supreme Court and heard in 2008, with a ruling to be released in time for the Presidential Election. States across the country had considered similar laws, giving the decision major implications for ballot access in future elections. Critics argued that the law unconstitutionally denied a ballot to otherwise qualified voters, with specific subsets of the population at greater risk for being denied a ballot. While the state did make free photo IDs available to those who needed them, obtaining the free ID required additional documents that often required fees to acquire which critics equated to a poll tax. Indiana put forth a number of arguments for why the ID requirement was necessary. Chief among these reasons were the prevention of voter fraud and increasing voter confidence in the overall electoral process

In a 6-3 decision the Supreme Court upheld the constitutionality of voter photo ID requirements. Writing for the majority, Justice John Paul Stevens was careful to point out that any restrictions on voting must be both neutral in their application and directly related to voting to be upheld (*Harper v Virginia* 1966). Even if restrictions meet those requirements there would still be room to strike down the restriction if there was evidence of a disproportionate impact. The Court noted that lower court findings showed little evidence that the photo ID requirement restricted anyone's right to vote, even pointing out that those without photo IDs would still be eligible to vote absentee.

Two major justifications put forth by Indiana have been used to justify the necessity of ID requirements across the country; the prevention of voter fraud and maintaining voter confidence. Interestingly, the presence of actual fraud was not

necessary to justify the regulation. The Court noted that there was little evidence of voter fraud in Indiana but that maintaining public confidence in elections had an “independent significance” and photo ID requirements were a justifiable means to do so (*Crawford* 2008, 13). Even past examples of fraud could be used as justification to so a potential concern for state lawmakers.

Bolstering Indiana’s case for photo ID were two separate national actions that gave credence to the need for photo ID. The Court first pointed to HAVA, which although it contained a limited ID requirement, showed that Congress considered proof of identity one way to protect the integrity of the electoral process. Further, the fact that HAVA explicitly mentioned photo ID showed that photo ID in particular could be “one effective method of establishing a voter’s qualifications to vote” (*Crawford* 2008, 9). While the act did not require states to implement photo ID, it also did not prevent them from establishing stricter ID requirements on their own. Second, the Baker-Carter Commission report after the 2004 Presidential Election specifically recommended photo ID as a reform that would improve faith in elections. The commission also noted that while fraud was not a national problem, it could play a significant role in some close elections. For Stevens this shows a broad appeal to in favor of photo ID laws.

This was not to suggest that ID requirements did not add costs to the voting process. The Court noted that requiring voters to present photo ID at the polls did complicate the voting process it did not create a significant barrier for most voters. Findings in the lower court showed that estimates about how many voters lacked photo ID were not reliable and that no voters were denied a ballot due to lack of ID. Justice Steven further held that given the widespread access to driver’s licenses in modern

society, any inconvenience would be no greater than in other daily activities.

Additionally, the requirement was justified in order for the state to maintain accurate recordkeeping in order to “carefully identif[y] all voters participating in the election process” (*Crawford* 2008, 12). For those without photo ID or who were unable to obtain one, the law still left open absentee voting as a means of participation.

In closing, the majority even addressed the possible partisan motivations for Indiana’s ID law. While the law was passed in a strictly partisan manner, this was not enough to strike down the law. The majority noted that while partisan interests might have motivated the votes of some legislators those were not enough to override “a nondiscriminatory law supported by valid neutral justifications” (*Crawford* 2008, 20). Combined with the limited evidence of any disproportionate impact there was little justification to strike down the law.

*Crawford* set the stage for much of the current debate over ID laws. Supporters continue to point to the role ID laws play in preventing fraud and protecting voter confidence. In virtually every case where these laws are adopted these two claims form the basis of arguments in favor of the law. Critics take issue with the Court’s findings that the laws have no disproportionate impact. In fact, Judge Posner, who authored the original circuit court opinion the upheld voter photo ID, has cited the strong polarization as cause for doubting these laws have no disproportionate impact (Posner 2013).

After the decision was announced in 2008 the number of states with photo ID laws increased sharply. After the passage of HAVA in 2002 many states adopted non-photo ID laws, with 23 states having any form of voter ID law in 2006. By the 2012 presidential election nearly 30 states had ID laws in effect, with one-third specifying the



ID contain a photograph of the voter. Most of these laws were passed by state governments under unified Republican control and without a single Democratic vote.

*Rhode Island Democrats and Photo ID Requirements*

Across the country voter ID laws, especially those with photo ID requirements, are largely associated with the Republican Party. Since 2002, states under unified Republican control have passed nearly all new ID requirements with nearly all support coming solely from Republican legislators (Hicks et al. 2015). Two states appear to buck this trend; New Hampshire and Rhode Island. Both states are located in the Northeast and adopted photo ID requirements in 2011. However, both states have elected Republicans to statewide office and stand out as more conservative than other states in the Northeast. New Hampshire is often considered a presidential battleground, and from 1980 to 2009 was represented in the US Senate by two Republican Senators.<sup>8</sup> Rhode Island had elected Republican governors from 1995 until Independent Lincoln Chafee was elected in 2010, Chafee has previously served as a Republican US Senator for the state from 1999 to 2007.

In New Hampshire the adoption of photo ID was still primarily related to the success of the Republican Party. The 2010 elections gave Republicans a majority in both houses of the New Hampshire General Court. In a party line vote Republicans adopted a photo ID requirement that would be phased in over a series of elections, going into effect for the first time in 2016. While Democrats lacked the votes to prevent Republicans from passing the law, the Democratic governor promptly vetoed the legislation (Caldwell 2012). Upon returning to the legislature Republicans promptly overrode the veto without

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<sup>8</sup> Republican Senator John Sununu lost reelection in 2008 to Democrat Jeanne Shaheen, a seat Republicans had held since 1979. The second seat is held by Republican Kelly Ayotte who was elected in 2010 to a seat controlled by Republicans since 1980.

a single Democratic vote. While Republicans lost seats in subsequent elections, they maintained a majority in the state senate and have prevented Democratic attempts to repeal or alter the legislation. The law officially went into effect for the 2016 New Hampshire primary elections and has not yet faced a legal challenge.

In nearby Rhode Island the story is quite different and has often been used to counter the purely partisan dynamic seen in every other voter ID law. While the state had considered and rejected photo ID in previous years, in 2011 the Democratic controlled General Assembly enacted a photo ID requirement. Like New Hampshire, the law was to be phased in over a series of elections with the photo ID requirement taking effect in 2014. Unlike New Hampshire the process was entirely driven by Democratic politicians.

One of the earliest supporters of the law was the Rhode Island Secretary of State A. Ralph Mollis (D). Mollis had been elected to the position in 2006 and reelected in 2010 and introduced voter photo ID as part of an election reform package designed to improve state elections in Rhode Island. While the law was based on Indiana's photo ID law Rhode Island's contained several provisions that would all "a variety of other identification" to stand in for those who lacked photo ID (Rhode Island Secretary of State 2009). Alongside the photo ID law Mollis introduced legislation that would expand early voting opportunities in the state. These two reforms were hoped to both expand participation and protect the confidence of Rhode Island voters.

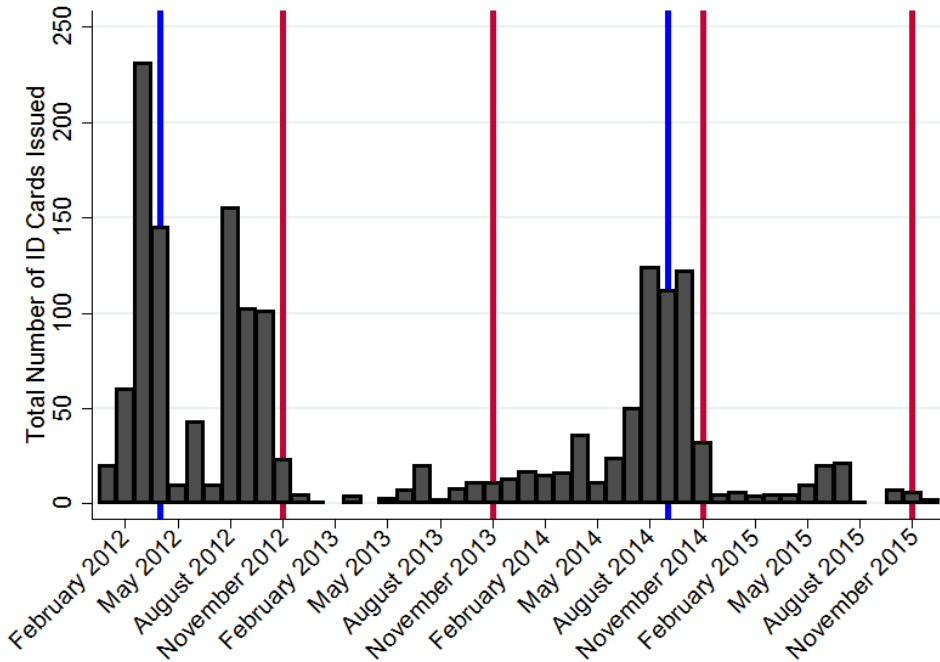
On the legislative side the ID law was sponsored by two Democratic legislators, one in both the House and Senate. Leadership continued to push the bill even as national party leaders pushed back against the legislation. The Democratic National Committee even had President Obama call the Rhode Island House leadership in an attempt to get

them to drop the bill (Sharfenberg 2012). Efforts were not successful and the legislature continued to push voter ID. While civil rights groups raised some concerns about access to IDs, several prominent African American legislators supported the ID requirement. One supporter, Rep. Anastasia Williams (D), even spoke of her own experiences of having her vote stolen in 2006 and seeing on individual vote multiple times in 2010 (Sharfenberg 2012). In the end, the bill passed by comfortable margins with a 54-21 vote in the House and a 34-2 vote in the Senate.

The legislation then moved to the desk of Governor Chafee (I), a former Republican who was hesitant about signing the bill. While several civil rights groups lobbied the governor to veto the ID law members of the legislature urged him to sign the bill. Key support came from two African American legislators who urged the governor to sign the bill. In a later interview, Governor Chafee stated that their efforts were largely responsible for his decision to sign the bill. In their meeting they told the governor that election fraud was often a problem in urban primary elections, which were often decided the election as few Republican candidates ran in the general election (Martin 2011). The governor's signature set the stage for photo ID to go into effect in 2014. Governor Chafee did not seek reelection in 2014, and a Democrat Gina Raimondo was elected, however the ID requirement has not been repealed or significantly modified. The state remains the only state without Republican majorities to adopt photo ID legislation.

Numerous groups were concerned about the impact the photo ID requirement would have on voter participation. Voting rights groups were concerned that the growing number of Hispanics would be prevented from voting in state elections, particularly in

**Figure 3.1: Total Number of Rhode Island Voter ID Cards Issued Since Adoption of Photo Identification Requirement**



Note: Figure 3.1 shows the total number of voter identification cards issued by the state of Rhode Island from January 2012 through December 2015. The red vertical lines indicate November general elections while the blue vertical lines indicate primary elections for U.S. President (held April 2012) and state primary elections (held September 2014). Source: Rhode Island Office of the Secretary of State, 2016.

primarily African American districts (Scharfenberg 2014). After the law went into effect the Rhode Island ACLU positioned election watchers across the state to see how the law was implemented and guide future voter education efforts. Primarily these efforts have been to instruct voters on how to obtain acceptable photo ID if they lack it (Bell 2014).

The Rhode Island Secretary of State issues free photo ID cards for voting to individuals who lack these IDs. Figure 3.1 shows the number of these ID cards issued by the state began issuing IDs in 2012. Information was made available by the Office of the Secretary of State and shows the total number of ID cards issued each month, the vertical lines on the graph indicate months where elections were held (primary elections by the blue vertical and general elections by the red vertical). Not surprising given the efforts to

educate voters the number of ID cards spike prior to each election.<sup>9</sup> The law has not been challenged in either state or federal court.

This case illustrated a number of key points in the debate over voter ID laws. First, while many rightly associate these law with the Republican Party there may be key strategic considerations at work. In Rhode Island many suspected that the law was pushed by African American legislators who were concerned with the growing number of Hispanic voters in their districts. Thus the ID law may be a primarily strategic tool in the face of growing populations not favorable to incumbents. In most other states this is likely driven by the strategic concerns of the Republican Party in response to growing non-white populations (Hicks et al. 2015), but ID laws present an opportunity for any incumbents to target groups that may challenge their electoral coalition. Additionally, efforts at voter education may be responsible for preventing any negative impact from these laws. While civic groups were unable to prevent the law's eventual adoption, they have put great effort into voter education in the face of these laws. Ensuring that eligible voters have proper ID would negate any suppression they laws would otherwise create. Part of the reason the ID law has not seen a legal challenge is that groups consistently watched elections after the law went into effect to advise individuals on how to obtain acceptable ID.

#### *Pennsylvania: A Setback for Photo ID*

While Democrats in Rhode Island were pushing for a voter photo ID requirement Republicans in several other states were working towards the same goal. The 2010 midterm elections were a good time for Republicans, who took unified control of several

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<sup>9</sup> Rhode Island has statewide elections in even-numbered years. In odd numbered years, e.g. 2015 and 2013, local special elections are held.

states, including Pennsylvania. As the 2012 presidential election approached Republicans in the Pennsylvania State Assembly introduced new legislation that would require photo ID of all voters in upcoming elections. The fight took on an even more partisan edge after video leaked of a Republican State House leaders claiming that the new law would enable Mitt Romney to win the state in November (Olsen 2012). Democratic officials lacked the votes to prevent adoption of the law, and the fight quickly turned to the state courts.

Arguments for and against the requirement remained little changed from the arguments issued in *Crawford* a few years before. Supporters claimed the ID requirement was necessary to prevent possible voter fraud in elections and to maintain voter confidence. Speaking in support for the bill Governor Tom Corbett (R) stated that a “photo identification requirement is a sensible and reasonable measure” to assure the public that only eligible voters cast ballots in elections (Worden 2014). Both were arguments that had been explicitly endorsed by the US Supreme Court and other federal courts who had upheld photo ID requirements.

Critics likewise continued to argue that the ID requirement would present a significant barrier to hundreds of thousands of Pennsylvania voters. Additionally, they argued that the law would disproportionately impact specific subgroups of the population, like racial minorities, who were less likely to have government-issued photo ID. A key difference in the Pennsylvania case was that groups also argued that the timing of the law, which went into full force for the presidential election, left little time to ensure all eligible voters obtained proper ID. While the state did make free IDs available, critics claimed that voters were not properly educated about what IDs were acceptable and how

to obtain a free ID if they needed one. Many who opposed the law saw it as a thinly veiled attempt by Republicans to steal the 2012 election.

Another key difference for the Pennsylvania voter ID fight was that it primarily took place in state courts rather than federal courts. Indiana's law had been challenge in Federal District Court and upheld by successive federal courts. In Pennsylvania the fight would be limited primarily to the state courts, which meant the Pennsylvania constitution would play a large role. On key provision that would come into play was that Pennsylvania's constitution treated voting as a fundamental right and that no "power, civil or military, shall at any time interfere to prevent the free exercise of that right" (*Applewhite v Pennsylvania* 2014, 35). Thus, restrictions on voting, however slight, might be enough to strike down the law.

The initial challenge was heard by the Commonwealth Court of Pennsylvania and upheld the ID requirement. In its decision the court explicitly endorsed the role that photo ID laws play in maintaining voter confidence. Writing for the court, Judge Robert Simpson referred to the photo ID requirement as a "reasonable, non-discriminatory, non-severe burden" on the right to vote, especially when viewed in the context of the "widespread use of photo ID in daily life" (Barnes 2012). While there were justifiable concerns about those who lacked acceptable photo ID, the state made free photo IDs available and this mediated that concern. Photo ID was acceptable under the state constitution and enforceable for the 2012 election.

Opponents appealed the decision to the state supreme court citing the difficulty in getting the free IDs to those who needed them prior to the election. While the state supreme court did not issue a ruling on the constitutionality of the ID requirement, it did

order the case back to the Commonwealth Court for retrial focusing on the process of getting ID cards to those in need. In early October Judge Simpson partially reverses his decision, placing the law on hold for the 2012 elections given concerns about getting ID to all voters who need it. However, the decision did not permanently strike down the requirement, and critics continue their challenge to have the law struck down by the Pennsylvania courts.

After the election the court battle over photo ID resumed. At a 12 day hearing the Commonwealth Court heard from experts and witnesses who spoke on both the necessity of the law and the difficulties in issuing free ID cards to those in need. Several groups testified that during the law's initial implementation numerous problems plagued the states system to provide free IDs, with some voters never receiving their ID cards (AP 2014). Expert testimony detailed that the state's voter educational campaign was filled with errors that were not corrected, and that the effort failed to reach the majority of the state's population. The court was very concerned that the state's efforts might result in some eligible voters being unable to obtain the free photo ID and then prevented from voting through no fault of their own, in violation of the state constitution. At the close of the trial Judge Bernard McGinley authored the opinion striking down photo ID as an unconstitutional burden on the right to vote.

The court's opinion carefully walked through each argument to show that the photo ID requirement would prevent a large number of registered voters from participating in elections, a clear violation of the state constitution (*Applewhite v Pennsylvania* 2014, 17). Experts had identified roughly 430,000 registered voters who lacked government-issued photo ID that would be acceptable under the state law, a figure



that state officials were unable to refute. Further complicating the state's case was that many IDs issued by government agencies were not in compliance with the law. Student ID cards and veteran's IDs both stood out as government-issued photo IDs that lacked an expiration date and the state made no effort to either bring these IDs into compliance, such as by mandating state schools include an expiration date, or to add exemptions for these IDs, in the case of military IDs. State efforts to educate voters about the ID law and procedures for obtaining a free ID largely failed and would leave a large proportion unable to meet the state's requirements. While this only restricted the rights of a small number of Pennsylvania voters, Judge McGinley noted this was enough to cast serious doubt on the constitutionality of the law.

Turning to the state's arguments for the necessity of the ID requirement, the court found little evidence that the ID requirement would improve Pennsylvania elections. The chief argument by the state was that the law was necessary to both prevent fraud and maintain voter confidence, claims that the US Supreme Court found to be independent of one another (*Crawford v Marion County* 2008). The Commonwealth Court rejected this argument, holding instead that the ID laws' fraud prevention was tied to the requirement's ability to protect voter confidence. Pennsylvania failed to provide evidence that in-person voter fraud was a significant problem in recent elections, which the court interpreted to mean voter fraud did not pose a threat to elections. The lack of justification for voter fraud then limited the state's ability to show the photo ID requirement could effectively safeguard the confidence of voters. Photo ID unquestioningly added restrictions to the right to vote that were unsupported by any apparent need that justified requiring voters to show photo ID. Given the state constitution guaranteed the right of all

qualified voters to participate in elections, the law “inescapably...infring[ed] upon qualified electors’ right to vote” (*Applewhite v Pennsylvania* 2014, 37).

After the Commonwealth Court struck down the photo ID requirement the Governor choose not to appeal the decision to the Pennsylvania Supreme Court. While this did not signal a change in the governor’s position on the law, as he publicly stated he hoped changes to the law could be made for future adoption, it may have been a result of strategic concerns by the governor. The decision was handed down in 2014, which also happened to be an election year for the governor. Opposition forces had already shown an ability to rally support and further attempts to implement photo ID may have further angered these forces. In the end, Governor Corbett lost the election and this halted any attempts to implement voter ID.

The lack of an appeal to the state supreme court also meant that the US Supreme Court was denied an attempt to reconsider voter photo ID in light of specific concerns regarding access to ID. Several state courts have struck down photo ID laws since their adoption on grounds similar to those used in Pennsylvania. However, these rulings are themselves not indication of how the laws will be treated in other states. Pennsylvania’s Commonwealth Court tied the usefulness of voter ID to maintain voter confidence to the prevalence of voter fraud. In other states voter fraud may be a more prevalent concern and justify more stringent ID requirements. Additionally, other judges may be more or less willing to look at voter confidence in close relation to potential voter fraud.

#### *Wisconsin: Photo ID and State Courts Take II*

At the same time Pennsylvania’s photo ID law was working through the state courts, a similar law in Wisconsin was facing challenges in Wisconsin state courts. The

early story of Wisconsin's photo ID law was much like in Pennsylvania and other states. During the 2010 election Republicans took control of all three branches of the state government, giving them unified control of the state for the first time since the late 1990s. After taking control they quickly passed a photo ID requirement for all voters without a single Democratic vote. Republicans maintained the law was necessary to prevent election fraud, while supporters argued that the law would prevent eligible voters from participating in elections. The law briefly took effect for the 2012 state primary election and was promptly challenged, leading the law to be placed on hold for the 2012 Wisconsin Presidential primary and later general election.

Over the next several years the law fought its way through federal and state courts, with conflicting rulings dominating press coverage leading up to the 2014 general elections. Lower court rulings at both the state and federal level held the law to be an unconstitutional burden on the right to vote, with the Federal District Court in Milwaukee specifically citing concerns over a disproportionate impact on racial minorities (Wolf 2014). The federal 7<sup>th</sup> Circuit Court of Appeals, the same court that upheld Indiana's ID law years earlier, upheld the law citing the 2008 *Crawford* decision. This placed the law in effect for the midterm elections, pending a ruling by the state supreme court. In September, the Wisconsin State Supreme Court upheld the photo ID law stating that the burdens created were "not severe [enough] burdens on the right to vote" to invalidate the law, and the ID requirement went into effect for the 2014 elections (Spicuzza 2014).

Critics rushed a challenge to the US Supreme Court which placed the law on hold in October, roughly a month before the election, over concerns in getting appropriate ID to those in need prior to the election. This ruling did not address the constitutionality of

the law, and the US Supreme Court only recently refused to hear a challenge to the ID law (Milewski 2016). Refusing to hear the case on the constitutionality of Wisconsin's photo ID requirement left standing lower court rulings, by the US Circuit Court and Wisconsin State Supreme Court, which upheld the constitutionality of the ID law.

In upholding the constitutionality of the photo ID requirement the Wisconsin Supreme Court followed a delicate balance between giving deference to the state's interests and addressing concerns over those who lack acceptable photo ID. Justifying the requirement largely followed the US Supreme Court's 2008 *Crawford* decision. The state court held that a photo ID requirement was a "reasonable regulation" of qualified voters, consistent with the state's interest in ensuring that only eligible voters participate in elections (*Milwaukee NAACP v Walker* 2014). This rejects the decision by lower state courts, and courts in other states, that photo ID requirements add to the qualifications of voters. Interestingly, the court also explicitly rejected the idea that its decision should in any way estimate whether photo ID law were "the best way to preserve and protect the right to vote" (*Milwaukee NAACP v Walker* 2014, 6). Following US Supreme Court precedent Wisconsin's court held that photo ID laws were a legitimate way for the state to ensure that elections are run effectively, giving the state great latitude so long as the requirement was nondiscriminatory.

This did not indicate that the court believed that the law did not complicate the voting process. Instead, the court weighed the additional burdens against the state's interests of preventing voter fraud and maintaining the integrity of the overall election process. Findings from lower courts did show that the process of obtaining one of the free IDs made available by the state for voting was often difficult. Numerous witnesses

testified about their difficulties in getting a free ID card, but the court pointed out that every person was ultimately successful in obtaining an ID card (*Milwaukee NAACP v Walker* 2014, 11). This was magnified by what the court indicated was the increasing necessity of having photo ID for daily life, which the court noted was not needed only for a broad range of daily activities but also increasingly mandated by the federal government pursuant to the REAL ID Act. Many of the other difficulties in getting a free ID card were “no more of an imposition than is the exercise of [voting] itself, which can involve waiting in long lines and traveling distances in order to cast a ballot” (*Milwaukee NAACP v Walker* 2014, 23). Additionally, the lack of evidence of voter fraud in Wisconsin was not enough to disavow the state’s interest in preventing possible future fraud.

However, the court did act to lessen some of the difficulties associated with obtaining a voter ID card. While the ID cards issued by the state have no costs, these require supporting documents that often require costs to obtain. Critics have used these secondary costs to equate voter ID with a poll tax. Other state laws have been upheld as they allow voters other options of casting a ballot without obtaining photo ID, such as by voting absentee. Wisconsin’s ID law applied to all forms of voting, forcing all voters to obtain photo ID which may require them to pay the state for secondary documents. This claim was not directly addressed by the *Crawford* decision, leaving room for some state courts to strike down ID laws. Rather than strike down the ID requirement, the Wisconsin Supreme Court held that ID cards could be issued without these documents to prevent the paying of any funds to the state for the ability to vote.

