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PROPOSITION 200

OFFICIAL TITLE
AN INITIATIVE MEASURE
AMENDING SECTIONS 10-152, 16-165, AND 16-876, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-14101; RELATING TO THE ARIZONA TAXPAYER AND CITIZEN PROTECTION ACT.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the State of Arizona:

Section 1. Short title. This act may be cited as the "Arizona Taxpayer and Citizen Protection Act".

Sec. 2. Findings and declaration. This state finds that illegal immigration is causing economic hardship to this state and that illegal immigration is encouraged by public agencies within this state that provide public benefits without verifying immigration status. This state further finds that illegal immigrants have not been gainfully employed in this state with the aid of identification cards that are issued without verifying immigration status, and that this conduct contradicts federal immigration policy, undermines the security of our borders and denounces the value of citizenship. Therefore, the people of this state declare that the public interest of this state requires all public agencies within this state to cooperate with federal immigration authorities to discourage illegal immigration.

Sec. 3. Section 16-152, Arizona Revised Statutes, is amended to read:

16-152. Registration form. A. The form used for the registration of voters shall contain:
1. The date the registrant signed the form.
2. The given name of the registrant, middle name, if any, and surname.
3. Complete address of actual place of residence, including street name and number, apartment or space number, city or town and zip code, or such description of the location of the residence that it can be readily ascertained or identified.
4. Complete mailing address, if different from residence address, including post office address, city or town, zip code or other designation used by the registrant for receiving mail.
5. Party preference.
6. Telephone number, unless unlisted.
7. State or country of birth.
8. Date of birth.
10. Indian census number (optional to registrant).
11. Father's name or mother's maiden name.
12. The last four digits of the registrant's social security number (optional to registrant).
13. A statement as to whether or not the registrant is currently registered in another state, county or precinct, and if so, the name, address, county and state of previous registration.
14. A statement that the registrant is a citizen of the United States.
15. A statement that the registrant will be eighteen years of age or over before the date of the next general election.
16. A statement that the registrant has not been convicted of treason or a felony, or if so, that the registrant's civil rights have been restored.
17. A statement that the registrant is a resident of his state and of the county in which the registrant is registering.
18. A statement that executing a false registration is a class 8 felony.
19. The signature of the registrant.
20. If the registrant is unable to sign the form, a statement that the affidavit was completed according to the registrant's direction.
21. A statement that if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.
22. A statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.
23. A statement that the applicant shall submit evidence of United States citizenship with the application and that the registrant shall reject the application if no evidence of citizenship is attached.
B. A duplicate voter receipt shall be provided with the form that provides space for the name, street address and city of residence of the applicant, party preference and the date of signing. The voter receipt is evidence of valid registration for the purpose of casting a ballot to be verified as prescribed in section 16-584, subsection B.
C. The state voter registration form shall be printed in a form prescribed by the secretary of state.
D. The county recorder may establish procedures to verify whether a registrant has successfully petitioned the court for an
injunction against harassment pursuant to section 12-1800 or an order of protection pursuant to section 42-1448 or 13-3602.
and, if verified, to protect the registrant's residence address, telephone number or voting precinct number, if appropriate, from
public disclosure.
Sec. 4. Section 11-166, Arizona Revised Statutes, is amended to read:
11-166. Verification of registration
A. Each county recorder shall mail ballots, a county recorder who mails an item to any elector shall send the mailing by
nonforwardable first class mail marked with the statement required by the postmaster to receive an address correction
notification. If the item is returned undelivered, the county recorder shall send a follow-up notice to that elector
within three weeks of receipt of the return notice. The county recorder shall send the follow-up notice to the address for
appears on the general county register or to the forwarding address provided by the United States postal service. The follow-up notice shall
include a registration form and the information prescribed by section 11-131, subsection C and shall state that if the elector
does not complete and return a new registration form with current information to the county recorder within thirty-five days, the
name of the elector will be removed from the general register and transferred to the inactive voter list.
B. If the elector provides the county recorder with a new registration form, the county recorder shall change the general register to reflect the changes indicated on the new registration. If the elector indicates a new residence address outside that county, the county recorder shall forward the voter registration form to the county recorder of the county in which the elector's address is located. If the elector provides a new residence address that is located outside this state, the county recorder shall cancel the elector's registration.
C. The county recorder shall change the address for the inactive voter list from the name of electors who have been removed from the general register pursuant to subsection A or B of this section for a period of four years or through the date of the second general election for federal office following the date of the notice from the county recorder that is sent pursuant to subsection E of this section.
D. On notice that a government agency has changed the name of any street, route number, post office box number or other address designation, the county recorder shall review the registration records and shall send a new verification of registration notice to the electors whose records were changed.
E. The county recorder on or before May 1 of each year preceding a state primary and general election or more frequently if the
recorder deems necessary may use the change of address information supplied by the postal service through its licensees to
identify registrants whose addresses may have changed. If it appears from information provided by the postal service that a
registrant has moved to a different residence address in the same county, the county recorder shall change the registration
record to reflect the new address and shall send the registrant a notice of the change by Fowarable mail and a postage
prepaid paid address return form by which the registrant may verify or correct the registration information. If the registrant fails
to return the form postmarked not later than twenty-nine days before the next election, the elector shall be removed from the
register and transferred to the inactive voter list. If he notice sent by the recorder is not returned, the registrant may be
required to provide affirmation or confirmation of the registrant's address in order to vote. If the registrant does not vote in an
election during the period after the date of the notice from the recorder through the date of the second general election for
federal office following the date of that notice, the registrant's name shall be removed from the list of inactive voters. If the registrant has changed residence to a new county, the county recorder shall provide information on how the registrant can continue to be eligible to vote.
F. THE COUNTY RECORDER SHALL REJECT ANY APPLICATION FOR REGISTRATION THAT IS NOT ACCOMPANIED BY
A CERTIFICATE OF NATURALIZATION OR PRESENTED TO THE COUNTY RECORDER OF
THE APPLICANT'S BIRTH CERTIFICATE THAT VERIFIES CITIZENSHIP TO THE SATISFACTION OF THE COUNTY RECORDER.
G. A LEGIBLE PHOTOCOPY OF PERTINENT PAGES OF THE APPLICANT'S UNITED STATES PASSPORT IDENTIFYING
THE APPLICANT AND THE APPLICANT'S PASSPORT NUMBER OR PRESENTATION TO THE COUNTY RECORDER
OF THE APPLICANT'S UNITED STATES PASSPORT.
H. A PRESENTATION TO THE COUNTY RECORDER OF THE APPLICANT'S UNITED STATES CITIZENSHIP
DOCUMENTS OR THE NUMBER OF THE CERTIFICATE OF NATURALIZATION IF ONLY THE NUMBER OF THE
CERTIFICATE OF NATURALIZATION IS PROVIDED, THE APPLICANT SHALL NOT BE INCLUDED IN THE
REGISTRATION ROLLS UNTIL THE NUMBER OF THE CERTIFICATE OF NATURALIZATION IS VERIFIED WITH THE
UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE BY THE COUNTY RECORDER.
I. OTHER DOCUMENTS OR METHODS OF PROOF OF SUBMITTED EVIDENCE OF CITIZENSHIP AND CITIZENSHIP
that have been established pursuant to the immigration reform and control act of 1986.
J. THE APPLICANTS BUREAU OF INDIAN AFFAIRS CARD NUMBER, BRITISH TRIBAL CARD NUMBER OR TRIBAL
ENROLLMENT NUMBER.
K. NOTWITHSTANDING SUBSECTION F OF THIS SECTION, ANY PERSON WHO IS REGISTERED IN THIS STATE ON
THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION IS DEEMED TO HAVE PROVIDED SATISFACTORY
EVIDENCE OF CITIZENSHIP, AND SHALL NOT BE REQUIRED TO SUBMIT EVIDENCE OF CITIZENSHIP UNLESS THE
PERSON IS CHANGING VOTER REGISTRATION FROM ONE COUNTY TO ANOTHER.
L. FOR THE PURPOSES OF THIS SECTION, PROOF OF VOTER REGISTRATION FROM ANOTHER STATE OR COUNTY
IS NOT SATISFACTORY EVIDENCE OF CITIZENSHIP.
M. A PERSON WHO MODIFIES VOTER REGISTRATION RECORDS WITH A NEW RESIDENCE BALLOT SHALL NOT BE
REQUIRED TO SUBMIT EVIDENCE OF CITIZENSHIP. AFTER CITIZENSHIP HAS BEEN DEMONSTRATED TO THE
Page 2 of 15
COUNTY RECORDER, THE PERSON IS NOT REQUIRED TO RESUBMIT SATISFACTORY EVIDENCE OF CITIZENSHIP IN THAT COUNTY.

J. AFTER A PERSON HAS SUBMITTED SATISFACTORY EVIDENCE OF CITIZENSHIP, THE COUNTY RECORDER SHALL INDICATE THIS INFORMATION IN THE PERSON'S PERMANENT VOTER FILE. AFTER TWO YEARS THE COUNTY RECORDER MAY DESTROY ALL DOCUMENTS THAT WERE SUBMITTED AS EVIDENCE OF CITIZENSHIP.

Sec. 5. Section 16-576 Arizona Revised Statutes, is amended to read:

16-579. Procedure for obtaining ballot by elector. A. Every qualified elector, before receiving a ballot, shall announce his name and place of residence in a clear, audible tone of voice to the election official in charge of the signature roster or present his name and residence in writing AND SHALL PRESENT ONE FORM OF IDENTIFICATION THAT BARES THE NAME, ADDRESS AND PHOTOGRAPH OF THE ELECTOR OR TWO DIFFERENT FORMS OF IDENTIFICATION THAT BARE THE NAME AND ADDRESS OF THE ELECTOR. If the name is found upon the precinct register by the election officer having charge thereof, or the qualified elector presents a certificate from the county recorder showing that he is entitled by law to vote in the precinct, the election official in charge of the signature roster shall repeat the name and the qualified elector shall be allowed into the voting area.

B. Any qualified elector who is listed as having applied for an early ballot but who states that he has not voted and will not vote an early ballot for this election or submits an early ballot to the precinct inspector on election day shall be allowed to vote pursuant to the procedure set forth in section 16-584.

C. Each qualified elector's name shall be written consecutively by the clerk, with the number upon the stub of the ballot delivered to him, and in the order of applications for ballots. The election judge having charge of the ballots shall also write his initials upon the stub and the number of the qualified elector as it appears upon the precinct register. The judge shall give the qualified elector only one ballot, and his name shall be immediately checked on the precinct register.

D. Each qualified elector shall sign his name in the signature roster prior to receiving his ballot, but an inspector or judge may sign the roster for an elector who is unable to sign because of physical disability, and that event the name of the elector shall be written with red ink, and no attestation or other proof shall be necessary. The provisions of this subsection relating to signing the signature roster shall not apply to electors casting a ballot using early voting procedures.

E. A person offering to vote at a special district election for which no special district registrar has been supplied shall sign an affidavit stating his address and that he resides within the district boundaries or proposed district boundaries and swearing that he is a qualified elector and has not already voted at the election being held.

Sec. 6. Title 46, chapter 1, article 3, Arizona Revised Statutes, is amended by adding section 46-140.01. To read:

46-140.01. Verifying applicants for public benefits; violation; classification; citizen suits. A. AN AGENCY OF THIS STATE AND ALL OF ITS POLITICAL SUBDIVISIONS, INCLUDING LOCAL GOVERNMENTS, THAT ARE RESPONSIBLE FOR THE ADMINISTRATION OF STATE AND LOCAL PUBLIC BENEFITS THAT ARE NOT FEDERALLY MANDATED SHALL DO ALL OF THE FOLLOWING:

1. VERIFY THE IDENTITY OF EACH APPLICANT FOR THOSE BENEFITS AND VERIFY THAT THE APPLICANT IS ELIGIBLE FOR BENEFITS AS PRESCRIBED BY THIS SECTION.

2. PROVIDE ANY OTHER EMPLOYEE OF THIS STATE OR ANY OF ITS POLITICAL SUBDIVISIONS WITH INFORMATION TO VERIFY THE IMMIGRATION STATUS OF ANY APPLICANT FOR THOSE BENEFITS AND ASSIST THE EMPLOYEE IN OBTAINING THAT INFORMATION FROM FEDERAL IMMIGRATION AUTHORITIES.

3. REFUSE TO ACCEPT ANY IDENTIFICATION CARD ISSUED BY THE STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE, INCLUDING A DRIVER LICENSE, TO ESTABLISH IDENTITY OR DETERMINE ELIGIBILITY FOR THOSE BENEFITS UNLESS THE ISSUING AUTHORITY HAS VERIFIED THE IMMIGRATION STATUS OF THE APPLICANT.

4. REQUIRE ALL EMPLOYEES OF THE STATE AND ITS POLITICAL SUBDIVISIONS TO MAKE A WRITTEN REPORT TO FEDERAL IMMIGRATION AUTHORITIES FOR ANY VIOLATION OF FEDERAL IMMIGRATION LAW BY ANY APPLICANT FOR BENEFITS AND THAT IS DISCOVERED BY THE EMPLOYEE.

B. FAILURE TO REPORT DISCOVERED VIOLATIONS OF FEDERAL IMMIGRATION LAW BY AN EMPLOYEE IS A CLASS 2 MISDEMEANOR. IF THAT EMPLOYEE'S SUPERVISOR KNEW OF THE FAILURE TO REPORT AND FAILED TO DIRECT THE EMPLOYEE TO MAKE THE REPORT, THE SUPERVISOR IS GUILTY OF A CLASS 2 MISDEMEANOR.

C. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER, ETHNICITY OR NATIONAL ORIGIN. ANY PERSON WHO IS A RESIDENT OF THIS STATE SHALL HAVE STANDING IN ANY COURT OF RECORD TO BRING SUIT AGAINST ANY AGENT OR AGENCY OF THIS STATE OR ITS POLITICAL SUBDIVISIONS TO REMEDY ANY VIOLATION OF ANY PROVISION OF THIS SECTION, INCLUDING AN ACTION FOR MANDAMUS, COURTS SHALL GIVE PRIORITY TO ACTIONS BROUGHT UNDER THIS SECTION OVER OTHER CIVIL ACTIONS OR PROCEEDING PENDING IN THE COURT.

Sec. 7. Sponsibility. If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

ANALYSIS BY LEGISLATIVE COUNCIL

Proposition 200 would require that evidence of United States citizenship be presented by every person to register to vote, that evidence of citizenship be presented by every voter at the polls place prior to voting, that state and local governments verify the identity of all applicants for certain public benefits and that government employees report United States immigration law violations by applicants for public benefits.

Proposition 200 provides that for purposes of registering to vote, satisfactory evidence of United States citizenship includes:

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16-152. Registration form

A. The form used for the registration of electors shall contain:

1. The date the registrant signed the form.

2. The registrant's given name, middle name, if any, and surname.

3. The complete address of the registrant's actual place of residence, including street name and number, apartment or space number, city or town and zip code, or such description of the location of the residence that it can be readily ascertained or identified.

4. The registrant's complete mailing address, if different from the residence address, including post office address, city or town, zip code or other designation used by the registrant for receiving mail.

5. The registrant's party preference.

6. The registrant's telephone number, unless unlisted.

7. The registrant's state or country of birth.

8. The registrant's date of birth.

9. The registrant's occupation.

10. The registrant's Indian census number (optional to registrant).

11. The registrant's father's name or mother's maiden name.

12. One of the following identifiers for each registrant:

   (a) The Arizona driver license number of the registrant or nonoperating identification license number of the registrant that is issued pursuant to section 28-3165.

   (b) If the registrant does not have an Arizona driver license or nonoperating identification license, the last four digits of the registrant's social security number.

   (c) If the registrant does not have an Arizona driver license or nonoperating identification license or a social security number and the registrant attests to that, a unique identifying number consisting of the registrant's unique identification number to be assigned by the secretary of state in the statewide electronic voter registration database.

13. A statement as to whether or not the registrant is currently registered in another state, county or precinct, and if so, the name, address, county and state of previous registration.

14. The question to the registrant "Are you a citizen of the United States of America?", appropriate boxes for the registrant to check "yes" or "no" and a statement instructing the registrant not to complete the form if the registrant checked "no".

15. The question to the registrant "Will you be eighteen years of age on or before election day?", appropriate boxes for the registrant to check "yes" or "no" and a statement instructing the registrant not
to complete the form if the registrant checked "no".

16. A statement that the registrant has not been convicted of treason or a felony, or if so, that the registrant’s civil rights have been restored.

17. A statement that the registrant is a resident of this state and of the county in which the registrant is registering.

18. A statement that executing a false registration is a class 6 felony.

19. The signature of the registrant.

20. If the registrant is unable to sign the form, a statement that the affidavit was completed according to the registrant’s direction.

21. A statement that if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.

22. A statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

23. A statement that the applicant shall submit evidence of United States citizenship with the application and that the registrar shall reject the application if no evidence of citizenship is attached.

B. A duplicate voter receipt shall be provided with the form that provides space for the name, street address and city of residence of the applicant, party preference and the date of signing. The voter receipt is evidence of valid registration for the purpose of casting a provisional ballot as prescribed in section 16-584, subsection B.

C. The state voter registration form shall be printed in a form prescribed by the secretary of state.

D. The county recorder may establish procedures to verify whether a registrant has successfully petitioned the court for an injunction against harassment pursuant to section 12-1809 or an order of protection pursuant to section 13-3602 and, if verified, to protect the registrant’s residence address, telephone number or voting precinct number, if appropriate, from public disclosure.

E. Subsection A of this section does not apply to registrations received from the department of transportation pursuant to section 16-112.
16-579. Procedure for obtaining ballot by elector

(Citation: 1998 Prop. 105 applies. Amended by 2004 Prop. 200, sec 5.)

A. Every qualified elector, before receiving his ballot, shall announce his name and place of residence in a clear, audible tone of voice to the election official in charge of the signature roster or present his name and residence in writing and shall present one form of identification that bears the name, address and photograph of the elector or two different forms of identification that bear the name and address of the elector. If the name is found upon the precinct register by the election officer having charge thereof, or the qualified elector presents a certificate from the county recorder showing that he is entitled by law to vote in the precinct, the election official in charge of the signature roster shall repeat the name and the qualified elector shall be allowed within the voting area.

B. Any qualified elector who is listed as having applied for an early ballot but who states that he has not voted and will not vote an early ballot for this election or surrenders the early ballot to the precinct inspector on election day shall be allowed to vote pursuant to the procedure set forth in section 16-584.

C. Each qualified elector’s name shall be numbered consecutively by the clerks, with the number upon the stub of the ballot delivered to him, and in the order of applications for ballots. The election judge having charge of the ballots shall also write his initials upon the stub and the number of the qualified elector as it appears upon the precinct register. The judge shall give the qualified elector only one ballot, and his name shall be immediately checked on the precinct register.

D. Each qualified elector shall sign his name in the signature roster prior to receiving his ballot, but an inspector or judge may sign the roster for an elector who is unable to sign because of physical disability, and in that event the name of the elector shall be written with red ink, and no attestation or other proof shall be necessary. The provisions of this subsection relating to signing the signature roster shall not apply to electors casting a ballot using early voting procedures.

E. A person offering to vote at a special district election for which no special district registrar has been supplied shall sign an affidavit stating his address and that he resides within the district boundaries or proposed district boundaries and swearing that he is a qualified elector and has not already voted at the election being held.

5/8/2004 9:50 PM
16-166. Verification of registration

(Caution: 1998 Prop. 105 applies.)

A. Except for the mailing of sample ballots, a county recorder who mails an item to any elector shall send the mailing by nonforwardable first class mail marked with the statement required by the postmaster to receive an address correction notification. If the item is returned undelivered, the county recorder shall send a follow-up notice to that elector within three weeks of receipt of the returned notice. The county recorder shall send the follow-up notice to the address that appears on the general county register or to the forwarding address provided by the United States postal service. The follow-up notice shall include a registration form and the information prescribed by section 16-131, subsection C and shall state that if the elector does not complete and return a new registration form with current information to the county recorder within thirty-five days, the name of the elector will be removed from the general register and transferred to the inactive voter list.

B. If the elector provides the county recorder with a new registration form, the county recorder shall change the general register to reflect the changes indicated on the new registration. If the elector indicates a new residence address outside that county, the county recorder shall forward the voter registration form to the county recorder of the county in which the elector's address is located. If the elector provides a new residence address that is located outside this state, the county recorder shall cancel the elector’s registration.

C. The county recorder shall maintain on the inactive voter list the names of electors who have been removed from the general register pursuant to subsection A or E of this section for a period of four years or through the date of the second general election for federal office following the date of the notice from the county recorder that is sent pursuant to subsection E of this section.

D. On notice that a government agency has changed the name of any street, route number, post office box number or other address designation, the county recorder shall revise the registration records and shall send a new verification of registration notice to the electors whose records were changed.

E. The county recorder on or before May 1 of each year preceding a state primary and general election or more frequently as the recorder deems necessary may use the change of address information supplied by the postal service through its licensees to identify registrants whose addresses may have changed. If it appears from information provided by the postal service that a registrant has moved to a different residence address in the same county, the county recorder shall change the registration records to reflect the new address and shall send the registrant a notice of the change by forwarding mail and a postage prepaid addressed return form by which the registrant may verify or correct the registration information. If the registrant fails to return the form postmarked not later than twenty-nine days before the next election, the elector shall be removed from the general register and transferred to the inactive voter list. If the notice sent by the recorder is not returned, the registrant may be required to provide affirmation or confirmation of the registrant’s address in order to vote. If the registrant does not vote in an election during the period after the date of the notice from the recorder through the date of the second general election for federal office following the date of that notice, the registrant’s name shall be removed from the list of inactive voters. If the registrant has changed residence to a new county, the county recorder shall provide information on how the registrant can continue to be eligible to vote.

F. The county recorder shall reject any application for registration that is not accompanied by satisfactory evidence of United States citizenship. Satisfactory evidence of citizenship shall include any of the
following:

1. The number of the applicant's driver license or nonoperating identification license issued after October 1, 1996 by the department of transportation or the equivalent governmental agency of another state within the United States if the agency indicates on the applicant's driver license or nonoperating identification license that the person has provided satisfactory proof of United States citizenship.

2. A legible photocopy of the applicant's birth certificate that verifies citizenship to the satisfaction of the county recorder.

3. A legible photocopy of pertinent pages of the applicant's United States passport identifying the applicant and the applicant's passport number or presentation to the county recorder of the applicant's United States passport.

4. A presentation to the county recorder of the applicant's United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant shall not be included in the registration rolls until the number of the certificate of naturalization is verified with the United States immigration and naturalization service by the county recorder.

5. Other documents or methods of proof that are established pursuant to the immigration reform and control act of 1986.

6. The applicant's bureau of Indian affairs card number, tribal treaty card number or tribal enrollment number.

G. Notwithstanding subsection F of this section, any person who is registered in this state on the effective date of this amendment to this section is deemed to have provided satisfactory evidence of citizenship and shall not be required to resubmit evidence of citizenship unless the person is changing voter registration from one county to another.

H. For the purposes of this section, proof of voter registration from another state or county is not satisfactory evidence of citizenship.

I. A person who modifies voter registration records with a new residence ballot shall not be required to submit evidence of citizenship. After citizenship has been demonstrated to the county recorder, the person is not required to resubmit evidence of citizenship in that county.

J. After a person has submitted satisfactory evidence of citizenship, the county recorder shall indicate this information in the person's permanent voter file. After two years the county recorder may destroy all documents that were submitted as evidence of citizenship.
App. 4
UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Maria M. Gonzalez, et al.,
Plaintiffs,

vs.

State of Arizona; Jan Brewer, in her official capacity as
Secretary of State of the State of Arizona, et al.,
Defendants.

The Inter Tribal Council of Arizona, Inc., et al.
Plaintiffs,

vs.

Jan Brewer in her official capacity as Secretary of State of Arizona,
Defendant.

RULE 30(b)(6) DEPOSITION OF JOSEPH KANEFIELD
Phoenix, Arizona
July 25, 2006

(Copy Amended)

Prepared by:
Meri Coash, RMR, CRR
Certified Reporter
Certification No. 50327

Coash & Coash
PHOENIX DEPOSITION REPORTERS & VIDEOCONFERENCEING
www.coashandcoash.com 602-258-1440
Q. All right. So let's --
A. I would have to look at the form.
Q. Well, let's stick with the naturalization
certificate number, because that's what's in the statute,
and I'll represent to you that's what's on your
registration form.

Are you aware of the process by which a
county recorder is able to verify a certificate of
naturalization number?
A. Yes. The process works through an information
exchange with the federal agency whose initials are ICE,
but I can't remember what that stands for. And that
information's communicated through the system through, I
think, a project called SAVE, S-A-V-E, where the
information is then confirmed electronically. So if the
voter provides that number to the county recorder, they
can communicate that number to the federal agency
that oversees immigration and verify the citizenship
status of that person.
Q. Are you aware of any problems that county
recorders have had verifying certificate of naturalization
number?
A. I'm aware of an issue that came up where the
number that some voters put on their form was -- was not
the correct number, that was -- so that the recorder was
not able to verify that information with the federal agency.

We, after doing our research and due diligence on the issue, determined that the correct number that needs to be provided by the voter in order for that verification system to work -- and the statute does require a verification -- the citizen needs to provide what's called the alien registration number, which if I understand correctly, is a number that appears on the individual's certificate of naturalization.

Q. Do you understand that the alien registration number is different from the certificate of naturalization number?

A. Yes. I understand there are two numbers on that certificate, one being the certificate number and the other being the alien registration number.

