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The Potential Impact of a Strict Voter Identification Law on Transgender Voters in North Carolina



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Introduction

Transgender people who have transitioned to live in a gender different from the gender assigned to them at birth face unique obstacles to obtaining identification documents that reflect their correct gender.¹ Transgender citizens with inaccurate identification may encounter obstacles to voting. An increasing number of U.S. states have adopted voter identification laws (voter ID laws), which require voters to prove their identity by providing an acceptable form of identification to poll workers before voting in an election. The strictest voter ID laws require voters to present government-issued photo ID at the polls. If North Carolina were to implement a strict photo ID law for voting, this law may create substantial barriers to voting and possible disenfranchisement for nearly 5,000 transgender residents of North Carolina.

Findings from Data on Transgender People Living in North Carolina

This brief presents the best available data from the National Transgender Discrimination Survey (NTDS) to describe the problems transgender people may face when voting in North Carolina under a strict voter identification law (strict photo ID) and provides an assessment of the potential impact of such a law on transgender voters.²

- According to the NTDS, 40 percent of voting-eligible adult transgender citizens who have transitioned and reside in North Carolina reported that they had no identification documents or records that list their correct gender.³
- In the NTDS nationally, transgender people of color (31%), youth (36% age 18-24), students (38%), people with low incomes (46%), and people with disabilities (30%) were more likely than the average transgender respondent (27%) to have no updated identification documents or records.
- When presenting identification that didn't accurately reflect their gender, many transgender respondents nationally reported being harassed (41%), being asked to leave the venue where they presented the identification (15%), and being assaulted or attacked (3%).

Strict photo ID laws require voters to present government-issued photo identification in order to vote. If a voter does not present the required ID, they will have to vote a provisional ballot and provide the required ID within a certain limited timeframe in order for their vote to count. If North Carolina implements a similar law, transgender voters who have transitioned and do not have updated ID will be required to present ID that does not accurately reflect their gender in order to vote. In those cases, poll workers and election officials may decide that the ID presented does not match the voter, which could result in that vote not being counted.

- An estimated 12,500 transgender people who have transitioned are eligible to vote in North Carolina.⁴
- Forty percent of the transgender voting-eligible population in North Carolina has no identification or records that accurately reflect their gender.
- Accordingly, nearly 5,000 voting-eligible transgender people may face substantial barriers to voting and possible disenfranchisement under a strict photo ID law in North Carolina.
- Transgender people of color, youth, students, those with low incomes, and people with disabilities are likely overrepresented among those 5,000 voting-eligible transgender people.

Some voter ID states have recognized these limitations and have provided exemptions from the ID requirement for reasons of poverty, disability, and religious objection.⁵ Some states, such as Georgia, Indiana, and Kansas, offer free state-issued ID cards for the purpose of voting.⁶ It is not known at this time if exemptions to these requirements and programs for free state-issued ID are sufficient to overcome the unique barriers transgender voters face to obtaining identification required for voting.

Conclusion

Voter ID laws create a unique barrier for transgender people who would otherwise be eligible to vote. Many transgender people who have transitioned do not have identification that accurately reflects their correct gender. If a strict photo ID law were implemented in North Carolina, it may create substantial barriers to voting and possible disenfranchisement for nearly 5,000 transgender residents. Transgender people of color, youth, students, people with low incomes, and people with disabilities are likely overrepresented in that group. In order for these 5,000 voting-eligible transgender people to obtain the updated IDs required to vote, they must comply with the requirements for updating their state-issued IDs or their U.S. passport. These requirements can be difficult and costly. A strict photo ID law, therefore, will create a unique barrier to voting and possible disenfranchisement for a substantial number of voting-eligible transgender residents of North Carolina.

¹ Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. (2011). *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Washington, DC: National Center for Transgender Equality and National Gay and Lesbian Task Force, available at http://www.thetaskforce.org/reports_and_research/ntds (last accessed February 1, 2013).

For more information on state and federal requirements for updating identification, see National Center for Transgender Equality. (May 2010). "Driver's License Policies by State" (webpage and map), available at http://transequality.org/Resources/DL/DL_policies.html (last accessed February 1, 2013). Also see National Center for Transgender Equality. (January 2012). *Understanding the New Passport Gender Change Policy*. Washington, DC: National Center for Transgender Equality, available at http://transequality.org/Resources/passports_2012.pdf (last accessed February 1, 2013).