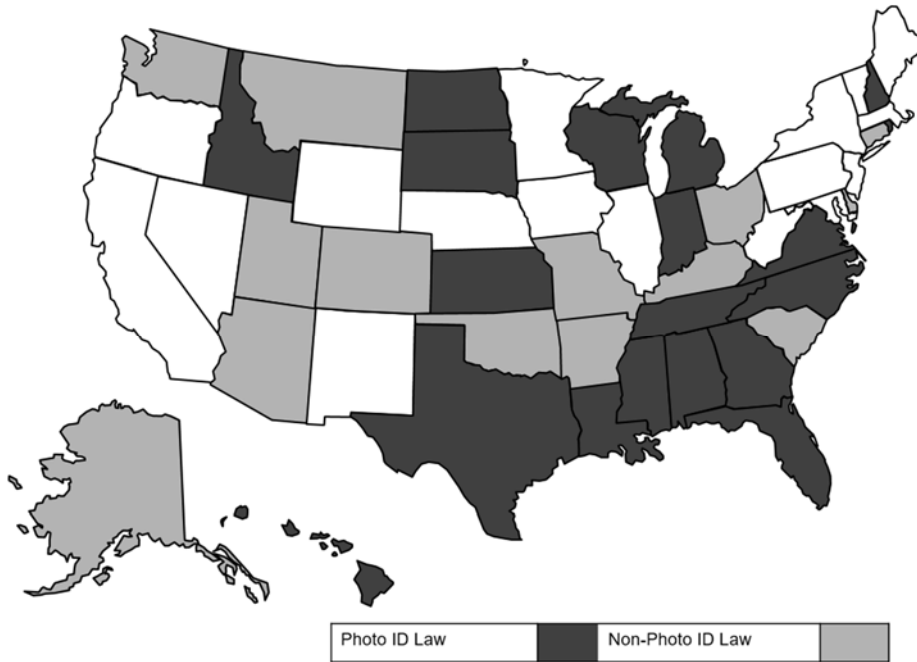
This same aspect was recently addressed by the US 7<sup>th</sup> Circuit Court of Appeals, which softened the ID requirements to allow for a broader range of acceptable ID while

still upholding the ID requirement. This altered the fight to focus on those who face difficulty obtaining photo ID, much like the grounds used to strike down Pennsylvania's ID law in *Applewhite v Pennsylvania*. Writing for the court, Judge Frank Easterbrook noted that "the fact that 99 percent of other people can secure the necessary credentials easily" was not enough to trump the concerns of those who cannot obtain such documents (Marley and Stein 2016). This ruling keeps alive challenges to the ID law and presents an opportunity for the US Supreme Court to reconsider the constitutionality of photo ID requirements. In the short term the case was sent back to lower court for hearings on the hurdles associated with obtaining an ID.

In the end the constitutionality of photo ID laws may hinge on the state's efforts to educate voters about the law. Recently Democratic legislators in Wisconsin have pushed for more funds to educate voters on the ID law and steps to take in order to obtain a photo ID. Representative Chris Taylor (D) notes that confusion still exists as student and veterans ID cards are not allowable under state law because they lack an expiration date, even though they meet other requirements (Milewski 2016). Given concerns about increased turnout for the 2016 presidential election there are deep concerns that many will not be educated about the ID law's requirements prior to the election. In Pennsylvania state efforts to educate voters were a central concern in the state court's decision to strike down the photo ID requirement.

The ongoing Wisconsin debate reinforces many themes in the current debate. First is the legal challenges associated with obtaining photo ID. State courts have given more attention to these hurdles as restricting the rights of voters. In many places state constitutions provide additional protections of the right to vote which have enabled photo

**Figure 3.2: Voter ID Law in Effect in the United States, 2016**



Note: Figure 3.2 shows the voter ID law in effect in the United State as of May 2016. This breakdown shades those states where law specifies that the ID have a photograph of the voter (dark grey) and those that allow a broader array of identification documents (light grey). States not shaded do not require voters to present identification at the polls on Election Day.

ID laws to be stuck down in several states. The US Supreme Court may get an opportunity to rule on these issues as the Wisconsin law is still under review by federal district court. Second, the presence of fraud and maintaining voter confidence continue to be a justification for the adoption of these laws by state governments, with the effectiveness or motivations behind the law not entering the legality of the laws.

*Voter Identification in the US, Looking Towards November 2016*

Currently, 34 states require voters to present some form of identification at the polls in order to receive a ballot, and of these 18 ask voters to present a photographic ID (NCSL 2016). In several states, New Hampshire, North Carolina, North Dakota, Texas, Virginia, and Wisconsin, voters will be asked for photo ID for the first time in a presidential race. Estimates show that millions of Americans lack access to government-

issued photo ID (ACLU 2011). Those who lack photo ID tend to be racial minorities, low-income, and younger voters (Hershey 2009; Pastor et al 2010). This adds an interesting dynamic to the upcoming elections. Participation in both major party primaries is setting records, and the upcoming election may see millions of first time voters in addition to many who have not voted since 2008. This might mean tens of millions of voters attempt to vote without proper ID and get denied a ballot in the upcoming election.

Voter ID laws are divided into two primary types based on the form of ID specified by the statute. Figure 3.2 shows the distribution of ID laws in the US as of May 2016. Both types of ID laws require that voters bring documentation with them to the polls on Election Day. Photo ID laws are the more controversial of the laws typically passed and require that voters present an ID with a photograph of the voter. While this could be any photo ID, many states further require that the ID be government-issued and have an expiration date. Non-photo ID laws allow for a much broader range of acceptable ID. In many states laws allow any document that contains both the name of the voter and a current address, while other states allow credit cards or social security cards to be used to prove a voter's identity. States without ID laws in place may still require voters to sign a poll book or state their name but do not require additional documents to prove their identity.

This is subject to change as laws can be revised by state law prior to going into effect or afterwards or struck down or placed on hold by legal action. North Carolina adopted a photo ID law in 2013 but amended the law in 2015 to provide alternative means of voting for those without acceptable photo ID. Texas passed a photo ID law in



2011 which has faced legal challenges in the years since. The law is set to go into effect in the 2016 General Election, but remains in effect pending further court action.

Whereas Republicans have been the driving force behind the adoption of many of these laws, Democrats are not without options. In many states legal challenges have been primarily driven by groups closely allied with the Democratic Party (Wolf 2014). Inside the legislature Democratic officials often push for increased funding to educate voters about these laws and how to obtain a photo ID if needed. Grassroots organizations have been active in educating voters across the country.

Anecdotal evidence shows many groups attempting to mobilize African Americans in the face of photo ID requirements. Chong (1991) looks specifically at the Civil Rights Movement to show how a strong message is necessary to overcome the collective action problem inherent in discriminatory legal practices. As states strengthened laws numerous grassroots and national organizations, such as the NAACP, acted to mobilize the African American community to counter these laws; in North Carolina (Fulton 2016; Burns and Mildwurf 2013), Wisconsin (Issenberg 2012), Texas (Liebelson and Reilly 2014; Melber 2014), and Indiana (Adler 2008). Recent research shows that ID laws themselves are capable of angering and incentivizing participation among core Democratic constituencies (Valentino and Nuener 2016). This provides a potential explanation for why research on voter ID requirements has shown mixed results. If the efforts of these groups are successful they will be mobilizing the very segments thought to be targeted by ID requirements.

## **Chapter 4: The Spread of Voter Identification Laws in the United States 2000-2014**

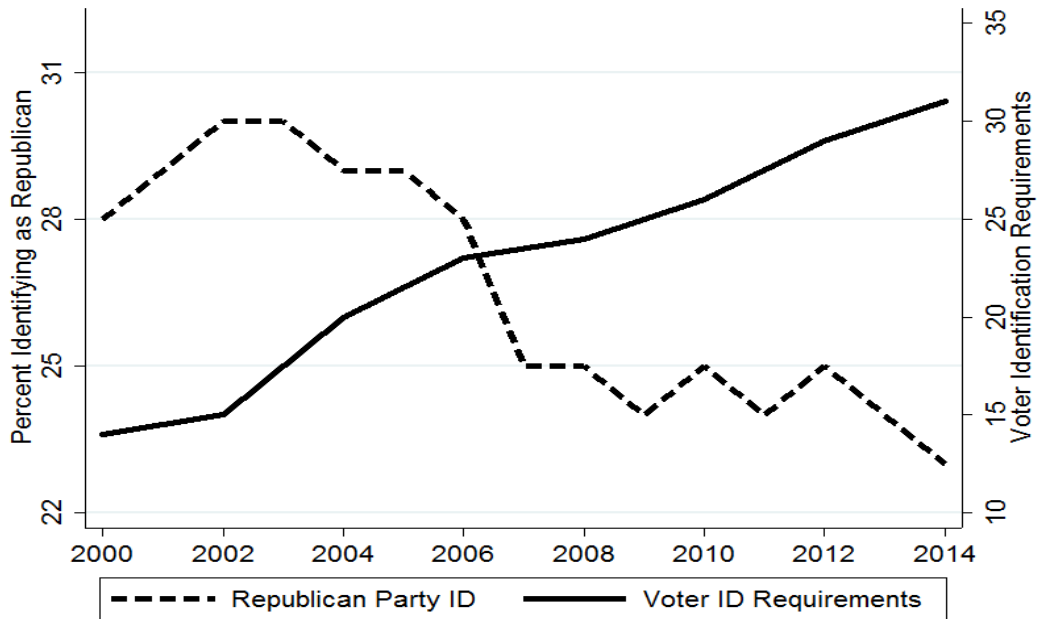
### *Adoption of Voter ID in America*

In 2012 New Hampshire became one of many states to pass a law requiring all voters to present identification at the polls on Election Day. The law was notable because it was passed not only in New England, becoming the third state in the region with an ID law, but also because at the time the state had a Democratic governor. Unfortunately this bi-partisanship was only skin deep; the Republican dominated General Court passed the law without a single Democratic vote and then overrode the governor's veto to implement the law. ID laws, like New Hampshire's and other states, have come to be seen as a purely partisan maneuver.

Republican officials are thought to pass strict requirements as soon as they are able to overcome Democratic opposition. This can be seen in news coverage of these laws as well as move to adopt ID requirements after the 2010 elections gave Republicans unified control of many state governments and the 2013 *Shelby County v. Holder* decision struck down federal restrictions on many southern states. Opponents maintain that these laws are little more than a thin veil over systematic voter suppression. While many attempts have been made to study the impacts of these laws on voter participation (see Alvarez et al. 2009; Hood and Bullock 2012; Voris n.d.), few have systematically examined why these laws are adopted in some states and not others or why not all Republican states have adopted the strictest forms of these laws.

Many scholars and officials view the states as "laboratories of democracy" where various policies can be developed and tested before widespread adoption. This process allows states to copy policy from other states after some of the economic and political

**Figure 4.1: Republican Party Identification and Voter ID Requirements, 2000 – 2014**



Note: The Figure plots the percent of adults who consider themselves Republicans on the right axis (Pew 2015) against the number of voter identification requirements passed by state legislatures from 2000 to 2014. The Figure shows that during the period that the public became less likely to identify with the Republican Party, the number of states passing voter identification laws doubled.

effects have been seen (Chipman and Volden 2008; Berry 1987). Unfortunately, this process may not always be done in with policies that benefit all in society equally.

Critics of voter identification requirements claim that these laws deter turnout among groups that are likely to vote Democratic in state elections, meaning Republican officials can see if these laws are beneficial to their own electoral interests. Voter identification laws represent one method of manipulating the indirect costs of voting to help ensure a more favorable electorate (Rosenstone and Wolfinger 1978, Ellis 2010). Figure 1 details the growth of voter identification requirements after 2000, contrasting this with the share of the electorate that identifies with the Republican Party. In the face of a shrinking share of an increasingly diverse electorate, Republicans may be using electoral laws to protect their own electoral advantage.

Conversely, supporters claim that these laws are necessary to protect American elections from voter fraud. In the Supreme Court decision directly addressing photo identification requirements the Court noted the state's legitimate interests in preventing the appearance of fraud to maintain electoral confidence, even if this placed additional barriers on the right to vote (*Crawford v Marion County* 2008).<sup>10</sup> While evidence of voter fraud is rare (Minnite 2010), it continues to be used as justification for the passage of these requirements. This presents an opportunity to test these two claims empirically. Are voter ID requirements a response to concerns over voter fraud? Or are they a strategic calculation by Republican officials to win elections?

Using data on the passage of voter identification requirements from the National Conference of State Legislatures (NCSL) this paper examines what factors impact the adoption of these laws in the US from 2000 to 2014. The next chapter briefly reviews some relevant literature on policy diffusion to build a theory of coalition maintenance in regards to voter identification requirements. I then construct several hypotheses regarding the adoption of these laws and test them using a survival model. The results indicate that while fraud does factor into decisions regarding these laws, the greatest impact appears to be the strategic decisions by the Republican Party.

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<sup>10</sup> It should be noted that the Supreme Court stated that voter photo identification laws placed no greater burden on the right to vote than requirements such as registration. At the time, few studies pointed to who in the populace lacked acceptable identification or where these laws disenfranchised any potential voters. To date, research has led to mixed finding on this front (see Hood and Bullock 2012 and Voris n.d. for recent reviews of the literature). Since the decision in 2008, Judge Richard Posner, the Appellate Judge who wrote the opinion upholding Indiana's law, has spoken out that given the political divisions surrounding these laws and lack of data on their effects that decision may have been premature. This study does not go into the effects of ID requirements on political participation but instead focuses on the adoption of these laws within state legislatures.

### *Policy Adoption and Coalition Maintenance*

A necessary step in the policy process is gaining access to the formal policy agenda (Kingdon 2011). This is not easy task, as activists and interest groups must compete with multiple other issues for the time and attention of policy makers. Some of this competition will come from groups with contrary goals, but much is simply a results of the finite number of time a legislature meets to develop state policy. Issues that gain the attention of officials can move further along the policy process and those that do not are forced to try again the next session. Even inside the chamber complex rules and procedures prevent many proposed policies from successfully being adopted. Voter identification requirements and election law in general, falls into a unique place in this policy dynamic.

Unlike many other areas of public policy, where groups must seek access to the legislature to influence policy, election reforms are written directly by the most interested interest groups; the political parties themselves. Mayhew (1974), and much subsequent research, shows that reelection is the most important goal to legislators and this shapes which actions they take inside and outside the legislature. Voter identification laws enable legislators to write laws that may directly impact their likelihood of winning future elections. Parties that perceive a benefit from increasing turnout often seek reforms that expand the electorate, while parties that believe they would be disadvantaged from growing turnout seek to limit access (Hansford and Gomez 2010; Piven and Cloward 2000). Elections are the battleground between the major political parties which attempt to use election law to gain an advantage over the other.

Aldrich (1995) details how the decline of restriction on voting spurred each party to engage in mobilization of the public. Within the legislature, the degree to which parties are evenly matched prevents one party from passing their most preferred reform package. Recent technological advancements have further enabled the parties to identify and target their core supporters. Over the past several election cycles, parties have been working in an increasingly polarized environment (Jacobson 2012; Bartels 2000). As electoral outcomes hinge on an increasingly divided electorate, this increases the desire of parties to pass reforms to give themselves an advantage over their competition.

Historically, parties have often used electoral reforms to create barriers that largely impact opposition supporters (Birch 2008; Powell 1986). The most infamous example is the adoption of Jim Crow restrictions by southern Democrats to prevent African Americans from participating in elections. Other laws were more subtle, with laws that prevented criminals from voting disenfranchising segments of the population that were largely African American in both the north and south (Manza and Uggen 2004). More recently, state officials have used election laws to both expand and contract the electorate through apparently neutral means. Democratic state officials push for popular reforms like non-excuse absentee voting and early in-person voting, but also believe these laws will help boost their vote on Election Day as more individuals take advantage of the opportunity.

Even though there is limited evidence to support any corresponding increase these laws have in turnout (Gammino and Broix 2010; Gronke et al. 2007), Republican officials act to limit these opportunities in the guise of electoral security. One interesting example is the use of early in-person voting in Ohio, where election officials repeatedly

changed the times allowable for early voting in the state.<sup>11</sup> A clear example of an apparently neutral voting regulation, early voting, was being used by parties to manipulate voting opportunities.

All election reforms have consequences, and parties intend for those consequences to help them win elections. The fight inside the legislature is often the largest roadblock from parties enacting reforms that blatantly advantage their side over the other. In most states, lawmaking power is divided between a bicameral legislature and the governor. While many differences are present, at minimum parties must obtain a majority in both houses and the approval of the governor for policy to become law.<sup>12</sup> On top of this legislators must get past the various institutional veto players that exist inside the legislative body (Tsebelis 1995). This often requires major policy changes to require some level of bipartisan support.

When a party has legislative majorities in both chambers and controls the governor's mansion it is in much better position to alter laws. In areas of election reform

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<sup>11</sup> In a move to liberalize voting requirements in Ohio, groups placed an issue on the 2005 November ballot that would allow no-excuse absentee ballots and a 35 day period of early voting. In response to this law the Ohio legislature, controlled by Republicans, passed legislation providing for no-excuse absentee ballots and early voting which was signed by the Republican governor. The Republican legislation included provisions to check the identity of early voters not in the ballot initiative. Issue 2 subsequently failed at the polls. The 35 day early voting period overlapped with the state's 30 day residency requirement to register to vote. Republican Secretary of State Kenneth Blackwell held this did not allow same day registration and voting, as voters needed to be registered 30 days prior to receiving a ballot. In 2006, Democrats were elected to most state offices and in the lead up to the 2008 Presidential Election Democratic Secretary of State Jennifer Brunner held that same day registration and voting was allowed. Republicans took office again in 2010 and moved to legally suspend the period of same day registration and voting, additionally, Republican Secretary of State Jon Husted restricted some periods of early voting to "establish uniform early-voting times" across the state in time for the 2012 Presidential Election (Carr-Smyth 2015). This was recently resolved by a settlement that uniformly expanded early voting hours and also eliminated the "gold week" period. Carr-Smyth, Julie. 2015. "Ohio Settles Civil Rights Groups' Lawsuit Over Early Voting." ABC News (April 17). Accessed April 26, 2015 from: <<http://abcnews.go.com/US/wireStory/ohio-settles-civil-rights-groups-lawsuit-early-voting-30392110>>.

<sup>12</sup> Of all states, only Nebraska has a single chamber legislature. All other states have legislatures divided between a larger House and smaller Senate chamber.

the incentive under unified control is to enact laws that advantage the incumbent party at the expense of the opposition (Bali and Silver 2007; Birch 2007). Voter identification laws are no different, with the majority of adoptions coming along partisan lines. Erikson and Minnite (2009) note that over 95 percent of Republican legislators voted for at least one ID law introduced in their state between 2005 and 2007, compared to 2 percent of Democratic legislators. Others have noted that switching to unified Republican control is strongly associated with adopting a voter identification law (Hicks et al. 2015; Biggers and Hanmer 2011).

Changes in voter coalitions have made changes in voter identification laws more appealing for Republican politicians seeking to maintain a partisan advantage. Bartels (2000; Jacobson 2012; Abramowitz 2010) describes the increase in partisan voting in presidential and congressional elections since the 1970s. This not only helps to divide the electorate between the two parties, but identifies groups that fall primarily into one party coalition or the other. In recent elections minorities are more likely to vote for Democratic candidates and make up an increasing share of the electorate (Abranson, Aldrich, and Rohde 2002). As the Republican share of the electorate shrinks, party elites need to find other means of maintaining their advantage (Karol 2009).

Seeing the widespread support voter identification laws have among the public, as well as concerns over election fraud, Republican elites have an option for maintaining their electoral advantage while simultaneously acting on public concerns. Public support provides some political cover for passing restrictive voting requirements, and legislators can learn about any unforeseen consequences from other states that have passed identification laws (Volden 2006; Mooney 2001; Berry and Berry 2001). Although



numerous federal actions have helped to legitimize identification requirements in the eyes of many, HAVA in 2002 and *Crawford* in 2008, Republican officials may be eager to pass restrictions. One unforeseen consequence is a potential backlash effect, caused by the strong opposition to these laws by Democratic elites. Recently in Ohio, state legislators proposed a photo identification requirement that was opposed by many prominent Republican officials. This may be due to Democratic efforts to mobilize around these laws, which may cause harm to the electoral chances of Republicans in competitive states. Similarly, officials in Pennsylvania did not attempt to appeal the lower court decision striking down the state's law in 2012 or reform the law after the election.

In his initial study of policy diffusion in several areas, Walker (1969) observed that the regions within the country tended to follow each other in adopting similar policies. Policy makers seek to make the best decision quickly, in a process known as satisficing, and the easiest way to do this is to emulate what others are doing (Mooney 2001). This includes learning about potential economic benefits from enacting policy as well as political consequences.

The system of federalism provides a unique method for making these decisions. American government provides state with much leeway in many policy areas, and this allows states to experiment with different policy ideas. This idea of states as "laboratories of democracy" means that states often can look to others for information regarding a particular policy change and learn from successful policies (Shipan and Volden 2008; Berry and Baybeck 2005). States can look to their neighbors and gain vital information about what the results may be of adopting similar policy because neighboring

states are often similar to each other in many aspects (Case, Rosen, and Hines 1993). For voter identification requirements this can be a range of information from public response to the law, court challenges, and any potential backlash from the Democratic Party. Interestingly, Ohio is one state that while under unified Republican control and highly competitive in state elections has not passed a photo-ID requirement.

### *Strategic Adoption of Voter ID*

Currently, there are two separate arguments regarding the passage of voter identification requirements. One involves parties acting to protect the electoral system from voter fraud, a second sees them acting to undermine it for their own advantage. The widespread popularity of identification requirements provides broad coverage for policy makers to adopt restrictive laws.

Regions within the United States often have unique identities and share cultural and political histories that cross state borders. As one gets further away, that shared history decreases and differences begin to be more prominent. Walker (1969) shows that region does play a strong role in when states adopt certain policies. Further research has supported this initial finding (Berry and Berry 1990, Case, Rosen, and Hines 1993, Mooney 2001). This learning process includes important information about the potential consequences of adopting a certain policy. While for many policies this may include economic ramifications, this can also include the strength and source of political opposition. This information originates with the first states to adopt a policy and diffuses through regional and professional networks to those who have not yet adopted that policy (Balla 2001). Though in many instances it remains easier to learn from those geographically near (Mooney and Lee 1995, Haider-Markel 2001).

In the case of policies that deal with non-economic issues this diffusion provides another important benefit. Voter identification requirements are generally quite simple, and many citizens can have an informed decision on it. The current political debate tends to center on the framing of these laws as either voter disenfranchisement or a necessary protection against voter fraud. Moral policy needs to be demoralized before it can begin to diffuse across state borders. As more states adopt voter identification policy this not only legitimizes the policy, but also helps to define the voter identification policy in a morally neutral way (Glick and Hayes 1991). Additionally, many surveys have shown that a sizable proportion of voters have concerns over voter fraud (Pastor et al 2010, Alvarez et al 2008), and as more states enact voter identification requirements these policies can be seen as an increasingly legitimate way of dealing with concerns about voter fraud. This discussion leads to the first two hypotheses about the determinants of whether a state adopts a voter ID law.

*H1: The decision to implement a voter identification law is driven by learning from other states. States will be more likely to adopt voter identification laws as the number of neighboring states with these laws increases.*

*H2: The decision to implement a voter identification law is driven by concerns over voter fraud. States with higher reports of election fraud will be more likely to adopt voter identification laws.*

The overarching goal of political parties and individual politicians is to win elections (Fenno 1978, Mayhew 1974, Shipan and Volden 2006 ). Election laws present an opportunity to manipulate the electorate for a party's own advantage. Using exit poll data from the 2006 election, Barreto, Nuno, and Sanchez (2007) found that minorities were less likely to have forms of ID required under stricter voter ID laws. In Indiana, Hershey (2009) observed that individuals with incomes lower than \$20,000 per year and

those with lower levels of education were more likely to bear the negative effects of the state's ID law. Other research estimates that 15 percent of the voting age population may not have acceptable voter ID, and that minorities are disproportionately harmed by the laws (Mycoff, Wagner, and Wilson 2009, 122).

Many of these groups are of special concern because of another aspect of their voting behavior. When these group do vote they tend to support Democratic candidates. Using their results, Berreto, Nuno, and Sanchez (2007) forecast the likely impact the strictest form of a voter identification law if it was implemented on a national scale. The authors predicted that 12 of the 32 U.S. House seats that changed from Republican to Democratic control in 2006 would have been reversed and another six would have been "too close to call." In addition, three U.S. Senate elections would have been won by Republicans instead of Democrats (Berreto, Nuno, and Sanchez 2007, 20). Overall, Berreto et al (2007) concluded that electorally speaking, voter identification requirements benefit the Republican Party more than the Democratic Party.

*H3: The decision to implement a voter identification law is driven by partisan electoral concerns. States with increasingly non-white populations will be more likely to adopt more stringent identification requirements.*

*H4: The decision to implement a voter identification law is driven by partisan electoral concerns. States with more competitive presidential elections will be more likely to adopt more stringent identification requirements.*

#### *Data and Methods*

This analysis will be conducted using an even history analysis of state adoption of voter identification laws during the period from 2001 to 2012. Event history controls for state characteristics at the time of policy adoption to determine which impact the adoption of a specific policy in a given year (Berry and Berry 1990). In addition to

examining a number of both internal and external controls event history allows has been shown to generate unbiased estimates even in the face of rare events (Berry and Berry 1990; Volden 2006). The data set is comprised of 342 state-year observations among the 46 states that did not have a voter ID law enacted in 2001. States that adopt a voter ID law are dropped from the dataset in subsequent years, meaning only those states that never adopted a voter ID law or that adopted one in the final year remain in the dataset for the entire period.

Event history also enables the model to account for the temporal dependence that exists in the data, as the examination focuses on the same states over a period of time. In addition to including cluster-robust standard errors in the models, time was explicitly included in the model through a lowess smoother (Hicks et al 2014, 25). My approach largely follows that of Hicks et al. (2014) from which I obtained the data on policy adoption and a number of control variables. Given that these events are relatively rare, i.e. a state can only adopt a new ID requirement once, the best approach is to use event history analysis. Cleves et al. (2010) note that event history best handles to non-normal distribution of the error term associated with adoptions, given that none of the errors can be negative (Cleves et al. 2010, 2).<sup>13</sup> This approach also controls for time in the process, enabling us to compare what factors lead a state to enact an ID law at the time of adoption.

Although it is possible for states to enact an ID law and later repeal that law or to make changes to an existing law, this project is the initial adoption of a voter ID law. As

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<sup>13</sup> If the error term were randomly distributed then we would have some states adopting voter ID requirements prior to the beginning of our time period. These state are not included in the model given that once a state adopts an ID requirement it is removed from the model. Event history is a methodological approach that accounts for this.

such I do not include changes to existing voter ID law in the model except where that change move the law from the “non-photo ID” to “photo ID” category. This decision was made due to the fact that few states regularly make changes to voter ID law and the initial adoption is often the most controversial step in the process. During the period only one state enacted and later repealed a voter ID law, while several had laws struck down by state courts.<sup>14</sup> These states are treated much like those that adopt ID laws, and are dropped from the dataset after initial adoption. However, after repealing the law or having the law struck down these states re-enter the risk set. With states dropped from the risk set after policy adoption, a standard logit was used to determine the probability of a state adopting either any voter ID law (photo or non-photo) or specifically a photo ID law.