Q. And let's go back to when you said certain applicants have put an incorrect number. Is it fair to say that certain applicants correctly completed the form by providing their certificate of naturalization number but that the Registrar was unable to verify that number with ICE?

A. Yes.

Q. And thus those persons would have to present their naturalization certificate in person in order to be
added to the rolls?
A. No. Their --
Q. Tell me how a person who correctly filled out the
registration form and provided the certificate of
naturalization number would subsequently be added to the
rolls.
A. The latest version of the Secretary of State's
procedures manual, which is currently awaiting
preclearance by the Department of Justice, which we expect
any day, has a procedure to address that issue. I would
have to look at the procedure again, but if I recall, what
does is instruct the recorders in that instance to
inquire with the voter if the number is incorrect, whether
it is the alien registration number that -- Let me back
up. There are two -- my understanding is the recorders
can determine whether the number is right or wrong.
Q. Can we --
A. The recorders can determine if the number is
right or wrong and it might be as a result of the
communication that comes back from ICE. But again, you'll
have to talk to them about this -- that exact process.
That's not something we do.
If they determine that the number on the
application is -- is not the alien registration number but
maybe the certificate number, they are then to make
subsequent inquiry with the voter to obtain that number so that they can then manually do the process again to register that voter. And again, I would have to look at the procedure but if I recall, the voter will be retroactively registered to the initial date of submission, not -- In other words, that process won't toll -- or I'm sorry, that process won't delay the voter's registration.

Q. Unless an election passes.

A. Well, the recorders are to make their best efforts to do that before the election.

Q. So let me --

A. Remember, a voter has to register 29 days before the election. So if -- You're not going to have a situation where a voter registers three days before the election and provides the incorrect number and is disenfranchised because by law that person had to register 29 days out. That should give the recorder sufficient time to communicate with the registrant, as they are required to do by law, if the information on the form is incorrect or incomplete or illegible. And at that point, then, they should be able to make best efforts to contact that person, get that number, and properly register that person retroactive to the date upon which the person submitted their registration.
7/25/2006 Kanefield, Joseph (amended final)

Q. If I can summarize, Proposition 200 requires this group of naturalized citizens to provide the number of their certificate of naturalization. Is that correct?

A. It doesn't require them to do anything.

Q. All right. I'll ask my question again.

ARS 16-166 at 4 describes that an applicant for voter registration shall provide the number of the certificate of naturalization. Is that correct?

MR. RICHARDS: Object to the form.

THE WITNESS: It provides one form of evidence that an individual can provide to establish citizenship.

BY MS. PERALES:

Q. And this provision doesn't say anything about an alien registration number, does it?

A. It doesn't use those specific words.

Q. And you do understand that the registrars are not able to verify citizenship using the certificate of naturalization number, don't you?

A. I understand that.

Q. There is also a provision in this same paragraph that allows a naturalized citizen to present in person the naturalization certificate and be added to the rolls. Isn't that correct?

A. Yes.
Q. Are you making any plans -- Do you have any plans to change the state voter registration form to request an alien registration number instead of a certificate of naturalization number?
A. When we revise the form, we may very well include those words, so as to reduce any voter confusion.
Q. And that would be different, however, from the language of the statute, Proposition 200, which only refers to naturalization certificate numbers. Isn't that correct?
A. If we only use those words, but I don't know how we will word it.
Q. Do you understand that if you continue to ask for a certificate of naturalization number on your voter registration form, the county recorders will be unable to verify the information provided by the applicant?
MR. RICHARDS: Object to the form.
THE WITNESS: No.

BY MS. PERALS:
Q. All right.
A. As I explained the procedure that we now have in place to remedy that problem.
Q. So what you're describing is really a two-step process. If the county recorder receives a properly completed registration form providing the certificate of
naturalization number, your manual is going to instruct
them to engage in a further step of contacting the voter
to learn the alien registration number and then attempting
to verify that number. Is that right?

A. It imposes a burden on the election
administrators to properly ascertain the information to
register that voter, doesn't impose a burden on the voter
other than to provide that information when asked.

Q. And so for example, if the voter is contacted by
mail, it imposes the burden on the voter applicant to take
the time to respond and provide that number. Is that
right?

MR. RICHARDS: Form.

THE WITNESS: To the extent you consider

that a burden.

BY MS. FERALES:

Q. Does the Secretary of State's office have any
knowledge of noncitizens fraudulently registering to vote?

A. That's not a statistic that we keep in the
ordinary course of our business. We provided documents in
response to the interrogatories consisting of newspaper
articles and other information where similar prosecutions
and allegations have been made.

Q. Do you have any knowledge of any noncitizens
fraudulently registering to vote?
STATE OF ARIZONA  
COUNTY OF MARICOPA  

BE IT KNOWN the foregoing deposition was 
taken by me pursuant to stipulation of counsel; that I was 
then and there a Certified Reporter of the State of 
Arizona, and by virtue thereof authorized to administer an 
oath; that the witness before testifying was duly sworn by 
me to testify to the whole truth; pursuant to request, 
notification was provided that the deposition is available 
for review and signature; that the questions propounded by 
counsel and the answers of the witness thereto were taken 
down by me in shorthand and thereafter transcribed into 
typewriting under my direction; that the foregoing pages 
are a full, true, and accurate transcript of all 
proceedings and testimony had and adduced upon the taking 
of said deposition, all to the best of my skill and 
ability.

I FURTHER CERTIFY that I am in no way 
related to nor employed by any parties hereto nor am I in 
any way interested in the outcome hereof.

DATED at Phoenix, Arizona, this 2nd day of 
August, 2006.

Meri Coash  
Certified Reporter #50327
App. 5
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

MARIA M. GONZALES, et al., )
Plaintiffs, )
 )
- vs - )
 )
STATE OF ARIZONA, etc., et al., )
Defendants. )
 )
 )
 )
 )
 )
THE INTER TRIBAL COUNCIL OF )
ARIZONA, INC., et al., )
Plaintiffs, )
 )
- vs - )
 )
JAN BREWER, in her official )
capacity as Secretary of State )
of Arizona, )
Defendant. )

10(d)(6) DEPOSITION OF THE MARICOPA COUNTY Recorder
BY AND THROUGH KAREN OSBORNE

Phoenix, Arizona
July 31, 2006

Prepared for: 
MS. KAREN J. HARTMAN-TELLEZ, ESQ.

Reported by:
PAUL GROSSMAN
Arizona Certified Reporter #50626
CA CSR #1487
satisfactory evidence of citizenship that you can accept
for registration.

A. Yes.

Q. Okay. And in subsection 1 it permits a
registrant to "use the number of the applicant's
driver's license or non-operating identification license
issued after October 1, 1996 by the Department of
Transportation or the equivalent governmental agency of
another state within the United States if the agency
indicates on the applicant's driver's license or
non-operating identification license that the person has
provided satisfactory proof of United States
citizenship." Is that correct?

A. Correct.

Q. So, based on the e-mail exchange in Exhibit
6, it's the understanding of your office that no other
state driver's license is acceptable for registration at
this time?

A. At this particular time in April of 2005 when
we were trying to understand the scope of how we do this
there were no other states in the union that had proof
of citizenship indicated on their driver's license.

Q. Has anything changed since April of 2005
anywhere?

A. Not that I know of. But I know that that was
the discussion at that time. We thought perhaps that
there was something else that we could take, but we
could not find any other -- any other state that had
that accommodation.

Q. So to your knowledge and to this date the
County Recorder's Office will only accept a driver's
license from Arizona as proof of citizenship?

A. As well as the non-operating ID and the other
components that we can take, but it would have to be the
Arizona driver's license.

Q. Thank you.

Are you aware of any other states that verify
citizenship when they give driver's licenses but don't
indicate so on the license?

A. No.

Q. Please.

A. Do I have an oops button?

It is my understanding that there are a
couple of states that now require some form of
identification. I don't know if it specifically goes to
citizenship or not. I don't know.

Q. A.R.S. 16-166 lists also in subsection 6 some
other items that can be used to prove citizenship.

Have you ever seen a Bureau of Indian Affairs
Card?
Q. Did you attempt to verify the other number listed on this document? Did anyone submit --

A. Yes.

Q. -- to you a registration form with the number that isn't the A number?

A. Yes.

Q. And you attempted to verify that with the federal government?

A. We did.

Q. And when was that?

A. That was the very first week that we were accepting registrations and we were trying to learn how to do this effectively and we were having to make calls at that time and found out from INS that there were two numbers on the certificate; that the first number that appears at the top is simply that, it is a number of the certificate. One up I guess. In 1492 they probably start again with that amount. But the A number is what we use in our match.

Q. So, in the statute it says the number of the Certificate of Naturalization?

A. Correct.

Q. But that number is not the number that is verifiable?
A. That's correct.

Q. Did you reject any registration form that included the number of the certificate instead of the A number?

A. No, we have not. We kept going until we figured out the process that we could use to be able to -- to be able to accommodate that type of number and we have -- we finally figured out how to do that.

Q. How frequently do voters submit registration forms with the certificate number instead of the A number?

A. Rarely. They now -- once the information -- we try to do an education process through all of the groups and everybody we can think of. We actually go to the INS -- I mean, to the federal courthouse every Friday when there's a swearing in. We try and provide as much help as we can so they will just send in or they will just put down the A number or they show us their certificate so we can deal with that.

Q. Do any of the forms that are used for registration include instructions about which number to use on the naturalization form?

A. Yes.

Q. Which forms are those?

A. Well, any of the information that we send
different family members. They will have very many what
we would call a middle name. And we have asked that
they pick a name for the voter registration. We need to
make sure that we have -- we verify that information.
But as long as we can clearly see the A number then we
don't have to do that, but we do have to verify that.
And sometimes the copies are of such poor
quality and they may have been recopied and recopied
that we have to go back and the A number is the only
thing that we have and we can pull that up very quickly.
But sometimes we can't tell if it's a real document, but
for the most part we can.

Q. So you will pull up the A number only if the
copy of the Naturalization Certificate is illegible, is
that correct?

A. Illegible or of such a quality that we
can't -- we're not comfortable with it unless we check
it.

Q. If you could look back at Exhibit 7, the copy
of the Naturalization Certificate that's towards the
end. The bottom --


Q. On the bottom left-hand corner underneath the
photograph --

A. Un-huh.
Q. Do voter registration organizations ask you for registration forms?
A. Yes.
Q. Do they always specify Arizona registration forms?
A. No. It's what we provide them because it has -- we go to the extra expense of having individual bar codes put on them and it makes our processing much more accurate and much faster. So that's the only ones that we have to give then.
Q. Do you believe that United States citizens living in Maricopa County who are eligible to register to vote have been unable to do so since Proposition 200's provisions and requirements went into effect because they lack the necessary documents?
A. Yes.
Q. Do you have any estimate of how many people you believe have been unable to register?
A. No.
I take that from one case where I had a woman come in that had just moved from back east. She had not yet had her information delivered in all the packed, you know, stuff you have packed and hadn't moved it all yet. She didn't have her birth certificate. She was probably
STATE OF ARIZONA

COUNTY OF MARICOPA

BE IT KNOWN that the foregoing deposition was taken before me, PAUL GROSSMAN, a Notary Public and Certified Reporter #50028 in and for the County of Maricopa, State of Arizona: that the witness before testifying was duly sworn by me to testify to the whole truth; pursuant to request, notification was provided that the deposition is available for review and signature; that the questions propounded to the witness and the answers of the witness thereto were taken down by me in shorthand and thereafter reduced to print by computer-aided transcription under my direction; that the foregoing 12 pages are a true and correct transcript of all proceedings had upon the taking of said deposition, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to any of the parties hereto, nor am I in any way interested in the outcome hereof.

DATED at Phoenix, Arizona, this 4th day of August, 2006.

[Signature]

Paul Grossman, Notary Public

Notary Public - Arizona
Maricopa County
License 50028
App. 6
DEPOSITION OF F. ANN RODRIGUEZ

August 2, 2006

Tucson, Arizona

REPORTED BY: KATHRYN A. LORENZ, CR NO. 50738
UNITED COURT REPORTERS, INC.
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Suite 200 P.O. Box 17507
171 North Church Avenue Tucson, Arizona 85731

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

MARIA M. GONZALEZ, et al., )
Plaintiffs, )
) Case No.: )
) CV-06-1268-PHX-ROS )
) vs. )
) )
) STATE OF ARIZONA, et al., )
) Defendants. )
) )
) THE INTER TRIBAL COUNCIL OF )
) ARIZONA, INC., et al., )
) Plaintiffs, )
) )
) vs. )
) )
) JAN BREWER, in her official )
) capacity as Secretary of )
) State of Arizona, )
) Defendant. )
) )
Q. And what information is contained on that card?

A. Their number, their picture, their signature, the seal, and I think their district name. I think that's all that's on there. It's been a while since I've seen it.

Q. Do you know if the Pascua Yaqui issue a tribal enrollment number?

A. I'm not sure I'm positive of that one. It did come up in my presentation with them, that they are considering doing something that would have their residential address. The Pascua Yaqui nation, you have to understand, is within addressing capabilities. Everybody has an address of some sort.

Q. Let me just ask you a series of summary questions, and then I believe that's all I have.

Would you agree with me that not all citizens who are eligible to register to vote in Pima County possess an Arizona driver's license or a non-operator's license that was issued after October 1st of 1996?

A. That's true.

Q. And would you agree with me that not every citizen who is eligible to vote in Pima County possesses or has access to a birth certificate?

A. I agree.
Q. Would you agree with me that not every citizen who is eligible to register to vote in Pima County possesses a U.S. passport?

A. I'm one. I agree.

Q. Would you agree with me that not every citizen eligible to vote in Pima County possesses naturalization documents or tribal I.D.?

A. Agree.

Q. And would you agree with me that not every citizen eligible to register to vote in Pima County possesses at least one form of the I.D. necessary to register?

A. I probably -- they may not have one form, yeah.

MR. SILVERMAN: That's all the questions that I have. Thank you very much.

MS. RAPP: Peter, do you have anything?

MR. SILVERMAN: I don't. Thank you very much.

MS. RAPP: Colleen, do you have anything?

MS. CONNOR: No. Thank you.

MS. RAPP: I don't have any questions for you either, Ms. Rodriguez.
A. That is correct.

Q. And following Proposition 200, your flier on your website asks for the number of the certificate of naturalization.

A. That is correct.

Q. And following Proposition 200, the state's standard form which you use also asks for the number of the certificate of naturalization. Is that right?

A. That is correct.

Q. And is it possible for your office to verify, with the Department of Homeland Security, citizenship by using the number of the certificate of naturalization?

A. You are referring to the scroll number?

Q. Yes.

A. Yes, because we tried that one, too, and it means nothing.

Q. So is it possible for you, as the Pima County recorder, to carry out the language of the statute which requires you to verify the certificate of naturalization number?

A. We cannot verify the certificate of naturalization number. We can only do what is called the alien registration number. And we have another standard form letter for that.

Q. Okay. Can you find in PIM 1, which is the
CERTIFICATE

STATE OF ARIZONA )
 ) ss.
COUNTY OF PIMA )

BE IT KNOWN that I took the foregoing deposition pursuant to Notice; that I was then and there a Registered Professional Reporter and Certified Reporter No. 50738 in the State of Arizona; that the witness was duly sworn by me to tell the truth; that said witness's testimony was reduced to writing by me.

I DO FURTHER CERTIFY that I am not a relative or attorney of either party, or financially or otherwise interested in the action.

WITNESS MY HAND this 3rd day of August, 2006.

________________________________________
KATHRYN A. LORENZ, RPR, AZ CR 50738
App. 7
Driver License
Frequently Asked Questions

1) How do I change my name on my driver license?
2) What hours are the MVD Driver License offices open?
3) How do I apply for a driver license?
4) How much will my driver license cost?
5) How can I replace a lost or stolen license, and how much will it cost?
6) How do I remove my Social Security Number from my driver license?
7) Do I have to take a test?
8) What if my current state is asking for a clearance letter from Arizona?
9) How do I change my address on my driver license?
10) How can I get a Motor Vehicle (Driver or Vehicle) Record?
11) What traffic convictions will show if an insurance company runs my MVR?
12) How many points do I have on my driving record?
13) How long does a conviction stay on my record?
14) Why do I have to attend Traffic Survival School?
15) What tickets do I have on my driving record?
16) Why is my driver license suspended/revoked?
17) What is the difference between a suspension and a revocation?
18) How can I reinstate a suspension?
19) What do I need to do if I have moved out of state and just now received a suspension notice?
20) When can I apply for a restricted driving permit?
21) What is an SR22?
22) How long am I required to have an SR22?
23) What is a judgment suspension?
24) How can I reinstate a revocation?
25) How do I obtain an Investigation Packet?
26) When am I going to hear about my investigation?
27) How do I schedule a hearing?
28) What is a Graduated driver license (class G) and what are some of the facts about its origin and use?
29) What are the new penalties for moving violations while under the age of 18?
30) When will I need to update my photo?
31) Can I renew my license by Internet or telephone?
32) Does my driver license expire at age 60?
33) What Instruction Permits are available?
34) What is needed for a person from another country to drive in Arizona?

1) How do I change my name on my driver license?

You are required by law to notify MVD of a name or address change within 10 days. We are required to verify your Social Security Number before your record can be updated, therefore you must first contact the Social Security Administration at 800-772-1213 for information on how to change your name on their records. After you have changed your name with SSA, wait two days for their computer system to be updated. You should then visit an MVD office to present identification in both your new and previous names. This must be an original or certified copy (must be certified by the issuing agency) of one of the following: Marriage Certificate/License, Divorce Decree, Certificate of Citizenship/Naturalization or a court order.

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2) What hours are the MVD Driver License offices open?

Office hours and availability may vary by location and/or day. Saturday services are also available in some locations. See the Office Hours and Locations listing for the office nearest you.

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3) How do I apply for a driver license?

If you are currently licensed in another state, you must bring in your out-of-state driver license and one other form of identification, take the vision test, and pay the appropriate fee. A written test will not be required.

If you are between the ages of 16 and 18, a parent or legal guardian must sign the legal guardian section on the driver license application. The legal guardian's identification may serve as one form of identification, but you will still need two additional documents, such as an original birth certificate and Social Security card. You will be subject to the written, vision and road skills test as well as the appropriate application fee.

See Identification Requirements for a listing of acceptable proof of identification. One proof must be listed under Primary.

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4) How much will my driver license cost?

The fees are based on age, as follows:

- 16-39 $25.00

8/4/2006
5) How can I replace a lost or stolen license, and how much will it cost?

To replace a lost or stolen driver license or identification card, visit www.servicearizona.com or call toll free 877-301-8093, or visit any MVD or Authorized Third Party office. The fee for a duplicate license is $4.00. If you visit an office you must have two forms of identification, one of which contains your photo (or three forms of identification, if no photo). Management approval may be required. If your license has been lost or stolen and you have reason to believe someone else is using it, the incident should be reported to your local police department as an identity theft.

See Identification Requirements for a listing of acceptable proof of identification. One proof must be listed under Primary.

6) How do I remove my Social Security Number from my driver license?

To remove your Social Security Number from your driver license or identification card, and have it replaced by a system generated number, visit www.servicearizona.com or call toll free 877-301-8093, or visit any MVD or Authorized Third Party office. The fee for a duplicate license is $4.00.

7) Do I have to take a test?

If you have a current out-of-state driver license in your possession, you will normally not have to take a written or road test. However, you may be required to take a written or road test any time that you apply for a license.

8) What if my current state is asking for a clearance letter from Arizona?

Clearance letters are no longer issued to individuals. Your state driver licensing jurisdiction must request clearance information directly from us.
9) How do I change my address on my driver license?

You are required by law to notify MVD within 10 days of any change of address. When you submit a change of address, we will update your driver license or identification card record and each vehicle record where you are listed as the registration recipient.

You may change your address at www.servicearizona.com or submit the information by telephone, mail, or by completing a change of address card at any MVD or Authorized Third Party office. You will be required to provide your full name, date of birth, driver license number, old address and new address. There is no fee for a change of address.

If you want a license with your new address, you may apply for a duplicate license at www.servicearizona.com or by calling 877-301-8093, or visit any MVD or Authorized Third Party office. The fee for a duplicate license is $4.00. The record will be updated at the time the new credential is issued.

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10) How can I get a Motor Vehicle (Driver or Vehicle) Record?

A Motor Vehicle Record (MVR) is the computer printout of a driving or vehicle record. The manner in which driver license or motor vehicle record information may be released is regulated by the Federal Driver’s Privacy Protection Act (or DPPA), 18 USC 2721-2725 and Title 28, Chapter 2, Article 5 of the Arizona Revised Statutes.

The DPPA requires you to have a “permissible use” for requesting and receiving an MVD record which contains personal identifying information (e.g., a person’s driver license photograph/image, social security number, driver license number, name, address and medical/disability information). The Motor Vehicle Record Request form lists those permissible uses.

If eligible, you can obtain a copy of a record by completing a Motor Vehicle Record Request and submitting $3.00 for an uncertified record (3-year for driving record) or $5.00 for a certified record (3-year for driving record). Your signature on the form must be notarized, or witnessed by an MVD agent.

Back to Top

11) What traffic convictions will show on an insurance company’s my MVR?

Any convictions received and showing on your driving record within the past 39 months will be provided to an insurance company.

Back to Top

12) How many points do I have on my driving record?

The amount of points depends on the violations. A Customer Service Representative can give you this information by telephone when you provide your full name, date of birth and driver license number.

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13) How long does a conviction stay on my record?

Five years from the date of conviction.

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14) Why do I have to attend Traffic Survival School?

You may be required to attend a Traffic Survival School for one of the following:

- For convictions causing the accumulation of at least 8 points, but not more than 12 points, within a 12-month period, with no Traffic Survival School completed in the previous 24 months.
- For a conviction of one of the following violations: Aggressive Driving, Moving Violation Resulting In An Accident Causing Serious Physical Injury, Moving Violation Resulting In An Accident Causing Death.
- For the first moving violation of a driver under 18 years of age.
- For a conviction for Red Light Running.

Back to Top

15) What tickets do I have on my driving record?

A Customer Service Representative can give you this information by telephone when you provide your full name, date of birth and driver license number, or you may purchase a Motor Vehicle Record (see #10).

Back to Top

16) Why is my driver license suspended/revoked?

It depends on the violation. A Customer Service Representative can give you this information by telephone when you provide your full name, date of birth and driver license number, or you may purchase a Motor Vehicle Record (see #10).

8/4/2006
17) What is the difference between a suspension and a revocation?

A suspension has a specific start and end date; when the suspension period ends, the licensee pays the reinstatement fee and any reapplication fees to restore their driving privilege. Revocations are indefinite; there is a minimum length of time, usually one to three years, but the action does not automatically end on that date. The individual must go through an investigation process to determine whether it would be safe to restore their driving privilege. If approved for reinstatement, there would be reinstatement and reapplication fees.

18) How can I reinstate a suspension?

This can vary, depending on the reason for the suspension. Court ordered suspensions require a clearance from the court. Other suspensions may require an SR-22. Once any required documentation is obtained, take the documents to your local driver license facility and pay the appropriate reinstatement and reapplication fees. A vision screening will be required, and you may be asked to take a written and/or road skills test. (See Question #24 for information on clearing a revocation.)

For reinstatement fees: Payment may be made by cash, cashier's check or money order. Some offices accept credit cards. Cash and credit card not accepted by mail. No personal checks accepted.

If you have met all the requirements to reinstate except for paying the fees, then you may be able to reinstate online at www.servicearizona.com.

19) What do I need to do if I have moved out of state and just now receive a suspension notice?

Depending on the violation, you may be eligible for a phone hearing, or may send the necessary reinstatement requirements by mail. Contact a Customer Service Representative by telephone to review your record and determine what action is necessary.

20) When can I apply for a restricted driving permit?

Provided you meet the necessary requirements, a restricted driving permit can be issued to you either by mail or in any Driver License office. "Necessary

8/4/2006
21) What is an SR22?

Failure to maintain proper insurance could lead to the suspension of your vehicle registration and/or driver license. To reinstate these privileges, fees and future proof of financial responsibility must be filed with MVD. The future proof requirement is most commonly an SR22 from an insurance company licensed to conduct business in the state of Arizona.

22) How long am I required to have an SR22?

You must maintain an SR22 for three years from the date of suspension, unless it is a judgment suspension. Because judgment suspension requirements can vary from case to case, contact a Customer Service Representative by telephone to review your record and determine the length of time you need to maintain the SR22 for a judgment suspension.

23) What is a judgment suspension?

A judgment is generally a court order issued when someone has had an accident and was not insured. The judgment suspension is placed on the driving record in accordance with the court order.

24) How can I reinstate a revocation?

If the license is revoked, you must request an investigation packet. Once the packet is completed, submit it to the Division. The investigation process takes approximately 7-10 days. If your reinstatement request is approved, you will pay the necessary reinstatement and reapplication fees and your privileges will be restored. If your request is denied, however, you must wait one year before you are eligible to reapply, although you are eligible to request an Administrative Hearing.

For reinstatement fees: Payment may be made by cash, cashier's check or money
order. Some offices accept credit cards. Cash and credit card not accepted by mail. No personal checks accepted.

25) How do I obtain an Investigation Packet?

You may request an investigation packet by telephone. The Customer Service Representative may require your full name, date of birth and driver license number at the time of the call, to verify your eligibility to apply for reinstatement. The packet will be mailed to you.