² Voting in the United States is a two-step process in nearly all states: one must first register to vote and then cast a ballot. For the purposes of this study, it is assumed that transgender voters will have registered to vote under the name and address that is currently reflected in their citizenship documents or other identification documents that are required for purposes of voter registration.

³ See note 1. The NTDS study was based on a national convenience sample of 6,456 transgender and gender non-conforming people. This sample provides the best available data on experiences of discrimination among transgender and gender non-conforming people in the U.S. The NTDS data set was used by permission of The National Gay and Lesbian Task Force. Additional calculations as needed for this study were completed by the author at The Williams Institute. Based on the wording of the NTDS survey instrument, rates of updated identity documents in this report likely only include the updating of the gender marker. Therefore, this study is limited to assessing the impact of a strict voter ID law for transgender citizens residing in North Carolina. The NTDS did not collect data on whether respondents had government-issued photo identification at all, regardless of the status of the gender marker. A survey by the Brennan Center for Justice (see note 5) found that 11 percent of U.S. citizens do not have government-issued photo identification. The conservative assumption is made here that all transgender respondents to the NTDS who responded to questions about their identification documents actually have those identification documents. The NTDS was fielded beginning in the fall of 2008, so changes in June 2010 to the requirements for changing the gender on one's U.S. passport would not have been in place at the time of the survey (see notes 10 and 11). Due to the changes in the requirements, it is possible that the rates of transgender people who have updated their passport have since increased.

⁴ To estimate the transgender population in North Carolina eligible to vote, the general population figure for adult U.S. citizens in North Carolina was calculated using the 2012 Current Population Survey. See U.S. Census Bureau and the U.S. Bureau of Labor Statistics, Current Population Survey, 2011 Annual Social and Economic Supplement, available at <http://www.census.gov/cps/> (last accessed February 1, 2013, calculations completed by the author using CPS Table Creator, available at <http://www.census.gov/cps/data/cpstablecreator.html>). This figure (6,794,847) was multiplied by 0.3%, which is the percentage of the adult population that is estimated to identify as transgender in North Carolina (20,385). See Gates, Gary J. (April 2011) "How Many People are Lesbian, Gay, Bisexual, and Transgender?" Los Angeles: The Williams Institute at the UCLA School of Law, available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Gates-How-Many-People-LGBT-Apr-2011.pdf> (last accessed February 1, 2013). The adult transgender citizen population estimates in this report assume transgender people are distributed evenly among citizens and non-citizens (0.3% of citizens and 0.3% of non-citizens). That transgender adult citizen population estimate was then limited to those who have transitioned from male to female or female to male and are currently living full-time in a gender different from the gender assigned to them at birth in the NTDS for North Carolina (71%). Furthermore, in all states except for Indiana and Pennsylvania, a citizen who is convicted of a felony may not be eligible to vote immediately after release from prison. In the case of North Carolina, voting rights may be restored after release from prison and completion of parole and probation. See Brennan Center for Justice at NYU School of Law. (n.d.) "Criminal Disenfranchisement Laws Across the United States." New York: Brennan Center for Justice at NYU School of Law, available at <http://www.brennancenter.org/page/-/Democracy/USA%20MAP%203.23.2011.pdf> (last accessed February 1, 2013). Therefore, making a conservative assumption that NTDS respondents who reported being sent to jail for any reason may be ineligible to vote due to felony voting laws in North Carolina, the transgender adult citizen population who has transitioned was further limited to those who have never been sent to jail for any reason (86%).

⁵ The National Conference of State Legislatures (NCSL), a bipartisan organization, provides current information on the status of voter identification laws and legislation in all U.S. states, available at <http://www.ncsl.org/legislatures-elections/elections/voter-id.aspx> (last accessed February 1, 2013). The NCSL website also includes a description of identification requirements and statutory citations for each voter identification state.

⁶ For examples of how citizens can acquire free IDs that will comply with voter identification laws, see the following websites for Georgia, Indiana, and Kansas: <http://www.sos.georgia.gov/gaphotoid/default.htm> (Georgia) (last accessed February 1, 2013), <http://www.in.gov/sos/elections/2625.htm> (Indiana) (last accessed February 1, 2013), and <http://www.gotvoterid.com/valid-photo-ids.html#idlist> (Kansas) (last accessed February 1, 2013).