Some states have had voter identification requirements since the 1950s, this analysis focuses on the period from 2001 to 2012. This decision was made because only after the 2002 HAVA did many states begin to adopt these requirements. Prior to 2000, only five states had any form of voter ID requirement on the books. Of these states, only two asked for photo ID and each law contained multiple provisions for those lacking acceptable ID. The most controversial form of ID requirement, photo ID, only became common in the past several election cycles. Second, prior research shows that the characteristics of adoption differ in the period after 2001 compared to prior years (Biggers and Hanmer 2011; Hicks et al. 2015). By limiting the analysis to this period we can focus on how these laws are used strategically by state legislatures for electoral advantage.

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<sup>14</sup> New Mexico adopted a voter ID law in 2005 and repealed the law in 2007. Missouri and Pennsylvania each passed a photo ID law which was struck down by state courts.

*Dependent Variable.* The main dependent variable for this study is whether a state adopted a photo ID law during the period from 2001 to 2014. Voter ID laws vary in the type of identification required and provisions for those who lack acceptable ID. Many states simply require voters to state or sign their name prior to receiving a ballot, with ballots given provided the name or signature matches the one on file. This analysis will limit the analysis to laws requiring voters to bring additional documents with them to the polls on Election Day. In this regard, laws have one major difference; whether the law requires the ID to have a picture of the voter or not. This naturally leads to two separate dependent variables; the adoption of any voter ID law and the adoption of a photo ID law. Each state will be coded as '0' in years without an ID law, coded as '1' the year a law is adopted, and dropped for the analysis for subsequent years.

Voter identification laws come in many varieties. Most states have had unrestrictive forms of identification laws for much of their history. This includes having to sign or state one's name at the polls before receiving a ballot. These forms of voter identification do not require voters to present any form of identification. For our purposes, voter identification laws are defined as any law that requires voters to bring and present documents that verify their identity. These laws range from requiring any document with the voter's current name and address, to any picture identification, to only government issued photo identification. Two analyses will be run, one focusing on the adoption of any voter ID law and one focusing on photo ID laws.

Information on which states have enacted voter identification laws was taken from the National Conference of State Legislatures (NCSL 2015) and Hicks et al. (2014). This organization helps to spread information to state legislatures to help them deal with

problems. One such issue that has generated concern is the area of voter identification laws. The NCSL maintains a webpage dedicated to voter identification that tracks both legal and legislative issues related to voter identification. Part of this includes a database of all election related laws dating back to 2000. Using this database it was possible to find out the year a state adopted a voter identification law.

*Independent Variables.* The independent variables have been selected to account for a number of strategic and other concerns that are thought to play a role in the adoption of voter ID laws. Predominantly these focus in the partisan composition of the state government and the electoral environment. Measures were also selected to focus on key segments of the population that may entice legislators to adopt ID laws as well as other contextual variables that may play a role in the adoption of state ID policy. This study uses data made available by Hicks et al. (2014) along with measures added by the author. While there study focuses on the electoral determinants of adoption, this projects expands the data to look at specific subpopulations of interest and electoral concerns.

The electoral measures included in the Hicks et al. (2014) data focus on the composition of the state government and electoral characteristics of the state. Given that many suspect the adoption of voter ID laws is directly related to the party control of the state legislature, the percent of the state legislature controlled by the Republican Party (*% Seats in State Legislature Held by Republicans*) and presence of a Republican governor (*State Governor is Republican*) are both key independent variables.

Additionally, the strategic model suspects that party control is only part of the rationale behind adoption. The margin of victory in the last statewide election and whether the state was considered a presidential battleground state were each included to



capture how competitive statewide elections are. It should be noted that as the election margin increases the state becomes less competitive, meaning we would expect this to have a negative relationship with ID law adoption, as in less competitive states there is less incentive to pass restrictive laws. Hicks et al.'s (2014) data was supplemented with a measure of the gap between the states most recent presidential election turnout and midterm election turnout using VEP turnout (McDonald 2015).

Other strategic concerns that might play into the decision to adopt a voter ID law include the relative size of the state's minority population. African Americans have been especially thought to be a target of these laws, and some estimate that as many as 25 percent of African American voters lack acceptable photo ID (ACLU 2011). Given that African Americans largely support Democratic candidates the size of the state's African American population may impact adoption above a more all-inclusive 'non-white' measure. A similar rationale can be made for a large population of Hispanics, with their vote increasingly going to Democratic candidates. For both groups the percent of the state population that is either African American or Hispanic was taken from the U.S. Census Bureau's population estimates. The level of each population was also used to determine population change among these segments. This was done because both the overall level of African American or Hispanic populations as well as the rate of growth of these segments might shape the incentive of legislators to adopt voter ID requirements.

Another set of measures is included to account for non-strategic determinants of adoption. Many supporters of these laws argue that they are necessary in order to prevent voter fraud and protect voter confidence in the electoral system. To account for this a measure of the total number of voter fraud cases in each state was included, data was

taken from the Hicks et al. (2014) dataset. Additionally, numerous studies have shown that states tend to adopt policies that have been previously adopted by neighboring states (Walker 1969, Berry and Berry 1990, Shipan and Volden 2008). Neighboring states tend to be more similar on many internal features. This means that states can learn from the policy effects in other states before adopting the policy themselves. In the case of voter identification laws, this could include key details on the strength and location of opposition to the law. The final variable used for non-strategic determinants of adoption is the U.S. Supreme Court's decision in *Crawford v Marion County* (2008). In this decision the U.S. Supreme Court upheld what was considered by most to be the strictest voter identification law in the United States at the time. Upholding this law not only signaled that similar laws would be constitutional, but that voter identification laws generally would prove acceptable. This variable is dichotomous variable coded as '0' in all years leading up to the Court's decision in 2008 and '1' for years after the decision.

#### *Elections, Race, and the Adoption of Voter ID*

Table 4.1 reports the results of two separate logistic regression analyses of the adoption of voter ID policy in states over the period from 2001 to 2012. The first two columns analyze the adoption of any voter ID law in the state while the second two columns look specifically at photo ID laws. For each analysis the rate of change in the log odds are reported with cluster robust standard errors in parentheses. The results indicate that a number of strategic concerns significantly impact which states adopt voter ID requirements in addition to partisan control of state governments. To aid in the interpretation a number of figures have been generated from the model to visualize significant relationships.

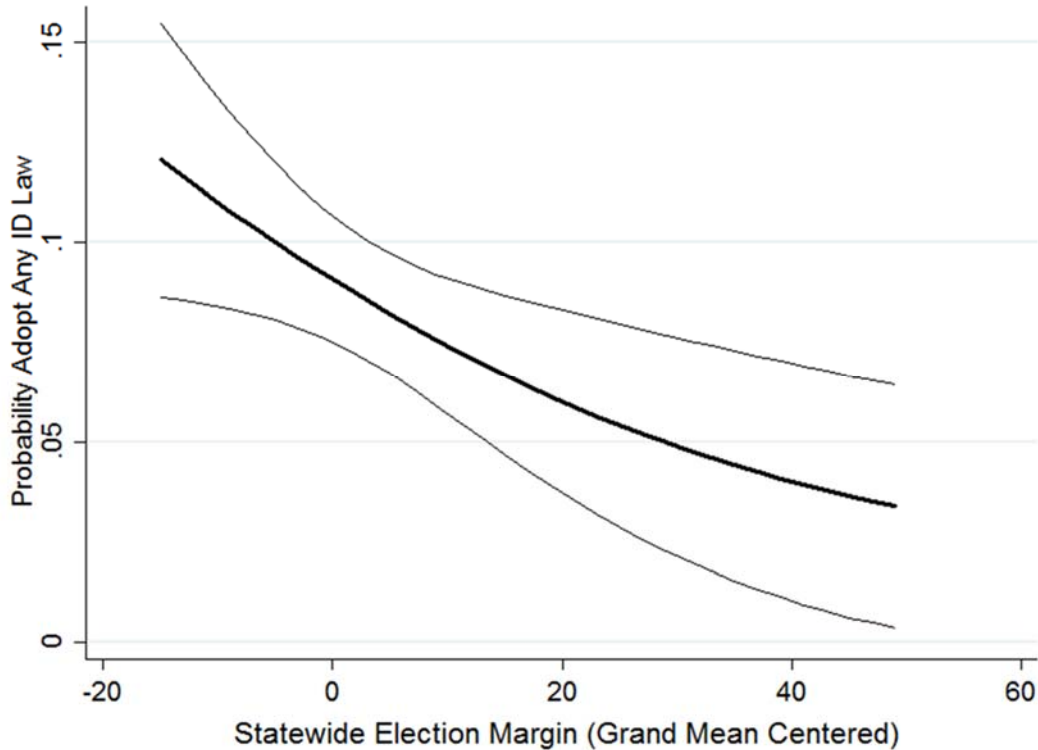
**Table 4.1: Adoption of Voter ID Laws in the United States 2001 to 2012**

	<u>Any ID Law</u>		<u>Photo ID Law</u>	
% Seats in State Legislature Held by Republicans	0.011	(0.043)	0.226***	(0.049)
State Governor is Republican	0.231	(0.721)	-0.336	(1.633)
Rep. Governor X % Rep. State Legislature	0.038	(0.041)	0.091*	(0.061)
Size of Statewide Election Margin	-0.025*	(0.017)	-0.004	(0.029)
Election Margin X % Rep. State Legislature	-0.001	(0.001)	-0.005***	(0.001)
State Considered Presidential Battleground	0.412	(0.719)	2.371*	(1.283)
VEP Presidential Turnout in Previous Election	-0.049	(0.058)	-0.159	(0.154)
VEP Turnout X Battleground State	0.162**	(0.073)	0.132	(0.156)
State Government Ideology	-0.029	(0.019)	0.01	(0.023)
Number of Voter Fraud Cases	-0.013	(0.044)	-0.055	(0.061)
State in the South	1.484	(1.346)	-2.763	(2.072)
% of Neighboring State w/ Similar ID Law	0.751	(1.213)	3.796	(2.827)
% State Population Black	0.031	(0.061)	-0.216***	(0.079)
% State Population Hispanic	0.064*	(0.034)	-0.052	(0.066)
% Change in State Black Population	2.883***	(1.163)	3.009***	(1.083)
% Change in State Hispanic Population	-1.759*	(1.132)	0.459	(1.211)
Midterm Gap in VEP Turnout	0.086	(0.063)	0.088***	(0.001)
<i>Crawford</i> Decision	2.834***	(1.062)	4.231***	(1.425)
Time (lowess smoother)	19.57**	(7.83)	3.223	(18.545)
Constant	-6.819***	(1.458)	-8.129***	(1.565)
N	342		343	

Note: Dependent variable coded as '1' if state adopted specified type of ID law in given year, coefficients and cluster robust standard errors reported (in parentheses). Midterm Gap in VEP Turnout signals the difference in state VEP turnout between most recent presidential election and most recent midterm election, with higher values indicating a larger difference in presidential v midterm state turnout. All continuous predictors are grand-mean centered. \*  $p < .10$ , \*\*  $p < .05$ , \*\*\*  $p < .01$

Looking first to the adoption of any voter ID law, strategic concerns play a significant role in the adoption. Surprisingly, partisan measures do not appear to play a role in the adoption of voter ID requirements. While both a large Republican contingent in the state legislature and having a Republican governor have the expected direction, neither of these are significant at traditional levels. Turning to other factors we see that electoral concerns do impact the likelihood of a state adopting a voter ID law. To assist in interpreting these results a number of figures have been generate from results for the

**Figure 4.2: Adopting Any Voter ID Law by Statewide Election Margin of Victory**

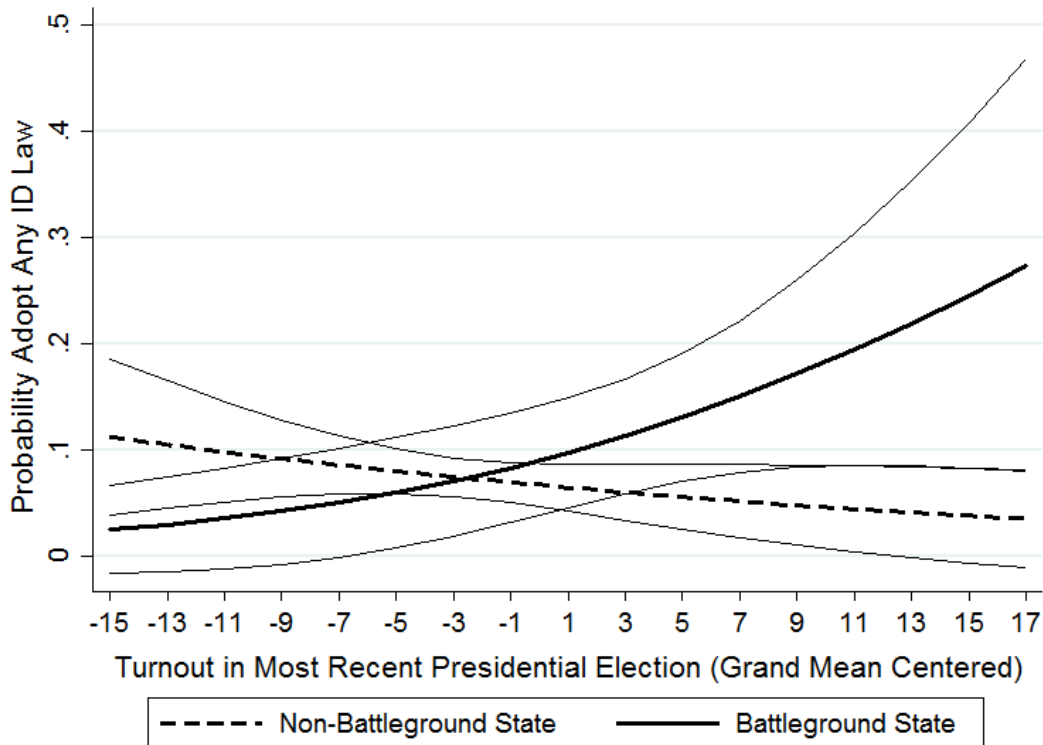


Note: Figure 2 shows the probability of a state adopting any voter ID law by the average difference in votes for the Republican and Democratic parties in the most recent statewide partisan elections. Positive values indicate a greater share of votes cast for one party over the other than the national average, with negative values indicating more competitive states with election margins grand mean centered by year. Overall the more competitive a state the greater likelihood of adopting any voter ID law.

any ID law analysis. Figures 4.2 and 4.3 graph the impact of state electoral factors, *Statewide Election Margin* and *Previous Presidential Election Turnout* respectively, on the adoption of ID laws.

One central assumption is that Republican officials enact voter ID requirements in order to protect their own electoral advantage. As such is it no surprise that the margin of victory in statewide races and voter turnout significantly predict which states adopt voter photo ID law. Figure 4.2 graphs the predicted impact of increasing the overall margin of victory in state elections on the probability a state will enact a voter ID law. Statewide races, such as the presidential electors or US Senate seats, are determined by the overall popular vote in statewide races. While local races can be greatly impacted by how

**Figure 4.3: Adopting Any Voter ID Law by Turnout in Previous Presidential Election**

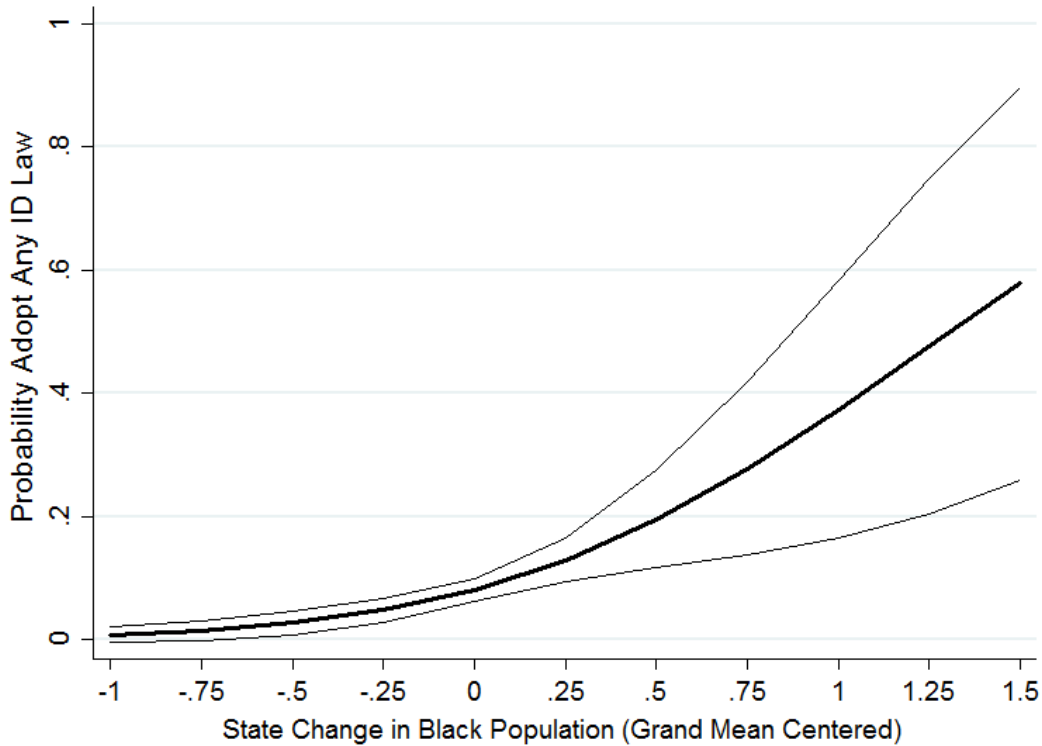


Note: Figure 3 shows the probability of a state adopting any voter ID law by turnout in the previous presidential election. Results for both presidential battleground states (solid line) and all other states (dashed line) are shown. Turnout is grand mean centered by year. Results indicated that battleground states are more likely to adopt a voter ID law as presidential election year turnout increases above the yearly average for states.

districts are drawn, these state-level races hinge on which voters show up at the polls on Election Day. The figure shows that states with more competitive races, where the margin of victory is below the yearly average, are more likely to enact voter ID requirements. As races become less competitive there is less need to manipulate the statewide electorate (e.g. election outcomes are safely in the hands of one party or the other), and the probability of adopting an ID law decreases.

Similarly, Figure 4.3 shows the strategic concerns play a strong role in the adoption of voter ID laws. The graph shows the impact of voter turnout in the previous presidential election by battleground states (solid line) and non-battleground states

**Figure 4.4: Adopting any Voter ID Law by Change in State African American Population**



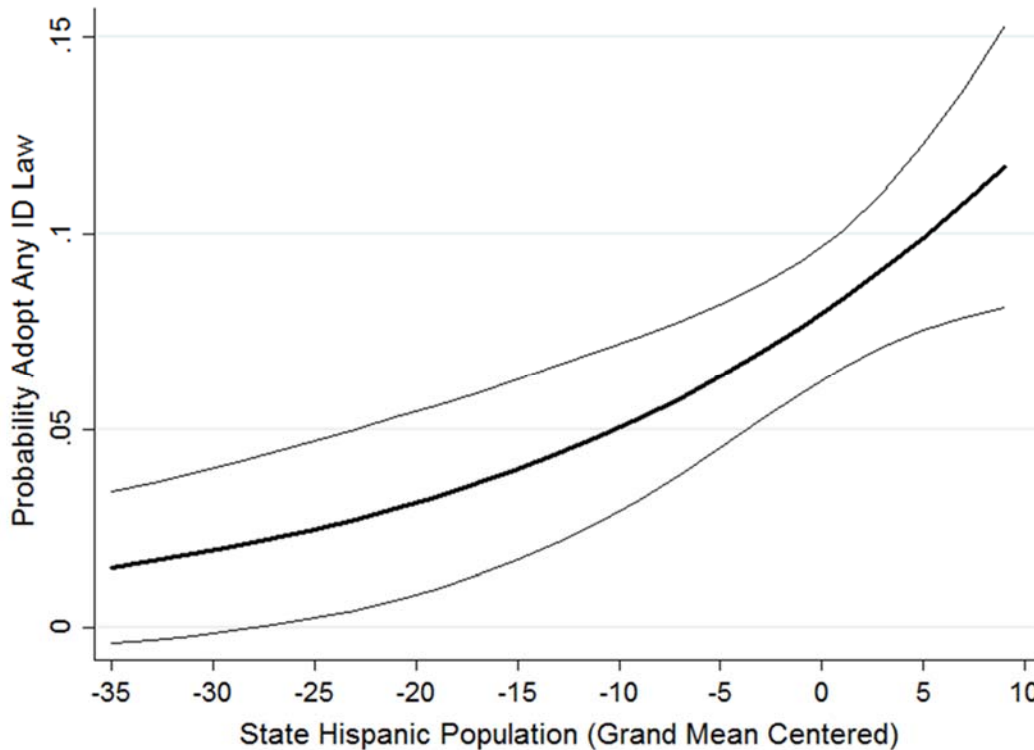
Note: Figure 4.4 shows the probability of a state adopting any voter ID law by the growth in the state's African American population. Growth calculated are current year percent African American population minus the previous year's, with results grand mean centered. Results show that as the African American population increases states are more likely to adopt voter ID laws.

(dashed line). Among non-competitive states increasing turnout does not significantly impact the likelihood of adopting a voter ID law. However, for battleground states, increasing turnout also increases the likelihood of adoption. For states with below average levels of turnout in presidential elections, the model predicts a low probability of adopting voter ID laws. In states where presidential turnout is 10 percentage points above average (roughly 70 percent during this period) states have a 20 percent probability of adopting voter ID laws, compared to roughly 3 percent change for non-battleground states. Both of these factors show support for *H4*, that statewide electoral concerns drive adoption as Republican officials attempt to maintain an electoral advantage.

In addition to electoral concerns, demographic factors also impact which states adopt voter ID requirements. Figures 4.4 and 4.5 look specifically at how the state's African American (Figure 4.4) and Hispanic (Figure 4.5) populations impact the adoption of any voter ID law. African Americans have been a key segment of the Democratic constituency, and often vote nearly unanimously for Democratic candidates (in most presidential elections African Americans supported the Democratic candidate at roughly 95 percent). This segment is also one that is suspected of being most negatively impacted by ID requirements (Hershey 2009; Baretto, Nuno, and Sanchez 2009). While the absolute size of the state's African American population is not a significant predictor, a growing African American population is. In states where the African American population is stable, i.e. no growth, or shrinking states have a less than 10 percent chance of adoption voter ID requirements. In states where the African American population is growing this chance quickly increases to 20 percent chance of adoption in states with a half a percent growth in African American population to roughly 50 percent chance in states where the growth is over 1 percent. A similar pattern is evident in the size of a state's Hispanic population. Figure 4.5 shows that states with a higher than average Hispanic population are significantly more likely to adopt any voter ID law. This shows support for *H3*, again showing that the adoption of voter ID laws appears to be more driven by strategic partisan concerns.

Supporters of voter ID laws often claim that adoption is to prevent voter fraud. In this instance support would be primarily driven by factors not related to the partisan interests of the major political parties. The model for both any ID laws and photo laws in particular shows limited support for these hypotheses. Neither the percentage of

**Figure 4.5: Adopting any Voter ID Law by State Hispanic Population**

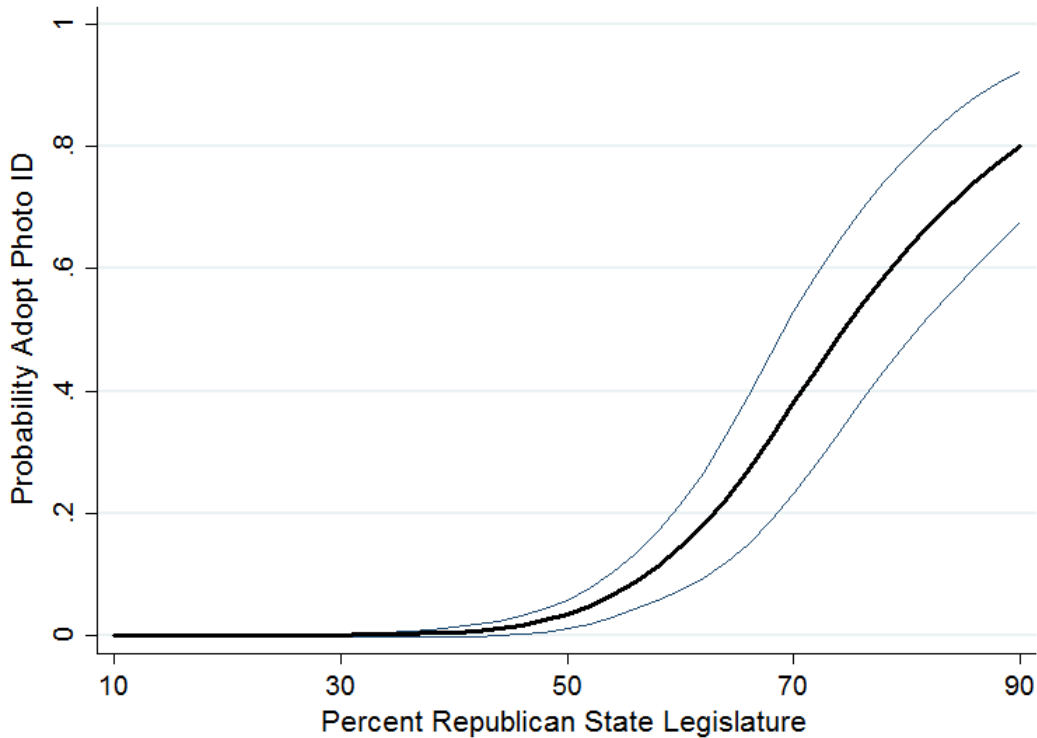


Note: Figure 4.5 shows the probability of a state adopting any voter ID requirement by the total state Hispanic population. State Hispanic population has been grand mean centered by year, with positive values indicating a larger Hispanic population than the average state. Results show that as a state's total Hispanic population increases they become more likely to adopt a voter ID requirement.

neighboring states with a similar ID law in place nor number of cases of voter fraud are significant predictors of ID law adoption in either model. This is surprising given voter fraud as a claim for the necessity of voter ID laws, a claim supported by both state and federal courts in the legal battle over voter ID. While the US Supreme Court's 2008 decision in *Crawford v Marion County* dramatically increases the likelihood of ID law adoption in both models, this does not necessarily mean states adopt ID laws to maintain voter confidence, a key holding in the *Crawford* decision. Instead this could be providing legal cover to Republican officials seeking to adoption strict ID requirements. In sum there is limited support for either *H1* or *H2* in the models.