26) When am I going to hear about my investigation?

You will receive a written response within approximately 7-10 days from the date the packet was submitted.

27) How do I schedule a hearing?

Your request must be made in writing to: Mail Drop 507M, Executive Hearing Office, Motor Vehicle Division, PO Box 2100, Phoenix, AZ 85001-2100, and must include your first, middle and last name, date of birth, license number, mailing address, home and business phones, and Case Number. Upon receipt of your written request, a hearing may be scheduled and you will be notified by mail as to the date, time and location.

28) What is a Graduated driver license (class G) and what are some of the facts about its origin and use?

A number of documented driving studies have indicated that youthful drivers could benefit from the education and experience required by a graduated driver licensing program. While the laws vary from state to state the intent of the class G license contains three basic stages:

1. Instructional permit stage
2. Restricted or probationary stage (the class G in Arizona)
3. Full license stage (class D in Arizona).

A class G driver is not required to have an adult driver in the vehicle. There are no
passenger restrictions on class G drivers. It is not necessary to graduate from high school before obtaining a class G license.

A graduated driver license is issued to an applicant who is at least 16, but less than 18 years of age and is valid to operate any vehicle that does not require a motorcycle or commercial license.

An applicant for a class G license must have held an Arizona instruction permit for at least 5 months, or have a driver license from another state. The permit must be valid at the time of application. An applicant must also have satisfactorily completed a driver education program that is approved by MVD or the parent or guardian must certify in writing that the applicant has completed at least 25 hours of supervised driving practice, including at least 5 hours at night.

An applicant for a motorcycle license or endorsements who is under 18 must have held an Arizona instructional permit for at least 5 months, or have a motorcycle license from another state. The permit must be valid at the time of application. An applicant must also have satisfactorily completed a motorcycle driver education program that is approved by MVD or the parent or guardian must certify in writing that the applicant has completed at least 25 hours of motorcycle driving practice.

The holder of a class G license is not required to obtain an operator (class D) license at age 18, but may choose to obtain one.

One of the biggest misconceptions about the new graduated driver license has been that you will not be able to get your license until age 18. With a class G driver license, you are able to drive anywhere, with anyone in the car, at anytime of the day or night, provided you adhere to any curfew restrictions defined by city codes. The class G license also allows you to drive without a licensed driver in the vehicle.

Back to Top

29) What are the new penalties for moving violations while under the age of 18?

1st Violation - If you attend Defensive Driving School your record will remain clean.

2nd Violation (first conviction) - You must attend Traffic Survival School.

3rd Violation (second conviction) - 3 month suspension.

4th Violation (third conviction) - 6 month suspension.

Back to Top

30) When will I need to update my photo?

You are required to update your photo every 12 years. At the end of 12 years, a notice will be sent to you requesting that you visit a driver license facility for a new photo and replacement driver license.

c://U:/Work/frequently asked questions/1.html

8/4/2006
Failure to comply with this request may result in disqualification for certain driver license services, including online services, such as duplicate replacements for lost or damaged licenses.

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31) Can I renew my license by Internet or telephone?

No. You must visit a driver license office in person to complete the application process and have a new photo taken.

Back to Top

32) Does my driver license expire at age 60?

No. At one time, driver licenses were issued with an expiration date on the driver’s 60th birthday. Then the law changed to extend the expiration date an additional five years to age 65. The computer record for those licenses was automatically updated to reflect the new expiration date.

If you have a license that indicates that it expires at age 60, you may continue to use the license you have. No action on your part is required. However, because it has the old expiration date, it may no longer be viewed as a valid document when you present it as a means of identification.

If you have a digital photo on file, you may obtain a replacement (duplicate) license showing the new expiration date. To obtain a duplicate license you have three options:

- Internet - www.servicearizona.com ($4.00, MC/Visa/AmEx/Discover credit cards only)
- Phone - toll free 877-301-8093 ($4.00, MC/Visa credit cards only)
- Mail - Send a letter requesting a duplicate license to the address below; include your name, address, driver license number and date of birth. (Make check for $4.00 payable to Motor Vehicle Division) Please allow 4 weeks processing time.

MAIL DROP BOX 510
MOTOR VEHICLE DIVISION
PO BOX 2100
PHOENIX AZ 85001-2100

If you do not have a digital photo on file, you must visit a driver license office in person to complete the application process and have a new photo taken.

Back to Top
33) What Instruction Permits are available?

If you are at least 15 years and 7 months of age you may be issued a graduated and/or a motorcycle instruction permit. You must be at least 18 for an operator permit.

With a graduated or operator permit you must be accompanied by a class A, B, C or D licensed driver, who occupies the seat beside you.

These permits are valid for 12 months.

With a motorcycle permit you are prohibited from operating a motorcycle on freeways or interstate highways, or between sunset and sunrise, or at any time when there is not enough light to clearly see persons or vehicles at a distance of 500 feet.

The motorcycle instruction permit is valid for 6 months and can be renewed one time within a 24-month period.

The commercial instruction permit is valid for a 6-month period. You must be at least 18 to apply. For additional information, see the Commercial Driver License Manual, available by calling the Customer Service Call Center.

Back to Top

34) What is needed for a person from another country to drive in Arizona?

You may legally drive in Arizona using a valid driver license from another country. An International Driving License or Permit is not required, but is recommended since it can be printed in English, and can be used in conjunction with the driver license from the other country. If an International Driving License or Permit is used alone, it must be issued by a country other than the United States. Vehicle rental companies may have additional requirements.

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Privacy Statement | Contact MVD
© Copyright Arizona Department of Transportation All Rights Reserved
App. 8
Birth Certificates

Applying for a Certified Copy of a Birth Certificate in Person:

Each request for a certified copy of a birth certificate must be in writing. The request must contain the applicant’s mailing address and signature and must establish the applicant’s eligibility to receive a certified copy of the certificate. This may mean you will be required to provide certified copies of documents which establish the appropriate relationship to the registrant.

An incomplete application will delay the processing of your request. A complete application must include the following:

- The full name of the registrant (person named on the birth certificate).
- The registrant’s date of birth.
- The registrant’s place of birth (city and county).
- The registrant’s mother’s full maiden name.
- The registrant’s father’s full name.
- Your relationship to the registrant, and the reason you are requesting a copy.
- Your signature.
- Your telephone number.
- If you are not the registrant or the registrant’s parent you must provide proof of your relationship, such as a birth certificate.
- If you are applying for your spouse’s birth certificate you must also provide written notarized permission from your spouse and a copy of your spouse’s valid government issued picture identification. (We will not accept a copy of a marriage license/certificate as sole evidence.)

If you need assistance or have questions about eligibility, call (602) 364-1300 or, within Arizona, (888) 816-5907 to listen to a recorded message with this information. This can save you time and frustration.

Applying in person:

Same day service is only available for applicants requesting certified copies of birth certificates for births occurring from 1990 to present. All others will be mailed. There is no pick-up service.

Our lobby is open from 8:00 AM until 5:00 PM. However, only customers who arrive before 4:00 PM will be served.

- Bring the information listed above for the birth record.

http://www.azdhs.gov/vitalrec/apply_birth_in_person.htm

8/2/2006
- Bring both your payment and a valid government-issued picture identification which bears your signature. If you are not the registrant or the parent named on the certificate, you must provide proof of eligibility.
- We accept cash, traveler's checks, cashier's checks, and money orders made payable to the Office of Vital Records.
- Traveler's checks, cashier's checks, and money orders must be for the exact amount.
- We also accept Visa and MasterCard credit cards at the customer service counter.
- Certified copies of birth certificates for births occurring 1990 to present are $10.00 each. All others are $15.00 each.

ADHS Web Privacy Policy. This page last modified on March 14, 2006.
Copyright 2006 Arizona Department of Health Services. All rights reserved.
General comments, questions, or concerns: ADHS WebMaster

http://www.azdhs.gov/vitalrec/apply_birth_in_person.htm

8/2/2006
Wednesday August 2, 2006

Passport Fees

March 8, 2005

Routine Services (Form DS-11)
Non-Refundable

Age 16 and older: The passport application fee is $55. The security surcharge is $12. The execution fee is $30. The total is $97.

Under Age 16: The passport application fee is $40. The security surcharge is $12. The execution fee is $39. The total is $82.

Methods of Payment -

At Our 14 Passport Agencies -

Both fees and the surcharge are combined into one payment to the "U.S. Department of State":

- Credit Cards – VISA, MasterCard, American Express, Discover
- Debit/Check cards (not ATM cards)
- Checks (personal, certified, cashier's, travelers'), money orders (U.S. Postal, international, currency exchange), bank drafts

Note: If abroad, U.S. Embassies and Consulates accept the foreign currency equivalent, or a check drawn on a U.S. bank.

At our over 7,000 Passport Acceptance Facilities -

You pay the passport application fee and the security surcharge to the "U.S. Department of State" and the execution fee to the facility where you are applying.

For Passport Application Fee:

- Personal checks, money orders, and bank drafts at all locations
- Exact cash at some locations (verify with the Acceptance Facility)

For Execution Fee:

- Money orders and bank drafts at all locations
- Personal checks and exact cash at some locations (verify with the Acceptance Facility)
- Credit cards at U.S. Postal Facilities and some other locations (verify with the Acceptance Facility)

Passport Renewal (Form DS-82)
Non-Refundable

You may use this form if your previous passport:

1. Was issued when you were 16 or older.

2. Was issued in the last 15 years.
3. Is not damaged.
4. Is submitted with your application.

The Passport fee is $55. The Security Surcharge is $12. The total fee is $67.

**Expedited Service - Add $60 for each application**

For any service - e.g., first-time application, renewal, additional pages, name change

Additionally, to receive your passport as soon as possible, we strongly suggest that you arrange **overnight delivery service** for:

1. Sending your passport application AND
2. Returning your passport to you.

---

http://travel.state.gov/passport/get/fees/fees_837.html?css=print

8/2/2006
App. 10
Please review this page before downloading this form. It may contain important changes to the instructions for completing and filing the form. The form contained here is the latest printed version. Form changes cannot be made as quickly on the printed forms as they can on this website. Therefore, we are providing notices of changes through this page to assist you with the latest information. You may use the form provided here, but be sure to follow any special instructions listed on this page. Failure to follow these instructions may result in your application or petition being delayed or denied. You may wish to read our General Instructions on forms.

You will need Adobe Reader to fill, view or print these forms in Portable Document Format (PDF).

Form:

N-565, Application for Replacement Naturalization/Citizenship Document

Instructions:

<table>
<thead>
<tr>
<th>Purpose of Form:</th>
<th>This form is used to apply for a replacement Declaration of Intention, Naturalization Certificate, Certificate of Citizenship, or Repatriation Certificate, or to apply for a special certificate of naturalization as a U.S. citizen to be recognized by a foreign country.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Pages:</td>
<td>4</td>
</tr>
<tr>
<td>Edition Date:</td>
<td>10/26/05. 4/30/04 version also accepted.</td>
</tr>
<tr>
<td>Where to File:</td>
<td>File this application with the USCIS local Office with jurisdiction over your place of residence.</td>
</tr>
<tr>
<td>Filing Fee:</td>
<td>$220. Please consult the &quot;Filing Fees&quot; section of your local office page to learn which forms of payment are accepted. Acceptable forms of payment may vary by office. Checks should be made payable to Department of Homeland Security or U.S. Citizenship and Immigration Services.</td>
</tr>
</tbody>
</table>

Special Instructions:

Effective August 2, 2004, USCIS has changed its requirements for photographs to a standard passport-style photograph. Please see this informational flyer for more details.

Download:

N-565 (Fillable PDF, 797 KB)
Purpose of This Form.

This form is used to apply to the U.S. Citizenship and Immigration Services (USCIS) for a replacement:

- Declaration of Intention, or
- Naturalization Certificate, or
- Certificate of Citizenship, or
- Repatriation Certificate, or to

- Apply for a special certificate of naturalization as a U.S. citizen to be recognized by a foreign country.

NOTE: USCIS is comprised of offices of the former Immigration and Naturalization Service (INS).

Who May File?

You may apply for a replacement:

- If you have been issued a Naturalization Certificate, Certificate of Citizenship, Declaration of Intention or Repatriation Certificate which has been lost, mutilated, or destroyed, or;
- If your name has been changed by marriage or by court order after the document was issued and you seek a document in the new name.
- If you are a naturalized citizen desiring to obtain recognition as a citizen of the United States by a foreign country, you may apply for a special certificate for that purpose.

General Filing Instructions.

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A." If an answer is "none," so state. If you need extra space to answer any item, attach a sheet of paper with your name and your A# if any, and indicate the number of the item.

Every application must be properly signed and filed with the correct fee. If you are under 14 years of age, your parent or guardian may sign the application in your behalf.

Initial Evidence Requirements.

You must file your application with the following evidence:

- You must submit two standard passport-style photographs in color of yourself taken within 30 days of this application. These photos must be glossy, unretouched and unmounted, and have a white background. The dimension of your full frontal facial position should be about 1 inch from your chin to the top of your hair. Using pencil or felt pen, lightly print your name and A# if any, on the back of each photo. This requirement may be waived by USCIS if you can establish that you are confined because of age or physical infirmity.

- If you are applying for replacement of a mutilated document, you must attach the mutilated document.

- If you are applying for a new document because your name has been changed, you must submit the original USCIS (or former INS) document and a copy of the marriage certificate or court order showing the name change.

- If you are applying for a special certificate of naturalization, you must attach a copy of your naturalization certificate.

Copies.

If these instructions state that a copy of a document may be filed with this application, and you choose to send us the original, we may keep that original for our records.

Where to File.

File this application at the local USCIS office having jurisdiction over your place of residence.

What Is the Fee?

The fee for this petition is $220.00, except there is no fee if you check block 2 (d) of Part 2 of the form.

The fee must be submitted in the exact amount. It cannot be refunded. Do not mail cash.

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Department of Homeland Security, except that:

- If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."

- If you live in the U.S. Virgin Islands, and are filing this application in the U.S. Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Form N-565 Instructions (Rev. 10/26/05)Y
Check are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

How to Check If the Fee is Correct.
The fee on this form is current as of the edition date appearing in the lower right corner of this page. However, because USCIS fees change periodically, you can verify if the fee is correct by following one of the steps below:

• Visit our website at www.uscis.gov and scroll down to "Forms and E-Filing" to check the appropriate fee, or
• Review the Fee Schedule included in your form package, if you called us to request the form, or
• Telephone our National Customer Service Center at 1-800-375-5283 and ask for the fee information.

Processing Information.

Rejection. Any application that is not signed or not accompanied by the correct fee will be rejected with a notice that the application is deficient. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until accepted by USCIS.

Initial processing. Once the application has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility and we may deny your application.

Requests for more information or interview. We may request more information or evidence or we may request that you appear at a USCIS office for an interview. We may also request that you submit the originals of any copy. We will return these original if they are no longer required.

Decision. If you establish eligibility for the document, your application will be approved and the document issued. A special certificate of naturalization will be forwarded to the U.S. Department of State for delivery to a foreign government official. If your application is denied, you will be notified in writing of the reasons for the denial.

USCIS Forms and Information.

To order USCIS forms, call our toll-free forms line at 1-800-870-3767. You can also get USCIS forms and information on immigration laws, regulations or procedures by telephoning our National Customer Service Center at 1-800-375-5283 or visiting our USCIS internet website at www.uscis.gov.

Use InfoPass for Appointments.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our internet-based system, InfoPass. To access the system, visit our website at www.uscis.gov. Use the InfoPass appointment schedule and follow the screen prompts to set up your appointment. InfoPass generates an electronic appointment notice that appears on the screen. Print the notice and take it with you to your appointment. The notice gives the time and date of your appointment, along with the address of the USCIS office.

Penalties.

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice.

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are seeking. Our legal right to ask for this information is in 8 USC 1439, 1440, 1443, 1445, 1446, and 1452. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice.

A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex.

Accordingly, the reporting burden for this collection of information is computed as follows: (1) learning about the law and forms, 10 minutes; (2) completing the forms, 10 minutes; and (3) assembling and filing the application, 35 minutes, for an estimated average of 55 minutes per response.

If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., Washington, D.C. 20536; OMB No. 1615-0007. Do not mail your completed application to this address.
START HERE - Please type or print in black ink.

Part 1. Information about you.

Family Name
Given Name
Middle Name

Address: In care of:
Street Number and Name
City or town
State or Province
County
Zip or Postal Code

Date of Birth (mm/dd/yyyy)
Country of Birth

Certificate Number
A #

Telephone # (with area/country codes)
E-Mail Address (if any)

Part 2. Type of application.

1. Thereby apply for (check one)
   b. ☐ New Certificate of Naturalization.
   c. ☐ New Certificate of Repatriation.
   d. ☐ New Declaration of Intention.
   e. ☐ Special Certificate of Naturalization to obtain recognition of my U.S. citizenship by a foreign country.

2. Basis for application: (If you checked other than "e" in Part 1, check one)
   a. ☐ My certificate is/was not, stolen or destroyed (attach a copy of the certificate if you have one). Explain when, where and how.

   b. ☐ My certificate is mutilated (attach the certificate).
   c. ☐ My name has been changed (attach the certificate).
   d. ☐ My certificate or declaration is incorrect (attach the documents).


Gender  ☐ Male  ☐ Female
Height
Marital Status  ☐ Single  ☐ Married  ☐ Widowed  ☐ Divorced

My last certificate or Declaration of Intention was issued to me by:

USCIS Office or Name of Court
Date (mm/dd/yyyy)

Name in which the document was issued:

Other names I have used (if none, so indicate):

Since becoming a citizen, have you lost your citizenship in any manner?
☐ No ☐ Yes (attach an explanation)

Part 4. Complete if applying for a new document because of a name change.

Name changed to present name by: (check one)
☐ Marriage or divorce on (mm/dd/yyyy) of marriage or divorce certificate.
☐ Court Decree (mm/dd/yyyy) (Attach a copy of the court decree).

For USCIS Use Only

Received  
Returned  
Resubmitted  
Reloc Sent  
Reloc Rec’d

☐ Applicant Interviewed

☐ Declaration of Intention verified by
☐ Citizenship verified by

Remarks

Action Block

To be Completed by
Attorney or Representative, if any
☐ Fill in box if G-28 is attached to represent the applicant

VOLGAS
ATTY State License 

Form N-565 (Rev. 10/25/05)}
Part 5. Complete if applying to correct your document.

If you are applying for a new certificate or Declaration of Intention because your current one is incorrect, explain why it is incorrect and attach copies of the documents supporting your request.

---

Part 6. Complete if applying for a special certificate of recognition as a citizen of the U.S. by the Government of a foreign country.

Name of Foreign Country

Information about official of the country who has requested this certificate (if known)

Name: ____________________________

Official Title: ____________________________

Government Agency

Address: Street # ____________________________

and Name ____________________________

City: ____________________________

State/Province: ____________________________

Country: ____________________________

Zip or Postal Code: ____________________________

Room #: ____________________________

Part 7. Signature. Read the information on penalties in the instructions before completing this part. If you are going to file this application at a USCIS office in the United States sign below. If you are going to file this application at a USCIS office abroad, sign it in front of a USCIS or Consular Official.

I certify, or if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it are all true and correct. I authorize the release of any information from my records which the U.S. Citizenship and Immigration Services needs to determine eligibility for the benefit I am seeking.

Signature: ____________________________

Date: ____________________________

Signature of USCIS or Consular Official: ____________________________

Print Name: ____________________________

Date: ____________________________

NOTE: If you do not completely fill out this form or fail to submit required documents listed in the instructions, you may not be found eligible for a certificate and this application may be denied.

---

Part 8. Signature of person preparing form, if other than above. (Sign below.)

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature: ____________________________

Date: ____________________________

Print Your Name: ____________________________

Telephone Number (with area code): ____________________________

E-Mail Address (if any): ____________________________

Form N-565 (Rev. 10/26/05) Page 2
App. 11
ARIZONA VOTER REGISTRATION FORM

Inscribirse para votar en Arizona

Para inscribirse para votar en Arizona, usted necesita lo siguiente:
1. Ser ciudadano del Estados Unidos
2. Ser residente de Arizona
3. No estar inhabilitado para votear
4. No haber sido condenado a una pena de prisión o multa por delito gravísimo

Si ha cumplido con lo anterior, puede inscribirse para votar en Arizona:
1. Ir a la oficina del Registrador de Arizona
2. Llenar la forma de inscripción para votar en Arizona
3. Entregar la forma al personal del Registrador

Si ha cumplido con lo anterior, puede ser inscrito para votar.

Si desea cambiar su información de inscripción, debe hacerlo en la oficina del Registrador de Arizona.

Información adicional:
1. Para inscribirse por correo, puede utilizar la forma de inscripción que se proporciona.
2. Para inscribirse por internet, puede utilizar el sitio web del Registrador de Arizona.
3. Para inscribirse en línea, puede utilizar la aplicación del Registrador de Arizona.

Si tiene alguna pregunta, puede llamar al 1-800-VOTE-0808.
App. 12
Q: How can I register to vote?

Answer:

Online: You may register online using Service Arizona EZ Voter Registration by clicking (here) and follow the instructional steps. Note: In order to use this link you must have an Arizona Driver License and/or an Arizona Non-operating Identification Card issued by the Motor Vehicle Division (MVD) on or after July 1, 1997. Upon successful completion of the online EZ Voter registration, you will receive a confirmation number. The confirmation number is your receipt. The information you entered has been accepted and changed.

Print a Form: You may obtain a printable form online, fill in the form, print the form, sign and date it, affix the proper postage and mail the form to the County Recorder of the county in which you are a legal resident.

By Mail: You may request an Arizona Voter Registration form from the County Recorder in the county in which you are a legal resident.

In Person: You may visit the County Recorder in your county you are a legal resident and complete an Arizona Voter Registration form.

Q: What are the qualifications to register to vote?

Answer:

Must be a Citizen of the United States of America
Must be a Resident of Arizona
Must be 18 years of age or more on or before the day of the next regular General Election
Must not be a convicted felon, unless your civil rights have been restored
Must not have been adjudicated incompetent

Q: What are the types of documents that are acceptable for proving citizenship?

Answer:

If this is your first time registering to vote in Arizona or you have moved to another county in Arizona, your voter registration form must also include proof of citizenship or the form will be rejected. If you have an Arizona driver license or non-operating identification card after October 1, 1996, write the number in box 13 on the front of the Arizona Voter Registration form. This will serve as proof of citizenship and no additional documents are needed. If not, you must attach proof of citizenship to the form. Only one acceptable form of proof is needed to register to vote. The following is a list of acceptable documents to establish your citizenship:

- A legible photocopy of a birth certificate that verifies citizenship and supporting legal documentation (i.e., marriage certificate) if the name on the birth certificate is not the same as your current legal name
- A legible photocopy of pertinent pages of a United States passport identifying the applicant
- Presentation to the County Recorder of United States naturalization documents or the number of the certificate of naturalization in box 20 on the front of this form
- The applicant's Bureau of Indian Affairs Card Number, Tribal Treaty Card Number, or Tribal Enrollment Number in box 16 on the front of the voter registration form
- A legible photocopy of a driver license or non-operating identification from another state until 1994 with the United States if the license indicates that the applicant has provided satisfactory proof of citizenship
- A legible photocopy of a Tribal Certificate of Indian Blood or Tribal or Bureau of Indian Affairs


5/8/2006
Affidavit of Birth.

If you are registered in Arizona and use this registration form because you move within a county, change your name, or change your political party affiliation, you do not need to provide photocopies of proof of citizenship. If you move to a different Arizona county, you will need to provide proof of citizenship.


5/8/2006
NOTICE

New Voter Registration Requirements
For Implementation of Prop 200

If this is your first time registering to vote in Arizona or you have moved from another county in Arizona, your voter registration form must also include proof of citizenship or the form will not be processed.

List of acceptable documents to establish your citizenship:

1. Arizona Driver’s License number or non-operating identification license number issued after 10/01/1996 (number only; **DO NOT** send in the card).

2. A legible photocopy of a driver’s license or non-operating identification license issued by another state that identifies United States Citizenship on the license.

3. A legible photocopy of a birth certificate that verifies United States Citizenship.

4. A legible photocopy of your United States passport containing your name and passport number.

5. A legible photocopy of United States naturalization documents or the number of the certification of naturalization. If only the number is provided, it will need to be verified before the voter registration can be processed.

6. A Bureau of Indian Affairs’ Card Number, Tribal Treaty Card Number, or Tribal Enrollment Number (number only; **DO NOT** send in the card).

**DO NOT** send originals; only send legible photocopies as outlined above.

Issue date: 02/03/05 – Pima County Recorder’s Office
Dear Pima County Registrant:

The Pima County Recorder’s Office received your voter registration form. In our attempt to process your voter form, we were not able to verify the Naturalization Certificate Number you provided.

During the 2004 Presidential Election, Proposition 200 was passed by the voters of the State of Arizona and became law effective January 24, 2005. That proposition requires every new registered voter to establish citizenship when registering to vote. A naturalization number can be used to establish citizenship, but we are required to confirm the number with the United States Department of Homeland Security. Your voter registration form provided your Certificate of Naturalization Number. In order to verify your citizenship, we must have your INS Registration Number or Alien Registration Number (that begins with the letter “A”). We will hold open your voter registration for 35 days. If we do not hear from you by February 10, 2006, your voter registration will be moved to our declined file.

Please provide us with the information requested below and return it to us in the enclosed self-addressed envelope. You may also include a photocopy of your naturalization document along with this letter to speed up the process.

