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Rhode Island

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ACLU OF RI POSITION: SUPPORT

TESTIMONY IN SUPPORT OF 23-S 364,
RELATING TO CONDUCT OF ELECTION AND VOTING EQUIPMENT AND SUPPLIES
March 7, 2023

The ACLU strongly supports this legislation, which would repeal the Voter ID law that took effect a decade ago. We believe that passage of that law was a step backward in the long and continuing struggle for voting equality.

Leaving aside the many policy arguments for repealing the voter ID law, it is important to note the practical argument as well: although no person in Rhode Island in recent memory has been criminally charged with voter impersonation fraud, the implementation of the voter ID law has clearly impacted the legitimate voting rights of some residents.

A number of voter ID proponents, in first pushing for passage of voter ID, claimed that residents were sure to have one of the acceptable forms of required identification under the law. But the Secretary of State's office had to issue over 900 free voter identification cards the first year the law took effect. Even this did not eliminate the problem of voters arriving at the polls without identification. In fact, for that election season, the Secretary of State's office reported that 190 voters requested provisional ballots solely because they lacked an acceptable form of voter identification.

Worse, in elections since the adoption of voter ID, we have had poll monitors routinely see people improperly provided misinformation or denied the right to vote because of this law. To give just a few examples from the reports we have received in past years:

* In Providence, a voter without ID was allowed to cast a provisional ballot, but was wrongly told he had to go to the Board of Canvassers the following day, with identification, in order to have his vote count.

* In Smithfield, an ACLU poll monitor witnessed one voter turned away for lack of identification. Because she arrived shortly before the polls closed, she was unable to return with acceptable ID and thus never got to vote.

* An elderly Hispanic voter, suffering with a broken foot, was disenfranchised when poll workers incorrectly told him that his Rhode Island driver's license was not a valid form of identification because the address did not match his address on the voter rolls. He was not given a

provisional ballot, and so returned home to obtain proof of his residency. However, it was learned in follow-up contact with this resident that, suffering from continued pain related to his fractured foot, he was unable to return to the polling place and never cast his vote.

* In Warwick, a voter was turned away not because he didn't have identification, but because he refused to present it. This voter was denied a provisional ballot, and wrongly told that such ballots were available only to those *unable* to present identification.

A key element in the state's voter ID law, and one that has made it less susceptible to legal challenge than the laws of many other states, is its so-called fail-safe provision: anybody not presenting authorized ID at the polls is supposed to be offered a provisional ballot which they can fill out. If the signature on the ballot application matches that on the voting rolls, the ballot is counted just like one cast at the polling place. But as these examples show, our monitors have found some poll workers ignoring this fail-safe and turning people away without offering them a provisional ballot.

Considering the absence of any prosecutions in recent memory for voter identification fraud in Rhode Island, and in light of the incidents of voters without ID being denied provisional ballots, it is clear that voter ID has created more problems than it solved. What cannot be documented is the number of voters who, because of voter ID, did not even attempt to cast their vote.

However it is implemented, it is clear that a photo ID requirement has a disproportionate and unfair impact on the poor, racial and ethnic minorities, senior citizens and voters with disabilities. It is further worth noting that, over the years, the most consistent cries of voting misconduct in Rhode Island have arisen in the context of absentee ballots or people voting from places other than their actual residence, something that is not in any way addressed by a polling place ID requirement. Instead, the law has erected a completely unnecessary barrier to voting.

The ACLU therefore wholeheartedly supports this law's repeal.