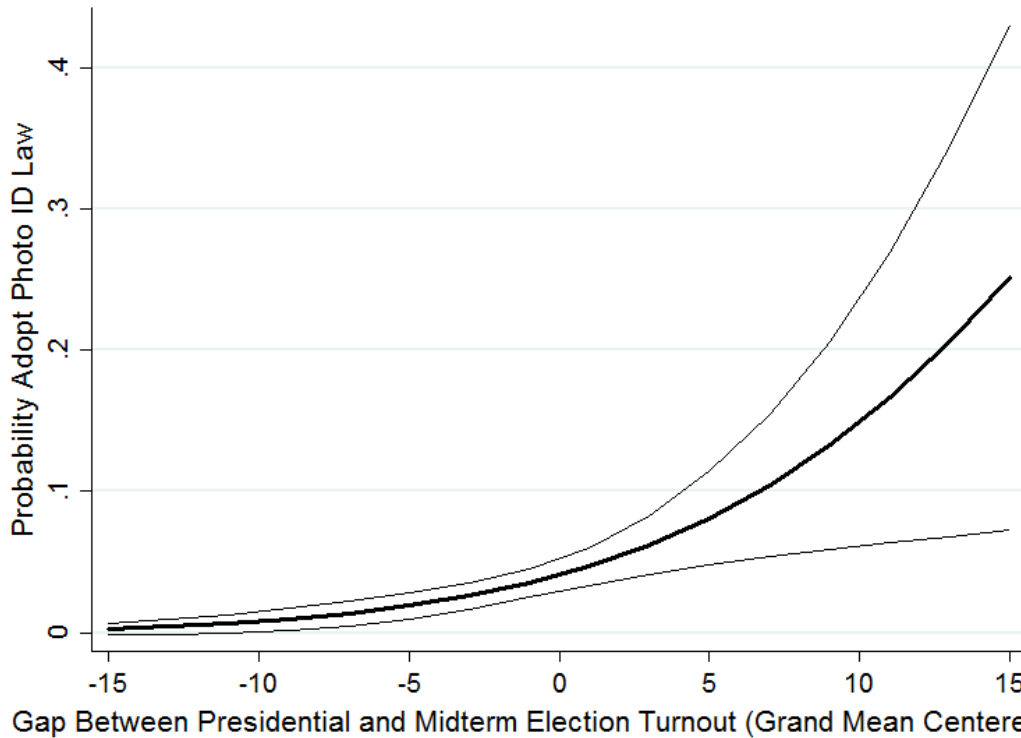
**Figure 4.6: Adopting Photo ID Law by Share of Republicans in State Legislature**



Note: Figure 6 shows the probability of a state adopting a photo ID requirement by the percent of total legislative seats held by Republicans. Results show that as the share of Republicans in the state legislature increase so does the likelihood of the state adopting a photo ID law.

Turning specifically to the adoption of ID laws that require a photograph of the voter, we continue to see a strong role played by strategic partisan concerns. Photo ID laws have attracted most of the controversy surrounding voter ID laws, in large part because of the nearly universal partisan nature of their adoption, during this period Rhode Island was the only state without Republican majorities in the state legislature to adopt a photo ID requirement. In New Hampshire, the Republican dominated legislature was able to override a gubernatorial veto to enact photo ID. The model picks up on this nature showing that the for each percentage increase in the state’s Republican legislative presence the state becomes roughly 25 percent more likely to adopt photo ID. Figure 4.6 graphs this relationship, and shows that the probability of adopting photo ID is less than 1

**Figure 4.7: Adopting Photo ID Law by Midterm Gap in Voter Turnout**



Note: Figure 7 shows the probability of a state adopting a photo ID law by the gap in presidential and midterm election voter turnout. Midterm gap calculated by subtracting the most recent VEP turnout in state midterm election from VEP turnout in most recent presidential election, results grand mean centered by year. Results show that as midterm turnout gap increases states are more likely to adopt a photo ID.

percent until Republicans control more than half of the state’s legislature. States where Republicans control 70 percent or more of the total legislative seats the model predicts a 40 percent chance a photo ID law will be enacted. Not surprisingly, the odds of adopting a photo ID requirement receive a boost of roughly 10 percent when large Republican legislative majorities are combined with a Republican governor.

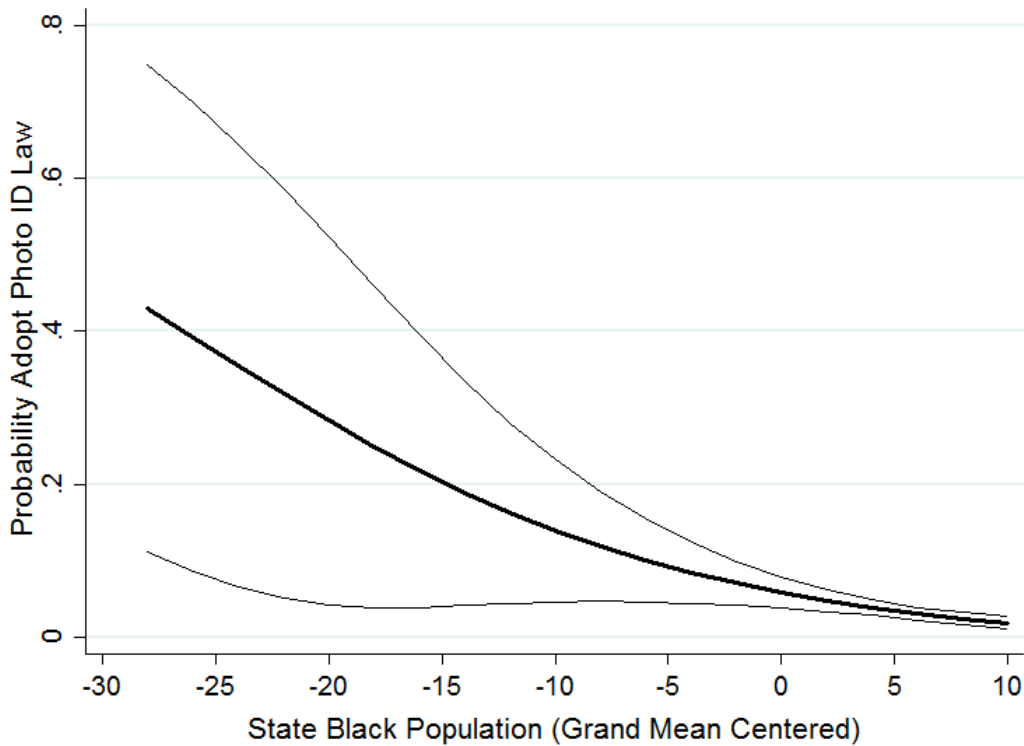
Figure 4.7 shows a similar pattern where the state has a large gap between midterm and presidential election year turnout. As the difference between the state’s previous midterm and presidential election grows, so does the likelihood of adopting a photo ID requirement. In states where the gap is lower than the national average, the model estimates a less than 5 percent chance of adopting a photo ID requirement. The

odds of adopting increase as the midterm turnout gap increases and where the gap is the maximum in the sample, a roughly 34 percent gap in turnout, states have a 25 percent chance of adopting a photo ID requirement.

One explanation for this is likely that many people perceive that Democratic candidates are advantaged by increased voter turnout (Gomez, Hansford, and Krause 2007). In states where the midterm gap is large, there is greater uncertainty regarding how the electorate will look in presidential election years, when both interest and campaign activity dramatically increase. For Republicans this has an added complication if increased turnout also means an increase in the minority share of the vote. Given the Democratic Party's historic appeal to minority groups this could potentially mean a great change in the makeup of state and local governments. Republicans then adopt photo ID requirements in order to limit this dramatic increase and maintain an electoral advantage. Additionally, the model predicts that presidential battleground states as more than twice as likely to adopt photo ID requirements as non-battleground states. Again we see strong support for strategic factors (*H4*) in the adoption of voter ID laws.

Demographic features also play a strong role in the adoption of photo ID requirements, particularly the African American population in the state. Both the absolute size of the state's African American population and a growth in the population impact photo ID law adoption. Figure 4.8 graphs how the size of a state's African American population impacts the adoption of photo ID requirements. In states with average level African American population, roughly 9 percent, there is a 5 percent chance of states adopting photo ID laws. As the population falls, the likelihood of adoption increases, as the African American population increases the odds of adoption drop. This

**Figure 4.8: Adopting Photo ID Law by State African American Population**

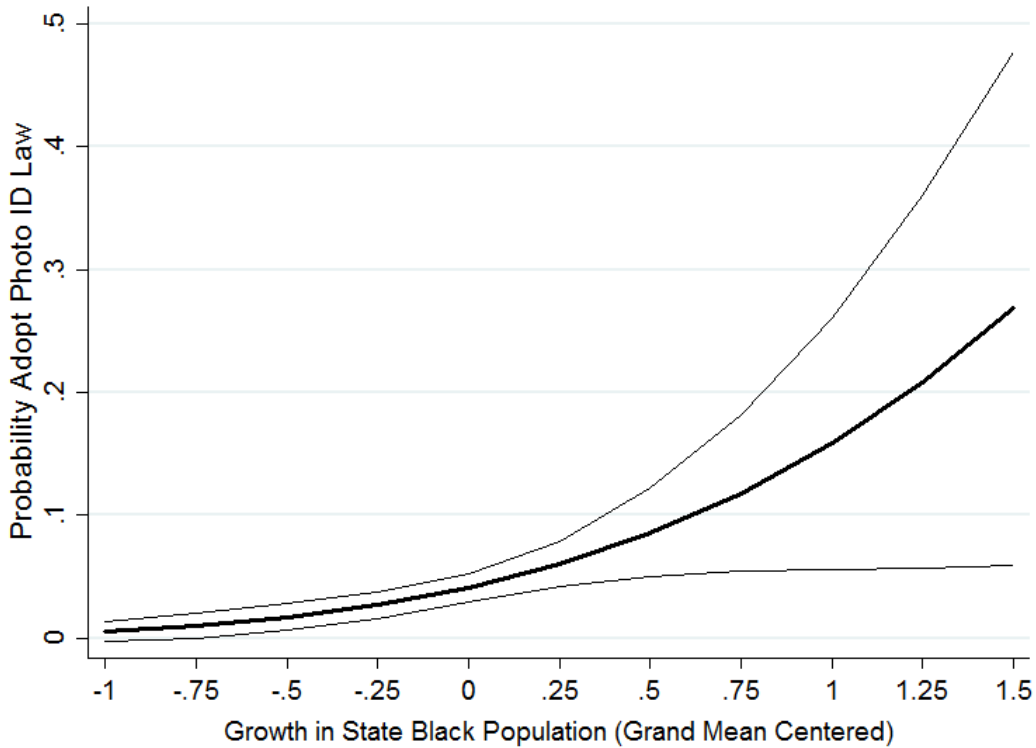


Note: Figure 8 shows the probability of a state adopting a photo ID law by the total size of the state's African American population. African American population has been grand mean centered by year, with positive values indicating a larger than average African American Population. Results show that as the African American population increase states become less likely to adopt a photo ID law.

may reflect strategic concerns by officials. Photo ID laws have generated controversy in states where they are introduced, often generating significant potential for grassroots mobilization efforts (Citrin et al. 2015; Valentino and Neuner 2016). Where this population is large, mobilization efforts could counteract and suspected advantage from passing voter photo identification. However, as that population increase from year to year the likelihood of adoption increases (Figure 4.9).

Taken together these results show strong support for the strategic motivations behind the adoption of voter ID laws. While the 2008 *Crawford* decision increases the likelihood of adoption in both models, neither the number of voter fraud cases nor number of surrounding states with similar laws impact law adoption. In fact, electoral

**Figure 4.9: Adopting Photo ID Law by Change in State African American Population**



Note: Figure 9 shows the probability of a state adopting any voter ID law by the growth in the state's African American population. Growth calculated are current year percent African American population minus the previous year's, with results grand mean centered. Results show that as the African American population increases states are more likely to adopt voter ID laws.

concerns such as presidential election turnout and the midterm gap play a strong role in which states adopt voter ID laws. Further, the growth in populations that are key supporters of the Democratic coalition also increase the odds of a state enacting a photo ID requirement. This shows strong support for both *H3* both *H4*.

*Discussion and Conclusion*

In the eyes of most of the public voter identification laws remain a highly divisive issue. Many maintain that these laws are implemented with the expressed purpose to disenfranchise portions of the electorate that vote for the Democratic Party. Research shows that minorities and poorer voters may be less likely to have proper forms of

identification under the strictest forms of voter identification law. Critics thus see these laws as an attempt to create an electorate more favorable to the Republican Party.

The south appears to be one good example in support of this. All the states in the south that did not adopt a form of voter identification during the period under study were under either unified Democratic control or mixed government except for one; North Carolina. In 2012 North Carolina was under unified Republican control and did not enact a form of voter ID law. In 2013 the Supreme Court again altered the national landscape for voter identification by declaring part of the Voting Rights Act unconstitutional. This removed the previously used guidelines for which states needed preclearance before implementing any change in election law in order to prevent racial discrimination. Later that year North Carolina adopted a photo ID law.

Supporters of voter identification laws argue they are essential to preventing cases of voter fraud and protecting the integrity of the electoral system. They point to examples where voters were turned away for the ballot box on Election Day for lack of proper identification and later revealed to be attempting to vote illegally. The Supreme Court has ruled that voter identification laws represent a reasonable method of protecting the electoral system. However, the difficulty in measuring actual occurrences of voter fraud make it hard to determine the role played by fraud in adoption of ID laws. Given other evidence that fraud is not a common occurrence and possess little threat to election outcomes (Minnette 2010) the perception of fraud is likely a better way to measure these concerns. Few elections go by without complaints against the electoral system, and associated media stories, which may fuel a desire for ID laws.

These results are consistent with prior research which shows that partisan motivations are the primary driver for ID law adoption (Hicks et al. 2014). To date Republican controlled state governments have been much more likely to adopt voter identification laws. However, rulings from the Supreme Court and the lack of conclusive scientific evidence in support of disenfranchisement may be helping build popular support for this controversial policy. Further research is needed to understand why mixed or Democratic governments adopt voter identification laws and the role of public opinion in pushing for adoption. In two states, Oklahoma and Mississippi, voter identification was passed by referendum after failed attempts in the legislature. Each of these are avenues to expand the examination of voter identification laws.

However, these results also show that demographic factors and the midterm turnout gap play a role in ID law adoption. Both of these indicate potential threats to the success of Republican candidates. African American are a key segment of the Democratic coalition, one that have been playing an increasingly vital role in the recent elections of President Obama. Additionally, large increase in voter turnout are often perceived to benefit Democratic candidates in elections. If Republicans are using voter photo ID laws to restrict the electorate to protect their own electoral chances these are key groups to target.

## Chapter 5: The Unexpected Impact of Voter ID on State Turnout

### *Conflicting Expectations of Voter ID*

In 2006 laws requiring photographic identification of all voters on Election Day gained national attention when five-term US House member Julia Carson (D-In) was temporarily denied a ballot. The previous year Indiana had passed a law requiring government issued photo-ID with an expiration date of all voters.<sup>15</sup> Multiple groups quickly moved to challenge the law highlighting concerns that ID laws prevent otherwise eligible voters from casting a ballot. Indiana countered that the law was necessary to prevent election fraud and protect the integrity of elections, an argument that the Supreme Court upheld in its 6-3 2008 *Crawford v Marion County* decision. Currently, 34 states have ID requirements in effect and 19 of those specify that the ID contain a photograph of the voter. Research shows that many citizens, specifically low-income and minority individuals, are less likely to have access to government-issued photo ID (Pastor et al. 2010, Hershey 2009). However research on the effect of ID laws has not found consistent effects; with researchers noting ID laws depress turnout (Alvarez, Bailey, and Katz 2008; Vercellotti and Anderson 2009), have no impact (Mycoff, Wagner, and Wilson 2006; Mulhausen and Sikiech 2007), or increase turnout (Milyo 2007).

Reaching a clear verdict on the impact of ID laws is complicated by trends in the recent American political environment. Chief among them is then turnout generally

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<sup>15</sup> The law differed from laws in other states which often *requested* voters to present photo-ID or another type of identification. Unlike these laws Indiana's did not contain any provisions enabling voters without proper ID to cast a regular ballot. The Indiana law, often seen as the most strict in the country at the time, required those without acceptable ID to cast a provisional ballot that would only be counted if the voter returned to the county board of elections within six days with appropriate ID.



increased during the time period most often most ID laws were adoption.<sup>16</sup> Additionally, photo ID requirements did not become widespread until after the Supreme Court's 2008 Crawford ruling. This often makes the 2008 presidential election the first post-ID election examined in many studies, conflating the impact of these laws with the Obama effect in the two states with the strictest ID laws. This combination may be obscuring the negative impact of ID laws on voter participation. Surprisingly, the roll of campaigns has been largely left out of any analysis. Research indicates that Republican legislators adopt ID requirements for strategic purposes (Hicks et al. 2015), and the controversial nature of these laws suggests that Democratic-allied groups may be counter-mobilizing to actively negate any effects. This study leverages additional information with new voter identification laws and a longer period to reexamine the impact of these laws on political participation in the United States.

Specifically, I examine the impact of voter ID laws on state and county-level voter turnout in federal elections from 1990 to 2014. This approach leverages greater variation in the types of law in effect with greater racial diversity at the county level to show that under some instances ID laws *increase* turnout. The next section briefly reviews to partisan dynamics that have shaped the role ID laws have played in recent elections. I then use the current literature on ID laws to build a theory of strategic response, where Democratic elites used ID laws to mobilize their supporters and counter perceived negative effects. I then construct and test several hypotheses on the role ID

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<sup>16</sup> Most studies focus on the time period between 1996 and 2008, and during this period turnout increased both in terms of raw vote count and are percentage of the voting eligible population (VEP) in each subsequent presidential and midterm election. According to data at the US Election Project the number of ballots cast increased from 96.3 million in 1996 to over 131.3 million in 2008, with turnout as percent VEP increasing from 54.2 percent in 2000 to 61.6 percent in 2008 (McDonald 2014a). Similarly, turnout in midterm elections increased from 39.5 percent in 2002 to 41 percent in 2010 (McDonald 2014a).

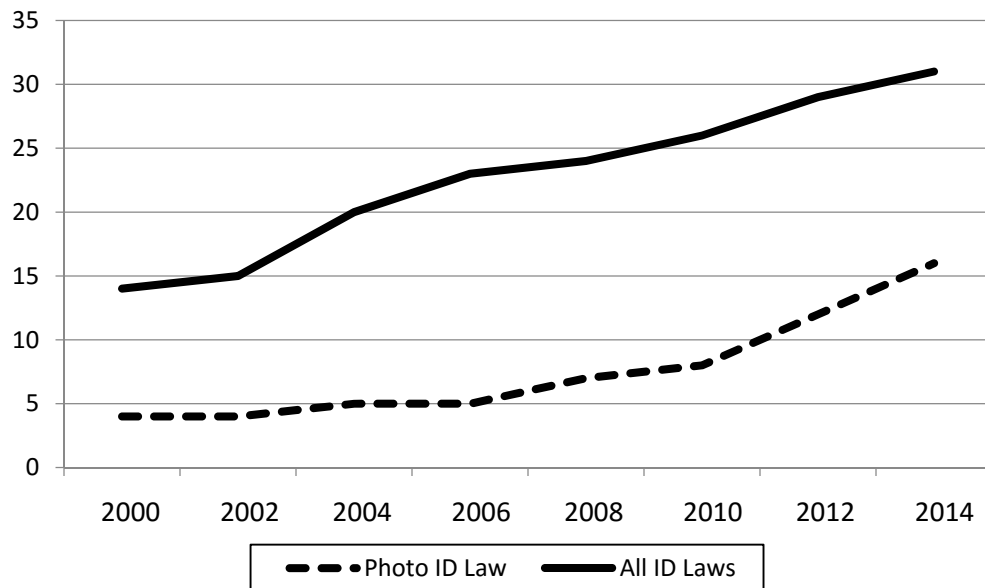
laws play in American elections using data from federal elections at both the state and county level. Findings indicate that in areas with large proportions of African Americans increases significantly with the presence of photo ID requirements in presidential elections. I conclude with a discussion of how these laws alter the strategic environment of elections in the US and how election reforms may not always have the intended effect.

### *The Partisan Fight Over ID Requirements*

Voter ID requirements first gained national attention in the aftermath of the 2000 presidential election. The narrow margin of George W. Bush's victory combined with irregularities seen in Florida spurred many to focus on reforming the election process. Congress began this process with the passage of the Help America Vote Act (HAVA) in 2002, which provided funds to encourage states to modernize election practices. While HAVA passed with widespread support, a photo ID requirement generated pushback from Democratic lawmakers. Senator Hillary Clinton (D-NY), one of the two senators to vote against the final version, argued that the requirement would prevent many New York City residents and new citizens from voting in elections. The requirement was altered to allow non-photo forms of ID and only apply to first-time voters. Several states then adopted HAVA requirements for all voters in state elections.

A few states went beyond HAVA minimum requirements and specified they ID have a photograph of the voter, but each contained multiple provisions to allow those without acceptable ID to vote in elections. In 2005, Indiana became the first state to require government-issued photo ID of all voters in state elections, forcing those without acceptable ID to cast a provisional ballot. Unlike HAVA the Indiana laws passed without a single Democratic vote. The law was challenged on the grounds it created a significant

**Figure 5.1: Voter ID Laws in Effect in the United States, 2000 to 2014**



Note: This graph traces the number of voter identification laws in effect during each year. The count does not include states that passed voter ID requirements that were not in effect, i.e. New Hampshire and North Carolina which passed ID requirements with scheduled implementation in 2015 and 2016, respectively, or states that passed laws not implemented due to court challenges (Arkansas, Missouri, Pennsylvania, and Wisconsin).

barrier to participation. The case reached the Supreme Court in 2008 which upheld the constitutionality of photo ID requirements in a 6-3 vote. Justice Stevens, writing for the court, held that ID laws did not “represent a significant increase” in the costs of voting and were appropriate methods for states to protect the integrity of the electoral process (*Crawford v Marion County* 2008, 15).

After the ruling, ID laws became more common across the country. Figure 5.1 details the growth of ID laws in effect since 2000, with the solid line denoting the subset of these laws specifying photo ID. Recent laws are almost entirely passed in states under unified Republican control, typifying the partisan divide surrounding these laws. Hicks et al. (2015) analyzes the passage of ID laws during this period and finds that it is often related to the strategic concerns of the Republican Party, passing in states where

statewide election results are close. The graph shows a sharp increase in photo ID laws after the 2010 elections where Republicans took unified control of 12 state governments. While the Supreme Court hinted that partisan concerns are not enough to challenge the constitutionality of ID laws,<sup>17</sup> more recently Judge Richard Posner—the author of the District Court Opinion upheld by the Supreme Court in the *Crawford* decision, has claimed this sharp partisanship casts doubts on the true motivation for these laws (Posner 2013). Many suspect that Republican legislators are adopting ID laws to protect their electoral advantage, given the costs fall primarily on members of the Democratic coalition (Baretto, Nuno, and Sanchez 2007; Hershey 2009; Hicks et al. 2015).

Advocacy groups are quick to point out that some segments of the population are less likely to have government-issued photo ID. The Brennan Center argues that low-income, minority, and older voters are less likely to have photo ID (Brennan Center 2012a). Among the most widely cited estimates is an ACLU study that found as many as 21 million citizens lack photo ID (ACLU 2011). The study also states that nearly 25 percent of African Americans lack acceptable ID under many of the strictest forms of ID law (ACLU 2011). Research has bolstered these estimates finding that minorities and younger voters are less likely to have government-issued photo ID, such as a driver's license, than whites (Pastor et al. 2010; Hershey 2009; Baretto, Nuno, and Sanchez 2009). Baretto, Nuno, and Sanchez (2009) even estimate that the effect could be enough

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<sup>17</sup>Justice Steven noted that if the only motivations for passing the restriction were partisan the law would be struck down similar to rulings on the poll tax. However, Stevens stated that “if a nondiscriminatory law is supported by valid neutral justifications, those justifications should not be disregarded simply because partisan interests may have provided one motivation for the votes of individual legislators” (*Crawford* 2008, 20). The Court held that the justification put forth by Indiana, preventing fraud and electoral integrity, were sufficient to override partisan concerns.

to alter election outcomes to the advantage of Republicans. Surprisingly, other research yields conflicting results.