If you have any questions, please do not hesitate to contact our office at 740-4330, and ask for Jan Ficker.

UNITED STATES INS NUMBER OR ALIEN REGISTRATION NUMBER: __________________________

DATE ISSUED: __________________________

________________________________________
SIGNATURE

DATE

To comply with the Federal Voting Rights Acts, this letter has been prepared in both English and Spanish.

VR: Naturalization: No Match
FROM: Joseph Kanefield
State Election Director

DATE: March 8, 2006

SUBJECT: Letter from Election Assistance Commission & National Voter Registration Form

Yesterday Secretary Brewer received the attached letter from the executive director of the U.S. Election Assistance Commission. The letter deals with the Federal Mail Voter Registration Form (Federal Form) and concludes that Arizona may not apply the proof of citizenship requirements set forth in Proposition 205 to the Federal Form. The EAC makes clear that its opinion does not affect the state registration form and applies only to federal elections. We question whether the letter is legally correct and have sought advice from our counterparts at the Arizona Attorney General’s Office. Please note that this EAC opinion does not affect any voter registrations for the upcoming elections next week. We will keep you informed as we learn more about this issue.

Joseph Kanefield
State Election Director
Arizona Secretary of State’s Office
1700 West Washington, 7th Floor
Phoenix, Arizona 85007
(602) 542-6167 (voice)
(602) 542-6172 (fax)
jkanefield@azsos.gov

<eacletter.pdf>
March 6, 2006

Jan Brewer,
Secretary of State
1700 West Washington Street, 7th Floor
Phoenix, AZ 85007-2883

Dear Secretary Brewer,

This letter responds to your office's December 12, 2005 e-mail to the U.S. Election Assistance Commission (EAC) requesting that the EAC apply Arizona state policy (derived from Proposition 200) to the Federal Mail Voter Registration Form ("Federal Registration Form" or "Form").. Specifically, the inquiry sought to apply proof of citizenship requirements for Arizona voter registration to the Federal Forms registration process.

This request was sent by Robert A. Flores, Voter Outreach Coordinator in response to the EAC's request for updates pertaining to the Federal Registration Form. As you may know, use and acceptance of the Federal Form are mandated by the National Voter Registration Act of 1993, 42 U.S.C. §§ 1973gg et seq., (NVRA). The EAC is the Federal agency charged with regulating the development and substance of the Federal Form. (42 U.S.C. §§ 1973gg-7(a)). After review of your request, the EAC concludes that the policies you propose would effectively result in a refusal to accept and use the Federal Registration Form in violation of Federal law (42 U.S.C. §§ 1973gg-6(a)).

Arizona’s Policy. On December 12, 2005, the office of the Arizona Secretary of State (Chief State Election Official) requested that the EAC apply new Arizona procedural requirements to the Federal Form. These new procedural requirements reflected proof of citizenship provisions recently adopted by the state in Proposition 200. Generally, Proposition 200 requires Arizona registrants to submit additional proof of citizenship with their voter registration forms. This usually requires the individual to record, on the form, his or her driver’s license number (if non-operating identification license) issued after October 1, 1995. If the registrant cannot provide this information (because they have no license or an older license) he or she will need to provide a copy of an alternative form of identification. These alternative forms include: a birth certificate, passport, certificate of naturalization number and other documents. This portion of Proposition 200 amended Arizona Revised Statutes §§ 16-152 and 16-166, which set requirements for the State’s registration form and verification of the form. The proposition did not amend Arizona’s registration qualifications, found in Arizona Revised Statutes §16-101. If Arizona were to apply this policy to its use and acceptance of the Federal Registration Form, the Federal Form's acceptance would be conditioned upon the receipt of supplemental documentation of citizenship. In this way, any registrant who failed to supplement their Federal Registration Form would have their form rejected, resulting in the loss of voting rights.

Federal Authority To Regulate Election. It is a well settled matter of Constitutional law that the United States Congress, pursuant to Article I, Section 4 and
Article II, Section I of the U.S. Constitution, has the authority to pass laws regulating the manner in which Federal elections are held. This Federal authority has been broadly read by the Supreme Court to include the comprehensive Congressional regulation of a State's voter registration process for Federal elections. Voting Rights Coalition v. Wilson, 60 F.3d 1411, 1413-1414 (9th Cir. 1995); accord, id. at 1413-1414 n.1 (9th Cir. 1995); Association of Community Organizations for Reform Now v. Edgar, 56 F.3d 791, 793-794 (9th Cir. 1995); (citing Smiley v. Holm, 283 U.S. 355, 366 (1931)); Association of Community Organizations for Reform Now v. Edgar, 56 F.3d 791, 793-794 (9th Cir. 1995); (citing Smiley v. Holm, 283 U.S. 355, 366 (1931)); Association of Community Organizations for Reform Now v. Miller, 129 F.3d 833, 836 (6th Cir. 1995). This constitutional authority grants Congress the authority to "provide" laws regulating federal elections, or to "alter" the laws initially promulgated by the States. Id. at 1413, section 4 specifically grants Congress the authority to "alter" their regulations regarding Federal elections. Id. 129 F.3d at 836.

In this way, while Article I, section 2 and the Seventeenth Amendment authorize States to set requirements regarding voter qualifications in a Federal election (Edgar v. Mitchell, 129 F.3d 833, 836 (6th Cir. 1995)), this does not limit the Federal authority to set voter registration procedures for such elections. Voting Rights Coalition, at 1413. This is true even where States have declared voter registration to be a voting qualification (Wilson, at 1414) or where Federal registration requirements may otherwise make it more difficult for a State to enforce qualification requirements (Edgar v. Mitchell, 129 F.3d at 836).

National Voter Registration Act. Consistent with its authority to regulate voter registration in Federal elections, Congress passed the NVRA. The NVRA's regulation of the voter registration process has been specifically and consistently upheld as constitutional by the Courts. Voting Rights Coalition, 60 F.3d 1411; 56 F.3d 791; Miller, 129 F.3d 833. The NVRA mandates that States "shall accept and use the mail voter registration application prescribed by the U.S. Election Assistance Commission pursuant to section 5(a)(2) for the registration of voters in elections for Federal offices." 42 U.S.C. § 1973g-4(a)(emphasis added). The statute further allows States to create, use and accept their own form (in addition to the Federal form) if it meets the qualifications of the NVRA affords for the Federal form. 42 U.S.C. § 1973g-4(b). The EAC is the Federal agency charged with creating and regulating the Federal form.1 The NVRA requires the Federal Voter Registration Form to specify such voter eligibility requirements, contains an attestation that the applicant meets such requirements, and require the signature of the applicant. 42 U.S.C. § 1973g-4(b). The Help America Vote Act (HAVA) has added the requirement that the Federal form include two check boxes for an applicant to affirm their citizenship and age. 42 U.S.C. § 15431(b) (2004).

Discussion. While Arizona has authority to determine registrant voter qualifications, the manner in which it regulates voters for Federal elections is subject to Federal regulation. The Federal Government, through the NVRA and the Federal Form has regulated the process of registering voters in Federal Elections. Acceptance of the

1 The Help America Vote Act amended the National Voter Registration Act granting regulatory authority over the Federal Form to the EAC. (See 42 U.S.C. § 15532 and 42 U.S.C. § 1973g-4(b).)
Federal Form is mandated by the NVRA. The Federal Form sets the proof required to demonstrate voter qualification. No state may condition acceptance of the Federal Form upon receipt of additional proof.

Arizona’s voting qualifications remain unchanged and are contained in Arizona Revised Statutes §16-101. These qualifications are presently reflected on the Federal Form. The statutory changes Arizona has initiated in Proposition 200, which require some residents to submit documentary evidence of citizenship, do not alter the state’s voter qualifications. Rather, the statutory scheme is merely an additional means to document or prove the existing voter eligibility requirement of citizenship. As such, Arizona’s statutory changes deal with the manner in which registration in conducted and are, therefore, preempted by federal law. The NVRA, HAVA and the EAC have determined the manner in which voter eligibility shall be documented and communicated on the Federal form. State voter requirements are determined by the applicant via a signed attestation and, in the case of citizenship, a “check box.” (42 U.S.C. §1973gg-7(f)(2) and 42 U.S.C. §15445(k)(2)). This Federal scheme has regulated the area and preempts state action. Congress specifically considered whether states should retain authority to require that registrants provide proof of citizenship, but rejected the idea as “inconsistent or inconsistent with the purpose of the NVRA.” The state may not mandate additional registration procedures that condition the acceptance of the Federal Form. The NVRA requires States to both “accept” and “use” the Federal Form. Any Federal Registration Form that has been properly and completely filled out by a qualified applicant and timely received by an election official must be accepted in full satisfaction of registration requirements. Both acceptance and use of the Federal Form is subject only to HAVA’s verification mandate. (42 U.S.C. §15443).

Conclusion. While Arizona may apply Proposition 200 requirements to the use of its state registration form in Federal elections (if the form meets the minimum requirements of the NVRA), the state may not apply the scheme to registrants using the Federal Registration Form. Conditioned with the above, Arizona may not refuse to register individuals to vote in Federal elections for failing to provide supplemental proof of citizenship, if they have properly completed and timely submitted the Federal Registration Form. If you have any questions, please contact the undersigned at (202) 566-3100.

Thomas R. Wilkey
Executive Director

1 These qualifications require a registrant to demonstrate that he or she is (1) a citizen of the United States, (2) at least 18 years of age before the date of the next general election, (3) a resident of Arizona for at least twenty-nine days, (4) has not been convicted of a felony unless restored to civil rights and (5) has not been prohibited permanently from voting.

Karen Osborn - RISCX

From: Kandiefield, Joe [kandiefield@azsos.gov]
Sent: Monday, March 13, 2006 6:36 PM
To: Ana Wayman-Trujillo, Bette Mazzuc; Candace Owen; Christine Rhodes, F. Jan Rodriguez (E-mail); Helen Purcell - RISCX; Joe McCaity (E-mail); Laura Owen-Lyle (E-mail); Laura Jordan (E-mail); L playback V. Johnson (E-mail); Linda Neumark Ortega (E-mail); Sheryl Baker (E-mail); Susan Hightower Marko (E-mail); Sue Rainie (E-mail); Wendy John (E-mail)
Cc: Brewer, Jan; Tye, Kevin; Weick, Kris; Scanlon, Craig; Mauville, Bill; Fenton, Mary; Allen; McVey (E-mail); Chris J Ross; (E-mail); Chris R (E-mail); Claudia Lopez; Sam Zwickel (E-mail); Judy Hakan (E-mail); Judy Jaramillo; Karen Osborn - RISCX; Kim Bauelfeld (E-mail); Kraft Jones; Martin Brennan (E-mail); Nancy Duke (E-mail); Patty Hansen (E-mail); Ruth Robinson; Suzanne Guthrie (E-mail); Sylvia Gtten
Subject: Letter from Election Assistance Commission re: National Voter Registration Form
Attachments: Last from S06 to EAC 3-9-06 (Funeral VR Form).pdf, Letter from S06 to EAC 3-13-06 (Federal VR Form).pdf

Last week I sent you a copy of the letter Secretary Brewer received from the executive director of the U.S. Election Assistance Commission (EAC) on March 6, 2006. Attached are two letters sent by Secretary Brewer to the EAC Chairman, Paul DeGregorio, in response to this letter. The second letter was sent with an afternoon state Secretary Brewer's position that the proof of citizenship requirement set forth in A.R.S. § 16-166(F) must continue to be enforced for all new registrants, unregistered or voters moving from one county to another. Secretary Brewer made this decision after consulting with the Arizona Attorney General's Office. We will continue to keep you informed about this matter.

Joseph Kandiefield
State Election Director
Arizona Secretary of State's Office
6700 West Washington, 1st Floor
Phoenix, Arizona 85007
(602) 542-6587 (direct) (602) 542-6172 (fax)
jkandiefield@azsos.gov

Letter from S06 to EAC 3-9-06 (Funeral VR Form).pdf
Letter from S06 to EAC 3-13-06 (Federal VR Form).pdf

Item 2
April 23, 2006

Paul S. DeGregorio, Chairman
United States Election Assistance Commission
1223 New York Avenue N.W.
Washington, DC 20005

Dear Chairman DeGregorio:

I was extremely disappointed to receive a letter from the Election Assistance Commission’s executive director, Thomas Wilkey, on Monday, March 6, 2006, that expresses his opinion that our State’s proof of citizenship requirement when registering to vote is preempted by federal law with regard to the Federal Mail Voter Registration Form (Federal Form).

On November 2, 2004, over one million Arizona citizens passed into law Proposition 200, which requires all applications for voter registration in Arizona to be accompanied by satisfactory evidence of United States citizenship. Mr. Wilkey’s letter provides questionable legal support for its conclusion that a state may not condition acceptance of the Federal Form upon receipt of proof of citizenship and I have asked the Arizona Attorney General to advise me on this matter.

What upsets me most is the manner in which the EAC has handled this issue. My staff proposed changes to the Arizona instructions to the Federal Form in December of 2005, to reflect our new proof of citizenship requirement. At no point over the past three months was my office ever told that the EAC was questioning whether federal law preempted Arizona’s proof of citizenship requirement for registrants using the Federal Form. Moreover, I am told the Commission spent a lot of time researching this question, but never had the courtesy to ask the State of Arizona for its input. Although Mr. Wilkey and the other Commissioners attended the NASS/VASED meeting in early February along with my State Election Director Joseph Kanefield, no one reached out to him to inform me about this issue.

In addition, to make matters worse, my office began getting press inquiries shortly after receiving this letter. It is my understanding that one of the Commissioners distributed this letter before I even had a chance to review it with my staff. I find this very upsetting coming from a federal agency that I believe should be working with the States to implement the National Voter Registration Act and not against them.

State Capitol, 1100 West Washington Street, 7th Floor
Phoenix, Arizona 85087-1188
Telephone: (602) 562-4283 Fax (602) 542-1273
Perhaps most importantly, this matter never appeared as an agenda item at any of the EAC's past public meetings and no formal vote was ever taken by the EAC to support Mr. Wilkey's opinion. I cannot help but feel that in your staff's haste to opine on this issue, the matter was not appropriately vetted by the Commission.

I therefore respectfully request that the Commission provide me an opportunity to respond to the legal points raised by Mr. Wilkey before taking a position on this issue, and then properly notice the matter for a future meeting at which time my input can be taken into consideration before a final vote is taken by the EAC. Thank you for considering my request.

Sincerely,

Janice K. Brewer
Arizona Secretary of State

cc: The Honorable John McCain
The Honorable John Kyl
The Honorable Rick Parz
The Honorable Trent Franks
The Honorable John Shadegg
The Honorable Ed Pastor
The Honorable J.D. Hayworth
The Honorable Jeff Flake
The Honorable Russ Ford
The Honorable Jim Kolb
The Honorable Terry Goddard
The Honorable Flem Reed, President, National Association of Secretaries of State
Linda Lamon, President, National Association of State Elections Directors
March 13, 2006

Paul J. DeGregorio, Chairman
United States Election Assistance Commission
1225 New York Avenue, N.W.
Washington, DC 20005

Dear Chairman DeGregorio,

As the Secretary of State and Chief Election Officer for the State of Arizona, I have significant concerns about the March 8, 2006, letter from your executive director asserting that Arizona may not implement its proof of citizenship law with respect to voters who register using a Federal Mail Voter Registration Form (Federal Form). In my mind, such a policy is completely inconsistent, unlawful, and without merit.

The executive director’s opinion is incorrect and unlawfully prevents the State of Arizona from implementing an important voting security measure with respect to those voters using the Federal Form. Arizona’s proof of citizenship requirement was passed by over one million voters in 2004, and was pre-cleared by the U.S. Department of Justice (DOJ) on January 24, 2005. In addition, DOJ separately pre-cleared Arizona Voter Registration Form on May 6, 2005, which includes the proof of citizenship instructions now required of all citizens registering to vote in Arizona. The DOJ has civil enforcement power over the National Voter Registration Act, and has expressed no concern about Arizona’s proof of citizenship requirement when registering to vote.

As I stated in my March 9, 2006, letter, I believe your letter provides questionable legal support for its conclusion. After consulting with the Arizona Attorney General, I will instruct Arizona’s county recorders to continue to administer and enforce the requirement that all voters provide evidence of citizenship when registering to vote as specified in A.R.S. § 18-169(A).

Sincerely,

JAN BREWER
Secretary of State
State of Arizona
Paul A. DeGregorio, Chairman
March 13, 2008
Page 2 of 2

As I requested of you in December, I urge you to instruct voters using the Federal Form to register in Arizona that they provide sufficient proof of citizenship. To do otherwise would be incredibly irresponsible and may unnecessarily disenfranchise voters using the Federal Form to register.

Sincerely,

Janice K. Brewer
Arizona Secretary of State

JKB-14
Letter from pollen field, April 20, 2006 to County Recorders

FROM: Joseph Kneefield
State Election Director

DATE: April 20, 2006

SUBJECT: Letter from Election Assistance Commission re: National Voter Registration Form

I have previously reported to you about a letter Secretary Brewer received from the executive director of the U.S. Election Assistance Commission (EAC) on March 5, 2006, regarding the National Voter Registration Form and Secretary Brewer's response to those letters.

After receiving Secretary Brewer’s response to the March 4, 2006 letter, the EAC referred the matter to the Department of Justice (DOJ). Attached is Secretary Brewer's response to that letter. Also, on March 27, 2006, and April 17, 2006, two separate groups sent Secretary Brewer a notice of intent to file suit under the National Voter Registration Act based on the opinion set forth in the March 6, 2006 letter from the EAC. Under the NVRA, a private party may bring suit 90 days after filing its notice. Although this letter of intent was sent to Secretary Brewer, it is very likely that the county recorders will be named in those suits when they are filed.

We will continue to keep you informed about this matter.

Joseph Kneefield
State Election Director
Arizona Secretary of State’s Office
1700 West Regeneration, 7th Floor
Phoenix, Arizona 85007
(602) 542-6877 (direct)
(602) 542-5774 (fax)
jkneefield@azsos.gov
John K. Tanner
U.S. Department of Justice
Civil Rights Division
903 Pennsylvania Avenue, N.W.
Voting Section, 1800G
Washington, D.C. 20530

Dear Mr. Tanner:

The U.S. Election Assistance Commission (EAC) recently wrote to you regarding the Arizona requirements for voter registration and the National Voter Registration Act (NVRA). Because the EAC misconceived my position in this matter, it is necessary for me to address you directly to establish that Arizona is in full compliance with the NVRA. I urge you to advise the EAC to instruct Arizona voters using the Federal Mail Voter Registration Form (Federal Form) regarding the Arizona registration requirements.

On March 6, 2008, I received a letter from the EAC concluding that the NVRA prohibits States from requiring proof of citizenship for registrants using the Federal Form. The EAC overstated its authority and erroneously interpreted federal law. Moreover, the EAC unreasonably disfavored Arizona voters using the Federal Form by refusing to properly instruct them regarding Arizona’s citizenship requirement under A.R.S. § 18-106(F).1

The EAC wrongly asserts that Arizona is not entitled to accept the Federal Form. Arizona uses and accepts the Federal Form and has done so since the NVRA’s inception. The case law cited by the EAC in its March 6, 2008 letter affirms the

1 The EAC lacks authority to determine whether a state law conflicts with the NVRA. Section 303 of Title VI provides that the EAC shall not have any authority to judge any state law, regulation, or any other action which imposes any requirement on any State or unit of local government except to the extent permitted under section 412 of the National Voter Registration Act of 1993 (52 U.S.C. 1971g(b)(1)). 42 U.S.C. § 15329. Thus, in order for the NVRA to ‘require’ the EAC to ‘develop and adopt voter registration regulations...’ (the citations in the EAC’s letter are to A.R.S. § 18-106(F)) (emphasis added). This provision does not provide the EAC authority to refuse to instruct voters about their registration requirements.

2 Over one million Arizona voters joined the primaries in 2004 through Proposition 200 to assure the accuracy of Arizona’s voter registration rolls in preparation for the presidential election on November 2, 2004. Over one million Arizona voters joined the primaries in 2008 through Proposition 200 to assure the accuracy of Arizona’s voter registration rolls in preparation for the general election on November 4, 2008. The Department of Justice proclaimed Proposition 200 on January 24, 2004, and processed the revised Arizona voter registration forms incorporating the proof of citizenship requirement into its instructions on May 2, 2004.

State Capitol: 1700 West Washington Street, 1st Floor
Phoenix, Arizona 85001-3332
Telephone (602) 542-1818 Fax (602) 542-1874
Mr. John K Tanner
April 17, 2008

Page 2

authority of Congress to legislate in the area of elections for federal office. The EAC did not cite any cases for its conclusion that “[i]f a state may condition acceptance of the Federal Form upon receipt of additional proof, the court concluded that “under the NVRA the states are still left the task of determining that an applicant is eligible, and that the registration form as submitted complies with state law.”

The court rejected the notion that an applicant must be registered upon providing information—accurate or not—on a Federal Form.

A House Committee Report on the NVRA also stated that local officials may continue to confirm an applicant’s eligibility, including as to citizenship:

Only the election officials designated and authorized under state law are charged with the responsibility to verify eligible voters on the list of voters. (NVRA) should not be interpreted in any way to supplant that authority. The Committee is particularly interested in ensuring that election officials continue to make determinations as to applicant’s eligibility, such as citizenship, as are made under current laws and practices.

National Voter Registration Act of 1993: Report 103-9 From the Comm. on House Administration, 103d Congress, 1st Sess., at 8 (emphasis added).

The Federal Election Commission (FEC), in explaining the NVRA, also concluded that an application received by the local voter registration official may be subject to verification procedures that exist under State law. See “Implementing the National Voter Registration Act of 1993: Requirements, Issues, Approaches, and Examples,” Federal Election Commission, January 1, 1994, at 1-6. The FEC stated, “although completing a voter registration application may be simultaneous with other transactions, such application does not constitute automatic registration.” id. (Emphasis in original).

The EAC’s position also runs counter to the intent of Congress under HAVA, which requires verification of other registration information. Section 303, for instance, requires states to implement “provisions to ensure that voter registration records in the State are accurate” and to have a “system of the maintenance that makes a reasonable effort to remove registrants who are ineligible to vote.” 42 U.S.C. § 15453(a)(2)(B)(i)-(ii). Section 303 also requires that states be able to provide proof of identity with their registrants. 42 U.S.C. § 15453(b). In addition, HAVA requires states to verify driver license and social security information provided to registrants to ensure their eligibility to vote under State law. See 42 U.S.C. § 15453(a)(2)(B)(iii).

1 The FEC’s administrative responsibilities under the NVRA were transferred to the EAC in Section 605 of HAVA.
Mr. John K. Tanner
April 17, 2003

Page 3

The EAC erroneously argues that NVRA and HAVA create federal schemes that regulate the manner in which voters prove citizenship to simply checking a box on the form. This assertion is contrary to the clear language in Sections 304 and 305 of HAVA, which leaves it up to the States discretion to determine the methods of complying with the requirements of HAVA and specifically provides that "nothing in [HAVA] shall be construed to prevent a State from establishing election technology and administration requirements that are more strict than the requirements established under [HAVA] so long as such State requirements are not inconsistent with the federal requirements under [HAVA]." Moreover, the EACs interpretation, if correct, would require the States to accept all information on the Federal Form true on its face without any mechanism for verification.

The EAC never consulted me about its intent to omit Instructions in the Federal Form an Arizonas new law. To the contrary, the EAC sent my office proposed Arizona Instructions on April 7, 2003, which included instructions on how to prove citizenship under A.R.S. § 16-166(F), and then reversed itself in its March 8, 2003 letter.7

I urge you to advise the EAC to follow the lead of the Federal Voting Assistance Program, which incorporated the proof of citizenship requirement into Arizona Instructions for the Federal Post Card Application used by military and overseas citizens to register to vote. See 2002-07 Voting Assistance Guide, published by the Department of Defense Federal Voting Assistance Program, at p. 53. The EAC advises military and overseas voters on page one of its Instructions to the Federal Form not to use that form to register to vote, but instead to use the Federal Post Card Application. See www.faa.gov/docs/NVRA%20/INAL%20UPDATE%2003-13-03.pdf.

I appreciate the opportunity to clarify and respond to the EACs claims. If you have any questions, please contact my State Election Director, Joseph Kanefield, at (802) 842-8167, or Peter Silverman, Assistant Attorney General, at (802) 842-6005.

7 Sections 304 and 305 of HAVA nonprohibit long-established competing state interests in providing voter lists and protecting the integrity of the electoral process. See Anderson v. Celebrezze, 460 U.S. 781, 788, 799 n. 9 (1983) (there is a compelling interest in promoting the integrity and reliability of the electoral process); Burson v. Freeman, 505 U.S. 191, 200-01 (1992) (state has a compelling interest in ensuring that an individuals right to vote is not undermined by fraud in the electoral process); Anderson v.运维, 460 U.S. 13, 14 (1977); states may provide a complete and accurate compilation of voters registration data, not only at in time and places, but in relation to elections, registration, supervision of voting, protection of voter, protection of fraud and corrupt practices, counting of votes, duties of registration and enforcement, and making and publication of list erroneous return."