Several early studies found not impact from requiring voters to prove their identity at the polls. Lott (2006) examined county level turnout from 1996 to 2004 and found that on average there was no negative impact from stricter ID requirements. Other studies looking at states before and after a change in ID law similarly found no overall effects (Milyo 2007). Other researchers have used state and individual level data without finding negative effects (MyCoff, Wagner, and Wilson 2009; Ansolabehere 2009). Additionally, these studies find no discriminatory impact of ID laws racial minorities.

In contrast, other research appears to show evidence that ID laws depress voter turnout. Alvarez, Baily, and Katz (2008) examined state level turnout from 2000 to 2006 and found that stricter ID laws led to a decline in voter turnout, but found little evidence of any disproportionate impact on racial minorities. The severity of the impact ranges from study to study, with many finding only a slight negative impact (Hood and Bullock 2012 Erikson and Minnite 2009). Still other research finds evidence that ID laws have a disproportionate impact on minority turnout and could alter the outcome of close elections (Baretto, Nuno, and Sanchez 2009).

Together, these findings present an interesting puzzle. While it is clear ID laws add to the costs of participation, there is little evidence that this discourages turnout. One problem is that many studies took place prior to the widespread adoption of photo ID laws. This limits the effect to the small number of states where ID laws were in effect. Critics also believe these laws target African Americans, a core member of the Democratic constituency, in order to alter election outcome. Through the use of county

level data it is possible to gain a clearer perspective on how these laws impact areas with large minority populations.

Anecdotal evidence shows many groups attempting to mobilize African Americans in the face of photo ID requirements. Chong (1991) looks specifically at the Civil Rights Movement to show how a strong message is necessary to overcome the collective action problem inherent in discriminatory legal practices. As states strengthened laws numerous grassroots and national organizations, such as the NAACP, acted to mobilize the African American community to counter these laws; in North Carolina (Fulton 2016; Burns and Mildwulf 2013), Wisconsin (Issenberg 2012), Texas (Liebelson and Reilly 2014; Melber 2014), and Indiana (Adler 2008). Recent research shows that ID laws themselves are capable of angering and incentivizing participation among core Democratic constituencies (Valentino and Nuener 2016). For this reason it is surprising that few studies have attempted to examine the impact of voter ID laws in this partisan strategic context.

#### *Voter ID: Barrier or Motivator?*

In large part voter turnout remains driven by the costs associated with participation. State laws and group activity can either increase these costs (e.g. restrictive legal requirements) or help alleviate these costs (e.g. mobilization efforts) (Chong 1991). The assumption of rationality holds that individuals participate when benefits outweigh the costs and abstain when costs outweigh benefits (Jackman 1987; Riker and Ordeshook 1968). With the perceived benefits of voting often small, even minor changes in the costs have an impact for those on the margin of participation (Gronke, Galanes-Rosenbaum, and Miller 2007).

Institutional requirements remain the largest cost to participation in American elections and are seen as the best explanation for lower turnout in the US relative to other advanced democracies (Powell 1986; Rosenstone and Wolfinger 1978). In the US a patchwork of state and federal laws govern the administration of elections. Most states require voters to register 30 days prior to the election and hold the election mid-week. Reforms hoped to reduce these costs and boost turnout by easing the process of voting.<sup>18</sup> Research continues to show mixed effects for these reforms, with few consistently correlating with an increase in voter turnout (Highton 1997; Gronke, Galanes-Rosenbaum, and Miller 2007; Gaimmo and Brox 2010). While many focus on how these reforms impact individual's calculations on voting, reforms also impact the strategic calculations of groups who seek to get supporters to the polls (Burden et al. 2014).

One key function of political parties is to win elections (Aldrich 1993). To do this parties must ensure that more of their supporters get to the polls than their opposition. As voting reforms pass they continually alter the strategic environment in which parties operate. Gaining an advantage can be accomplished either by passing reforms to boost turnout for your party relative to the opposition or by depressing turnout of the opposition. Using unified control of state governments, Republicans passed laws suspected of providing a partisan advantage relative to the Democratic Party (Hick et al. 2015). This requires Democrats and allied groups to mobilize support on or before Election Day to counter potentially negative effects.

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<sup>18</sup> These reforms primarily were designed to ease access to the ballot after voters registered. The most common reforms include enabling voters to cast absentee ballots without an official excuse, holding elections by mail, and/or providing a period of time prior to Election Day for voters to cast a ballot. A growing number of states even allow for same day registration either at the polls on Election Day or during the period of early voting. Often these reforms exhibit similar partisan dynamisms to ID laws; Democratic officials push for reforms to expand the electorate while Republican officials exhibit strong resistance.

Voter ID requirements represent the potential to *depress* voter turnout. While researchers have long known that administrative requirements fall disproportionately on some segments of the population (Rosenstone and Wolfinger 1978), ID requirements are suspected of targeting these groups for electoral advantage (Baretto, Nuno, and Sanchez 2007). Although states that require photo ID make acceptable ID available at no charge, obtaining the “free” ID can be costly in terms of time, money, and opportunity costs when individuals are required to bring specific documentation to a government office prior to the election.<sup>19</sup>

Increasing the costs of voting is normally expected to depress participation, however, with voter ID is also gives opposition groups a compelling message to counter the law. Voter ID laws have often drawn comparisons to Jim Crow restrictions and grassroots organizations are using this message to mobilize minority groups. In North Carolina, photo ID is set to take effect for the 2016 election and local civic groups and the NAACP are using the message that state officials are seeking to “abridge and suppress our vote and disrespect the rivers of blood which made our vote possible” to encourage primarily African American citizens to vote (Fulton 2016). Similar efforts have been seen across the country to target African Americans as group that has historically been impacted by restrictive voting requirements in order to overcome

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<sup>19</sup> All states that require photo ID to vote make voter ID cards available free of charge to those without acceptable photo-ID. However, to receive the card individuals must bring other original or certified copies of documents to the specified office (often the Division or Bureau of Motor Vehicles). In Indiana, the state to first pass a photo-ID required law, these documents include a Passport, birth certificate, and Social Security card, among other legal documents specified by the statute (voters must provide at least one proof of identity & legal status, valid Social Security number, and two proofs of Indiana Residency, see Indiana BMV 2014 for more information on documents required). North Carolina, whose law goes into effect in 2016, provides free voter ID cards but requires voters to provide proof of age & identity, valid Social Security number, and proof of citizenship & residency (see Tables 1 through 3 for acceptable documents, North Carolina DMV 2014).



collective action problems (Valentino and Nuener 2016; Chong 1991). Together, this suggests contrasting effects for the increasing strength of ID laws;

*H1a: Demobilization Hypothesis – Voter turnout in states with more stringent voter ID requirements is expected to decrease in states with larger proportions of racial minorities.*

However,

*H1b: Mobilization Hypothesis – Voter turnout in states with more stringent voter ID requirements is expected to increase in states with larger proportions of racial minorities.*

The cycle of presidential and midterm elections can also be expected to impact the effect of voter ID requirements. Every two years, when the president is on the ballot, turnout spikes by as much as 20 percent. This spike is due to many factors, from increased media attention to increased campaign and grassroots spending. In presidential years this increases the size of the electorate and brings in new voters who may be unaware of ID requirements. Hood and Bullock (2013) found that in Georgia turnout declined only for voters who did not acquire acceptable ID after the change in law. Alternatively, this heightened attention brings more groups into the process as changes in turnout impact the statewide vote results for president. Increased grassroots activity during presidential elections may also help to educate new voters towards election requirements. Again, there is both the possibility of ID laws demobilizing or mobilizing the electorate;

*H2a: Demobilization Hypothesis- States with more stringent voter identification requirements will have lower average levels of voter turnout in presidential election years due to the expanded size of the electorate.*

*H2b: Mobilization Hypothesis- States with more stringent voter identification requirements will have higher average levels of voter turnout in presidential election years due to group mobilization efforts.*

Finally, I expect that these two dynamics to work together. With electoral votes awarded by statewide vote, boosting turnout among minorities across the state may be enough to alter the election outcome. Given the high rate at which minorities, and African Americans in particular, support Democratic candidates, this provides a strong incentive for multiple groups to attempt to mobilize these voters. Voter ID requirements present an opportunity to target blacks by raising concerns about voter suppression to get them to the polls on Election Day, a message that may take on added significance with the nation's first major-party African American candidate for president on the ballot. The greatest impact for this effort would then be seen in states with photo identification laws and large proportions of African Americans in presidential elections.

#### *Empirical Approach and Measures*

This study uses both state and county level data from federal elections from 1990 to 2014 to examine how state and county turnout were impacted by the adoption of voter ID laws. I combine turnout data with demographic information from the U.S. Census Bureau and election law data from the National Conference of State Legislatures (NCSL). Over this period there was a growth in states with ID laws, with several states adopting photo ID requirements after Indiana's law was upheld in 2008. The period under examination includes several presidential and midterm elections, and a panel time series approach allows for the interdependence across states over time to be modeled using OLS regression.

This approach improves previous work by adding in additional elections held under the strictest forms of voter ID requirements. Prior to the passage of HAVA in 2002 only a handful of states required any documentation at the polls on Election Day and only

after the *Crawford* decision in 2008 did photo ID requirements become more common. Many initial studies were not able to benefit from the cross-national variation that now exists. In addition, the time series approach allows for simultaneous comparison of states before and after the adoption of an ID requirement with states that did not have ID laws in place. As with all aggregated studies, limited inferences can be drawn about individual behavior. However, this approach is the best way to examine how ID laws impact overall turnout levels in recent elections.

The decision to include county level data was done to improve the variation in demographic information in the data. Of primary concern for this study is how ID laws interact with the African American population in an area. Limiting the analysis to state level turnout would bias the results toward the few states that had photo ID requirements and large African American populations under the time period, largely Georgia post-2008. Using county level data increases the available diversity under each form of ID law. Further, the theory holds that mobilization efforts will be concentrated in areas with large African American populations, and this is likely to be true at the county level as areas with large minority populations attract grassroots mobilization efforts and counties with few minorities do not even within the same state. For more information about this see the discussion in the appendix.

*Dependent Variable.* The dependent variable for this study is voter turnout, which is calculated at both the state and county level. State level turnout is measured as a percentage of the estimated voting eligible population (VEP) for each state (McDonald 2015b). VEP turnout is available for federal elections dating back to 1948. This measure uses the number of ballots cast for the highest office in the election divided by the

estimate population in each state that is eligible to vote. To accomplish this, McDonald (2015) estimates the state population that ineligible to vote (e.g. noncitizens, ineligible felons, etc.) and removes that number from the overall state population. Thus VEP turnout removes the bias in turnout that would be caused by including ineligible voters in

County level turnout is taken as a percentage of the voting age population (VAP) made available by Gomez, Hansford, and Krause (2007).<sup>20</sup> While not as preferable as VAP, it has the advantage of being more widely available at the county level. Data was collected for presidential elections, as results from the state level analysis indicated no impact in midterm elections.

*Independent Variable.* The main independent variable is which form of ID law the state employed during each election. Laws are coded as a dummy variable according to the NCSL (2015) classification of each ID law as either “non-photo” or “photo” ID. States are coded as either having the law in place during the most recent election (=1) or not having the law in place (=0). Given the primary interest of the study is how ID laws impact voter participation, states are only coded as having the law if the law was in place during the election. Several states during this period adopted ID laws that were not implemented due to court challenges or statute mandated delays in implementation. These states are coded according to the law in place during each election.

The determination of which ID laws were in force follows the NCSL (2015) classification of state ID laws. Non-photo ID laws are those that specify the voter is to present documents at the poll to verify identify but do *not* require the ID to have a photograph of the voter. States with non-photo ID laws often allow for a wide range of

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<sup>20</sup> Gomez, Hansford, and Krause (2007) use county level VAP turnout for historic presidential elections and their data covered much of the period under examination (1992 through 2000). For the 2004, 2008, and 2012 elections data was compiled by the author from various sources.

identification provided it contains the voter's name; such as utility bills, bank statements, Social Security cards, or even credit or debit cards. States are coded as having photo ID if the state law adds the qualification that the ID contain a photo of the voter. As of 2016 33 states have some form of voter ID law in place with 17 of those specifying photo ID. State coded as 0 for both ID law variables are those states that do not require voters to present documents at the poll to verify their identity.<sup>21</sup>

*Controls Variables.* Because voter ID laws are not the only state characteristics influencing turnout, several other control variables (state African American population, state education level, state median income, state unemployment level, and state competitiveness) are included in the analysis to avoid spurious effects. Data was taken from the U.S. Census Bureau's American Community Survey (ACS) which is conducted each year to generate estimates of the nation's population. This information is available for both the state and county level, and is used to control for a number of demographic factors known to be associated with voter turnout (Berinsky 2005; Leighley 1995).

To capture state level competitiveness, states election results were compiled for the highest office on the ballot in each election. For presidential election years, this was the presidential election, and in other years this was either the governor or US Senate election held in the off year election. The margin of victory between the winning and second place candidate was used, with larger margins of victory signaling less competitive elections. This will help to account for races that attract more media and campaign spending. Dummy variables were also included for whether the president, a US Senator, or state governor was on the ballot.

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<sup>21</sup> These states may require voters to verify their identity in other ways, such as by signing into a poll book or stating their name. The key difference is that these states do not require voters to bring additional documentation with them to the polls on Election Day.

**Table 5.1: Voter Identification Requirements and State Level Turnout, 1990–2014**

	<u>Model 1</u>		<u>Model 2</u>	
Non-Photo ID Law	-0.83	(.52)	1.21	(.95)
Photo ID Law	-0.97	(.79)	-0.98	(1.30)
% Black State Population	-.13*	(.06)	-.20**	(.07)
X Non-Photo ID Law			-.08	(.06)
X Photo ID Law			.06	(.07)
X Non-Photo ID Law X Presidential			.10	(.07)
X Photo ID Law X Presidential			.22*	(.10)
Presidential Election	21.28***	(.75)	21.12***	(.89)
X Non-Photo ID Law			-3.15**	(1.04)
X Photo ID Law			-4.32*	(1.75)
X % Black Population			.13***	(.04)
% High School Education	.44***	(.07)	.43***	(.07)
No-Excuse Absentee Ballots	1.64*	(.71)	1.56*	(.68)
Early In-Person Voting	-2.61**	(.90)	-2.95***	(.89)
Same-Day Voter Registration	2.10*	(.84)	1.90*	(.81)
% Highest Office Win Margin	-.08***	(.01)	-.07***	(.01)
Constant	6.25	(6.89)	6.26	(6.72)
N	699		699	

Note: Standard errors in parentheses, \* =  $p < .05$ , \*\* =  $p < .01$ , \*\*\* =  $p < .001$ . Fixed effects for election year included but not shown to conserve space, all estimates based on 50 states over 13 election-years. Controls for permanent absentee status, all elections by mail, state median income, % state populations over 65, and % state population non-white and non-black included but not shown to conserve space (none had significant impact on state turnout in either model). Dummy for US Senate or state gubernatorial election included but not shown, both had significant effects on voter turnout ( $b = 1.58$ ,  $p < .001$  and  $b = 1.67$ ,  $p < .001$ , respectively).

To measure the impact of other state electoral institutions, controls were included for a number of convenience voting reforms that have been passed by states. This includes whether the state has no-excuse absentee voting, early voting, or holds all elections by mail, and the number of days between the close of registration and election (Gronke, Galanes-Rosenbaum, and Miller 2007). Additionally, whether the state allows voters to register to vote at the polls on Election Day was included (NCSL 2015). Together, these reforms capture a more holistic picture of the election laws in force in elections between 1990 and 2014. Using this information we can better estimate the impact of voter identification requirements.

*The Impact of Voter ID on Average State and County Turnout*

Table 5.1 reports the results of the state level analysis. Both models use turnout information from federal elections from 1990 to 2014 and the state voter ID law in effect for each elections. Fixed effects for election year were included to control for national trends in voter turnout over the period of examination, but not shown to conserve space. In addition, a random intercept was included for each state to all turnout to vary across states. Controls for demographic and election context were included, non-significant predictors were dropped from the table to conserve space. Model 2 includes the interactions between voter ID law and key variables of interest to test how ID laws alter the strategic environment of elections. Results are somewhat surprising as neither model predicts any zero-order effects for either ID law.

In other words, the average state turnout in states adopting either of the two types of voter ID laws does not differ significantly from states with no ID requirement. However, this result appear to be highly contextual as the ID laws are significant in several of the interactions included in Models 5 and 6. Moreover, the controls operate as expected in all models regardless of specification. The measure for competitiveness (*Highest Office Win Margin*) is significant and negative, indicating that as the margin of victory increases average turnout levels decrease. Similarly, elections that are concurrent with either U.S. Senate elections or state gubernatorial elections increase turnout by roughly 1.5 percentage points, by 1.6 and 1.75 percentage points respectively. Additionally, the measures for convenience voting are largely non-significant consistent with Gronke, Galanes-Rosenbaum, and Miller (2007), and early in-person voting alone is

estimated to decrease voter turnout (this is surprising, but consistent with research by Burden et al. 2015).

Model 2 includes each of the previous controls and introduces interactions between the voter ID dummies and % African American population and Presidential elections.<sup>22</sup> It is important to keep in mind that the coefficients representing the “main effects” of variables are conditional effects, indicating the impact of the variable when the factor(s) with which it interacts equals 0. This also means that to see the impact of voter ID requirements in presidential elections we must look at the interaction between ID requirements and Presidential elections (*Presidential X*).

We can examine the series of mobilization and demobilization hypotheses by looking at the interactions in Model 2. Contrary to the expectations of the Demobilization Hypothesis, the coefficients for the interactions between % African American and both forms of ID requirements are not statistically significant. This suggests that voter turnout in states with large minority populations is not different from states with no identification laws. Also, the interactions triple interaction term shows that there does not appear to be a significant demobilization effect even in presidential elections. Surprisingly, the interaction between Photo ID law, presidential election, and African American population is significant and positive ( $b = .22$ ). This suggests that, counter to the expectations of the demobilization hypotheses, that turnout increases in

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<sup>22</sup> Additional models were run with interactions similar three-way interactions for education, income level, and % Black but none of these revealed a significant impact on state turnout. Because of this results were not shown to conserve space. Additionally, robustness checks were run to see if effects were driven by the Obama campaign but both including a three way interaction between ID law, % African American and a dummy for Obama elections in 2008 and 2012 as well as dropping 2008 and 2012 from the model. The Obama interaction revealed a similar pattern to the results in Model 5 but the interactive effects were not significant. Results were also largely similar after dropping both 2008 and 2012 from the model.



states with large African American populations. These results are more consistent with the mobilization hypothesis.

This does not indicate an overall boost in turnout associated with both forms of ID requirements. The interactions in Model 5 between presidential elections and ID law type show that there is an initial significant and negative effect (Non-Photo ID = -3.2, Photo ID = -4.3). This effect is for states with no minority population, which is very few cases in our sample. However, this effect is counteracted as the African American population increases. States with below average African American populations (roughly 10 percent for the period under examination) see a significant decline in voter turnout during presidential elections. While presidential elections overall boost turnout by roughly 20 percentage points, this 4.3 percent decline in states with small minority populations is roughly one-fifth of the boost associated with presidential elections.

Because the coefficients of 3-way interactions are difficult to interpret, predicted state turnout is graphed across voter ID law in Figure 5.2. These figures each graph the impact ID laws are expected to have according to the state African American population. The top two panels show the effect of Non-Photo ID (the left panel) and Photo ID (the right panel) relative to states with no ID requirement in midterm elections, with the lower panels showing the same effect for presidential elections. The focus is on African American population as anecdotal evidence suggests this group is the primary target of mobilization efforts by multiple grassroots and national organizations across the country. Models were run with other racial groups as a robustness check but did not yield significant findings.

**Figure 5.2: Predicted Difference in State Turnout by ID Law, Election Type, and African American Population**

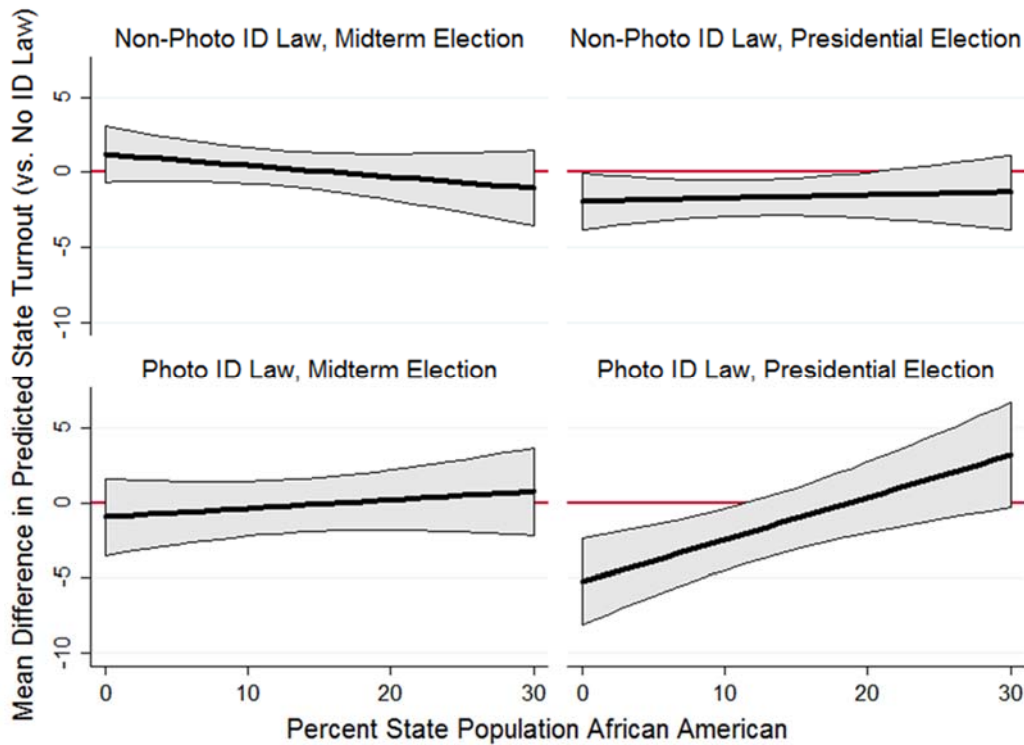


Figure 2 graphs the predicted values of state turnout based on coefficients from Model 5 in Table 1. Graph shows the mean difference of predicted state turnout for states with Non-Photo ID requirements (left panels) and Photo ID requirements (right panels) versus states with No ID Law in both midterm (top panels) and presidential elections (bottom panels). The zero-line indicates no difference in predicted turnout, and gaps below the line indicate turnout is significantly *lower* and gaps above the line indicate turnout is significantly *higher*. All graphs show impact as the proportion of the states' African American population increases.

Figure 5.2 shows that across law types, turnout does not differ significantly from states with no ID requirement in midterm elections (either law type) or in presidential elections with non-photo ID requirements. During presidential elections the story is slightly different. In states with large proportions of African Americans the impact of voter ID is both significant and positive. This is consistent with the mobilization hypothesis are these states present a large enough collection of African Americans to target that may switch the outcome of elections. Additionally, African Americans represent an attractive group for mobilization effects because many preexisting

community groups can be used to rally the community, note that few examples cited early included national campaigns, and African Americans historically vote largely for Democratic candidates. This reduces the risk of encouraging voters to get to the poll who will then vote for opposition candidates. Figure 3 shows that in states with low proportions of African Americans, where this incentive is not present, this is a significant and negative impact on turnout controlling for all other factors. Figure 4 shows that this same pattern is not present for states with any level of non-African American minority groups. Other racial groups may not benefit from the preexisting networks or counter voter ID messaging.

While the state level results are clarifying, this does not adequately describe the role played by race in the operation of these laws. During the time period under examination only one state, Georgia, had both a photo ID law and large state African American population. Table 5.2 replicates the state level findings using county level turnout data, leveraging the concentration of African Americans within a state to examine the effects of voter ID laws. As with the state level analysis controls for election year were included but are not shown to conserve space, and random intercepts were included for both counties and states. While this analysis focuses on presidential elections, the state level findings indicated this is where voter ID laws play a role. Results are graphed in Figure 5.3.

What is clear from Figure 5.3 is that high concentrations of minority groups affect the impact of voter identification laws on voter turnout; interestingly this effect differs by type of election law in place. For African Americans the pattern is very similar to the state level findings. At average levels of African American county population, roughly 9

**Table 5.2: Voter Identification Requirements and County Turnout, 1980 - 2012**

	<u>Model 1</u>	
Non-Photo ID Law	-.72**	(.28)
Photo ID law	-4.34***	(.39)
% Black County Population	-.31***	(.01)
X Photo ID Law	.40***	(.04)
% Black State Population	-.97***	(.07)
X Non-Photo ID Law	.07***	(.02)
X Photo ID Law	.38***	(.03)
Obama Election	-3.76***	(.25)
X % Black County	.22***	(.01)
% High School Education	.57***	(.02)
Median Income	3.60***	(.12)
% Over 65 Population	.67***	(.01)
Permanent Absentee Status	-3.69***	(.33)
Early In-Person Voting	-.92***	(.24)
All Elections by Mail	-2.52***	(.71)
% Highest Office Win Margin	-.05***	(.01)
Constant	80.22***	(1.78)
N	25644	

Note: Standard errors in parentheses, \* =  $P < .05$ , \*\* =  $P < .01$ , \*\*\* =  $P < .001$ . Fixed effects for election year and state level demographics included but not shown to conserve space, all estimates based on 50 states over 8 election-years. Controls for US Senate and state gubernatorial election included but not shown to conserve space, only gubernatorial election had significant impact on turnout in model ( $b=2.83$ ,  $p<.001$ ). Control for no-excuse absentee ballots and same-day registration included but not shown to conserve space, neither had significant results on turnout in model.

percent, there is no significant difference in county level voter turnout. As the African American population increase, we see a similar significant increase in county turnout. This is consistent with the mobilization hypothesis, that party groups are targeting African American population centers in voter photo ID states for mobilization efforts, and that these efforts are negating the expected impact of voter ID requirements.

In summary, there is evidence that mobilization efforts are countering the expected impact of requiring voters to show identification at the polls in many instances. The three-way interaction in Model 2 (Table 5.1) also supports the mobilization hypothesis as we again see a boost associated with African Americans and Photo ID

**Figure 5.3: Predicted Difference in County Turnout by ID Law and African American Population**

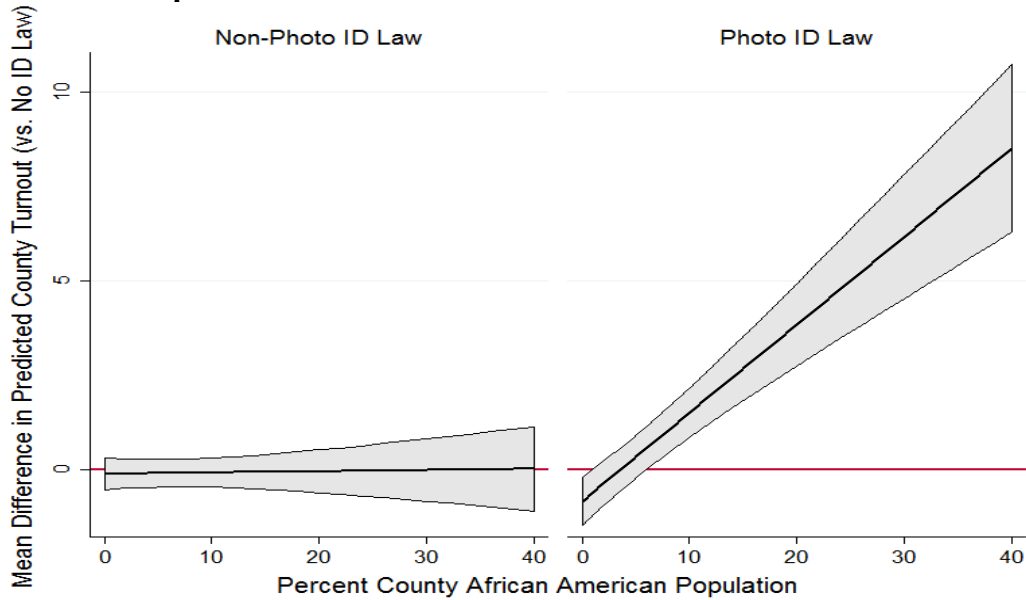


Figure 3 graphs the predicted values of state turnout based on coefficients from Model 1 in Table 2. Graph shows the mean difference of predicted state turnout for states with Non-Photo ID requirements (left panels) and Photo ID requirements (right panels) versus states with No ID. The zero-line indicates no difference in predicted turnout, and gaps below the line indicate turnout is significantly *lower* and gaps above the line indicate turnout is significantly *higher*. Both graphs show the impact of ID law as the proportion of the states' African American population increases.

relative to states with no ID laws during presidential elections. Figure 2 also reveals an important exception to the tendency for turnout to increase in presidential elections in the graph on the right. In states with low percentages of African Americans, requiring photo identification has a clear negative impact on turnout in presidential elections (Figure 5.2). The county level analysis shows evidence for the demobilization hypothesis in areas with large non-African American minority populations under non-photo ID laws.

Even this demobilization effect is consistent with the general explanation for the strong mobilization effects in the same graph, however. Only in states with larger percentages of minority voters are strategic elites likely to target minorities for mobilization efforts. In states with a much smaller African American there are far fewer incentives for strategic elites to counter the expected negative effects of ID laws, photo

ID laws are associated with a clear negative impact on turnout. In summary, the highly conditional effects of photo ID laws on state turnout makes perfect sense with the benefit of new data, but doubtless helps to explain why previous research produced such inconsistent findings on the impact of voter identification laws on turnout levels.

### *Discussion and Conclusions*

Requiring voter to provide documentation at the polls to confirm their identity is an issue that is likely to increase in salience as we approach the 2016 Presidential Election. During that election, two states, New Hampshire and North Carolina, are scheduled to implement photo ID for the first time. Given the number of states that have attempted to strengthen existing identification laws or pass new legislation other states may join the fold in the coming years. Courts have often upheld these laws as reasonable protections of the integrity of elections, citing the lack of evidence of any disproportionate negative impact.

However, early studies of the impact of election laws on turnout may have reached a negative conclusion on the impact of voter ID laws prematurely—before adequate time and data accumulated to reach a more definitive assessment. With the benefit of several states with new voter ID laws, and three new photo ID laws, this study arrives at a different conclusion. The findings of this study strongly suggest that one likely explanation why prior studies failed uncover evidence for a negative impact on minority turnout is that strategic elites of election campaigns, political parties and civic groups stepped in to counter any demobilization effects of ID laws with a mobilization campaign of their own targeted in states with larger minority populations in presidential elections. Numerous researchers have raised concerns that millions of citizens may not

have access to acceptable photo identification, and there is a disproportionate amount of minorities and low income voters among them (Baretto et al 2007; Hershey 2009). This gives groups concerned about potential electoral consequences incentive to mobilize voters and groups to target. This project shows that photo identification laws are estimated to have a negative impact on voter turnout (nearly 5 percentage points) when the state has a small minority population. This is consistent with many of the expectations of researchers.

However, consistent with the mobilization hypothesis, this effect does not hold as the African American population increases. During presidential elections, states with large African American populations actually see a boost in turnout associated with photo identification laws relative to states with no identification law or a non-photo identification law. This may suggest that groups are actively targeting these communities to counter the impact of these laws and help win elections. Under this situation, it would be expected that photo identification laws have their greatest impact during presidential elections, when the electorate is largest, and when the minority population is low, giving little incentive for groups to mobilize around voter ID given the widespread approval of these laws.

One of the most effective ways of increasing voter turnout is to contact individuals prior to the election. Not surprisingly, campaigns and other groups have put a large amount of resources into get-out-the-vote efforts. To be most successful these efforts must target mainly those who will support the group's position at the polls.

Voter identification laws thus fit into a unique area in the electoral landscape. Research gives a consistent picture of who lacks photo identification; minorities and low-

income voters (Baretto et al. 2007; Hershey 2009). Additionally, these laws have drawn numerous comparisons to Jim Crow era restrictions on voting rights. African Americans, one group most often referenced as being negative impacted, also have largely supported Democratic candidates. This gives those wishing to mobilize Democratic voters not just a message to use, but also a specific group of voters that may be effectively mobilized with this message. This provides great incentive for campaigns and other civic groups to target minority populations to encourage them to vote using these laws.

It is important to note that this study uses aggregate turnout data and as such we must be careful about making assumptions about how these laws impact the individual determinants of voting. This project finds that states with a large proportion of African Americans have increased overall levels of turnout associated with requiring photo identification. This does not mean that African Americans in these states are showing up in increased numbers at the polls. Using survey data it may be possible to see if these same dynamics operate at the individual level. Media reports note that turnout among African Americans surpassed that of whites in the 2012 election and this may be partially due to efforts to mobilize around these laws (Yen 2014).

Another difficulty in this area of research is separating the impact of President Obama being on the ballot from the independent impact of these laws. These two events have been occurring at the same time, as the greatest spread in voter identification laws occurred around the election in 2008 through 2012.

However these results appear to support the mobilization hypothesis. First, not all of the states with photo identification laws were considered competitive for the presidential race, meaning few resources from the Obama campaign were spent in those states.



Additionally, these results hold even when excluding one or both Obama election years from the analysis. This suggests that other factors are at work to mobilize turnout in states when the outcome is known before the election. Local civic groups may be using voter identification to encourage African Americans to get to the polls in order to impact down-ballot races. Also, we would expect the mobilization effects of Obama simply being on the ballot to be equal across all states with large African American populations. The 3-way interaction shows that the photo identification laws are associated with increased turnout relative to other states even controlling for election type, competitiveness, and African American population.

## Chapter 6: The Strategic Response to Voter ID Requirements

### *Introduction*

“And since they systematically seek to ‘abridge’ our VOTE and suppress our VOTE and disrespect the overflowing rivers of blood which made our VOTE possible - we intend to mobilize like never before and cast VOTES like never before”

- Moral March on Raleigh

As the 2016 Presidential Election draws near many groups are gearing up for an intense campaign. Both major parties, as well as the candidates themselves, will undergo massive get-out-the-vote (GOTV) efforts to get their supports to the polls. Some even suspect the Republican Party of getting an early start through the passage of multiple restrict laws over the past several election cycles. Since President Obama took office 2009, multiple states have passed laws that ask voters to present some form of voter identification at the polls on Election Day.<sup>23</sup> There are many anecdotal accounts of grassroots organizations using these laws to attempt to mobilize voters, but few have examined whether mobilization efforts could be obscuring any negative impact these laws might otherwise have.

Voter identification laws have generated a large amount of concern in recent elections, with much of the division concerning the impact these laws have on voters. Critics claim these restrictions may prevent millions of minority voters from participating in elections. Even the US Appellate Court Judge who authored the original decision upholding such laws has voiced concerns of the impact these laws have. Surprisingly,

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<sup>23</sup> Currently, 33 states ask voters to prove their identity at the polls on Election Day. This figure includes two several states (New Hampshire, North Carolina, Wisconsin, and Texas) which will for the first time in a Presidential election require all voters to present photo ID at the polls to have their ballots counted. Of the states that do not require voters to provide identification at the polls most have considered legislation to add such a requirement, and states with identification laws considered legislation that would strengthen existing requirements (NCSL 2015).

research has yielded few consistent findings as to their impact on political participation. While findings consistently show who lack identification (see Hershey 2009; Barreto, Nuno, and Sanchez 2007), studies have found these laws decrease voter turnout (Alvarez, Bailey, and Katz 2008, Vercellotti and Anderson 2006), have no impact (MyCoff, Wagner, and Wilson 2007), and even *increase* voter turnout (Lott 2006). One aspect missing from each of these studies is the role of civic groups in mobilizing opposition to these laws. In North Carolina, where a photo ID requirement is set to take effect for the first time in 2016, many local groups have taken up the case to “vote like never before” in response to these laws (Fulton 2016). Similar activity has been seen in several other states where these laws are on the books (see Issenberg 2012; Adler 2008; Melber 2014). If these efforts are successful they may be obscuring the impact of these laws.

To date, there has been little examination of the interplay between voter identification laws and mobilization efforts by campaigns and other groups. What if some groups are using this approach to target voters thought to be more susceptible to these laws in order to get them to the polls? The NAACP has historically been active in voter mobilization efforts (Bergan et al. 2005, 771), and African Americans are one group thought to be ‘targeted’ by these laws and is a key segment of the Democratic coalition. It’s not difficult to imagine that some groups may be actively attempting to use the image of these laws to mobilize those thought to be most impacted. Additionally, voter identification laws have become a highly partisan topic, with both major parties taking clear stands for (Republicans) or against (Democrats) these laws.

The abundance of polling around election time offers one attempt to examine this impact. Many surveys taken around election time ask respondents whether they were

contacted by groups reminding them to vote. Using survey data from the 2012 Cooperative Congressional Election Studies (CCES) it is possible to examine campaign contact with respondents to see how it varies with voter identification laws. The next section briefly reviews the literature on campaign mobilization in order to build a theory of strategic response to voter ID laws. I then develop several testable hypotheses from these expectations. Each can then be tested using over 30,000 survey responses to CCES questions in many recent election years. Finally I conclude with observations over what these laws mean for the way elections are held in the US and how even restrictive laws may boost voter participation.

### *Mobilizing the Base*

Voter identification has a relatively short history on the front lines of the American political scene. Prior to 2000, most states required voters to sign into a poll book or state their name to election officials before receiving a ballot. This meant that most mobilization efforts could focus on identifying potential supporters and getting them to the polls on Election Day. However, irregularities in the 2000 Presidential Election brought new concerns to the forefront of many election officials. To address these problems Congress passed the Help America Vote Act (HAVA) of 2002. This contained a number of provisions designed to modernize the electoral system in the United States.

Among the more controversial of these requirements was a Republican-led effort to require photo ID of all voters in federal elections. While the requirement was lessened, instead requiring only first-time voters to present identification, this set the stage for many states to push the boundaries further. Initial adoption of these laws was

rather slow, with several states moving to apply HAVA requirements to all voters in all elections. Not until 2008 did the requirement of photo ID gain popularity. After the Supreme Court upheld these laws on the grounds that they are “unquestionably relevant to the State’s interest in protecting the integrity and reliability of the electoral process,” more states moved to adopt photo identification requirements (*Crawford v Marion County* 2008, 7).

Controversy continued to grow as these laws were adopted in an increasingly partisan manner. While photo identification requirements maintain high general support according to many public opinion polls (Von Spankovsky 2010), they are most often passed in pure party-line votes in states under unified Republican government. In a study of the adoption of these requirements since 2000, Hicks et al. (2014) finds that in addition to switch to unified Republican government strategic concerns appear to play a role in which states adopt these laws. Thus where Republican politicians see electoral advantage they move to adopt these laws, with the only obstacle in their path being the obstruction of Democratic state officials. In 2012, New Hampshire become one of the few mixed-party states to adopt a photo-ID law; with the Republican legislature overriding the Democratic governor’s veto. Election law has long been used by parties to obtain an advantage over their opposition (Birch 2008), groups unable to prevent restrictive laws are forced to mobilize support in the electorate for their advantage.

Aside from the political factors that play a strong role in the adoption of identification requirements, there is consistent evidence that specific segments of the population lack access to government issued-photo ID. Barreto, Nuno, and Sanchez (2008) find that African Americans are less likely to have access to identification than

whites. These results were further substantiated in Hershey's (2009) examination of the impact of Indiana's voter ID law. She noted that both minority and low income voters were less likely to have acceptable identification. A survey of registered voters in Mississippi, Maryland, and Indiana found that while most had access to a driver's license, 42 percent of those that did not were African American (Pastor et al 2010, 470).

This discrepancy can be further magnified on Election Day as laws are implemented by poll workers. Atkeson et al (2007) found that even when controlling for the race of the poll worker, Hispanic Americans were more likely to be asked to show identification. Alvarez et al. (2008) note similar findings for minorities in other places around the country. Many laws allow considerable leeway to poll workers for granting ballots, including waiving the requirement if the worker knows the prospective voter (NCSL 2014). With evidence that minorities are less likely to have acceptable identification but more likely to be asked to show their ID, many suspect that these laws would have a disproportionate impact on voter turnout.

Whereas in many states Democrats and their allies may be unable to stop the adoption of strict requirements, they do have other options for preventing these laws from costing them elections. While most campaigns focus on large scale methods of voter contact, such as television or radio advertising, many grassroots organizations focus on direct contact with potential voters. When elections are on the line parties and candidates increase efforts to contact voters (Bergan et al. 2005), and it is likely that this same relationship exists where groups believe that the election is tilted against them even before the campaigning has begun.

Evidence consistently shows that campaign efforts increase voter turnout. Many scholars have even propose that the decline in general election turnout during the 1970s and 1980s was due in part to a decline in mobilization efforts by the major parties (Rosenstone and Hansen 1993). Gerber and Green (2000a) detail many of these studies, which used field experiments to test campaign contact and voter turnout from the late 1920s through the early 1980s. These experiments generate treatments effects ranging from a low of 1 to 4 percent to a high of 20 or 40 percent turnout compared to groups that did not receive any form of campaign contact. Gerber and Green's own research demonstrates that turnout often increases simply as a result of being contacted, with numerous variations of campaign contact yielding increases in voter turnout (Gerber, Green, and Larimer 2008). They note that these efforts may be especially effective for voters unaffiliated with the major parties, who may not traditionally receive campaign efforts (Gerber and Green 2000b).

These effects also extend to different methods of contact and different messaging with that contact. Gerber, Green, and Larimer (2008) use a number of mailers to test various messages that place social pressure on individuals to vote, and find that all conditions increase turnout relative to the control group. Other studies show that personal contact can increase turnout in treatment groups by an average of 7 percent (Green, Gerber, and Nickerson 2003). Nickerson (2007) examines the use of professional phone banks and finds that they increase turnout by 3 to 5 percentage points. Other studies have shown similar evidence for volunteer phone banks (Nickerson 2006). Reaching out to prospective voters is one proven method to increase the likelihood that individuals will cast a vote on Election Day.

These efforts may be obscuring any negative effects caused by strengthening voter identification requirements. Many early studies of the impact of ID requirements on voter turnout yielded a wide array of conflicting results. Studies found little evidence of an negative impact on voter turnout, at either the aggregated state level or using individual level survey data (Alvarez, Bailey and Katz 2008; MyCoff, Wagner, and Wilson 2007). Some studies looking at one state before and after a law was passed even noted that these laws appear to increase voter turnout (Milyo 2006). Other researchers have found evidence of a negative impact for all voters or negative impacts on racial minorities (Alvarez, Bailey, and Katz 2008; Barreto, Nuno, and Sanchez 2007). One commonality is that most studies do not account for the strategic role played by grassroots organizations to mobilize specific subsets of the population in response to these laws. There is a growing body of evidence that these laws can be used to get an emotional reaction on the part of partisans (Citrin et al. 2014; Valentino and Nuener 2016), as well as evidence that photo identification laws are associated with increased state level turnout in some localities (Voris, n.d.).

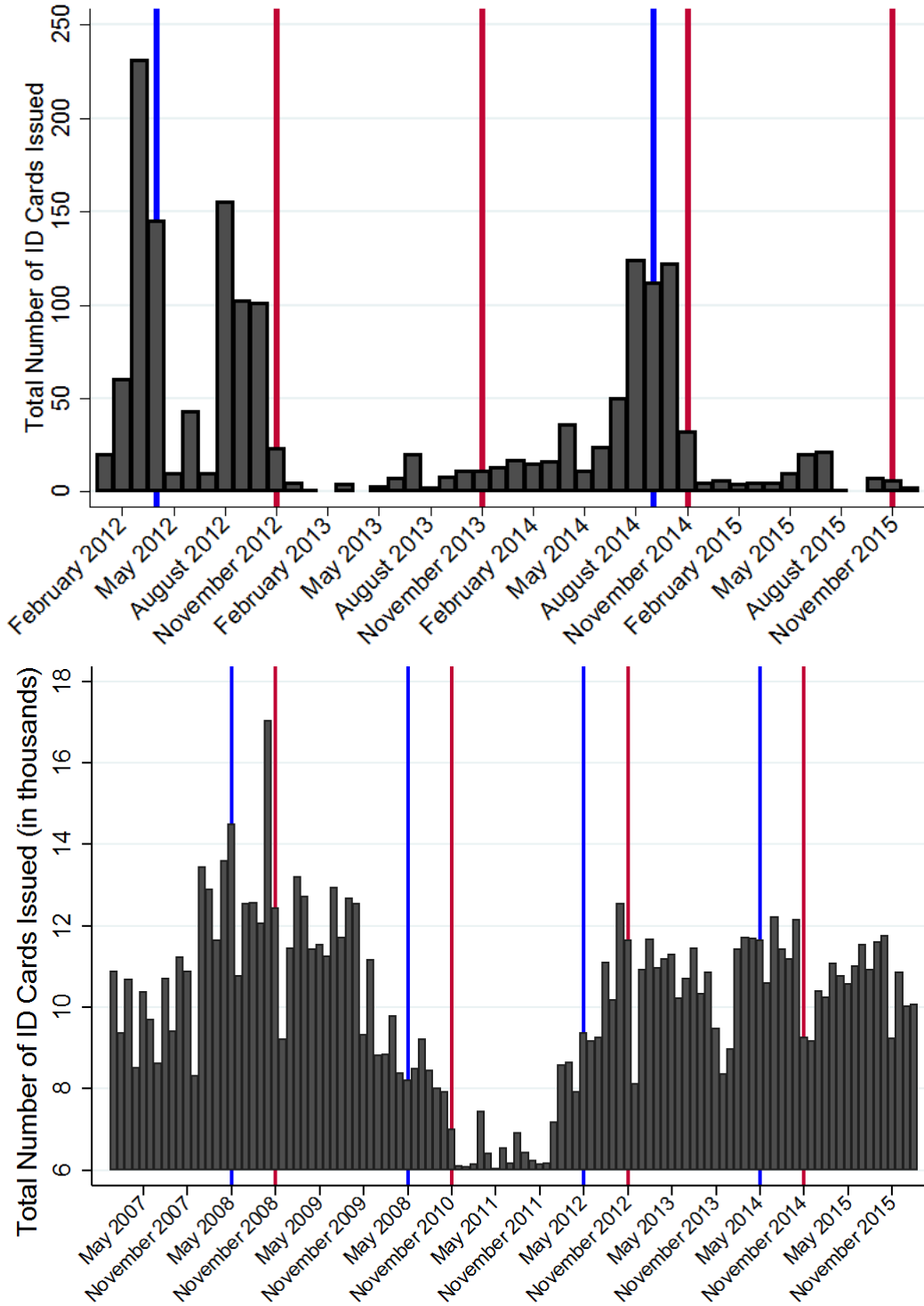
States that require photo identification to vote also make free identification cards available to those who lack acceptable ID. While these ID cards often have other costs associated with them – the time required to collect documents, costs for obtaining original or certified copies, etc. – it is possible see that patterns of the issuance of ID cards varies with elections. Figure 1 shows the number of ID cards issued by the state of Rhode Island since its photo ID requirement took effect in 2012.<sup>24</sup> What is clearly

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<sup>24</sup> Both figures were constructed using numbers obtained from the Rhode Island Department of Elections and Indiana Secretary of State regarding the number of free voter ID cards issued since the laws went into effect. All states that request or require photo ID to vote was contacted to see if free photo-ID cards were issued and how many have been issued. Not all states responded to the request in time for inclusion.



**Figure 6.1: Total Number of Voter ID Cards Issued in Indiana and Rhode Island Since Adoption of Photo Identification Requirement**



Note: Figure 6.1 shows the total number of voter identification cards issued by the states of Indiana and Rhode Island since each state adopted a photo ID law. The red vertical lines indicate November general elections while the blue vertical lines indicate primary elections.

evident is a spike the number of ID cards issued prior to primary elections (the vertical blue lines) as well some November elections (the vertical red lines). This shows that the issuance of IDs varies systematically within the states as elections draw near. Since obtaining an ID card is necessary to vote, it is likely that many grassroots organizations engage in education and mobilization drives surrounding these laws.

Growing polarization in the electorate further solidifies the need to target ones group of supporters. Research has long noted that GOTV efforts are rarely broad calls for citizen participation, but instead targeted at likely supporters (Kramer 1970). African Americans are among the most consistent supporters of the Democratic Party in state elections, and voter identification laws provide a compelling message to get them to take the step of not only voting, but getting acceptable identification prior to the election. To win elections, campaigns must target those likely to support them with a message that motivates that individual to get to the polls. What message to mobilize voters than of “the most sweeping attack on African American electoral rights since the Jim Crow era” (Pilkington 2014)?

#### *Strategic Response to Voter ID*

Voter identification have become a key area of disagreement between the two major parties. Supporters of these laws, often affiliated with the Republican Party, insist that they are necessary to protect voter confidence. Proponents also argue that given the widespread access to driver’s licenses (Pastor et al. (2010) estimates that over 95 percent of registered voters have access to a driver’s license) these laws do not present a barrier to voter participation. Critics, the most vocal of which are often associated with the Democratic Party, counter that specific segments of the population are likely to lack

government-issued photo IDs. Research suggests that not only can this deprive millions of their right to vote, but that the outcome may be enough to alter election outcomes in many close races (Barreto, Nuno, and Sanchez 2007). For Democratic organizations, this scenario provides a strong incentive to target supporters to ensure they are able to vote.

These groups are advantaged by two unique features of voter identification requirements relative to other election reforms. Unlike many other reforms, such as periods of early voting, voter identification laws have often been criticized on racial grounds. Critics often draw direct parallels between requiring identification and Jim Crow era voting restrictions.<sup>25</sup> The ACLU estimates that nearly 21 million Americans lack government-issued photo ID, and that this includes nearly 25 percent of African Americans (ACLU 2011). This provides critics of ID laws with both a target audience and a message to mobilize voters. This incentive is further magnified by the voting history of African Americans, who remain a consistent part of the Democratic coalition. In most past presidential elections, African Americans supported Democratic candidates at a rate of over 95 percent, which gives Democrats a key block of support for many statewide offices.

The foregoing discussion suggests a number of testable relationships that we would expect to see in recent elections. Stricter identification requirements often require voters to present government-issued photo identification at the polls on Election Day, nearly all of these laws are passed by state governments under unified Republican

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<sup>25</sup> Most often critics parallel identification requirements to poll taxes. While states that require photo identification to vote make free ID cards available to voters, these cards often require individuals to bring a specified number and type of documents to obtain the ID. Most often this includes an original or certified copy of one's birth certificate, which can impose indirect costs on potential voters. These costs can be magnified by the time and opportunity costs of traveling to obtain the free ID.

control.<sup>26</sup> Less strict ID requirements, such as non-photo ID laws, often allow multiple forms of identification and contain provisions that enable voters to cast a regular ballot even if they lack appropriate identification. It is likely that grassroots organizations will be more likely to mobilize when the law appears to me more restrictive.

*H1: Photo ID requirements present a more significant barrier to voter participation, respondents will be more likely to report campaign contact in states with stricter identification requirements.*

Secondly, the goal of voter GOTV efforts is to win elections, and this requires groups to target those they feel most likely will support their cause. Not all groups within the state, or even all groups thought to be impacted by ID requirements, are equally likely to support Democratic candidates. Grassroots organizations will most likely focus their efforts on those groups they feel will be supportive of their efforts and vote for their preferred candidates. African Americans present the most likely target for these efforts. Among the groups most involved in opposing voter identification requirements is the NAACP, which has called for a “high tide of registration and mobilization and motivation and protection” (Thernstrom and Thernstrom 2012). Other accounts describe efforts by groups involved at the local level to target African Americans and other urban minorities (Melber 2014; Issenberg 2012). Further, such efforts are likely to target areas with a larger concentration of minorities.