This is a rapid of the error behavior displayed by the EAC over the past several months. The EAC received its March 8, 2003 letter to the press before I received it.
Mr. John K. Tanner  
April 17, 2008  
Page 4

Sincerely,

[Signature]

Janice K. Brewer  
Arizona Secretary of State

cc:  
The Honorable John McCain  
The Honorable John Kyl  
The Honorable Rick Renzi  
The Honorable Trent Franks  
The Honorable John Shadegg  
The Honorable Ed Pastor  
The Honorable J.D. Hayworth  
The Honorable Jeff Flake  
The Honorable Rex Gifford  
The Honorable Jim Kolb  
The Honorable Terry Goddard  
The Honorable Sam Reed, President,  
National Association of Secretaries of State  
Linda Lamone, President,  
National Association of State Elections Directors  
Peter Silverman, Assistant Attorney General
App. 16
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MARIA M. GONZALEZ; et al.,

Plaintiffs,

and

THE INTER TRIBAL COUNCIL OF
ARIZONA, INC.; et al.,

Plaintiffs - Appellants,

v.

STATE OF ARIZONA; et al.,

Defendants - Appellees,

and

YES ON PROPOSITION 200,

Defendant-Intervenor.

No. 06-16702, 06-16706
D.C. No. CV-06-01268-ROS
District of Arizona,
Phoenix

ORDER

Before: TASHIMA and W. FLETCHER, Circuit Judges.

Appellants' emergency motion for injunction pending interlocutory appeal is
granted. The court enjoins implementation of Proposition 200's voting identification
requirement in connection with Arizona's November 7, 2006 general election; and

C:\Documents and Settings\Dan\My Documents\El@McGonzalez-9COrd.wpd
06-16706

enjoins Proposition 200's registration proof of citizenship requirements so that voters can register before the October 9, 2006 registration deadline. This injunction shall remain in effect pending disposition of the merits of these appeals.

The briefing schedule previously established by this court on September 27, 2006 remains in effect.
App. 17
STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION

No. 105-001
(R04-038)

by

TERRY GODDARD
ATTORNEY GENERAL

February 4, 2005

Re: Identification Requirements For
Voter Registration

To: The Honorable Janice K. Brewer
Arizona Secretary of State

Question Presented

Under A.R.S. § 16-166(F)(1), as amended by Proposition 200, is an Arizona driver or nonoperating identification license issued after October 1, 1996, satisfactory evidence of United States citizenship for the purpose of registering to vote?

Summary Answer

Pursuant to A.R.S. § 16-166(F)(1), the number of a driver or nonoperating identification license issued in Arizona after October 1, 1996, is satisfactory evidence of United States citizenship to register to vote.

Background

A. Voter Registration Requirements in Proposition 200.

Arizona voters approved Proposition 200 in the general election of November 2004. The Proposition calls for (1) verifying the identity and eligibility of applicants for
state and local public benefits, and (2) requiring identification to register to vote and to receive a ballot.¹

Your question concerns the identification requirements of Proposition 200 when registering to vote. Proposition 200 amended A.R.S. § 16-166, a section of the Arizona Revised Statutes entitled “Verification of registration.” Section 16-166 now provides, in relevant part:

F. The county recorder shall reject any application for registration that is not accompanied by satisfactory evidence of United States citizenship. Satisfactory evidence of citizenship shall include any of the following:

1. The number of the applicant’s driver license or nonoperating identification license issued after October 1, 1996 by the department of transportation or the equivalent governmental agency of another state within the United States if the agency indicates on the applicant’s driver license or nonoperating identification license that the person has provided satisfactory proof of United States citizenship.

The other “satisfactory evidence” of citizenship specified in A.R.S. § 16-166(F) includes a copy of a birth certificate, passport copy, naturalization documents, other methods of proof established under the Immigration Reform and Control Act of 1986, and an Indian affairs card number, tribal treaty card number or tribal enrollment number. A.R.S. § 16-166(F)(2)-(5).

In addition to presenting the documentation required by A.R.S. § 16-166(F), a person registering to vote must sign a statement declaring that he or she is a United States citizen and acknowledging that executing a false registration is a class 6 felony. A.R.S. §

¹ Arizona could not implement the provisions relating to voting and voter registration in Proposition 200 until the U.S. Department of Justice precleared them as required under the federal Voting Rights Act. 42 U.S.C. § 1973c. The Department of Justice precleared those provisions on January 24, 2005.
16-152(A)(14), (18). It is a state and federal crime to falsely claim to be a United States citizen when registering to vote. A.R.S. § 16-152(A)(18), 18 U.S.C. § 1015 (f).

B. Proof Required to Obtain an Arizona Driver License or Nonoperating Identification License.

Since July 1996, Arizona has required that a person establish that he or she is lawfully present in the United States in order to obtain an Arizona driver or identification license. 1996 Ariz. Sess. Laws, Ch. 230, §§ 5-7. (codified at A.R.S. §§ 28-3153(D), -3158(C)). The statutes prohibit the Department of Transportation from issuing or renewing a driver license or nonoperating identification license "for a person who does not submit proof satisfactory to the department that the applicant's presence in the United States is authorized under federal law." A.R.S. § 28-3153(D).

In addition, under a Motor Vehicle Division ("MVD") policy, effective on or about October 8, 2000, noncitizens of the United States that can demonstrate lawful presence in this country are issued a Type F driver license. MVD can determine whether a person was issued a license with a Type F designation by accessing the internal records it maintains, but the designation is not apparent from the license face. You noted in your opinion request that people with a Type F driver license cannot register online through the EZ voter registration program administered by the Secretary of State and the Department of Transportation.

Analysis

Section 16-166(F)(1), A.R.S., establishes when a driver license number or nonoperating identification license number is satisfactory evidence of citizenship for the purpose of registering to vote in Arizona. When interpreting a statute, the primary goal is to effectuate the intent of its framers and, in the case of an initiative, the voters who

In its first clause, A.R.S. § 16-166(F)(1) establishes that the number of a driver license or nonoperating identification license issued by the Department of Transportation in Arizona after October 1, 1996, shall be satisfactory evidence of U.S. citizenship for the purpose of registering to vote.\(^2\) The next clause addresses driver licenses and identification from other jurisdictions. It permits the use of a license number issued by the “equivalent government agency” of another state, if the license confirms that the holder provided proof of U.S. citizenship. Under the statutory language, the requirement that “the agency indicates on the applicant’s driver license or nonoperating identification license that the person has provided satisfactory proof of United States citizenship” modifies the phrase “equivalent government agency of another state.” Thus, the statute requires that a license from another jurisdiction indicate that the person provided satisfactory proof of United States citizenship in order for that license to be acceptable identification to register to vote in Arizona, but an Arizona driver license is acceptable as long as it was issued after October 1, 1996.\(^3\)

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\(^2\) It is unclear why the authors of Proposition 200 chose October 1, 1996 as a cutoff date. One possibility is that they attempted to tie the voter identification rules of Proposition 200 to Arizona’s authorized presence law which took effect August 1, 1996. The Legislature also renumbered the relevant statutes in 1996, 1996 Ariz. Sess. Laws Ch. 76, p. 179, in 1997, approved a comprehensive rewrite of Title 28, 1997 Ariz. Sess. Laws, Ch. 1. The revision version of the relevant statutes took effect October 1, 1997, exactly one year after the date specified in A.R.S. § 16-166(F)(1). *Id.*, §§ 188, 192, 194, 506.

\(^3\) The “last antecedent” principle of statutory construction also supports this reading of the statute. *See Tanner v. Arizona State Land Dep’t*, 142 Ariz. 183, 189, 688 P.2d 1075, 1081 (App. 1984) (“a qualifying word or phrase is typically applied to the word or phrase that immediately precedes it.”).
The Legislative Council's analysis of Proposition 200 supports this construction. The Council's analysis is designed to "assist voters in rationally assessing an initiative proposal by providing a fair, neutral explanation of the proposal's contents and the changes it would make if adopted." *Fairness & Accountability in Ins. Reform v. Greene*, 180 Ariz. 582, 590, 886 P.2d 1338, 1346 (1994). The analysis is included in the general election publicity pamphlet that is given to each voter, A.R.S. § 19-123(A)(4) and (C), and may be used to interpret an initiative. *Caibik v. Kongable*, 195 Ariz. 496, 500, 990 P.2d 1055, 1059 (1999).

The Legislative Council informed voters that "Proposition 200 would require that evidence of United States citizenship be presented by every person to register to vote." *Arizona Secretary of State, Ballot Propositions and Judicial Performance Review* 43 (Nov. 2, 2004). Regarding the evidence that would satisfy Proposition 200, the Council advised:

Proposition 200 provides that for purposes of registering to vote, satisfactory evidence of United States citizenship includes:

- an Arizona driver or nonoperating identification license issued after October 1, 1996.
- a driver or nonoperating identification license issued by another state if the license indicates that the person has provided proof of United States citizenship.

*Id.* at 43-44. Voters were entitled to rely on this analysis in weighing the effects of Proposition 200. *Fairness & Accountability in Ins. Reform*, 180 Ariz. at 590, 886 P.2d at 1346.

The difficulty presented by the question you have raised is that a person need not be a United States citizen to obtain an Arizona driver license or identification card, even after October 1, 1996. The Department of Transportation verifies that a person is
lawfully present in the United States. A.R.S. §§ 28-3153(D), -3158(C). Thus, citizens of
other nations who are lawfully present in the United States are eligible for Arizona driver
licenses and identification cards. Moreover, an Arizona license does not indicate a
person’s citizenship on its face.

For these reasons, it might be argued that no Arizona driver license – regardless
of when it was issued – should be acceptable identification to register to vote. This
interpretation, however, is contrary to the statutory language that Arizona voters
284, 289, 981 P.2d 584, 589 (App. 1998) (a legislature is presumed to express itself in
“as clear a manner as possible.”). Such an interpretation renders meaningless the
statutory directive that an Arizona license issued after October 1, 1996 “shall be”
acceptable evidence of citizenship to register to vote and ignores the guidance voters
received in the Publicity Pamphlet. It also renders superfluous the statutory distinctions
between licenses in Arizona issued before or after October 1, 1996 and between licenses
issued by the Arizona Department of Transportation and other jurisdictions. This
contradicts the principle that courts must “give effect to each word of the statute.” Boise
v. State, 206 Ariz. 462, 464, 80 P.3d 269, 271 (2003). Furthermore, the authors of a
statute are presumed to know the existing law. State v. Box, 205 Ariz. 492, 496, 73 P.3d
1999).

Although relying on Arizona licenses issued after October 1, 1996 as
identification does not, by itself, screen all non-citizens from registering to vote, it
certainly prevents undocumented immigrants from doing so. In this way, the statutory
Language in A.R.S. § 16-166(F)(1) furthers a purpose of Proposition 200, which focused on issues relating to illegal immigration and undocumented immigrants from receiving benefits for which they are not eligible. See Proposition 200, § 2 (findings and declarations). In addition, the requirement that a person registering to vote attest that he or she is a citizen and the associated criminal penalties for violating this requirement provide additional protections against non-citizens registering to vote in Arizona. See A.R.S. § 16-152(A)(38); 18 U.S.C. § 1015(f). In sum, Arizona law protects against a non-citizen registering to vote by requiring that a person attest that he or she is a citizen of the United States and provide an Arizona driver license number issued after October 1, 1996 or some other identification specified by A.R.S. § 16-166(F)(1).

Conclusion

Under A.R.S. § 16-166(F)(U), the number of a driver or nonoperating identification license issued in Arizona after October 1, 1996, is satisfactory evidence of United States citizenship for the purpose of registering to vote.

Terry Goddard
Attorney General

438301

The Proposition's Findings and Declarations state:

This state finds that illegal immigration is causing economic hardship to this state and that illegal immigration is encouraged by public agencies within this state that provide public benefits without verifying immigration status. This state further finds that illegal immigrants have been given a safe haven in this state with the aid of identification cards that are issued without verifying immigration status, and that this conduct contradicts federal immigration policy, undermines the security of our borders and devalues the value of citizenship. Therefore, the people of this state declare that the public interest of this state requires all public agencies within this state to cooperate with federal immigration authorities to discourage illegal immigration.
SERVICES
Start/Stop/Transfer

Agreements and Notifications - Step 8 of 9

There will be a $35 (plus tax) service establishment charge on your first billing.

Southwest Gas Corporation’s minimum residential security deposit is $60.00 and is due ten (10) days after service has been established to avoid interruption of service. A deposit is not required if one of the following conditions are met:

1. Previous acceptable credit with Southwest Gas Corporation.
2. Forwarding a letter of credit from a previous electric or gas utility.

Either of the above options require:
- Service in customer’s name,
- Service was for at least one (1) year and within the last two years,
- Bills were paid on time.

In submitting this service request you, the customer, agree to take and pay for gas from Southwest Gas Corporation in accordance with this application including the above clause(s) hereof and the rates, terms and conditions contained in Southwest Gas Corporation’s gas tariffs as amended from time to time and available for inspection at any business office of Southwest Gas Corporation.

By clicking next and continuing this service request process, you are acknowledging and agreeing to the above conditions.

You may cancel your request at anytime.

https://www.swgas.com/ServiceRequests/agreement.jsp

8/24/2006
Utility Assistance Programs, such as The Low-Income Home Energy Assistance Program (LIHEAP) and the Utility Repair, Replacement and Deposit Program (URRD), provide energy assistance to eligible individuals (based on income eligibility requirements).

Other Helpful Information:

- To locate the agency nearest to you that can assist you to obtain utility assistance, contact the Department of Economic Security, Community Services Administration at 1-800-382-3706.
- Arizona Self Help allows individuals to pre-screen for eligibility for LIHEAP and other programs.
- Find help keywords: utility assistance, utility program, cash assistance.

KEY PROVIDERS
Need a Little Help?

APS understands that sometimes everybody needs a little help. By using the following links, you can save money and access a variety of services and resources in your community.

**APS Energy Support Program (E-3)**
APS discount for low-income customers

**APS Energy Wise Low Income Weatherisation Program**
Weatherisation assistance program for low-income customers.

**Project SHARE**
Emergency financial assistance to pay energy bills.

**Safety Net**
APS offers the Safety Net program which sends written notification to an authorized third party.

**Arizona 3-1-1**
Health, human services & emergency resources.

**Low Income Home Energy Assistance Program** (LIHEAP)
LIHEAP is a federal program that provides a one-time payment for a delinquent utility bill.

**Use Energy Wisely**
Check here for information on ways you can save energy and reduce your monthly electric bill.

---


8/24/2006
Low-Income Ratepayer Assistance (LIRA)

Get a discount on your gas bill!

- Low-Income Ratepayer Assistance (LIRA) provides a 20% reduction on the "per therm" rate.
- This is applied to the first 150 therms of natural gas used each month from November 1 through April 30.

Review the chart below, and if you think you may qualify, complete and return the application linked at the bottom of this page.

<table>
<thead>
<tr>
<th>LIRA Program Income Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum House Income for 2006</td>
</tr>
<tr>
<td>Number of Persons</td>
</tr>
<tr>
<td>Living in My Home</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>4</td>
</tr>
<tr>
<td>5</td>
</tr>
<tr>
<td>For each additional person, add $5,100</td>
</tr>
</tbody>
</table>

Fill out a LIRA application online.

http://www.swgas.com/residential/specialprograms/lira.php
Save $168 with the Economy Price Plan

Energy can represent a significant expense, especially to households on tight budgets. Customers with limited incomes (see chart below) can receive $14 off SRP charges each month through the Economy Price Plan - that’s $168 a year.

Here’s how it works

If you meet the eligibility requirements listed below, simply fill out an application form and mail it to SRP. Once your application is approved, you will automatically begin receiving $14 off your SRP electric bills each month. Should your bill in a given month be less than $14, the total bill will be decreased to zero.

If you are an SRP M-Power customer, $14 credit will be added monthly to one of your smart card purchases.

You must reapply annually to continue qualifying for this special program. SRP will send you a new application form when it is time to reapply.

View the plan

For information about the cost of electricity, you can view the pilot plan details.

To view the plan, you’ll need Adobe Acrobat Reader. Then, return to this page and click the links to view.

How to enroll

To enroll, please download, print and complete the application (170K) or call SRP at (602) 236-8696 (outside Phoenix area 1 (800) 258-4777) to request that an application be mailed to you. Then, simply complete the application and mail to SRP at:

Economy Price Plan CUN250
SRP
P. O. Box 52026
Phoenix AZ 85072-2026

Please remember to review the eligibility requirements below.

Eligibility

You may be eligible for this discount if you meet the following conditions:

1. You are an SRP residential customer with an account in your name

2. Your total monthly household income before taxes and/or deductions should be at or below the federal income guidelines below:

<table>
<thead>
<tr>
<th>Household size</th>
<th>Monthly Income Level</th>
<th>Household size</th>
<th>Monthly Income Level</th>
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<tbody>
<tr>
<td>1 person</td>
<td>$1,225</td>
<td>4 people</td>
<td>$2,500</td>
</tr>
<tr>
<td>2 people</td>
<td>$1,850</td>
<td>5 people</td>
<td>$2,920</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>3 people</th>
<th>$2,975</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 people</td>
<td>$3,350</td>
</tr>
</tbody>
</table>

For more than 6 people, add $425 per person  
(Example: 7 people = $3,775)

*The above income guidelines are effective until June 30, 2007. Current eligibility guidelines define "income" as including, but not limited to, the combined income of all people living in your home including salary, Social Security income, Veteran’s benefits, disability, unemployment and retirement benefits, pensions, rental income, Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), interest and dividends.

Credit counseling

We know that energy can represent a significant expense, especially to households on tight budgets. In many cases, SRP’s Customer Resource Counselors can offer referrals for possible assistance.

When appropriate, SRP representatives will refer customers to our counseling staff. Counselors then link these customers to resources available in the community, such as energy funds, shelter, food, clothing or medical care.

As part of SRP’s efforts to provide value to the communities we serve, our counselors also conduct energy education workshops and participate in various community events, recommending beneficial SRP programs.

* To view the application and the price sheet, you’ll need the Adobe Acrobat Reader plug-in for your Web browser if you don’t already have it. If you do not have the plug-in, you can download Adobe Acrobat Reader for free. Then, return to this page and click the appropriate link to view the application or price sheet.

— 1996-2006 SRP  
Privacy policy & site disclaimer.  
Site optimized for 9.0+ browsers.

8/24/2006
Chase Free Checking℠ with Direct Deposit

Chase Free Checking with Direct Deposit is a great everyday checking account. When you establish monthly Direct Deposit, you'll get a checking account with its minimum balance requirement and no monthly service fee. Other features available:

- FREE Access to 7,800 Chase ATMs
- FREE Online Bill Payment - including our Online On-Time Guarantee
- FREE USB Check Card with Zero Liability protection*1
- FREE personalized voice, text and e-mail alerts
- Overdraft Protection options provided through your savings, line of credit, or Credit Card account*2
- No annual fee Credit Card (with credit approval)
- PLUS 2,600 branches nationwide

Chase Convenience Package Perks:
Chase Savings℠ account—Monthly service fee waived for 12 months when you set up a pre-approved transfer of at least $25/month from your checking account.

Minimum to Open
$25

Interest Rate
None.

Transaction Fees
$2.70 each for any non-Chase ATM withdrawal, and $.50 per balance inquiry or transfer; $.30 per withdrawal outside the U.S. Other Miscellaneous Fees may apply. See a banker for details.

Monthly Service Fee
None with direct deposit; otherwise $6 per month.

Apply: (1-877-69CHASE (1-877-682-4278) | Visit a branch near you

*1Overdraft Protection may be subject to credit approval. Fees apply.

*2Usage fees may also be charged by merchants that own the ATM.

For complete Debit Card details, refer to the Miscellaneous Fees or Additional Banking Services.

If you would like a checking account with more options, our Superior Checking may be just what you’re looking for. It has a monthly fee, but provides you with FREE checks, and many more great services!

Dividend rate: View current rates
Dividends paid: Monthly
Minimum balance: None
Monthly fee: $3 per month or $1.50 per month
Per check charges: None (unlimited check-writing privileges)
Check orders: FREE "Images of Arizona"
150 checks per box, UNLIMITED
Overdraft protection: Yes
ATM access: Yes
Visa check card: Yes

You also get:
- .25% rate increase on 24-month certificates
- FREE cashier’s checks
- FREE American Express Travelers Cheques
- FREE notary service

tp://www.azfcu.org/cksav/ek_superior.html

8/4/2006
- **FREE** Accidental Death and Dismemberment Insurance (up to $2,000 coverage)

Accessing your account has never been easier:

- **FREE** access to TouchTone 24
- **FREE** access to CU Online and Bill Pay
- Direct deposit and payroll deduction available

How to get started

**Not yet a member?** Please visit any branch location to open an Arizona Federal Superior account. Please bring proof of identification along with cash, check or money order for your $25 opening deposit. View membership section

**Already a member?** Request a checking account by...

- **Online:** Send your request through the secure email feature of CU Online
- **Phone:** (602) 687-1000 or 1-800-523-4603
- **Branch:** Visit any branch location

**Notes:**

1. Earn monthly dividends on balances over $1,000, based on average daily balance.
2. Monthly fee is $3 per month or $1.50 per month with a qualifying combined balance of $10,000 in checking, savings or loans.
3. Only one box of free checks per order. Unlimited boxes available over life of account.
4. Overdraft available from share savings, Visa credit card or personal line of credit.
5. No fee is charged for use of an ATM owned by Arizona Federal. At non-Arizona Federal owned ATMs, the fee is $1 per transaction over five (5) per month. Other institutions may assess a fee when you use their ATM.

Checking accounts pay competitive dividend yields, and all are insured up to a total of $140,000 by the National Credit Union Share Insurance Fund.
Get $50 when you open online

- Free checking with direct deposit
- Free Online Banking service with free Bill Pay
- No minimum balance required

Use promotion code 50MMA for $50 special offer.

Open an Account Now ☰ Click here

Features Rates & Fees Account Services

Our most popular checking account - free with direct deposit.

- No monthly maintenance fee with direct deposit
- No minimum balance required
- Free Online Banking service with free Bill Pay
- Free Bank of America Visa® Check Card with Total Security Protection® and Photo Security®
- Unlimited check writing
- Easy access to funds either online, by phone or using one of over 16,000 ATMs all with no fee
- Open an account with just $25
- Optional Business Economy Checking account with no fee for two years
- New Feature: Trade stocks online for $10 flat with Bank of America Investment Services, Inc.

Learn more

It's easy to apply online

Open an account now ☰

*You will receive your $50 credit to your new account within 50 days of opening your new personal checking account online. Limit one $50 incentive per household every 90 days. Offer will only be for new checking accounts. We may report the value of any premium in the IRS. You must use the promotional code 50MMA when opening your new checking account in order to qualify for this offer. Offer expires on 12/31/2006. Offer may be withdrawn or modified at any time without notice. The $50.00 credit can only be made to your new account. This new account must be still open at this time to receive your $50.00 credit.

Printable Version ☰
Investment products provided by Banc of America Investment Services, Inc.®:

<table>
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<th>Are Not FDIC Insured</th>
<th>May Lose Value</th>
<th>Are Not Bank Guaranteed</th>
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</table>

Banc of America Investment Services, Inc. is a registered broker-dealer, member NASD and SIPC and is a nonbank subsidiary of Bank of America, N.A.

Wells Fargo® Free Checking — Arizona

Account description: A checking account with no monthly service fee or minimum balance requirement

Account benefits:
- Free Online Statements
- Emergency cash when you need it with the Direct Deposit Advance® Service
- Choice of a wide variety of Wells Fargo Exclusive checks or other check designs

Interest: None

Monthly service fee: None

Minimum daily balance required (to avoid monthly service fee): Not applicable ($100 minimum opening deposit)

Gold Check Card:
- Use it instead of cash or checks at millions of locations worldwide
- No monthly or annual card fee
- Unlimited purchases for no bank fee
- Option to earn rewards for your purchases

Learn more about the Check Card.

Protection against bounced checks: Overdraft Protection available with a Wells Fargo cash management account. To set up overdraft protection with a savings account, please call 1-800-856-4442 option 4, option 1.

More benefits:
- Cancelled checks kept on file for free, or paper image. Statements are free for free, or paper image.
- Interest paid on select raises and lines of credit when payments are automatically deducted from the account

Bank where, when, and how you like:
- Free, secure online access with two months of free Bill Pay
- More than 6,500 Wells Fargo ATMs and 14,900 stores
- Unlimited automated calls, 24 hours a day, 7 days a week at 1-800-869-3637

How to Apply:
- Online. Log in now with our secure online application. It's easy!
- By phone. Call 1-866-248-3482, 24 hours a day, 7 days a week.
- In person. Find the location nearest you.

Learn more about our application process.

https://www.wellsfargo.com/wf/checking/free

Customer Service
Call 1-800-469-3657

To open an account: 1-866-248-3482
Need advice? Use the Account Advisor tool. Tell us your needs, and we'll make a recommendation.