*H2: Because mobilization efforts are attempts to win elections, African Americans living in states with stricter ID requirements will be more likely to report being contacted by a campaign or other organization.*

*H3: Because mobilization efforts are attempts to win elections, efforts to mobilize African Americans will be concentrated in counties with large African American populations.*

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<sup>26</sup> Mississippi’s photo identification requirement was approved by voters on ballot referendum in 2011. Other states to adopt voter ID via the initiative process include Oklahoma (non-photo ID in 2010) and Arizona (non-photo ID in 2004).

Each of these hypotheses are able to add to our understanding of how grassroots organizations are using voter identification laws to mobilize the population. If these efforts are successful, we can expect there to be both more mobilization efforts targeted at minorities living in states with voter ID requirements as well as different rates of voting among minorities who were contacted. The most pressing issue to address is whether these laws are deterring some from voting in elections. Using evidence from the CCES we can also examining voting rates across the country. Increasing the costs of voting are assumed to decrease the likelihood of voting, with mobilization efforts counter acting this impact.

*H4: Because stricter voter identification requirements increase the costs associated with voting, after controlling for mobilization efforts, the impact of stricter voter identification requirements will be to decrease the likelihood of voting in states with stricter ID requirements.*

#### *Empirical Approach and Measures*

This project uses survey responses from the 2012 Cooperative Congressional Election Study (CCES) to examine how voter identification requirements impact both campaign mobilization efforts and voter participation in recent elections. The CCES has a number of advantages over other studies typically used to study voter turnout. Many scholars use the Current Population Survey's (CPS) November Voter Supplement to study individual turnout. While the CPS has the advantage of being representative at the state level, it does not measure whether citizens were contact by a campaign or other group during the election season. Other surveys that include this measure, such as the American National Election Study (ANES), generate nationally representative samples meaning that some states with voter identification are not well represented. The CCES

combines a large national sample of over 45,000 respondents with substantial state samples. This provides over 100 respondents in even sparsely populated states.<sup>27</sup> While not a representative sample of voters in each state, these data provide the necessary leverage in each state with voter identification laws to directly examine the role of campaign contact.

All results are based on the data from the 2012 and 2010 post-election CCES surveys using responses to the “common content” items (i.e., questions asked of all respondents) and are analyzed using a two-level logistical regression. Including a level for each state allows for random variation at the state level, given that respondents living within certain states are likely subject to unknown factors not controlled for in the model. Thus, the interdependence across respondents in the same state is accounted for in the model rather than treated as a fixed effect. The logit model is used because the dependent variables are dichotomous.

*Dependent Variables.* Of interest for our study are two primary concerns. First, are political parties or grassroots organizations using the message of the potential negative effects of voter ID requirements to mobilize more Democratic segments of the electorate? Second, do voter ID requirements in the states have any impact on voter turnout? Both of these questions can be addressed using survey items included in the 2012 CCES.

To gauge mobilization efforts, I use various measures of campaign contact. The CCES asked each respondent in the post-election survey whether they were contacted by

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<sup>27</sup> The range of respondents per state in the 2012 CCES varies from a low of 106 in North Dakota to a high of 5,059 in California. Ten states in the CCES have less than 300 respondents in the survey.

a candidate or political organization during the election season.<sup>28</sup> This measure was recoded into a dichotomous measure where respondents who reported being contacted are coded as ‘1’ and all others were coded as ‘0.’

To measure voter turnout I rely on the CCES’ self-reported voter turnout item. Much like any other survey, respondents are asked whether they reported voting in the last election, either the 2012 US Presidential or 2010 Midterm election depending on survey year.<sup>29</sup> Respondents who reported they definitely voted in the general election are coded as ‘1’ and all other responses were coded as ‘0.’ Additionally, respondents who reported not being registered to vote after the election were coded as ‘0’ given that registration is necessary to vote in elections.<sup>30</sup> While this process is subject to the same biases that occur in other surveys of voter behavior, the CCES routinely attempts to validate state-level results by comparing reported votes to actual vote totals. While the average vote for Democratic candidates is overstated by 2 points, this is within the overall sampling error (Ansolabehere and Schaffner 2013, 18).

*Independent Variables.* The main independent variables for this study are two dummy variables (*Non-Photo ID* and *Photo ID*) capturing the presence of more or less stringent voter identification laws in the states. Based on the National Conference of State Legislatures (NCSL) coding procedure, *Non-Photo ID* is coded as 1 if the state requests or requires voters to present identification at the polls but does not require the identification to have a picture of the voter, all other states are coded as 0; *Photo ID* is

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<sup>28</sup> Exact wording for 2012 CCES item CC425a “Did a candidate or political campaign organization contact you during the 2012 election?” Of 44,921 respondents 31,707 (71 percent) reported being contacted.

<sup>29</sup> Exact wording for 2012 CCES item CC401 “Which of the following statements best describes you?” Respondents are given four options that express they did not vote in the election and one response stating they “definitely voted” in the general election.

<sup>30</sup> Respondents living in states that allow same-day voter registration at the polls were included in the CC401 item and thus were coded as not voting only if they reported not voting in the election.

coded as 1 if the state requires or requests voter to present identification at the polls and requires that identification to have a picture of the voter, all other states coded as 0. Each form of law is coded as 1 if it was enforced during the election that year. Thus a state that adopted voter identification in a given year but did not enforce that law is coded as 0. For example, Pennsylvania adopted photo identification in 2012, but court challenges prevented the laws from going into effect for either the election in 2012 or 2014. For this reason Pennsylvania is coded as 0 for having a voter ID law in 2012. States with no ID requirement in effect serve as the reference category for the ID law dummies, with coefficients indicating the impact of ID laws on voter turnout relative to states with no such requirement.

Additionally, the NCSL maintains a database of election laws, meaning that in addition to laws in effect we can examine laws relating to changes in election law currently before the legislature. States were coded as ‘1’ if any law *strengthening* current voter ID law – e.g. moving from no ID law to any law or non-photo to photo ID – was before the state legislature in 2012. Having laws before the legislature in 2012 is likely to spur mobilization efforts given the controversy surrounding these laws combined with the stakes of a presidential election. A Pennsylvania state legislator was caught on video claiming that the Pennsylvania ID law passed would enable Gov. Mitt Romney to win the state over President Obama. While the law was not in effect during the election, this no doubt spurred many groups to mobilize against the law, which likely influenced contacts and turnout during the election.

*Other Independent Variables.* One major benefit of using CCES survey data is that we can include controls for a number of relevant factors known to influence reported



contacts and turnout at the level of the individual as well as states and counties; and we can assess the influence of cross-level interactions—i.e., macro-level factors that moderate the influence of individual-level characteristics. . Typically, individual-level research includes controls for race, education, income and employment status when examining voter turnout. Each of these are included as survey items on the CCES. Race is measured using two dummy variables, *African American*, coded 1 if the respondent is black, and *Hispanic*, coded 1 if the respondent is Latino, making the excluded reference category non-Hispanic whites. *Education* is coded as a six-point scale ranging from no high school diploma (coded 1) to a post-graduate degree (coded 6). *Income* is a 16-point scale ranging from a low of less than \$9,999 (1) to a high of \$500,000 or more (16). *Race* and *employment status* are treated as dichotomous measures where ‘1’ equals the category of interest and ‘0’ for all others.

Several state level variables are included to control for state-level factors that impact voter turnout and contacts beyond voter ID laws. The goal here is to control for the effects of the major parties in their desire to win the presidential election, so that remaining variation in reported contact and voting is due to the presence of voter identification laws. These measures include whether the state has a period of early voting or allows for no-excuse absentee voting, both measured by the coding scheme developed by Gronke et al (2007).<sup>31</sup> Competitiveness is measured by whether the state was considered a presidential battleground state in the 2012 election.

Whether the respondent lives in an urbanized area is also thought to impact mobilization efforts. Given that many efforts specifically mention targeting minorities in

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<sup>31</sup> I use the coding scheme developed by Gronke, Galanes-Rosenbaum, and Miller (2007) and update the presence of laws with information from the NCSL.

urban areas (see Issenberg 2012; Thernstrom and Thernstorm 2012), there is reason to suspect that living in an urban area will moderate reported contact in the sample (hypothesis 3). The CCES records the county of respondents which can be used to determine the racial breakdown of county populations. *Percent County African American* was created by using the proportion of respondents in each county sample that are African American. This approach takes advantage of the CCES's sampling approach that selects respondents based on demographic characteristics (i.e., race, gender, age, religion, income, etc) and then weights the stratified sample to match the national electorate. Overall this produces estimates that roughly match state level election outcomes and Congressional district level (Ansolabehere and Schaffner 2013).<sup>32</sup>

In the future, therefore, I plan to use the actual percentages of the county that are black and Hispanic to measure the racial and ethnic characteristics of the county. In addition, I will include a more detailed methodological note detailing the methodological strengths and weaknesses of using CCES data versus other datasets that include sufficient cases for all 50 states. It should also be noted that the CCES surveys are not based on a random sampling procedure, since there does not exist a population of email addresses from which to randomly select respondents. Thus, results based on CCES surveys are not strictly generalizable in the conventional statistical sense to national or state populations. Nevertheless, research shows that state-level opinions using the large CCES samples

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<sup>32</sup> The CCES produces a validation report that matches sample predicted voter for state level races and congressional races to actual election outcomes. For the 2010 CCES sample all statewide offices results were within the overall sampling Mean Squared Error (MSE) (Ansolabehere and Schaffner 2013, 25). For the 2012 sample the CCES sample overestimated support for Democratic candidates in President, Gubernatorial, and US Senate races and underestimated support for Democratic candidates in State Attorney General and Secretary of State races, again this was within the estimate MSE for the sample (Ansolabehere and Schaffner 2013, 18).

come very close to approximating state-level opinions based on more conventional sampling procedures.

To assess the cross-level interactions between race, state ID laws and the racial makeup of the counties where respondents live, necessary for testing hypotheses 2 and 3, a set of three-way interaction terms was created by multiplying the two race dummies times the two ID law dummies times percent African American in the county, and these 3-way interaction terms and all lower-order terms were added to the model.

#### *Campaign Contact, Voting, and Voter ID*

Table 6.1 reports the results of the analysis predicting reported contact with campaigns during the 2012 and 2014 general elections. As indicated, given the dichotomous nature of the dependent variable--i.e., whether the respondent reported contact with a campaign or not, a logistic multilevel regression model was estimated. Altogether the model shows consistent evidence for not only for how election laws shape the strategy of contacting individuals, but how contact is affected by the race of the respondent moderated by state voter ID laws and the racial density of the county where the voter lives.

The first two rows of Table 6.1 show the conditional effects for voter ID laws. Given the coding of the race dummies and the presence of the interaction terms, the coefficients associated with Non-Photo ID Law and Photo ID Law reflect the impact of more stringent state ID laws compared with no ID laws for non-Hispanic whites (the excluded category for the race dummies) living in a county that is 0 percent African American. Interestingly, the model predicts that whites are roughly 20 percent more likely to report being contacted in states with non-photo ID laws and 15 percent less likely to be

**Table 6.1: Probability of Being Contacted in 2012 and 2010 Elections, Logit**

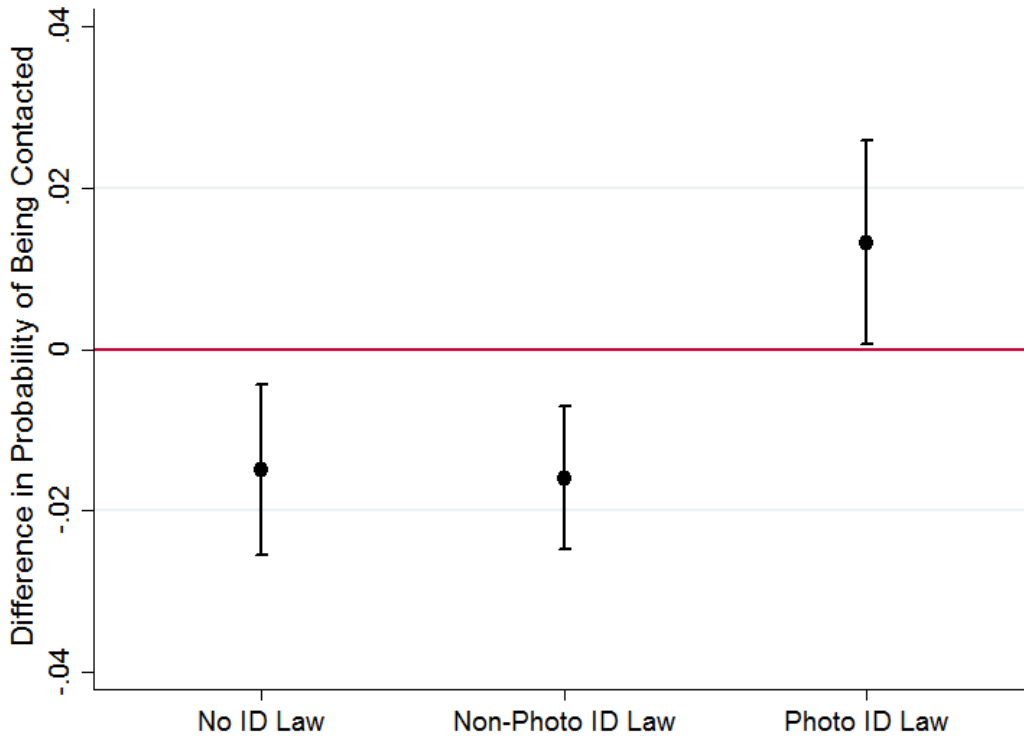
Non-Photo ID Law	.212***	(.081)
Photo ID Law	-.163*	(.092)
R is African American	-.122	(.093)
X Non-Photo ID Law	-.062	(.125)
X Photo ID Law	.237*	(.150)
% County African American	.047	(.166)
X Non-Photo ID Law	-.389*	(.231)
X Photo ID Law	-.369	(.296)
R is African American X % County African American		
X Non-Photo ID Law	.530	(.449)
X Photo ID Law	-.463	(.468)
Battleground State	.114***	(.036)
Presidential Election (year=2012)	.076***	(.022)
Early in Person Voting in State	-.411**	(.193)
No-Excuse Absentee Voting in State	-.065	(.285)
Early in Person X No Excuse Absentee	.698**	(.327)
All Elections by Mail	-.003	(.481)
Permanent Absentee Status	-.349***	(.131)
Registered to Vote	1.116***	(.045)
R is Hispanic	.094	(.059)
R is Unemployed	-.043	(.037)
Political Interest	0.469***	(.012)
Income Level	.092***	(.004)
Age of R	.037***	(.001)
Gender (Female=1)	.049**	(.021)
R Identifies as Partisan	.138***	(.021)
Education Level	.145***	(.008)
Constant	-4.294***	(.195)
N	65,298	

Note: Model predicts respondent reporting being contacted by campaign or other organization during the 2012 US Presidential Election or 2010 Midterm Elections. Coefficients are logistic multilevel regression coefficients with standard errors in parentheses. \*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$ .

contacted in states with photo ID requirements relative to states with no ID requirement.

The impact for African American respondents is reflected through the interaction term (*R is African American X Non-Photo ID* and *X Photo ID*). Here we see a different effect. Whereas the model does not predict a difference in reported contact rates between whites and blacks in states with non-photo ID laws, African Americans are 27 percent

**Figure 6.2: Difference in Probability of Being Contacted by Respondent Race and State ID Law**



Note: Figure 6.2 shows the predicted difference in African American respondents reporting being contacted by a campaign or other organization relative to non-Hispanic Whites by type of ID law in effect in the respondent's state of residence. Results show that African Americans have a lower probability of being contacted in all states *except* those with photo ID laws, where they have a *greater* probability of being contacted. 90 percent confidence interval are shown.

more likely than whites to be contacted in states with photo ID requirements. The model also includes interaction terms designed to test if there is any associated impact for contact rates among those living in areas with large African American populations. Because logit coefficients in the presence of a 3-way interaction term are notoriously difficult to interpret, I turn to the marginal effects of state ID laws on being contacted in Figure 6.2 to show how the difference in the probability of contacted for black versus white respondents varies across state ID laws, holding all other variables at their mean values.

Figure 6.2 graphs the predicted difference in campaign contact between whites and blacks living in states with different forms of voter ID laws, with 90% confidence intervals. The solid red horizontal line indicates 0 predicted difference in reported contact rates between whites and African Americans, with points below the line indicating significantly lower rates of contact and points higher indicating significantly more reported contact for African Americans versus whites. On the one hand, given that blacks are less likely to vote than whites, all else equal, the greater likelihood of whites being contacted in most states with either no ID laws or non-photo ID laws, makes sense given that parties are more likely to contact individuals who are more likely to vote in the first place. The important exception to this tendency occurs in states with photo ID laws in effect, where African Americans are significantly *more* likely to report being contacted by political campaigns. While there does not appear to be any increase in contact in areas of the state that are more densely populated with African Americans (see *% County African American*), there is evidence that the presence of photo ID laws are associated with an exceptional increase in strategic contacts of African American voters in those states.

While it does not appear that voter ID laws result in any broad based mobilization efforts, there is significant support for hypotheses 2 and 3. It appears that campaigns and other grassroots organizations are using these ID laws to mobilize specific segments of the electorate that are most favorable to them. Thus the efforts are targeted at urban African Americans living in urban areas in states with the most stringent level of ID requirements, namely photo ID laws. It remains to be seen whether these efforts result in boosting voter turnout.

While not the focus of the analysis, we also see evidence that other election laws impact the rates of campaign contact across the country. Early in-person voting combined with no-excuse absentee voting significantly increases the likelihood of reporting contact with a campaign while permanent absentee status reduces contact. During elections parties must make decisions about where to send resources, and they concentrate these to get their supporters to the polls. For early voting, this means that supporters can be contacted and given ballots before Election Day. Permanent absentee status reduces this drive, as more individuals potentially have ballots mailed to them each year. Voter ID laws appear to be on more factor altering the battle lines between parties in elections.

*The Impact on Turnout.* Table 6.2 reports the impact of voter ID laws on self-reported turnout in the 2012 and 2010 elections. As in Table 6.1, the main dependent variable is dichotomous-- i.e., whether the respondent reported voting, making a multilevel logistic regression estimation procedure appropriate. The top two rows show the impact of both types of ID law for non-Hispanic Whites in midterm elections, with the interaction with *Presidential Election* demonstrating the impact in presidential election years. Here we see that photo ID laws are estimated to decrease the likelihood of voting in elections, by roughly 13 percent. For African Americans, contrary to the expectations of some, there is no impact for such ID laws. This impact is consistent with the expected strategic role played by photo ID laws in elections. Unlike African Americans, whites traditionally split their vote between the major parties. This gives Democrat-allied interests little incentive to target them for mobilization specifically surrounding voter ID laws. Going back to chapter 5, we saw that photo ID laws were

**Table 6.2: Probability of Voting in 2012 and 2010 Elections**

	Model 1		Model 2	
Non-Photo ID Law	-.086	(.069)	-.017	(.076)
Photo ID Law	-.152*	(.078)	-.135*	(.086)
R is African American	.453***	(.075)	.406***	(.083)
X Non-Photo ID Law	-.091	(.099)	-.102	(.115)
X Photo ID Law	.159	(.183)	.194	(.141)
Presidential Election (year=2012)	1.574***	(.036)	1.639***	(.063)
X Non-Photo ID Law			-.164**	(.082)
X Photo ID Law			-.072	(.098)
X R is African American			.289*	(.193)
Presidential X African American X Non-Photo ID			-.115	(.242)
Presidential X African American X Photo ID			-.254	(.275)
Age of Respondent	.037***	(.001)	.037***	(.001)
Gender (female=1)	-.269***	(.032)	-2.69***	(.032)
R is Hispanic	.162	(.085)	.159	(.085)
Education Level	.229***	(.012)	.229***	(.012)
R is Unemployed	-.132**	(.052)	-.133**	(.052)
Income Level	.109***	(.006)	.109***	(.006)
R Identifies as Partisan	.326***	(.032)	.326***	(.032)
Interest in Politics	.769***	(.017)	.769***	(.017)
Battleground State	.041	(.049)	.019	(.204)
Early In-Person Voting	-.076	(.102)	-.081	(.099)
No Excuse Absentee Voting	-.428**	(.207)	-.417**	(.204)
Early-In Person X No Excuse Absentee	.659***	(.211)	.664***	(.207)
Permanent Absentee Status	.118	(.102)	.108	(.101)
All Elections by Mail	1.193***	(.267)	1.186***	(.263)
R Contacted by Campaign	.856***	(.074)	.843***	(.032)
Constant	-	(.108)	-	(.109)
	4.901***		4.919***	
N	62,827		62,827	

Note: Model predicts respondent voting during the 2012 US Presidential Election or 2010 Midterm Elections, coefficients and standard errors (in parentheses) reported. \*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$ .

predicted to lower average turnout levels in states and counties with small African

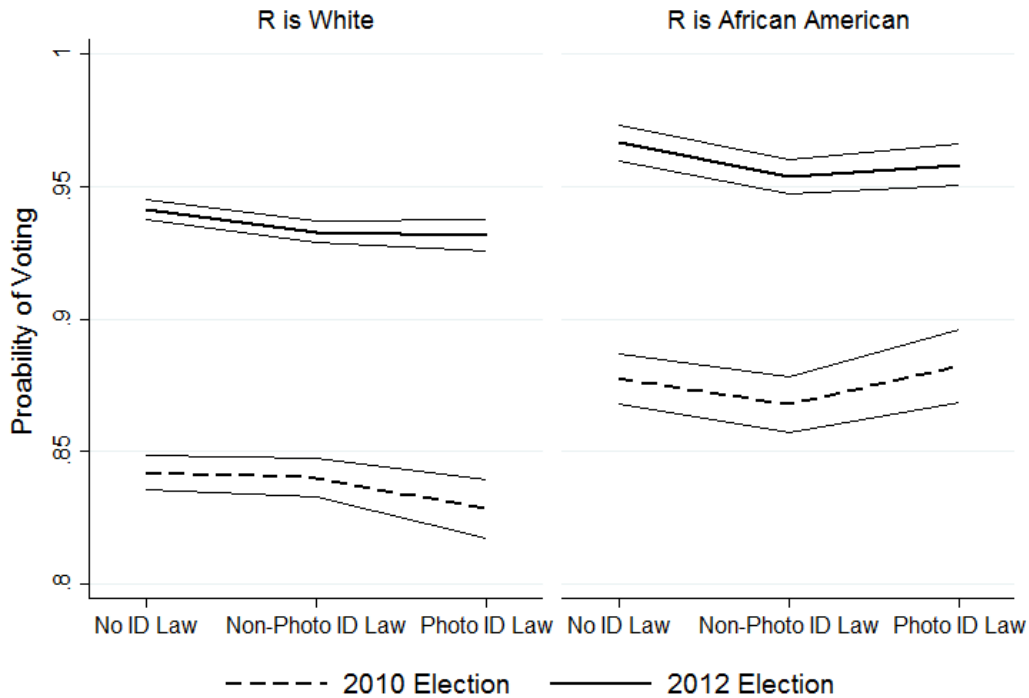
American populations. The story is different for African Americans.

African Americans are more likely to cast a vote for Democratic candidates, making them

a more appealing target for groups that often oppose voter ID laws. As Table 6.1 shows



**Figure 6.3: Probability of Voting by Race and ID Law**



Note: Figure 6.3 shows the probability of voting in 2010 (dashed line) and 2012 (solid line) by respondent race and type of ID law in effect. The left panel shows the impact for white respondents and the right panel for African American respondents. Only for African American respondents is there a positive estimated impact for photo ID laws on predicted turnout.

African Americans are also more likely to report being contacted by campaigns in states with photo ID requirements. Neither model estimates that photo ID laws significantly increase the likelihood of African Americans voting ( $p=.183$  in Model 1 and  $p=.169$  in Model 2), this is the only time where photo ID laws are estimated to have a positive impact on voter turnout. This effect is graphed in Figure 6.3, where the effect of photo ID laws increases sharply for African Americans. This effect is present in both midterm and presidential elections, and provides a strong explain for why efforts to understand the impacts of ID laws has been difficult. As these laws become more common, they continue to become more controversial, which in turn fuels their power to mobilize the very segments of the electorate they are often thought to disenfranchise.

The effect of voter ID laws during the 2012 presidential election (*Presidential Election X*) reveals a different pattern. Here photo ID laws are estimated to have a negative, although non-significant, impact for both whites and African Americans. However, here we see that non-photo ID laws do depress voter turnout, making the odds of an individual voting decrease by roughly 16 percent. This would be expected given the controversial nature of photo ID laws which generally monopolize coverage of ID laws. Presidential elections dramatically increase the electorate, bringing in millions who do not regularly vote and thus may be unaware of ID requirements. States that require photo ID to vote often engage in campaigns to educate voters about the change in ID law and this effort is often not seen to the same scale with non-photo ID laws. Presidential elections also bring in more interest by both media and grassroots organization which also can make voters aware of ID requirements, and much like state actions these efforts are generally concentrated around voter photo ID laws.

#### *Discussion and Conclusion*

Campaigns are centered on winning elections. A large part of modern campaigns emphasizes getting supporters to the polls on Election Day, and part of this requires reaching them with a message that resonates with potential voters. Voter identification has been widely criticized for disenfranchising large amounts of the electorate; this message is one that media reports some groups are using to mobilize some voters to oppose voter identification. While the laws may be passed primarily by Republicans to prevent African Americans, a core Democratic constituency, from voting in close elections, they alternatively provide a strong message to mobilize individuals.