Live Help
Wells Fargo agents are available to assist you during these hours: Mon-Fri, 7 a.m.-7 p.m. PST

8/2/2006
App. 20
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App. 21
Opinion

Supreme Court of Missouri


Case Number: SC88039

Handdown Date: 10/16/2006

Appeal From: Circuit Court of Cole County, Hon. Richard G. Callahan

Counsel for Appellant: Marti E. Long, Mark F. (Thore) Hearne, II, James B. Deutsch and Alok Ahuja

Counsel for Respondent: Barbara Jane Wood, Don M. Downing and Erica L. Arlason

Opinion Summary:

DURING its 2006 legislative session, the general assembly passed Senate Bill No. 1014, which addressed various election issues. One of the bill’s provisions, section 115.427, RSMo, requires voters to present certain forms of photographic identification (“photo ID”) before voting. Specifically, it prohibits otherwise qualified and lawfully registered voters from casting a regular ballot unless they present a valid, unexpired state or federal identification document with the person’s name, as listed in the voter registration records, and the person’s photograph. Those would include a Missouri driver’s license, a Missouri non-driver’s license and a United States passport. The bill took effect August 28, 2006. A group of taxpayers subsequently sued the state of Missouri and its secretary of state. A Missouri voter and the bill’s sponsor, Rep. Delbert Scott, R-Columbia, were permitted to intervene as defendants in the suit. At trial, evidence was presented that all of the plaintiffs are qualified, registered Missouri voters who lack requisite photo ID. The plaintiffs presented evidence that some 169,000 to 240,000 citizens, or between 3 and 4 percent of Missourians, lack the requisite photo ID and, therefore, would need to obtain a Missouri driver’s or non-driver’s license or a passport to vote. They presented evidence that each of these forms of identification normally costs money to obtain and that those costs present a practical problem for Missourians who cannot afford the costs or who believe they should not be forced to pay fees to exercise their right to vote. The record shows that Missouri charges $15 to provide a birth certificate required to obtain a non-driver’s license and that Missourians born in other states must pay fees ranging from $5 to $30 to obtain their birth certificates. The record shows that Missourians must also wait between six and eight weeks to receive a birth certificate after paying the required amount. The record shows that it costs between $97 and $216 to obtain a passport. The record shows that many Missourians, particularly those born at home, do not have a birth certificate and that it is more difficult to obtain a passport without a birth certificate. The record further shows that, to obtain the requisite photo ID, voters whose names have changed must supply additional documentation that requires the voters to pay additional fees. The plaintiffs also presented evidence, through the testimony of state and local Missouri election officials and exhibits, that voter impersonation fraud is not a problem in Missouri and that, while there have been instances of absentee ballot and registration fraud, SB 1014’s photo ID requirement will not solve these fraud problems.

The trial court held that the portion of section 115.427 that requires voters to present certain forms of photo ID before voting violates Missouri’s rights to vote and to equal protection of the laws granted by the state constitution. The trial court also held that, because SB 1014 requires real election authorities to fund the cost of providing provisional ballots and other costs, the bill imposes new mandates on local governments without appropriating state funds to cover these increased costs in violation of article 5, section 21 of the state constitution. Known as the Hancock amendment, the trial court did not provide any remedy for the Hancock violation. The State, Morris and Scott appeal.

AFFIRMED.

Court en banc holds that the trial court properly held that SB 1014’s photo ID requirement violates the equal protection clause of article 1, section 2 of the state constitution. It also properly held that the photo ID requirement violates the right to vote as guaranteed by article 1, section 25 of the state constitution, which provides more expansive and concrete protection to the right to vote than the federal constitution. In reaching these conclusions, this Court applies strict scrutiny analysis, in

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which any limitation on fundamental right must serve compelling state interests and must be narrowly tailored to meet those interests. SI 1014[photo ID requirement] fails to pass constitutional scrutiny because it creates a heavy burden on the fundamental right to vote and is not narrowly tailored to meet a compelling state interest to support.

(2) Many of the between 3 and 4 percent of Missouri's who lack the requisite photo ID are eligible registered voters who, under the new law, will not be able to cast a regular ballot for, after 2008 when the provisional ballot availability expires, any ballot at all unless they obtain an acceptable photo ID. Requiring these Missourians to bring one of the specified types of photo ID approved by SI 1014 in order to vote is more than a de minimis [very small or trivial] burden on their constitutional right of suffrage.

(3) The United States Supreme Court has held that wealth or payment of money should have no relation to the free exercise of the right to vote, Harper v. Va. Bd. of Elections, 383 U.S. 663, 688 (1966). There can be no less requirement under Missouri law. The fact that Missouri has raised the costs normally charged by a non-driver's license does not make the fee free because, as the evidence showed, Missourians without certified copies of the documentation needed for the license still must expend sums of money to obtain the license. Specific Missouri voters testified that to acquire the requisite photo ID, at the very least they will have to incur the costs associated with birth certificates, which in Missouri costs $15. The evidence also showed that, if a person requires documentation beyond a birth certificate, the costs are greater. These fees that qualified, eligible, registered voters who lack approved photo ID are required to pay to exercise their right to vote under SI 1014[disregarding the documentation necessary to obtain the mandatory identification/requires fees, time and advance planning to allow for the six to eight weeks the record shows it takes to obtain a Missouri birth certificate. The trial court correctly concluded that the photo ID provisions of SI 1014 represent a heavy and substantial burden on Missourians' free exercise of their right to vote.

(4) While Missouri has a compelling state interest in preserving the integrity of the election process and preventing voter fraud, the trial court properly found that the evidence presented required the claim that the photo ID requirement is narrowly tailored to accomplish that purpose. The parties acknowledge that the photo ID requirement can only prevent impersonation of a registered voter and will not affect absence ballot fraud or registration fraud. There was no evidence of any voter impersonation fraud in Missouri since the general assembly enacted the previous version of section 154.427, which was passed in 2002 in response to the federal Help America Vote Act and allowed voters to present many more and different types of identification in order to vote. While Missouri has an interest in combating perceived voter fraud, where the fundamental rights to vote of Missouri citizens are at stake, more than mere perception is required for their abrogation. The identification requirement does not address any perception of voter fraud with precision, nor is it necessary to solve any existing voter fraud problems. This requirement, therefore, fails to pass constitutional scrutiny and cannot stand.

(5) As a transitional measure, SI 1014 allows voters who lack the requisite photo ID but are otherwise qualified to vote to cast a provisional ballot in precincts between now and November 2008. Section 154.247.1. (b) Provisional ballots cannot count unless the voter timely votes in the general election. (c) The validity of the permanent provisions is subject to the dispute regarding photo ID requirement is immediate and concrete. If this requirement is upheld and enforceable, then Missouri voters must take action and incur costs between now and when the transitional period expires on November 2008 to secure their ability to vote in the future. Further, the procedures one must follow to obtain proper identification and the cost of obtaining the necessary supporting documentation were proved with sufficient certainty in the trial court's determination of constitutionality in the next stage of litigation. In the next stage of litigation those who have not appealed this Court's determination of whether the version of section 154.427 presently in effect is valid. (6) Although the trial court found that SI 1014 violates the Hancock amendment, it nonetheless entered judgment on this issue in favor of the State. The State, therefore, is not aggrieved by the trial court's decision and the Department of Justice has not appealed this. This Court, therefore, does not address the Hancock issue further.

Dismissing opinion by Judge Linhardt. (1) The author argues that the Court should not address the Hancock issue at this time, but the trial court's decision declaring the transitional provisions unconstitutional. The author notes that, during the two-year transitional period before the 2008 general election, every person who is registered properly to vote will be allowed to do so, and even those without a valid photographic identification will be allowed to cast a provisional ballot using the same means of identification that have been required since 2002. The author further holds that the transitional provisions do not violate the constitution; disallowing any voter or place a real burden on an individual's right to vote and that the potential to do so, which is alleged in this provision, if any voter is unable to sign the necessary documents shall be counted. The author argues that, under the rules of statutory interpretation, because section 154.438 was amended to incorporate section 154.427 and that section's application to any election, the amendments to section 154.438 served to repeal, by implication, section 154.438's limitation to primary and general elections. The author would hold that the two-year transitional provisions could be severed from the remainder of the voter-identification law pursuant to the controlling language of section 1.140, RSMo, which provides that all statutes preemptively set severable. The author notes that the transitional sections in Act 1014 alone, are complete and are capable of

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of being executed in accordance with legislative intent and that the general assembly did not specify that these sections should be severable, even though it did state such an intent with regard to other sections.

(3) The author also would reverse on jurisdictional grounds, the trial court's decision declaring the permanent provisions of SB 1014 unconstitutional. The author would hold that any determinations of the constitutional validity of the photographic-identification provisions of SB 1014 as they apply after the two-year transitional period is not yet ripe for adjudication because there currently is no harm to voters and because, in the interim, the general assembly may act to alleviate the perceived deficiencies regarding the cost of obtaining the photographic identification.

(5) The author notes that there was evidence of voter fraud in Missouri during the 2000 presidential election, giving rise to a need to address such a problem through SB 1014. The author further would caution against categorically disallowing all photographic identifications as an unconstitutional infringement on the right to vote.

Citation:

Opinion Author: PER CURIAM


Opinion:

After a 2006 statute was enacted requiring registered voters to present certain types of state- or federally-issued photographic identification in order to cast regular ballots, Ms. Kathleen Weinschink and others sued the state to block enforcement of the law on the grounds that it interfered with the fundamental right to vote as protected by the Missouri and United States constitutions. Ms. Weinschink and the others claimed that the new law required them and other voters — particularly those who are low-income, disabled or elderly and who do not have driver's licenses — to spend money to obtain the necessary documents such as birth certificates in order to obtain the requisite photo ID. The trial court declared the law unconstitutional.

The State of Missouri and Intervenors Dale Morris and Senator Delbert Scott (collectively "Appellants") appeal the trial court's holding that the portion of Senate Bill 1014 ("SB 1014") requiring presentation of certain forms of photographic identification ("photo ID") to vote is unconstitutional because it violates Missouri's rights to vote and to equal protection of the laws. These rights are at the core of Missouri's constitution and, hence, receive state constitutional protections even more extensive than those provided by the federal constitution. The trial court so held because it found that those portions of SB 1014, which now are struck at Section 115.427, 2006 Mo. Laws 23 S.B. 1014 ("Photo-ID Requirement") unnecessarily burden the right to vote of Missourians who are properly registered but are nonetheless barred from voting at their designated voting precinct (or permitted to vote only provisionally) because they do not have one of the limited types of identifying documents required by SB 1014 to receive their right of suffrage.

This Court agrees that SB 1014's Photo-ID Requirement violates Missouri's equal protection clause, Mo. Const. art. 1, sec. 2, and Missouri's constitutional guarantee of the right of its qualified, registered citizens to vote. Mo. Const. art. 2, sec. 25, art. 10, sec. 2. While this Court fully agrees with Appellants that there is a compelling state interest in preventing voter fraud, the evidence supports the trial court's conclusion that the Photo-ID Requirement is not narrowly tailored to accomplish that purpose.

Witnesses in the trial court disavowed test to past instances of fraud in the form of absentee ballot and registration fraud. But, as Appellants acknowledge, the Photo-ID Requirement is intended to prevent only impersonation of a registered voter and will not affect absentee ballots or registration fraud. The evidence below shows, however, that our legislature has already eliminated the opportunity to commit voter impersonation fraud with the enactment of the precautions it adopted in response to the federal Help America Vote Act ("HAVA") in 2002. In fact, the only specific instance of possible fraud that has occurred since 2002 of which the witnesses were aware involved an attempt (whether intentional or accidental is not clear) by a person who had voted absentee to then vote in person. This conduct would not be affected by SB 1014 and was discovered and prevented prior to the implementation of the Photo-ID Requirement.

Appellants argue that the Photo-ID Requirement nonetheless should remain in place because it will reassure voters that "perceived" that fraud exists. As there has been no reported case of voter impersonation fraud since the HAVA protections were put in place, however, this justification places too great an encumbrance on the right to vote of Missourians who cannot show the very specific and often costly to obtain photo IDs the statute requires.

The statute does provide an alternative identification procedure that will allow voters who lack one of the specified photo IDs to cast a provisional ballot in certain elections between now and November 2008, but these transitional provisions are not as generous as the permanent provisions, so this Court need not decide the question of their constitutionality.

Accordingly, the trial court judgment enjoining enforcement of the Photo-ID Requirement of SB 1014, now section 115.427, is affirmed.

I. FACTUAL AND PROCEDURAL BACKGROUND

SB 1014's Photo-ID Requirement prohibits otherwise qualified and lawfully registered Missourians from voting if they present only out-of-state picture identification, social security cards, utility bills, school or work IDs, or other documents that

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served as proper identification under the version of section 115.427 in effect prior to the enactment of SB 1014."41 See sec. 115.427, 3 RSMo Supp. 2001. As amended by SB 1014, section 115.427 now requires that Missourians present as identification a document issued by the state or federal government that contains their photograph, the person’s signature, and an expiration date showing that the ID is not expired. See sec. 115.427.4, 3 RSMo. 2001. In practical effect, the only documents that most Missourians would have that could meet these requirements are a Missouri driver’s license or non-driver’s license or a United States passport.42

The record below reveals that between 3 and 4 percent of Missouri citizens lack the requisite photo ID and would, thus, need to obtain a driver’s or non-driver’s license or a passport in order to vote. Specifically, the trial court noted that the Secretary of State’s record for August 2006 estimated that approximately 240,000 registered voters may not have the required photo ID and that the Department of Revenue’s estimate of the name was approximately 196,215 individuals. Each of these forms of ID, however, allegedly costs money to obtain. This presents a practical problem for Missourians who will be discouraged from attempting to vote because of their concern that they must pay a fee to do so. It also presents a legal problem in that the United States Supreme Court held in Harper v. Virginia State Board of Elections, 383 U.S. 663 (1966), that tax or fee imposed on the right to vote produces an undue burden on the exercise of that right. As the high court stated, wealth or payment of money should have no relation to the free exercise of the right to vote. Harper, 383 U.S. at 668 (“To introduce wealth or payment of a fee as a measure of a voter’s qualifications is to introduce a capricious or irrelevant factor”).

The legislator provided that Missourians who lack a proper authenticated photo ID may obtain a Missouri non-driver’s license free of charge. Sec. 115.427.7. To aid them in doing so, SB 1014 provides that “mobile processing units,” at which these free non-driver’s licenses can be obtained, will be made available upon request to “any disabled or elderly person otherwise competent to vote.” [who is physically unable to otherwise obtain] a non-driver’s license. Id.

SB 1014 also provides a mechanism for waiving the Photo-ID Requirement for certain classes of persons who are otherwise registered and meet all of Missouri’s constitutional qualifications to vote but, under SB 1014, nonetheless would be denied the right to vote for lack of a proper ID. Those persons can cast a “provisional ballot” if they sign an affidavit stating that the reason they have no acceptable photo ID is that they are unable to obtain such identification because it’s disability or handicap, because of a sincerely held religious belief, or because they were born on or before 1941. See sec. 115.427.6. Lack of funds or time to undertake the sometimes laborious process of obtaining a proper photo ID in situations in which a birth certificate is not easily available or in which a woman has changed her name since birth are not grounds for casting a provisional ballot under this provision.43

In addition, the provisional ballot will not be counted unless the signature on the affidavit matches the signature on file with the election authority. Id. An election official testified that she verifies signatures on photo ID cards before they are returned.44

Further, the trial court found that at least one of the individual plaintiffs in this case “is unable to make a consistent signature or mark, [and] therefore, her signature will not match the signature on her voter registration record.” Nonetheless, no evidence was presented as to what identification the last person of record is making for the claimant whose signature was made in the attempt to make a signature or whose signature has changed due to disability or the passage of time since they made their original signature when they initially registered to vote. Thus, such persons’ provisional ballots will not be counted under the statute.45

Plaintiffs argue that the parity between a Photo-ID Requirement is not in SB 1014 (like the anti-fraud ID provisions required under HAVA and in effect in Missouri from 2002 until SB 1014 became effective) does not pass constitutional scrutiny on a multitude of grounds.46

The trial court agreed that Plaintiffs established the unconstitutionality of SB 1014 on three grounds: first, by failing to impose on Missourians’ free exercise of their right to vote as set out in the Missouri Constitution.47

More specifically, the trial court agreed with Plaintiffs that, while on its face the Photo-ID Requirement appears to permit Missourians without an acceptable photo ID to obtain one without cost, it in reality does not do so because the Photo-ID Requirement of SB 1014 must be read together with the requirements of the Federal REAL ID Act of 2005, Pub. L. 109-13, Title 5, which requires that any Missouri driver’s license or identification card applicants first present identification such as a United States passport or birth certificate. Id.; see also 12 CSR 10-24.448. Both passports and birth certificates are themselves costly. In fact, the record reveals that Missouri charges $15 to provide the other, non-driver’s license, to any Missouri citizen that requests a Missouri’s non-driver’s license. Missouri citizens born in other states must pay fees ranging from $5 to $30 to obtain official copies of their birth certificates. A passport is even more expensive. The record reveals that a person born in the United States who wishes to obtain a United States passport must pay between $97 and $236, depending on the speed with which one may need the passport. For a person born outside the country, the cost of a passport may be higher due to the cost of additional documents needed as proof of citizenship or naturalization.48

Furthermore, the record shows that if a voter’s name has changed, he or she must supply additional documentation to obtain one of the requisite photo IDs.49

Names change for a myriad of reasons in our society: women often follow the societal custom of taking their husband’s name upon marriage; in the event of a divorce, women occasionally revert to using their maiden name; certain individuals choose to change their name for personal or political reasons; still others experience a name change when their parents’ marital status changes subsequent to birth. All these citizens who lack a proper photo ID and whose names have changed from the time they received their birth certificate (or their passport) must obtain additional documentation of the name change (e.g., certified marriage certificate, certified divorce decree, amended birth certificate) to demonstrate that comports with the requirements of SB 1014. The additional documentation is not purchased, but the cost of a certified copy of a marriage license ranges from $5 to $30.

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The trial court also noted that, in addition to the monetary costs imposed on persons seeking to obtain the proper photo ID, the process to do so imposes additional practical costs, including navigating state and/or federal bureaucracies, and travel to a court to receive the appropriate documentation. In Missouri, the waiting period for a birth certificate alone is six to eight weeks. In Louisiana, the birthplace of many Katrina refugees who have taken shelter in Missouri, the processing period is eight to ten weeks. Should citizens need additional documents, the bureaucratic hurdles and waiting periods would increase. The Plaintiffs claim that for many of Missouri’s qualified voters, including the poor, elderly, and disabled, these hurdles to obtaining the proper photo ID are insurmountable. The trial court agreed, finding these concerns real rather than speculative based on evidence pertaining to the individual plaintiffs, all of whom are qualified Missouri voters who lack an acceptable photo ID and who would struggle or be unable to obtain one.

For example, Ms. Weischensk testified that she does not currently have a birth certificate. She was born in Arkansas, where she must obtain a birth certificate is $12. Ms. Weischensk has cerebral palsy. She testified that, although acquiring a proper photo ID is a substantial burden because of her disability, she is not “unable” to do so. But, even could she truthfully swear that her disability prevents her from obtaining the proper photo ID needed to vote, because her disability prevents her from making a consistent signature mark, her signature will not match the signature on her voter registration record. Thus, any provisional ballot she casts will not be counted.

The record also contains evidence regarding the situation of other plaintiffs. Mr. William Kottmeyer is limited mobility, making it difficult for him to gather the necessary documents to obtain a non-driver’s license and to stand in line at the Department of Revenue. Mr. Robert Fund has a physical condition that requires him to arrange transportation to and from the Department of Revenue and to employ an attendant to assist him in order to obtain a non-driver’s license. Ms. Amanda Mullany was born in Kentucky, and her current name does not match the name on her birth certificate because her parents were not married at the time of her birth. Thus, to obtain the proper photo ID needed to vote, she will have to provide proof of her name change by means of either a certified court order or a certified amended birth certificate. Mr. Richard von Gladen unsuccessfully attempted to obtain a non-driver’s license last June and was told that, since he was not over 65-years-old, the ID would cost him $81. Additionally, Mr. von Gladen lacked a birth certificate, for which the state of his birth, Ohio, charges $20. Ms. Nadale Mac Hughes was born in Mississippi, but the state has repeatedly informed her that it does not have any record of her birth, thereby compounding her difficulties in obtaining the photo ID necessary to vote in Missouri.

The trial court found the evidence pertaining to each of these plaintiffs to be credible. It also found credible testimony from five state and local Missouri election officials regarding the nature of voter fraud currently experienced in Missouri. These government officials, all of whom have been closely involved with Missouri elections in their official capacities and have many years of experience, testified that voter impersonation fraud is not a problem in Missouri. For instance, Ms. Betty Byers, the Co-Director of Elections for the Secretary of State’s Office for the last five years, testified that, since 2000, she did not receive reports of voter impersonation fraud anywhere in the state. Ducey confirmed to the court that he had not received reports of absentee ballot fraud, but testified that the Photo-ID Requirement does not solve such problems. Adding to the testimony of these government officials, Plaintiffs also presented evidence indicating that voter impersonation fraud is not a problem in Missouri. In a letter to Governor Matt Blunt, Secretary of State Robin Carnahan echoed the sentiments of Ms. Byers, stating there is no evidence that voter impersonation fraud actually exists or that the Photo-ID Requirement would solve any existing problems in our elections system.

In November 2004, two letters were written in 2004 by the Secretary of State Matt Blunt on the subject of voter fraud. The Secretary of State’s widespread elections in 2002 and 2004 to then-Governor Bob Holden as “two of the cleanest and problem-free elections in recent history.” To the St. Louis Post-Dispatch, Blunt characterized the same elections as “fraud-free.”

While Plaintiffs offered affidavits of persons who reached conclusions contrary to some of those offered by Plaintiffs’ witnesses, the trial court found Plaintiffs’ evidence and witnesses to be more credible, and the Court considers the record in the light most favorable to the judgment of the trial court. Redish v. Heartland Auto Plaza, 197 S.W.3d 634, 636 (Mo. App. S.D. 2006).

Thus, the Court turns to the issue whether the Photo-ID Requirement of SB 1014 can withstand constitutional scrutiny despite the court and other burdens the trial court found it placed on qualified Missouri voters. Whether a statute is unconstitutional is a question of law, the review of which is de novo. Doe v. Phillips, 194 S.W.3d 833, 841 (Mo. banc 2006). Therefore, a statute is cloaked in a presumption of constitutionality, an appellate court may find the statute unconstitutional only if it clearly contravenes a specific constitutional provision. State v. Kinzer, 89 S.W.3d 434, 439 (Mo. banc 2003). “Nothing can be said with a constitutional provision or provisions, this Court must hold the statute invalid.” Id.

II. EQUAL PROTECTION ANALYSIS
A. Framework for Evaluating an Equal Protection Clause Challenge

The Missouri and Mississippi constitutional guarantees do not guarantee the citizens the enjoyment of equal protection of the laws. U.S. Const. amend. XIV, sec. 1 ("No state shall . . . deny to any person within its jurisdiction the equal protection of the laws"). Mo. Const. art. I, sec. 2 ("all persons . . . entitled to equal rights and opportunity under the law"). Courts undertake a two-part analysis to determine the constitutionality of a statute under the state or federal equal protection clause. The first step is to determine whether the statute implicates a suspect class or implies on a fundamental right explicitly or implicitly protected by the Constitution. Eiting v. Wagman Heating & Cooling Sys., Inc., 92 S.W.3d 717, 744 (Mo. banc 2003); accord Kaufman v. Dickinson Public Schools, 487 U.S. 450, 457-58 (1988). If so, the classification is
subject to strict scrutiny." Elding, 92 S.W.3d at 774. If not, the classification will be subject to rational basis scrutiny. Id.

The second step is to apply the appropriate level of scrutiny to the challenged statute. In order to survive strict scrutiny, a limitation on a fundamental right must serve compelling state interests and must be narrowly tailored to meet those interests.

Kusmova v. Kusmova, 918 S.W.2d 479, 482 (Mo. App. E.D. 1996) (Any state restriction which significantly interferes with the exercise of a fundamental right is subject to strict scrutiny and cannot be upheld unless it is supported by sufficiently important state interests and is closely tailored to effectuate only those interests.). See also, Lalli v. Leary, 439 F.2d 1368, 1373 (6th Cir. 1973) ("the application of strict scrutiny for purposes of equal protection challenges . . . involves a two-part analysis: the restriction must be necessary to serve a compelling state interest, and may not go beyond what the state's interest actually requires.")

B. Voting is a Fundamental Right, Particularly under the Missouri Constitution

The Missouri Constitution expressly guarantees that "all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent free exercise of the right of suffrage." Mo. Const. art. II, sec. 25. Additionally, rather than leaving the issue of voter qualification to the legislature, the Missouri Constitution has established an exclusive list of qualifications necessary to vote in Missouri. Mo. Const. art. IV, sec. 2 ("All citizens of the United States . . . over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if . . . they are registered within the time prescribed by law."). These constitutional provisions establish with unmistakable clarity that the right to vote is fundamental to Missouri's democratic system.

The express constitutional protection of the right to vote differentiates the Missouri constitution from its federal counterpart. Federal courts also have consistently held that the right to vote is equally fundamental under the United States Constitution. See, e.g., Reynolds v. Sims, 377 U.S. 533, 555 (1964) ("The right to vote freely for the candidate of one's choice is the essence of a democratic society."); Wesberry v. Sanders, 376 U.S. 1. 17-18 (1964) ("No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.").


Moreover, the qualifications for voting under the federal system are left to legislative determination, not constitutionally enshrined, a-

They are in Missouri. Compare U.S. Const. art. I, sec. 2 (providing that "Elections shall be equal to those for state offices") with Mo. Const. art. VIII, sec. 2 (establishing exclusive qualifications for voting in Missouri). (N15)

Compare also U.S. Const. amend. XIV (protecting right to vote from abridgment "on account of race, color or previous condition of servitude") with Mo. Const. art. I, sec. 25 (protecting right to vote from all "power, civil or military") that

* interferes to prevent the free exercise of the right of suffrage.

Due to the more expensive and concrete protections of the right to vote under the Missouri Constitution, voting rights are an area where our state constitution provides greater protection than its federal counterpart. See California v. Ramos, 465 U.S. 992, 1013-14 (It is elementary that States are free to provide greater protections . . . than the [Federal Constitution] requires.); State v. Bax, 935 S.W.2d 26, 34 (Mo. banc 1996) ("Provisions of our state constitution may be construed to provide greater protection than comparable federal constitutional provisions."); State ex rel. J. D. Edwards, 374 S.W.2d 401, 409 (Mo. banc 1978) (holding that Missouri Constitution due process and equal protection clauses provide more protection than United States Constitution where United States Supreme Court precedent did not mention these important rights.).

(N16)

Of course, some regulation of the voting process is necessary to protect the right to vote itself. Such regulations are in place in all state and federal elections, and the Missouri Constitution further specifically delegates to the legislature the right to regulate the election process. Mo. Const. art. III, sec. 3. In addition, many other important matters may affect the eligibility of those who may run for office and how candidates are listed on ballots. For this reason, the extent of the burden this statute imposes on the right to vote must be evaluated before determining the level of scrutiny it will receive.

C. SB 1014's Photo-ID Requirement Burdens Missourians' Fundamental Right to Vote.

The record supports the trial court's determination that SB 1014's Photo-ID Requirement places a burden on the right of Missourians to vote. As set out at length above, it requires each of the individuals in this case to present a Missouri driver's license, a Missouri non-driver's license, or a United States passport on election day in order to vote. Sec. 115.347.1. The record reveals that between 3 and 4 percent of Missouri citizens (estimates vary from 109,251 to 246,000 individuals) lack the requisite photo ID. Mo. Const. art. III, sec. 3. In addition, many other matters may affect the voter's eligibility in this case, e-

regardless of whether the person has already voted in the primary election in this case, are eligible to vote and, in many cases, are already registered to vote. Nevertheless, under the new law these eligible registered voters will not be able to cast a regular ballot (or even a satellite ballot at all) unless they undertake to obtain one of the requisite photo IDs. This will constitute a dramatic increase in provisional ballots over the previous law, as only 8,000 provisional ballots were cast statewide in the 2004 general election. (N17) As conceded by Appellees, denial of the right to vote in this manner is more than a de minimis burden on their suffrage. (N18)

It is to those citizens that the Court directs its attention, as it determines whether this statute places into jeopardy their ability to exercise their fundamental right to vote under article I, section 25 of the Missouri Constitution. To do so, the Court must examine the required procedures for them to obtain a photo ID to determine the extent of the burden it imposes on their right to vote.

1. SB 1014's Photo-ID Requirement requires payment of money to exercise the right to vote.

Those citizens who do not possess the requisite photo ID, with few exceptions, must expend money to gather the necessary

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document the time in which the vehicle, driven by a non-driver, caused the accident, and the costs, if any, incurred by the non-driver

2. SB 1014's Photo-ID Requirement requires time and ability to navigate bureaucratic processes in detail. It requires the non-driver to apply for a non-driver's license and to present all necessary documents, including proof of identity and residence. This requirement is problematic because it creates an additional burden on the non-driver, who is not the one responsible for the accident. The non-driver may not have the time or ability to navigate these bureaucratic processes, which can be time-consuming and costly. The requirement also creates a potential for discrimination, as some non-drivers may not have the necessary documents or may not be able to afford the fees required.

3. SB 1014's Photo-ID Requirement is subject to strict scrutiny. The requirement is examined closely because it involves the exercise of a protected right, such as the right to vote. The requirement must be justified by a compelling state interest and must be narrowly tailored to achieve that interest. In this case, the requirement is not narrowly tailored, as it does not effectively address the problem of fraud or 1999) Harper makes clear that all fees that impose financial burdens on eligible citizens' right to vote, not merely poll taxes, are impermissible under federal law. There can be no lesser requirement under Missouri law.

Appellants highlight that the federal courts in Indiana and Georgia each rejected claims that photo ID requirements constitute a poll tax, see Common Cause/Gorgia v. Billups, 439 F. Supp. 2d 1254, 1255 (N.D. Ga. 2006); Ind. Democratic Party v. Roberts, No. 05-CV-0834-SED-VHS, 2006 WL 1005037, at *9B (S.D. Ind. Apr. 14, 2006), and urge this Court to do likewise. This case stands in stark contrast to the Georgia and Indiana cases, for their decisions were largely based on these courts' findings that the parties had simply presented theoretical arguments and had failed to offer specific evidence of voters who were required to bear those costs in order to exercise their right to vote. (FN4) Plaintiffs in this case, on the other hand, offered testimony of specific Missouri voters who will have to incur the costs associated with birth certificates and other documentation to acquire a photo ID and vote. Specifically, Plaintiff Weinschenk will have to pay $125 for her birth certificate; Plaintiff von Gloeden, who was asked to pay $11 for his "free" non-driver's license required to vote under the statute, will have to pay another $20 for his birth certificate. Others, like Plaintiff Mullenay, may have to incur more substantial costs for additional documentation because their names have changed since their birth. Additionally, elections officials testified to the substantial number of other various qualified Missouri voters who also must pay a fee in order to vote.

Based on this evidence, the trial court found that this cost was directly connected to Plaintiffs' exercise of the right to vote. The trial court also found that the citizens who currently lack the requisite photo ID are generally "least equipped to bear the costs." For Missourians who live beneath the poverty line, the $15 they must pay in order to obtain their birth certificates and vote is $15 that they must subtract from their meager ability to feed, shelter, and clothe their families. The exercise of fundamental rights cannot be conditioned upon financial payment. Cf. Griffin v. Illinois, 351 U.S. 12 (1956) (holding that due process and equal protection require that indigent defendants are entitled to pursue appeals without payment of costs).

In this Plaintiffs proved that these costs must be incurred for citizens who lack the SB 1014 mandated photo IDs to exercise their right to vote.

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reasonable regulation of the voting process and of registration procedures is necessary to protect the right to vote.\footnote{SC88039: Kathleen Weinschenk, et al., Respondents, v. State of Missouri, Appellant, Rch...Page 8 of 17} So long as those regulations do not impose a heavy burden on the right to vote, they will be upheld provided they are rationally related to legitimate state interest. If the regulations place a heavy burden on the right to vote, as here, our constitution requires that they be subject to strict scrutiny.

Appellants’ argument that this Court should not apply strict scrutiny but should apply a “flexible” test for examining voting restrictions such as that announced by the United States Supreme Court in Burdick v. Takushi, 504 U.S. 138 (1992), also is not persuasive. Here, the issue is constitutionality under Missouri’s Constitution, not under the United States Constitution. Even under Burdick’s “flexible” test, however, a court will “weigh the character and magnitude of the asserted injury to the rights protected and the probable success of the plaintiff’s challenge to the statute.” Id. at 143. When those rights are subject to “reasonable nondiscriminatory restrictions,” rational basis scrutiny applies. Id. When those rights are subject to “severe restrictions,” the Supreme Court has directed that strict scrutiny applies. Id. Because, here, the restrictions on the right to vote are severe, strict scrutiny would also adhere under the federal constitutional provision.

Several federal courts have evaluated these types of burdens on the right to vote since Burdick are in accord that strict scrutiny must apply to direct burdens on the right to vote. See Republican Party of Arkansas v. Faulkney County, Arkansas, 49 F.3d 1289, 1298-99 (8th Cir. 1995) (applying strict scrutiny to Arkansas requirement that political parties conduct and pay for primary elections because election provisions had the effect of “unfairly weights the number of votes that were cast in the Republican primary to vote either in the Democratic primary or not at all,” thereby burdening “the ability of persons to exercise their right to vote for the person of their choice”).\footnote{FN25} Applying strict scrutiny, the issue is whether the burden that SB 1014-1’s Photo-ID Requirement places upon Missourians’ fundamental right to vote serves a compelling state interest and whether it is necessary and narrowly tailored to accomplish that interest. Roman v. Coalition, 939 S.W.2d at 482.

E. Missouri’s has a Compelling Interest in Combating Election Fraud

Missouri’s broad interests in preserving the integrity of the election process and combating voter fraud are significant, compelling and important. F. SB 1014’s Photo-ID Requirement is Not Necessary or Narrowly Tailored to Meeting the State’s Compelling Interests in Preventing Impersonation Fraud at the Polling Place.

Recognizing that the State does have compelling interests in preserving electoral integrity and combating voter fraud, the issue becomes whether the record shows that the type of Photo-ID Requirement enacted in SB 1014 is necessary to accomplish a compelling state interest.”\footnote{FN26} Edinburg, 92 S.W.3d at 774. Because, for the reasons set forth above, this Court has found that the Photo-ID Requirement imposes a severe burden on the right to vote, it can survive strict scrutiny only by showing it is necessary to accomplish that state interest or that it is “narrowly drawn to express the compelling state interest at stake.”\footnote{FN27} Id. at 773.

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

The only evidence that Appellants marshal of voter impersonation fraud occurred prior to the enactment of identification requirements in 2000. See 2000 Identification law, enacted to the federal HAVA law, required voters to present some proof of identity or residence when they arrived at the polling place. The list of acceptable identification under the 2002 requirements is much broader than the three types of photo ID that SB 1014 allows and included a utility bill, bank statement, expired passport, out-of-state driver’s license, and other commonly available documents of identification. Sec. 115.427, RSMO Supp. 2005.

Although Appellants protest that some of the approved identification documents under the 2002 law do not provide proof of eligibility to vote, neither does the Photo-ID Requirement. The Photo-ID Requirement assists in prevention of voter impersonation, but the evidence reveals that the 2002 requirements, which are much less restrictive on the right to vote, have been successful in preventing this type of fraud. These facts compel the conclusion that the Photo-ID Requirement is not "necessary to accomplish a compelling state interest.”

The conclusion that the Photo-ID Requirement is not necessary to serve the State’s asserted end should not be taken as an indication that the State’s interest in combating voter fraud is insubstantial. Indeed, legislative efforts to combat the types of voter fraud and opportunities for voter fraud that persist in Missouri, such as absentee ballot fraud, voter intimidation, and inflated voter registration rolls, should be encouraged. Where the legislature places a heavy burden on the right to vote, however, the Missouri Constitution requires that the burden be justified by a compelling interest and the statute be narrowly tailored or necessary to accomplish the statutory goals. The Photo-ID Requirement could only prevent a particular type of voter fraud that the record does not show is occurring in Missouri, yet it would place a heavy burden on the free exercise of the franchise for many citizens of this State.”

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Appellants also urge that the State has a compelling interest in combating perceptions of voter fraud. While the State does have an interest in combating those perceptions, where the fundamental rights of Missouri citizens are at stake, more and more perception is required for their destruction. 

Perceptions are malleable, and the State's concern about the perception of fraud is real. If this Court were to approve the placement of severe restrictions on Missourians' fundamental rights without the more perceptive approach to a problem in this instance, then the tactic of shaping public misperception could be seen in the future as a mechanism for frustrating the right to vote of other fundamental rights. Moreover, the public could believe that the new law has prevented fraud in Missouri elections, whereas the type of fraud that has been shown to exist - fraud in registration and in absentee ballots - is not addressed by the Photo-ID Requirement and may still occur. See 43 MCL, Suspicion Voter Count Rule Found In St. Louis Post-Dispatch Oct. 11, 2006 at A1. The provision of our most precious state constitutional rights must not foster the tumultuous tide of public misperception. For these reasons, this Court holds that the Photo-ID Requirement violates the equal protection clause of the Missouri Constitution, article I, section 3.

III. SEVERABILITY

Recognizing that it will take time for many Missouri voters to obtain the photo ID required under SB 1014, the legislature enacted a transitional provision that allows voters who lack the requisite photo ID to cast a provisional ballot in certain elections between now and November 2008. During this transitional period, an otherwise qualified voter who lacks the requisite photo ID may cast a provisional ballot after presenting one of the many forms of identification that could be presented under the previous version of section 115.427. Sec. 115.247.13. As with the provisional ballots cast under the exception to the Photo-ID Requirement discussed in Section I above, for a transitional-period provisional ballot to be counted, the signature on the affidavit must match the signature on file with the election authority, however long ago the signature on file was made and without regard to my disability or infirmity of the voter, id.

This Court rejects Appellants' argument that, even if constitutional infirmities exist as to the permanent provisions of the Photo-ID Requirement, the transitional provisions are severable from the permanent provisions and could go into effect despite the invalidity of the permanent provisions. While there is a presumption that if provisions of any statute are severable, Sec. 1.140, RSMo 2000, if any provision of a statute is found unconstitutional, the remaining provisions cannot stand if they are "so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the legislature would have enacted the valid provisions without the void one." Id. In other words, "[t]he test of the right to uphold a law, some portions of which may be invalid, is whether or not it so doing, after separating that which is invalid, a law in all respects complete and susceptible of constitutional enforcement is left, which the Legislature would have enacted if it had known that the condemned portions were invalid." State ex rel. Andreas County v. Huckman, 205 S.W. 2d 13, 14 (Mo. banc 1948) (emphasis added).

accord City of Springfield v. Sprint Spectrum, L.p., 196 S.W.3d --, 814, 818 (Mo. banc 2006) at 818. The recognition that SB 1014's Photo-ID Requirement is just that: transitional. After November 2006, Missouri voters who lack the requisite photo ID will no longer be able to vote, by provisional ballot or otherwise unless they fall within the limited class of voters allowed to cast a provisional ballot under section 115.427.5 excepting to the Photo-ID Requirement, discussed in Section I above. Nothing in SB 1014 suggests that the legislature would have enacted the transitional provisions without the permanent provisions. The transitional provisions are enacted as part of the same section, 115.427, as the permanent provisions and provide only a temporary exception to the otherwise valid and currently enunciated law. Nothing in this section suggests that the legislature could not have included a transitional provision if it believed the law would simply revert to the previous statute after the transition ended in November 2008. A transition is inherently a step towards an end, not an end in itself.

Since the transitional provisions are "so essentially and inseparably connected with, and so dependent upon" the permanent provisions, Sec. 1.140, RSMo 2006, these transitional provisions cannot be severed. While the legislature may remedy the constitutional deficiencies that exist under SB 1014's Photo-ID Requirement, this Court cannot speculate as to the terms of some new statute as yet not enacted.

Partly in response to Appellants' contention that the intransitive provisions of section 115.427 are severable from the remainder of the section, Plaintiffs make the argument that all sections of the transitional provisions and the type allowed under section 115.427.5's exception to the Photo-ID Requirement discussed above only at federal elections and in primaries. If this is the case, it would present an additional and serious constitutional problem.

When provisional balloting was first instituted in Missouri in 2002, it was permitted only for primary and general elections in which candidates for federal or statewide offices were nominated or elected and for elections in which statewide issues were submitted to the voters. See sec. 115.430, RSMo Supp. 2005. The procedures for counting such ballots were set out in section 115.430. Id.

The provisional voting permissible under SB 1014's Photo-ID Requirement states that such provisional ballots "shall be entitled to be counted, provided the election authority verifies the identity of the individual by comparing that individual's signature to the signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast." Sec. 115.427.13, accord Sec. 115.427.5. The only way allowed under determining eligibility of those who cast such provisional ballots is pursuant to section 115.430. But, whether intentionally or through oversight, the legislature chose not to amend or delete subsection 115.430.1, which still provides that determining eligibility and counting provisional ballots may be made under that section only in primaries and statewide or federal elections.
elections.
The result is that either there is no provision for voting in local elections when the two provisions are read in pari materia or else there is provision for voting in such elections, but the statutes provide no means of determining the eligibility of those provisional voters and no safeguards for collecting and counting those votes, which would itself present serious constitutional problems. The dissent suggests a third approach that the "internal inconsistency" in section 115.430 should be harmonized by enacting a declaratory judgment. We refer to the Court's interpretation of section 115.430.3 and the "any election." This interpretation would read section 115.430.3 out of the statute completely, which this Court is not permitted to do. Kearney Special Road Dist. v. County of Clay, 863 S.W.2d 841, 847 (Mo. banc 1993) ("Where language of a statute is clear, courts must give effect to the language as written. Courts are without authority to read into a statute a legislative intent contrary to the intent made evident by the plain language."). (Citations omitted.) In any event, since section 115.427 is stricken on other grounds, the Court need not conclusively resolve the issue regarding how to interpret these incongruous provisions and leaves it to the legislature to clarify them.

Thus, without deciding the issue of whether the interim provisions/halts (or those provisional halts available under section 115.427.3's exception to the Photo-ID Requirement) are available only for federal or statewide elections and primaries, the Court holds that the transitional provisions of section 115.427.13 must be struck down together with the permanent provisions of SB 104's Photo-ID Requirement because the former is not severable from the latter.

IV. RIPENESS
The dissent characterizes this Court's holding that the statute's Photo-ID Requirement, which currently govenls all elections in Missouri, is unconstitutional as "a straightforward violation of the ripeness doctrine." Not so. First, the dissent's analysis depends upon the severability of the transitional provisions. As this Court determines that the transitional provisions are not severable from the permanent provisions, it need not (and does not) reach the question of the constitutionality of the transitional provisions.

Second, even were the transitional provisions severable, an evaluation of the constitutionality of the permanent provisions would be ripe. To be ripe for judicial determination, a controversy must be "of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." Missouri Health Care Ass'n v. Attorney General of the State of Mo., 853 S.W.2d 427, 629 (Mo. banc 1993). "[C]onstitutional challenges to laws...ripe when the facts necessary to adjudicate the underlying claims were fully developed and the laws at issue were affecting the plaintiffs in a manner that gave rise to an immediate, concrete dispute." Id. The Photo-ID Requirement satisfies all these standards.

If the Photo-ID Requirement is valid and enforceable, Missouri voters must take action and incur costs now, or at least before the transitional period ends in November 2008, in order to secure their ability to vote in the future. The transitional provisions central to the dissent merely provide a temporary alternative to the costly and burdensome procedure required under the permanent provisions to obtain an approved photo ID. Consequently, the dispute regarding the constitutionality of the Photo-ID Requirement is not yet ripe.

Further, the types of photo ID one must obtain, the procedures one must follow to obtain them, and the cost of any required supporting documentation were provided with sufficient certainty to the trial court. The only "fact" that the dissent points to not fully developed is whether the legislature will take any future action that could possibly bring the statute into compliance with Missouri's constitutional commands. This is no fact at all, and certainly no barrier to this Court's determination of the constitutionality of this statute, which is presently in effect. While this Court shares the hope that the legislature will be able to rectify the problems identified here and pass a constitutional law that is lawfully enforceable on the right to vote, the version of section 115.427 now in effect is the only one ripe for judicial consideration.

V. CONCLUSION
The Missouri Constitution provides a specific provision that enshrines the right to vote among certain enumerated constitutional rights of its citizens. Mo. Const. art. I, sec. 25; SB 104's Photo-ID Requirement creates a heavy burden on the right to vote and is not narrowly tailored to meet a compelling state interest, see United States v. Carolene Products Co., 304 U.S. 144, 152 & n.4 (1938), and thus violates Missouri's equal protection clause, Mo. Const. art. I, sec. 2, and of Missouri's specific constitutional protection of the right to vote. Mo. Const. art. I, sec. 23. For these reasons, the trial court judgment is affirmed.

FN1. Plaintiffs filed a petition against the State of Missouri and Secretary of State Robin Carnahan (who appears as a Respondent) seeking a declaratory judgment that SB 104 was unconstitutional. Dale Morris and Senator Dibert Scott were granted permission to intervene. The Courtocomplains all counsel and the trial court for their excellent analyses of the complex legal issues presented in the short time available to them.

FN2. I overlook otherwise noted, references to section 115.427 are to 2005 Mo. Laws 7.28-42.


FN4. Section 115.427 was amended in 2002 to add a requirement that "voters shall identify themselves by presenting a form of personal identification" from the list enumerated in the statute. Sec. 115.427.1, RSMo Supp. 2005. Prior to this amendment, state law did not generally require Missouri voters to present any identification in order to vote. The 2002 amendment brought Missouri's compliance with the Help America Vote Act ("HAVA"), passed by Congress in 2002. The list of

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acceptable forms of identification included in Missouri's pre-2006 statutes are drawn directly from HAVA. See Help America Vote Act, Pub. L. No. 107-252, 116 Stat. 2666.

FNS. SH 1014 also contains transitional provisions that would allow voters who lack the requisite photo ID to cast provisional ballots through November 1, 2008. Sec. 115.427.35. The transitional provisions, discussed in the dissent, will be addressed in section III below.

FNS. Under SH 1014, armed forces photo IDs, other United States-issued photo IDs, and other unpictured Missouri-issued photo IDs would also suffice to permit the voter to obtain a ballot. Sec. 115.427.10(3) & (4). As those types of ID are neither generally available in the casting public nor specifically available to the individual plaintiffs in this case, the Court's analysis will be limited to the three types of photo IDs that are generally available to all.

FNT. Simply being disabled, having a sincerely held religious belief, or being from before 1941 also is not enough to enable a qualified voter lacking appropriate photo ID to cast a provisional ballot. Sec. 115.427.4 Plaintiff Weinshenk, scintillating below that for these reasons she could not honestly aver that because of one of these circumstances, she is unable to obtain the requisite photo ID, although to get one would be a netural burden. Securing falsely that disability, religion or age is the reason for the lack of ID is a criminal offense. Sec. 115.427.4("Knowing[ly] providing false information is a violation of law and subjects [voters] to possible criminal prosecution").

FNS. Section 115.427.12, which the dissent suggests the majority misconstrues, by its terms, only regulates the signature or mark that must be made on the precinct register when the voter appears at the polling place to vote. An additional signature or mark must be made on the provisional ballot that is cast either pursuant to section 115.427.3 or section 115.427.13. In order for the provisional ballot to be counted, it is that second signature or mark that must be certified "by comparing that individual's signature to the signature on file with the election authority." Sec. 115.427.5, sec. 115.427.13. The opportunity to make a mark in lieu of a signature, either on the precinct register or on the provisional ballots, makes no difference to those voters like Plaintiff Weinshenk, who uses a mark in lieu of a signature "but it's never the same." Under this statute, they are never entitled to cast a regular ballot and their provisional ballots, due to the signature match requirement, can never be counted. In light of this Court's holding on the Photo-ID Requirement, it need not separately evaluate the constitutionality of the signature match requirement. This Court is confident the legislature can find the means to address the problem this requirement presents for Missouri's disabled and aged citizens.

FNS. Plaintiffs argued in the trial court that SH 1014 violates the Missouri Constitution in that the Photo-ID Requirement (1) impermissibly adds additional qualification to vote, i.e. violation of article 1, section 21; (2) interferes with free exercise of the right to vote in violation of article I, section 21; (3) violates Missouri's due process and equal protection clauses by requiring the payment of money to vote and by imposing an undue burden on the fundamental right to vote that is not narrowly tailored to meet a compelling state interest; and (4) violates the equal protection clause by having a disparate impact on registered voters in suspect classes and by improperly discriminating between in-person voters and absentee voters.

FN10. Plaintiffs also alleged, and the trial court found, that the cost of providing provisional ballots and other costs that municipalities were required to fund under SB 1014, imposes new mandates on local governments without appropriating state funds to cover the increased costs in violation of the Fonseca framework article X, section 21. The trial court, nonetheless entered judgment on this issue in favor of Defendants because it was unclear whether it could grant statewide relief on this ground. Defendant-Appellants are, thus, not aggrieved by the trial court's decision on this issue, and Plaintiffs have not appealed.

FN11. Moreover, it is difficult, though not impossible, to obtain a United States passport without a birth certificate, yet Missourians, particularly those born at home, do not have birth certificates. In the absence of a birth certificate, to obtain a United States passport, voters must provide the Department of State with: (1) a "Letter of No Record" from the state of their birth indicating that the state has searched and has no record of their birth; and (2) as many public records as they can muster from the first five years of their life showing their date and place of birth (e.g., baptismal, hospital, school, census records); and/or (3) a notarized affidavit of its birth from an older blood relative with personal knowledge of their birth.

FN12. Unlike the birth certificate and passport requirements, which would only impact those voters who do not currently have valid photo ID, the name change hurdles could also affect those voters who have one of the SH 1014-approved forms of ID, but whose names have changed between the time the ID was issued and the time they register to vote. Under SH 1014, if a valid photo ID does not match a voter's registered name, the voter must obtain a new photo ID in order to vote and, therefore, undertake the additional steps necessary to provide proof of name change.

FN13. Mr. Carol Sigman was the Assistant Director of Elections for the City of St. Louis for twelve years and, for the past seven years, has served as a consultant to the St. Louis City Election Board. Mr. Wendy Nord, a Boone County Clerk, served for fifteen years on the legislative committee for the Association of Missouri State County Clerks and Election

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Authorities, M. Robert Nicholas has been the Democratic Director of Elections for Jackson County; Board of Election Commissioners for a little over twenty years. Ms. Judy Taylor has been the Democratic Director of Elections for St. Louis County for eight years. Ms. Beth Byers was Deputy Secretary, of State for Elections for two years and for the last five years has served as Co-Director of Elections for the Secretary of State’s Office.

**FN14.** See, e.g., 3 Moore’s C.O.D. v. State, 238 S.W.2d 313 (Mo. 1951); Eligina, 92 S.W.2d at 774; Blake v. Smith & Entress, Inc., 481 S.W.2d 822, 829 (Mo. banc 1972); Multistate-ist Charles Properties, L.P. v. City of St. Charles, 983 S.W.2d 559, 559 (Mo. App. E.D. 1999) (recognizing that right to vote is fundamental in Missouri).