Research on the effect of these laws on voter turnout has yielded mixed results. Studies have found both positive and negative effects of these laws, both for the population on the whole and for specific groups thought to be most susceptible to requiring voter identification. One potential explanation for this may be the role of groups who oppose voter identification to rally groups of the population to vote in spite of these laws. I have found evidence that African Americans living in states with photo ID laws are more likely to report being contacted by a campaign or other organization than other individuals. While the CCES does not provide information on who these groups are or what message they are using, anecdotal evidence suggests many may be grassroots organizations educating voters about to partisan and disenfranchising elements of voter ID laws.

It is unlikely that groups using voter ID as a mobilization effort will equally target all groups. Whites may not be persuaded by the message of disenfranchisement, giving the common refrain that photo ID is needed for many other aspects of life. Which explains why photo ID yields negative results for white turnout. For blacks this provides a strong mobilization effect. African Americans have long been the target to partisan efforts to restrict their vote and as a core constituency of the Democratic Party would be ripe for new efforts to restrict their participation in an increasingly partisan election environment. Valentino and Neuner (2016) have demonstrated that messages about the disenfranchising effects of voter ID laws anger Democratic supporters and make them more willing to vote in elections. If these efforts are successful on a mass scale they may be countering the perceived negative effects of voter ID laws. In North

Carolina public pressure, led by many African American civil rights groups, was successful in pressuring the state legislature to weaken the law before it went into effect.

This suggests a number of important avenues for future research regarding the role of voter ID in American elections. Primarily, study is needed to see if messaging about voter ID increases voter turnout for any voters or racial minorities. Valentine and Neuner (2016) used survey experiments to show that ID laws increase anger among Democratic supporters and make them more willing to vote, but this does not use actual turnout in state elections. Citrin et al. (2014) use messaging to educate voters about forms of ID needed to vote and find that specific messaging about voter ID does not boost turnout more than contact simply reminding individuals to vote. However, this study does not use messaging that focuses voters on either the partisan nature of ID laws or their potential disenfranchising effects. Both of these are powerful messages that are being used in the field and targeted at minority groups, and understanding this effect will greatly help our understanding of how these laws impact participation.

Another important area for research is looking at which individuals are either denied a ballot or have difficulty with ID while attempting to vote. The CCES is one of the few national surveys that has included questions specifically regarding voter ID on their post-election surveys. This allows researchers to examine which individuals have problems with showing ID at the polls on Election Day, and even which voters are denied a ballot due to lack of voter ID. Critics of these laws offer specific claims about the number and types of individuals who may be denied a ballot and determining who these individuals are will be important as the courts turnout increasingly to research in their decisions to uphold or strike down ID laws.

It is important to realize that election reform does not happen in a vacuum. One party often pushes for reform because they believe they will benefit from the effects. In recent years, the Democratic Party has led efforts to increase access to absentee ballots and periods of early voting. Rather than being undertaken over a general concern for the quality of democracy the motivation is to increase turnout and help the party's candidates win. Republican officials have resisted these efforts often publicly over concerns about election misconduct, but also because they wish to protect their own electoral advantage. Research shows that the adoption of ID laws is responsive to the strategic concerns of the Republican Party (Hicks et al. 2014). In response, opposition groups are forced to turn to more traditional methods to boost voter participation. Each election reform passed alters the strategic environment of the parties, forcing them to adapt in order to win elections.

## **Chapter 7: Voter ID Laws and Campaign Strategy in the US**

### *Voter ID Laws and Elections*

For several decades election reform in the United States has focused primarily on reducing barriers to access and opening the process to as many citizens as possible. States and the federal government passed laws that eased both the registration process and expanded access to absentee and early voting. However, the 2000 Presidential Election focused attention on the administrative side of elections. For weeks media coverage focused on election officials attempting to determine how individuals intended to vote and if some votes should be counted at all. This shock in confidence caused many to look towards reform to protect the integrity of the electoral process and ensure that only eligible voters participated.

One such reform that has routinely gained popular support is the requirement that all voters present identification at the polls. Supporters argue that these laws prevent fraud from altering elections by ensuring that only registered voters participate. These laws come in a variety of forms with many states beginning to require photo ID for all voters in state elections. Voters without acceptable photo identification are often forced to cast a provisional ballot that is only counted if they return to the board of elections after Election Day with acceptable ID. While evidence of fraud is extremely limited, many states argue that the laws help to protect voter confidence given concerns over possible fraud (*Crawford* 2008). Additionally, supporters note that many citizens already have acceptable photo ID and the requirement adds little barriers to the process of voting (*Carter-Baker Commission* 2005; *Pastor et al.* 2010).

Critics agree that access to photo IDs is widespread in modern society, but note that specific segments of the population are more likely to lack photo ID (Hershey 2009; ACLU 2011). Additionally, these groups tend to be consistent members of the Democratic constituency, such as racial minorities, and any barrier thus threatens to alter close elections (Baretto, Nuno, and Sanchez 2008). In most states efforts to pass these laws has been entirely driven by partisan actions; only in Rhode Island was a photo ID requirement implemented with support from Democratic legislators. The fact was even enough to get Judge Richard Posner, who upheld Indiana's ID law in 2008, to reconsider his support for ID laws in recent cases (Posner 2015). More damaging are consistent findings that voter fraud does not threaten modern American elections.

In many recent examples, the fight over voter ID has spilled over into the court system. Federal courts have generally been favorable to state concerns over the necessity of requiring all voters to show ID at the polls. Judges often reference the lack of evidence that laws harm voter turnout as a key justification for upholding requirements. State courts have been less favorable. In states where the constitution provides additional protections for the right to vote, such as Pennsylvania, courts have been more willing to strike down ID requirements. These judges often look specifically at how the law will impact the small subset of the population that does not have access to photo ID and must often go through a difficult process to obtain one prior to an election. Even in states where courts have upheld ID requirements, they have struck down barriers, such as document costs, in the process of obtaining free voter ID cards.

American elections have been characterized by two competing concerns. The first seeks to expand access to as many eligible voters as possible. Through

Constitutional amendments, Congressional action, and state reforms many of the barriers to voting have fallen over the course of American history. Voters now cannot be denied a ballot due to race, gender, or age, additionally states have eased the registration and voting process along voters in most states to vote absentee or early in elections.

The second concern is a desire to prevent misconduct from stealing elections. American history is also full of stories of party machines stealing elections, leading Progressive reformers of the 1900s to require voter registration prior to elections. Concerns over voter fraud are still present, and voter ID requirements are an attempt to protect the integrity of elections. However, these come at a sharp cost of making participation more difficult.

Surprisingly, research has yet to find any consistent effects of these laws on voter participation. While some studies suggest they harm voter participation, others show no impact on any segment of the population. These studies have examined both individual and aggregate turnout, one state and multiple states, few elections and many elections. One difficulty plaguing is that photo ID laws, the most strict currently in place, have only become common over the past few elections. Additionally, this has been the same period that President Obama has been driving turnout among minorities and young voters to higher than average levels. Each makes identifying the impact of ID laws on voter turnout difficult. Another factor that is often ignored is the role of political parties in voter mobilization efforts.

#### *The Political Parties and Voter ID*

Political parties desire to win elections, and each the only way to do that is to get more of your supporters to the polls than you opponent. For parties in control of the



legislative and executive branches of state governments, altering the election law is a legitimate possibility. In the area of voter identification the public is largely supportive, and for Republicans this may provide political cover for passing requirements that increase the costs for voters who may largely support the opposition. However, this does not mean that liberal groups are out of options. GOTV efforts are a way to get supporters to the polls and can be done even if the party is locked out of the policy making process. Voter identification laws provide these groups with both a message and ethnic groups that could be targeted to increase votes.

Voter ID laws appear to fit directly into this pattern of competition between the major parties. Republicans are often seen as facing as drastic problem as the national electorate becomes increasingly diverse. Many minority groups vote overwhelmingly for the Democratic Party, and efforts to chip away at this support have largely been unsuccessful. Presidential elections dramatically increase the size of the electorate, making races more competitive as national attention is directed at a more interested group of voters. In 2010, a midterm election year, Republicans took unified control of many state governments, giving them an opportunity to protect their electoral advantage.

Given the difficulty of convincing key Democratic constituencies to change their votes, Republicans may have altered their focus to changing election law. Administrative requirements prevent individuals from voting, though we often hope this is for legitimate means. Unfortunately history is filled with examples of incumbent politicians used the election law to their own advantage. Democrats are perceived as benefiting from increasing voter turnout, and have championed recent reforms to remove barriers. Aided by their control of both the legislature and governorship in many states Republicans were

able to pass laws that potentially restrict the electorate. Evidence shows that this is often done for strategic reasons rather than to prevent election fraud.

Among the states that adopted an ID requirement since 2000, demographic and electoral concerns drove the adoption. As elections margins shrink and minority populations grow states are more likely to adopt ID requirements. Looking specifically at photo ID requirements, the African American population, a core Democratic constituency, is one factor behind the adoption of these laws. Further, when a large gap exists between midterm and presidential election turnout states are more likely to adopt photo ID requirements. Photo ID laws may be an attempt to prevent a growing turnout in presidential election years or among minority populations from tilting elections away from Republican candidates. Many believe that these laws will have this effect, but evidence does not consistently show a decline in turnout associated with these laws.

My own findings indicate that photo ID laws, the strictest, correlate with an increase in average turnout levels. This is relative to the minority population in a state, with heavily African American states seeing the bulk of the increase. States with small African American populations are estimated to see a slight, but statistically significant, decrease in average turnout. For most researchers this is the opposite of what impact would be expected. Racial minorities, often specifically African Americans, have been shown to lack photo ID at higher rates than others in the populations. One explanation could be that groups are mobilizing to specifically counter these laws.

While Democrats may lack the votes to prevent the passage of ID requirements they have other options. Party efforts to mobilize the population have consistently been shown to increase voter participation. ID laws up the ante by providing both a target and

message for these mobilization efforts. This fits the pattern shown in the aggregate results; increasing voter turnout in areas with large minority populations where there is incentive to target these groups and swing election outcomes. Where there are small minority populations, there is little chance that efforts will be rewarded with success, and turnout declines.

Survey evidence from recent elections shows that African Americans are more likely to be contacted by campaigns or other organizations in states with photo ID laws. To counter the potential negative impact of ID laws, grassroots organization may be reaching out to minority groups with a message to encourage them to participate in the political process. This can also entail educating minority voters about the ID law and steps needed to obtain acceptable ID. Each of these represent strategic actions by the Democratic Party to maintain competitiveness in state elections. Thus while Republicans may have acted first, the response to ID laws may encourage minority turnout and negate and potential negative effects. This shows how election reforms may not always have the desired effect, but change the strategies of the parties in elections.

#### *Voter ID and the Future of Elections*

Elections are the link between citizens and their government and election law is often the greatest barrier between citizens and their ballot. On its face, election law is supposed to be a neutral force that ensures all eligible voters cast one ballot that is treated the same as every other citizen. American history is filled with attempts to expand access to all segments of society. Throughout the late 20<sup>th</sup> century numerous reforms helped to chip away at legal barriers, so much so that over 30 percent of the vote in 2008 came in

before Election Day (McDonald 2012). As these barriers fell, some grew more concerned about the integrity of elections in the US and the possibility of fraud.

Voter identification requirements on their face are an attempt to protect elections by ensuring that only eligible voters participate in elections, although critics suggest an ulterior motive. Beginning with the Help America Vote Act (HAVA) in 2002 many states began to add barriers to the voting process in a move that threatens to prevent millions of eligible voters from participating in elections. Currently 33 states ask voters for some form of identification at the polls on Election Day, and during the 2016 Presidential Election photo ID requirements will be in force for the first time in six states. In each of these states the laws were passed without the support of a single Democratic lawmaker.

This gives rise to the criticism that the laws are little more than a partisan ploy to steal close elections. A quick look at the electoral map gives some justification to these concerns. While North Dakota, which adopted photo ID in 2015, has been Republican in all presidential elections since 1968, the other states fit our model for strategic adoptions. Texas attempted to require photo ID of all voters in 2011, but has faced continued legal challenges ever since. Federal courts struck down part of the law in 2015, but the Texas Secretary of State claims that the law will be in force for the 2016 election.<sup>33</sup> While Texas does allow some forms of expired photo ID to be used for voting, a U.S. Citizenship Certificate is not one of them. Texas also has a large and growing proportion of Hispanic voters. The other four states, New Hampshire, North Carolina, Wisconsin,

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<sup>33</sup> The Texas Secretary of State notes that the ID requirement “effective immediately” and lists a number of acceptable IDs under state law. The site also cautions that those without acceptable photo ID may cast a provisional ballot that is only counted if the voter returns to the board of election within 6 days with acceptable ID. Source: <http://www.votetexas.gov/register-to-vote/need-id/>.

and Virginia, each voter for President Obama in both 2008 and 2012 (with the exception of North Carolina which voted Republican in 2012). Together these states represent 83 electoral votes, with half of those electoral votes in states considered to be presidential battleground states. In 2012, President Obama's margin of victory in North Carolina was a slim 2 percentage points, in both New Hampshire and Virginia the margin was less than 5 percentage points. This suggests that even a small change in voter turnout, if it is concentrated among a specific segment of the population, could be enough to swing the outcome in each of these states.

However, this may not be the advantage Republicans hope it to be. In many states that have adopted photo ID requirements grassroots organizations have rallied to mobilize minority groups in elections. In North Carolina, a large number of groups have been working to mobilize African Americans to make them aware of the requirements and help them get access to acceptable ID. ID laws that are passed in competitive states could see a backlash effect if advocates are successfully able to mobilize these communities. Voter ID laws have drawn comparisons to Jim Crow laws, and provide a strong message that may help get these voters to the polls. In North Carolina these efforts placed enough pressure on the state legislature to get Republicans to weaken the ID requirement before it went into effect. If this pressure continues it could help negate any negative impact ID laws may have on voter turnout.

Unfortunately these efforts could harm the long term strategy to have ID laws overturned by the courts. In every instance where either state or federal courts have reviewed voter ID laws they have focused on how these laws impact political participation. Federal courts have been less willing to rule against ID laws because of the

limited evidence they deny individuals a vote. In Indiana, the Supreme Court noted that all those individuals with problems were able to obtain acceptable ID in its decision to uphold Indiana's photo ID law. In Pennsylvania the photo ID law was struck down in part because the state failed to educate voters about the new requirement. If grassroots organizations are successful in mobilizing the population or pressuring the state to increase spending on education efforts these could limit the grounds for courts to strike down ID laws. This underscores the importance of understanding how these laws are used in the US as courts are increasingly relying on research to strengthen their opinions.

Research on the impact of voter ID laws has focused primarily on how these laws affect voter turnout. While few studies have found evidence of large negative effects of voter ID, even small changes could significantly alter election outcomes. In 2012 the electoral vote in eight states was decided by less than 6 percent of the popular vote, in 2014 five US Senate seats and 23 US House seats were decided by less than 5 percent of the vote, also in 2014 15 governors races were decided by 5 percent or less of the popular vote. If this decline is concentrated among a segment of the electorate that is a core supporter of one party, such as African Americans in the Democratic Party, the impact could be more drastic.

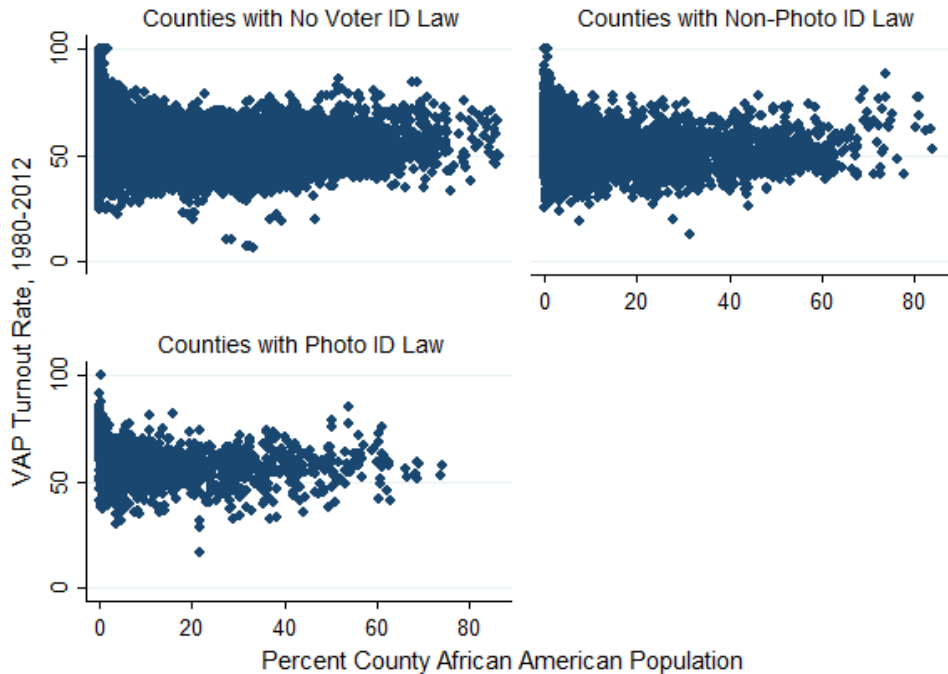
However, there are important areas for research in how these laws are implemented. Recent court cases have focused attention on the process by which free voter ID cards are distributed to those in need. Recently, Alabama received national attention for its decision to close driver's licensing offices in many primarily African American counties. Pennsylvania's Commonwealth Court struck down a photo ID law noting the failure of the state to educate voters about the new law and procedures to

obtain free IDs. These efforts will be key to ensure ID laws have an even impact on most segments of the population. On Election Day, we need to better understand which individuals are asked to show ID and who is denied a ballot because of a lack of ID. Each of these steps will greatly impact the effects of the laws on voter turnout and whether courts continue to uphold ID laws.

Election law provides the context for how parties contest elections, and is not above manipulation by the parties themselves. Democratic officials often attempt to use laws to expand the electorate and bring new voters to the polls, Republicans often resist these reforms. Given their control of state governments, Republicans are now in position to place restrictive laws in an attempt to make the electorate more favorable to themselves. None of this takes place in a vacuum and the parties are constantly reacting to the actions of their opposition. Voter ID laws have again changed this strategic environment; providing Republicans with the means to limit the electorate and the Democrats with a message to counter.

## Appendix: State vs County Comparison of Voter Turnout

**Figure A1: Scatterplot of Counties by VAP Turnout and African American Population**



Note: Figure A1 plots the percentage of county turnout against the county African American population. Compared to the state level results, county level provides much greater variation among African American population under each type of voter ID law.

Using county turnout allows for a better examination of the interaction between African American population and the state’s ID law. Figure A1 shows the number of counties in the sample plotted by turnout level (the vertical axis) and percent African American population (the horizontal axis). The total sample includes over 26,900 counties with turnout information. This greatly increases the ability to see how areas with large minority populations are impacted by voter ID laws.

In the state level sample few total observations include large African American populations and photo ID laws. Of all state observations with photo ID, only seven have an African American population over 30 percent (Georgia, which implements photo ID in 2008). In the county level sample there are 129 election year observations with African



American populations over 40 percent. Additionally, these observations are scattered among four different states with photo ID laws in effect. In total, the number of observations for photo ID laws increases from roughly 30 state-year observations to over 1,400 county-year observations. A similar increase is evident in non-photo ID laws, which increases total observations to nearly 5,200 with approximately 450 observations with significant African American populations (greater than 40 percent).

The state level analysis is necessary to show that the dynamics of voter ID laws are present only in presidential elections. This lends support to the findings of the county level results, which contain only presidential elections.

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**Ryan E. Voris**  
Department of Political Science, University of Kentucky  
Lexington, KY 40506  
[ryan.voris@uky.edu](mailto:ryan.voris@uky.edu), [ryanvoris.weebly.com](http://ryanvoris.weebly.com)

## **EDUCATION**

University of Kentucky, Lexington, KY July, 2016 (expected)  
Ph.D. in Political Science

Major Field: American Political Behavior

Minor Filed: Comparative Politics

Dissertation Committee: Mark Peffley (Chair), Emily, Beaulieu, Abby Cordova, Justin Wedeking, and J.S. Butler

Dissertation: *The Partisan Strategy of Voter Identification Requirements*

Abstract: After the month long fight over recounting votes in Florida during the 2000 U.S. Presidential Election the attention of many turned to ways to modernize and improve the mechanics of elections. Voter identification requirements were one potential reform that promised to rebuild voter confidence in elections. After being upheld by the Supreme Court in 2008 these laws have taken center stage in many recent elections. Both major parties continue to be sharply divided over the need for and effect of identification requirements. While many assume these laws will depress voter turnout, especially among specific segments of the population, research to date has failed to find conclusive evidence of any impact. I believe the answer lies in the strategic environment surrounding these laws as the political parties fight for advantage in elections. Using a variety of data sources, both observational and experimental; I examine how these laws impact political participation in the United States. In many instances the actions of groups opposed to voter ID laws may be boosting turnout and countering any negative impact these laws might otherwise have.

Ball State University, Muncie, IN 2012  
M.A. in Political Science, Concentration: American Politics

Thesis Committee: Steven Hall (Chair), Joseph Losco, Raymond Scheele

Thesis: *Early Voting and Turnout in Ohio*

Cedarville University, Cedarville, OH 2009  
B.A. in History & Political Science, Cedarville University (2009)

Senior Thesis Committee: David Meyer, Kevin Simms, Mark Smith, Andrew Wiseman

## **RESEARCH INTERESTS**

American Political Behavior and Institutions, Parties and Elections, Voting Behavior, Ballot Access, Voter Identification, Election Reform, State Politics and Policy

## **FORTHCOMING WORK**

"Voter Identification Requirements and Participation: A Cause for Alarm?" *Forthcoming*  
In *Why Don't Americans Vote? Causes and Consequences*, ABC-CLIO, Inc.: Santa Barbara, CA.

## **CONFERENCE PRESENTATIONS**

- Midwest Political Science Association Conference, Chicago, Illinois April 2015  
"Voter Identification Laws and Turnout: Reexamining the Evidence"
- Midwest Political Science Association Conference, Chicago, Illinois April 2015  
"Race and Rights: Support for Restoring Felons' Right to Vote" (with Dr. Emily Beaulieu and Dr. Mark Peffley, University of Kentucky, and Dr. Thad Hall, University of Utah)
- Indiana Political Science Association Conference, South Bend, Indiana March 2012  
"Independent Spending After *Citizens United*"

## **WORKING PAPERS**

- "Voter Identification Law and Turnout: Reexamining the Evidence"
- "Public Support for Voter Identification Laws: Partisan Activation, Political Interest, and Public Policy" (with Dr. Emily Beaulieu, University of Kentucky)

## **RESEARCH EXPERIENCE**

- Research Assistant for Dr. Rebecca Bromley-Trujillo, Martin School for Public Policy, Univ. of Kentucky,  
Fall 2015- Current
- Research Assistant for Dr. Emily Beaulieu, University of Kentucky, Summer 2014
- Research Assistant for Dr. Justin Wedeking, University of Kentucky, Summer 2014, Summer 2013
- Graduate Assistant for Dr. Steven Hall, Ball State University, Fall 2011- Spring 2012
- Graduate Assistant for Dr. Joseph Losco, Bowen Center for Public Affairs, Ball State Univ.,  
Spring 2012

## **TEACHING EXPERIENCE**

### Primary Instructor:

- PS 391-005: The Congress, University of Kentucky, Spring 2015
- PS 484: The American Presidency, University of Kentucky, Fall 2014
- PS 101: American Government, University of Kentucky, Spring 2014

### Recitation Leader:

- Dr. Christopher Rice, PS 101: American Government, University of Kentucky, Fall 2013
- Dr. Steve Voss, PS 101: American Government, University of Kentucky, Fall 2012

### Teaching Assistant

- Dr. Mark Peffley, PS 474: Political Psychology, University of Kentucky, Spring 2013
- Dr. Steven Hall, PS 293: International Relations, Ball State University, Spring 2012, Fall 2011
- Dr. Joseph Losco, PS 232: Modern Western Political Thought, Ball State University, Spring 2012
- Dr. Gene Frankland, PS 280: Comparative Politics, Ball State University, Fall 2011
- Dr. Gene Frankland, PS 347: Environmental Law and Policy, Ball State University, Fall 2011
- Dr. Gene Frankland, PS 382: Government and Politics of W. Europe, Ball St. Univ., Fall 2011

## **AWARDS**

Jewell Research Award, Department of Political Science University of Kentucky 2015  
Teaching Assistantship, Department of Political Science University of Kentucky 2012-2016  
Graduate Assistantship, Department of Political Science Ball State University 2011-2012

## **SERVICE**

Department of Political Science, University of Kentucky  
Political Science Graduate Student Association Representative Fall 2015 – Spring 2016  
Department of Political Science, University of Kentucky  
Political Science Graduate Student Association V.P. for Administration Fall 2013-Spring 2014  
Kentucky Political Science Association (KPSA)  
Worked registration table for conference at University of Kentucky Spring 2013

## **PROFESSIONAL MEMBERSHIPS**

American Political Science Association  
Midwest Political Science Association

## **COMPUTER SKILLS**

Microsoft Word 2013, PowerPoint, Excel, EndNote,  
Stata 14, Stat Transfer, SPSS

## **REFERENCES**

Professor Mark Peffley  
Department of Political Science  
University of Kentucky  
Lexington, KY 40506  
(859) 257 – 7033  
mpeffl@uky.edu

Assistant Professor Emily Beaulieu  
Department of Political Science  
University of Kentucky  
Lexington, KY 40506  
(859) 257 – 9677  
emily.beaulieu@uky.edu

Associate Professor Justin Wedeking  
Department of Political Science  
University of Kentucky  
Lexington, KY 40506  
(859) 257 – 7040  
justin.wedeking@uky.edu