**FN15.** The trial court found that the Photo-ID Requirement amounted to an unconstitutional additional qualification for voting in violation of article VIII, section 2 of the Missouri Constitution. Appellants argue that it is not a qualification but necessarily arose in it, that is an additional shortening that must be made in order to vote. Because it is not necessary to determine whether this requirement constitutes an additional “qualification,” this Court does not finally resolve the issue.

**FN16.** See also State ex rel. Jimmive v. Roger, 462 S.W.2d 541 (Mo. banc 2002) (holding that Missouri habeas corpus rights are broader than federal habeas corpus); State v. Whitfield, 167 S.W.2d 253, 267 (Mo. banc 1943) (providing standard for retroactive application of constitutional decisions in Missouri that differs from federal standards); State v. Parker, 481 S.W.2d 930, 942 (Mo. banc 1972) (noting that the Missouri Constitution provides more specific rights to jury service than the federal constitution as to the “Missouri Constitution may require greater protection of the right” (see, e.g., Doe, 194 S.W.2d at 849 (citing Missouri’s constitutional provision on retrospective laws separately so there is no federal analogues))

**FN17.** Of these ballots, only 3,000 were counted.

**FN18.** The outcome of insurmountable past races could have been altered by the votes of 3 or 4 percent of Missourians.

**FN19.** In the Indiana case upon which the State relies, the statute allowed indigent citizens who could not obtain free proof of identity to vote. See Ind. Democratic Party v. Rokita, No. 05-CF-606-D-NIG 06-08, 2006 WL 1085037, at *2 (S.C. Ind. Apr. 14, 2006); see also Ind. Code Sect. 3-17-7-5-1. The Missouri statute offers no such indigency exception.

**FN20.** See Ind. Democratic Party, 2006 WL 1085037, at *3 (plaintiffs “provided no evidence to demonstrate that anyone will actually be required to incur this cost to vote”); Common Cause/Georgia v. Riley, 459 F. Supp. 2d 1294, 1357 (N.D. Ga. 2006) (plaintiffs “failed to show that any particular voice would actually be required to incur that cost in order to vote”).

**FN21.** Indeed, one of the motivating purposes of the Twenty-Fourth Amendment to the United States Constitution (which prohibits poll taxes in federal elections) was that payment of poll taxes was often required in advance of an election, so the lengthy advance planning resulted in an undue burden on the franchise. Harmar v. Forreston, 380 U.S. 525, 539-40 (1965).

**FN22.** Lamy v. Wilson interprets the Fifteenth Amendment to the United States Constitution, which specifically protects the right to vote from abridgement on the basis of “race, color or previous condition of servitude.” Article I, section 25 of the Missouri Constitution affords greater protection to the right to vote in Missouri than the Fifteenth Amendment, so the Missouri Constitution must offer at least as much protection to our citizen as does the Fifteenth Amendment.

**FN23.** See, e.g., United C.O.D. v. State, 150 S.W.3d 312 (Mo. banc 2004); Eligina, 92 S.W.2d at 774; Blake, 821 S.W.2d at 829; Multistate-ist Charles Properties, L.P. v. City of St. Charles, 983 S.W.2d at 559. While none of these cases involve violations of the fundamental right to vote, each notes that voting is a fundamental right, restrictions on which must survive strict scrutiny.

**FN24.** See State ex rel. McClellan v. Kirkpatrick, 504 S.W.2d 840 (Mo. banc 1974); Tomam v. Hardrock, 482 S.W.2d 635 (Mo. banc 1972); State ex rel. Dunn v. Lahman, 668 S.W.2d 956 (Mo. 1979); State ex rel. Kirkpatrick v. Bd. of Election Comm’rs, 686 S.W.2d 805 (Mo. App. W.D. 1985); State ex rel. Rinehart v. Cadill, 375 S.W.2d 229 (Mo. App. E.D. 1978).

**FN25.** See also Greideringer v. Davis, 988 F.2d 3144, 1354 (4th Cir. 1993) (applying strict scrutiny to Virginia’s voter registration scheme because conditioning a voter’s right to vote on the public disclosure of the voter’s social security number is a severe burden); Common Cause/Georgia, 459 F. Supp. 2d at 1245-51 (applying strict scrutiny to Georgia’s photo-ID requirements because the likelihood that many Georgia voters could obtain the appropriate ID in the short time before the next election imposed a severe burden on their right to vote); Morgan v. City of Florenceam, 123 F.3d 722, 724 (4th Cir. 1997) (reversing trial court granting for the drawing of state political subdivisions warrant “review for a rational basis,” laws “involving the choice of legislative representatives or imposing restrictions on voters . . . affect[ ] more significant rights and constitutional concerns, merit[ing] strict-scrutiny review”).

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Similar to the Missouri cases, federal courts have applied rational basis review to election-law cases that do not directly burden the right to vote. See Burdick, 389 U.S. at 441-49 (first time candidate ballot access); Aron v. Sweeny, 413 F. Supp. 2d 139, 143-48 (S.D. Iowa 2005) (consistently of pre-election registration requirements); Weidner v. Anderson, 452 F.3d 1226, 1252 (10th Cir. 2006) (consistency of voting machine technology); Weeber v. Shelby, 347 F. 3d 1185, 1186-87 (9th Cir. 2003) (same). These cases are distinguishable because they do not involve direct and heavy burdens on the right to vote.

FN26. While the legislature did not address all evils at one time, Adams v. Minnesota Tea Co., 344 U.S. 229 (1952) (repeal 205, 76 Stat. from 1934), whether a law is in fact narrowly tailored to address fraud in voting necessarily requires this Court to look at what kinds of fraud is voting have been shown to exist and what kinds of fraud in voting the Photo-ID Requirement will ameliorate.

FN27. The Court shares the dissent's concern with the persistence of fraud in voter registration and absentee balloting in Missouri. Unfortunately, the Photo-ID Requirement does nothing to ameliorate those frauds. As the dissent notes, the Walker-Carter Commission report supports the general concept of a Photo-ID Requirement and the appropriate use of signature matches. This Court also does not intend to suggest that no form of signature match can be constitutional or appropriate, but rather that the form utilized here presents problems that provide further support for its disapproval. Section 115.357 is invalid. The Court notes that, although former President Carter, co-author of the commission report, did not specifically criticize SB 1044's signature match requirement, he did state that SB 1044 does not meet commission standards.

FN28. Appellants cite to First Amendment cases addressing campaign finance restrictions to support their contention that the perception of fraud or corruption should be entitled to greater weight. See, e.g., Rose v. Reep, 450 U.S. 151, 162 n. 4 (1981) ("the prevention of corruption or its appearance constitutes a sufficiently important interest"). In the context of campaign finance reform, the appearance of corruption arises directly from the extensive financial contributions made by political candidates to those with a stake in legislative decisions. The statutes under review in campaign finance cases are all narrowly tailored to address and limit those contributions. Even though the United States Supreme Court has recognized the importance of combating the appearance of corruption, it has nonetheless invalidated many of these statutes precisely because they impose a severe and undue burden on fundamental rights under the First Amendment. See, e.g., Buckley v. Valeo, 424 U.S. at 477-479, 2406 (1976) (holding that campaign finance restrictions are unconstitutional because "they impose burdens upon First Amendment interests that . . . are disproportionately severe"). Unlike the campaign finance laws, the Photo-ID Requirement does not address any perception of voter fraud with precision, nor is it necessary to solve the existing voter fraud problems. On these facts, perceptions alone are insufficient to justify substantial burdens on fundamental rights.

FN29. The present provisions of SB 1044's Photo-ID Requirement have been in full effect since the enactment of SB 1044. The traditional provision already provides an alternative method of voting by provisional ballot instead of regular ballot for persons who lack the appropriate photo-ID during the transitional period.

Separate Opinion:

Dissenting opinion by Stephen N. Limbaugh, Jr., Judge:
I respectfully dissent.
Whatever the deficiencies in the Missouri Voter Protection Act (MVPA), whether real or imagined, the allowance for provisional voting cures all, at least during the two-year transition period before the general election in 2008. Until that time, every person who is properly registered to vote will be allowed to do so, even without a valid photographic identification (photo-ID), and indeed, every person who would have been allowed to vote before the enactment of the MVPA will be allowed to do so. As a result, those persons who have not a photo-ID can cast a provisional ballot using the same, simple means of identification that have been required since 2002, and all provisional ballots properly cast will be counted. In addition, a determination of the constitutionality of the photo-ID provisions of the Act as it applies after the two-year transition period is not yet ripe for adjudication, because it may well be that the General Assembly, in the interim, will act to alleviate the perceived deficiencies. I.

As the majority notes, provisional balloting statutes were first enacted by the General Assembly in 2002 in response to the mandate of the federal "Help America Vote Act," 42 U.S.C. sec. 15462. HAVA requires that states provide a "failsafe" procedure for voting so that those whose registration identity is challenged can cast a provisional vote that will be counted if it is later determined that the person was indeed entitled to vote. In pertinent part, HAVA states:
(1) A person shall be permitted to cast a provisional ballot at any polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is:
(A) a registered voter in the jurisdiction in which the individual desires to vote; and
(B) eligible to vote in this election.
(2) An election official at the polling place shall transmit the ballot cast by the individual as the vote information contained

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in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4).

(4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual’s provisional ballot shall be counted as a vote in that election in accordance with State law.

Missouri’s provisional voting statutes are in full accord with HAVA. In particular, section 115.427.13, RSMo Supp. 2006, the provisional voting statute that applies to persons who do not present a valid photo ID when voting in elections during the two-year transition period, states:

13. For any election held on or before November 1, 2008, an individual who appears at a polling place without identification in the form described in subsection 1 of this section, and who is otherwise qualified to vote at that polling place, may cast a provisional ballot after:

(1) Executing an affidavit which is also signed by two supervising election judges, one from each major political party, who attest that they have personal knowledge of the identity of the voter, provided that those two supervising election judges who sign an affidavit under this subdivision shall not be involved or participate in the verification of the voter’s eligibility by the election authority after the provisional ballot is cast; or

(2) (a) Executing an affidavit affirming his or her identity; and

(b) Presenting a form of identification from the following list:

a. Identification issued by the state of Missouri, an agency of the state, or a local election authority of the state;

b. Identification issued by the United States government or agency thereof;

c. Identification issued by an institution of higher education, including a university, college, vocational and technical school, located within the state of Missouri;

d. A copy of a current utility bill, bank statement, government check, paycheck, or other government document that contains the name and address of the voter; or

e. Driver’s license or state identification card issued by another state.

Such provisional ballot shall be entitled to be counted, provided the election authority verifies the identity of the individual by comparing that individual’s signature to the current signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast.

Under the voting laws in effect before the enactment of the MVPA, all regular voters were required to present one of several approved forms of identification, which included certain non-photo IDs. Sec. 115.427.1, RSMo Supp. 2002.1 Now, under the transitional provisional voting sections of the MVPA, individuals may still vote by presenting the same forms of non-photo ID that were permitted before the enactment of MVPA — even “4 a copy of a current utility bill, bank statement, government check ...” Sec. 115.427.13. The only difference is that voters who present a form of identification other than an approved photo ID must also sign a simple two-sentence form affidavit available at the polling place swearing to the fact that they are who they say they are. Sec. 115.427.14, RSMo Supp. 2006. Then, once the affidavit signature is verified “by comparing that individual’s signature to the current signature on file with the election authority,” the provisional ballot “shall be counted.” This provisional voting procedure of “written affirmation” and “prompt verification” of that affirmation — mandated by HAVA — is no real burden on an individual’s right to vote.

A. Although the majority makes clear that it is not holding the provisional voting sections unconstitutional, it suggests, nonetheless, that the provisional voting procedures may present a constitutional issue. The stated concern is that “no exception to the signature match requirement is made for Missourians who are unable, because of disability or age, to make a signature or whose signature has changed due to age or the passage of time since they made their original signatures when they initially registered to vote.”

Tellingly, the majority cites no authority whatsoever that a signature match requirement is a constitutionally impermissible means to verify a voter’s identity. After all, the signature match requirement was taken directly from the report of the Commission of Federal Election Reform co-chaired by former President Jimmy Carter and former Secretary of State Jan9 A. Baker, Jr. In particular, section 2.5.3 of that report states:

We recommend that until January 1, 2010, states allow voters without a valid photo ID card (Real ID or EAC-template ID) to vote, using a provisional ballot by signing an affidavit under penalty of perjury. The signature would then be matched with the digital image of the voter’s signature on file in the voter registration database, and if the match is positive, the provisional ballot should be counted. ... Except for providing a digital image of the voter’s signature from the voter registration database, the MVPA signature match provisions are exactly the same.

The majority appears particularly troubled by allegations that voters who cannot make a signature will be disenfranchised. However, section 115.427.12, which the majority disavows, adequately addresses that concern. That section provides:

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If any voter is unable to sign his name at the appropriate place on the certificate or computer printout, an election judge shall print the name and address of the voter in the appropriate space on the precinct register, the voter shall make his mark in lieu of signature, and the voter's mark shall be witnessed by the signature of an election judge.

Section 115.427.12 allows voters to sign by mark on the voter's identification certificate in section 115.427.9, which is the sworn oath confirming the voter's identity and registration that all voters must sign before receiving a regular ballot. The "mark" provision of section 115.427.12 necessarily applies as well to the provisional voter affidavit because that affidavit is used in lieu of the voter's identification certificate for those voters casting a provisional ballot under section 115.427.13 (FN2). There are at least three reasons of statutory construction that compels this conclusion. First, because these sections relate to the same subject matter, they must be read in pari materia, that is, they must be interpreted harmoniously and consistently with each other. Saldiva v. Director of Revenue, 38 S.W.3d 401, 403 (Mo. banc 2001). Second, these sections must be construed liberally in support of the fundamental right to vote. State ex rel. School Dist. of City of Jefferson, Cole County v. Holman, 349 S.W.2d 945, 947 (Mo. banc 1961). And third, these sections must be construed "in light of a strong presumption of a statute's validity," and this Court "will make every reasonable intendment" to that end. Reproductive Health Services v. Nixon, 183 S.W.3d 683, 688 (Mo. banc 2006). When sections 115.427.12 and 115.427.13 are considered in these ways, all voters who cannot make a signature, whether regular or provisional, may make their mark with the assistance of an election judge.

Regardless, the majority still complains that the provisional ballots of voters who sign their ballot affidavits by mark will not be counted because there can be no signature match of a mark. Again, the majority seems unwilling to read these inter-connected voting statutes in pari materia and to construe them liberally in support of the fundamental right to vote and in view of the presumption of constitutionality. In my mind, just as signing by mark is an exception to the signature requirement to prove one's identity for registering (sec. 115.161) and for voting (sec. 115.427.12), so too it is an implicit exception to the signature match requirement to prove one's identity for provisional voting. Having allowed voters who cannot make a signature to sign by mark, the General Assembly surely cannot have intended that those persons are nonetheless subject to a signature match. Indeed, to admit voters who sign by mark to a signature match would be an absurd construction of the statute and would lead to the absurd conclusion that their provisional ballots would not be counted. That result, however, would not obtain under the above rules of construction, not to mention the correlative rule of construction that it is presumed "that the legislature did not intend to enact an absurd law." Care and Treatment of Schulte v. State, 159 S.W.3d 836, 842 (Mo. banc 2005). In these instances I would hold that the identity of a voter who cannot sign by signature is established simply by the mark, the witness thereto, and the presentation of an otherwise approved non-photo ID.

B. The majority also suggests that provisional voting requirements will not apply in municipal and local elections (as opposed to primary and general elections) because "[t]he only method of determining eligibility of those who cast such provisional ballots is pursuant to section 115.430," which by its terms, "shall apply to primary and general elections . . . ." However, section 115.427.13 expressly states that an individual appearing without a photo ID may cast a provisional ballot in "any election held on or before November 1, 2008 . . . ." (emphasis added). That said, section 115.430 is internally inconsistent. On one hand, it states that its provisions "shall apply to primary and general elections," and, on the other hand, it states that "a voter . . . shall be entitled to vote a provisional ballot . . . upon executing an affidavit under section 115.427.12," which, as noted, allows provisional voting in any election. However, reading these sections in pari materia, the discrepancy may properly be resolved and the statutes harmonized by reference to the fact that section 115.430 was last amended, as part of the MVPA, to refer only to "special elections including the scope of section 115.430 to the 2008 general election." Section 115.430 was amended to incorporate section 115.427 and that section's application to "any election" the amendment to section 115.430 served to reapply by implication section 115.430's limitation to primary and general elections.

C. Ultimately, the majority disallows the two-year transition provisions not because of the signature match issue or the local and municipal election issue, but instead because the two-year transition provisions are not severable from the permanent provisions that become effective for the November 2008 elections. The controlling authority, section 1.140, RSMS, states as follows:

The provisions of every statute are severable. If any provision of a statute is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of the statute are valid unless the court finds the valid provisions of the statute to be as essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the legislature would have enacted the valid provisions without the void one; or unless the court finds that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

As interpreted by this Court, section 1.140 means that all "statutes are presumptively severable." General Motors Corp. v. Director of Revenue, 981 S.W.2d 561, 568 (Mo. banc 1999). Therefore, the basic application to this case is as follows. Because section 115.430 was amended to incorporate section 115.427 and that section's application to "any election" the amendment to section 115.430 served to reapply by implication section 115.430's limitation to primary and general elections.

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sections. There is no claim, however, that "the valid provisions [the two-year transitional sections] standing alone, are incomplete and incapable of being executed in accordance with the legislative intent," and deny those sections in fact stand alone and are in fact complete and capable of being executed in accordance with the legislative intent. Instead, the majority claims that "nothing in SB 1014 suggests that the legislature would have enacted the transitional provisions without the permanent provisions."

To the contrary, had the General Assembly truly intended the transitional provisions set out in section 115.427.13 to be norseverable, it would have said so expressly, just as it did in section 115.427.11, a companion section enacted as part of the same very bill, SB 1014. Section 115.427.11, which permits the secretary of state's authority to promulgate administrative rules "to effectuate the provisions of this section [115.427.11]" states:

Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this act shall be effective only if it is consistent with and subject to all the provisions of chapter 536, RSMo [the Administrative Procedure Act as it relates to the procedures for promulgating administrative rules], and, if applicable, section 536.025, RSMo. This section and chapter 536, RSMo, are NONSEVERABLE. . . . (emphasis added).

The clear implication of the General Assembly's express nonseverability declaration is that the other sections, including section 115.427.11, none of which contain such a declaration, remain severable in accordance with the statutory presumption, in section 1.140.

Even without that clear implication, there is ample good reason to adhere to the statutory presumption. In all likelihood, the General Assembly would have intended for the transitional provisions to be in effect only for two years despite the invalidity of the permanent provisions, because at least the voting public would have had the benefit of the photo ID requirement during that time, albeit in a more restricted format. In addition, the transitional provisions, with their allowance for extensive provisional voting, have the apparent purpose to "buy time" for the General Assembly to correct any constitutional infirmities in the permanent provisions of the statute that the courts might discover during the two-year interim period. That contingency, of course, has been borne out in this very case. The majority's reasoning in this regard, however, that "The transitional provisions... are just that: transitional... they are not intended to replace all of the transitional provisions. And if the majority is thus unable to identify a purpose to the transitional provisions that would justify overruling the presumption of severability, then how can it be fairly said that the presumption has been overcome?" (emphasis added) in the final analysis, perhaps the best restatement of the notion of severability, and the most accurate capitalization of the words of section 1.140, is found in the jurisprudence of the United States Supreme Court, stated most recently in Ayotte v. Planned Parenthood of Northern New England, 546 U.S. 320, 326 (S. Ct. 961, 354, 126 S. Ct. 961, 968 (2006)): "After finding an application or portion of a statute unconstitutional, we must next ask: Would the legislature have preferred what is left of its statute to no statute at all?"

In this case, I have no doubt that the legislature's answer would be a resounding yes.

D.

In sum, I would hold that provisional voting during the transitional two-year period is not constitutionally infirm, that the allowance for provisional voting during that period precludes any legitimate claim of voter disfranchisement, and that the transitional provisions are severable.

II.

Because the permanent provisions of the MVPD do not take effect until the general election in November of 2008, any decision on the constitutionality of that part of the Act is premature. Relief granted by way of a declaratory judgment is not available to adjudicate hypothetical or speculative situations which may not come to pass. State ex rel. Nixon v. Amtrak Tieholders Co., Inc., 345 S.W.3d 122, 128 (Mo. banc 2011). The National Farm Bureau Town & Country Ins. Co. v. Angelo, 909 S.W.2d 348, 352 (Mo. banc 1995). Said another way, a declaratory judgment requires a justiciable controversy, which means, in part, that the controversy is ripe for judicial determination. Missouri Health Care Ass'ns v. Attorney General of the State of Mo., 953 S.W.2d 617, 620 (Mo. banc 1997). To be ripe, a controversy must be "of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." Id. at 637. Moreover, a controversy is only ripe "if the parties' dispute is developed sufficiently to allow the court to make an accurate determination of the facts, to resolve a conflict that is presently existing, and to grant specific relief of a conclusive character." Id.

Although the majority claims that "Missourians want take action and incur costs now," it then concedes that the real deadline is a full two years away. And although the majority is correct that the statute is presently in effect, two years will pass before the parts of the statute the majority finds unconstitutional will be implemented. Until that time, no harm, real or imagined, will come to any voter. In the meantime, however, the evidence on which the trial court based its findings and judgment is subject to significant change. For instance, plaintiffs' primary grievance - that the cost of securing birth certificates or other forms of acceptable identification in order to obtain a "free" photo ID is an undue burden on the right to vote — may well be satisfactorily addressed by the General Assembly during its upcoming sessions. If so, the trial court would be hand poised to maintain that the statute is unconstitutional. Given the two-year transitional period there is no immediacy to the controversy, no possibility for an accurate determination of the facts, and no way to grant relief specific to the alleged harm. To declare the statute unconstitutional under these circumstances is a straightforward violation of the ripeness doctrine.

III.

Although I would not reach the merits of the claim against the permanent provisions of the MVPD due to lack of ripeness, I cannot leave unchallenged the majority's incomplete recitation of the facts pertaining to the existence of voter fraud and the

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need for a photo ID system to combat false fraud. According to the majority, there has been no fraud in the polling places; thus no need to prevent it. But the evidence, in part, is this: In an investigative report issued after the 2000 presidential election by outgoing Secretary of State Rebecca McDowell Cook, and introduced in evidence in this case, "133 people who were not registered to vote were permitted to vote at a polling place without a court order and without apparent authorization from [an election] board official." A subsequent report from then Secretary of State Matt Blunt noted, as even the plaintiffs have acknowledged here, that 79 voters registered from vacant lots, 45 people voted twice, and 14 votes were cast by the "dead." Further, as part of a federal investigation in the aftermath of the 2000 election, the United States Department of Justice found a stunningly large number of duplicative and ineligible voter registrations throughout the state. According to that report, [A] comparison of state voter registration data posted on the website of the Missouri Secretary of State with data from the United States Census Bureau indicates that at least 34 (nearly one-third) of the election jurisdictions in Missouri had more registered voters in November 2004 than there were persons of voting age in those jurisdictions under July 2003 Census estimates (released September 2004), and that 29 election jurisdictions in the State had more registered voters in November 2004 than there were persons of voting age in those jurisdictions under July 2004 Census estimates (released August 2005). Indeed, the state's data indicates that the local election jurisdiction with the highest ratio, Reynolds County, had 133% of its 2003 Census voting age population, and 151% of its 2004 Census voting age population, registered to vote in the November 2004 federal election. This State's data further indicates that, statewide, Missouri had voter registration totals in November 2004 amounting to 98 percent of the state's voting age population according to July 2003 Census estimates and 96 percent of the state's voting age population according to July 2004 Census estimates.

Although the majority agrees that there is some evidence of voter fraud at the voter registration stage, they discount that evidence as if it had no connection with fraud at the polling place. But why does voting registration fraud occur if not to vote persons fraudulently registered? And if, as in the DOJ report, there are more voters registered to vote than persons eligible to vote, the requirement to present a photo ID will at least eliminate those who attempt to vote in the place of others and those who attempt to vote more than once. It must be said, too, that even if there were no substantial evidence of existing voter impersonation fraud, legislators are permitted to respond to the potential for such fraud, and they may do so "with foresight" rather than "reactively." Dunleavy v. Socialist Workers Party, 479 U.S. 189 (1986). In any event, as the Carter-Baker Commission recently concluded, "there is no doubt that [in-person voter fraud] occurs and that such fraud "could offset the outcome of close elections."

IV.

For the foregoing reasons, I would reverse the judgment of the trial court.

Footnotes:

FN1. In the alternative, if the voters were known to the supervising election judges, they need not have been presented an ID but were required to swear out an affidavit attesting to their election judges. Sec. 115.472.1, RSMo 1994.

FN2. The majority's inattention in footnote 8 that the signature as made on the provisional ballot is "an additional signature" to that which "must be made on the precint register" appears to be incorrect. Persons who appear at a polling place and who do not have an approved identification need not sign the oath on the "Voter's Identification Certificate," but proceed directly to provisional voting by executing an affidavit affirming that they have been denied ID. Accordingly, it is not only necessary that they be confirmed to have been denied ID, but also that they present evidence that they have been denied ID, and that they meet the requirements of the precint register under this name and at this address. Sec. 115.472.15, 14.

FN3. Like the majority, I would not address plaintiffs' Hansbrough claim at this time because, although the trial court made certain findings in favor of plaintiffs, it entered judgment in favor of defendants and plaintiffs did not file a cross-appeal.

This slip opinion is subject to revision and may not reflect the final opinion adopted by the Court.

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