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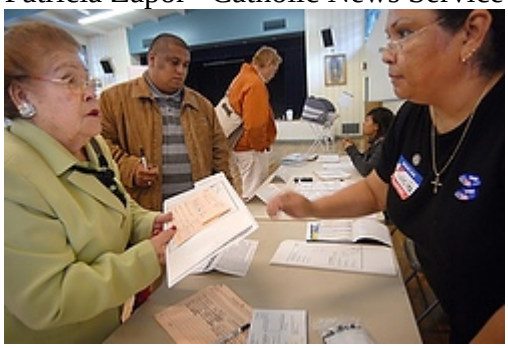
Voter ID laws wend through courts, with implications for November

Patricia Zapor Catholic News Service | Sep. 4, 2012



A poll worker checks in voters at a polling place in San Diego during the 2008 election. (CNS/David Maung)

WASHINGTON -- A cluster of federal court rulings in the waning days of August overturned several state efforts that might have limited who gets to vote this November.

Each of those rulings was likely to be appealed, however, and laws or regulations in several other states related to voter identification and poll access remained alive in federal courts.

Since the last presidential election, more than a dozen states have passed or tightened laws about the kind of identification required to vote or that reduce opportunities for early voting. Governors in five states have vetoed legislative attempts to tighten such laws.

The efforts have been promoted with warnings that voter fraud is -- or could become -- rampant.

Opponents of the laws say they are intended to suppress turnout by poor and minority voters, who they say are most likely to lack the kinds of photo ID the laws require, least likely to be able to afford to get them and most likely to be disenfranchised if it is harder to get to the polls or vote early or by mail.

Each side accuses the other of being politically motivated. Indeed, pledges to tighten up on ID and voting procedures have been key campaign promises of Republican candidates for state legislature and governor in the last several election cycles.

As supporters of such laws took office, many state legislatures crafted bills based on models provided by the American Legislative Exchange Council, self-described as: "a nonpartisan membership association for conservative state lawmakers who shared a common belief in limited government, free markets, federalism and individual liberty."

In 2011, the Brennan Center for Justice at New York University Law School published an analysis of 19 laws in 14 states and how they might affect the 2012 elections.

Among the nonpartisan center's conclusions:

-- "These new laws could make it significantly harder for more than 5 million eligible voters to cast ballots in 2012."

-- "The states that have already cut back on voting rights will provide 171 electoral votes in 2012, representing 63 percent of the 270 needed to win the presidency."

For example, the Brennan center report said, if applied nationwide, the type of photo ID requirements being passed would affect 11 percent of American citizens -- more than 21 million people.

The report observed that proof of ID to vote is a long-standing requirement, particularly for voters who register by mail, but that the recent laws have excluded many common forms of ID, such as student IDs and Social Security cards. Before the 2006 elections, the report said, "no state required its voters to show government-issued photo ID at the polls (or elsewhere) in order to vote."

The question of whether voter fraud actually is a problem is contested.

An Aug. 12 report by News21, a reporting project of the Carnegie-Knight Initiative, noted that proponents of voter ID laws often cite a figure attributed to the Republican National Lawyers Association of 375 cases of voter impersonation fraud.

"News21 examined the RNLA cases in the database and found only 77 were alleged fraud by voters," the report said. "Of those, News21 could verify convictions or guilty pleas in only 33 cases. The database shows no RNLA cases of voter-impersonation fraud."

In a bigger effort, News21 reporters requested information on every reported case of voter fraud from elections personnel in all 50 states. Not all offices responded, but the reporters analyzed 2,068 cases and "turned up 10 cases of voter impersonation. With 146 million registered voters in the United States during that time, those 10 cases represent one out of about every 15 million prospective voters."

News21's report noted some more widely publicized cases of voter registration fraud.

In 2008, the voter registration organization Association for Community Organization and Reform Now, known as ACORN, was found to have had some employees encouraging illegal voter registration. At least 22 ACORN workers in seven states were convicted and the organization disbanded in 2010.

With that backdrop, and about 60 days before the Nov. 6 election, the U.S. District Court in Washington concluded a weeklong trial over South Carolina's voter ID requirement. Last December, the state's law was the first one rejected by the Justice Department in nearly two decades, according to The Associated Press. A ruling is expected before the election.

The court was busy hearing election-related laws.

On Aug. 29, a three-judge panel of the same court ruled that a new Texas law violates the 1965 Voting Rights Act, by requiring one of five forms of ID before someone can vote. "The implicit costs of obtaining ... qualifying ID will fall most heavily on the poor and ... a disproportionately high percentage of African-Americans and Hispanics in Texas live in poverty," the court said in rejecting the law.

The same court had two days earlier rejected the Texas redistricting maps, finding that they discriminate against black and Hispanic voters. For the November election, the state will use interim maps that a federal court in San Antonio created.

Two weeks before that, the court set aside, for some counties, new Florida rules that reduced the number of days when voters could cast early ballots. That ruling applies to five of Florida's 67 counties that fall under provisions of the Voting Rights Act covering jurisdictions with a history of racial repression.

In each of the cases, the Justice Department challenged the states over recent changes that proponents said are necessary to prevent voter fraud and that critics said are designed to suppress turnout by poor and minority voters.

Section 5 of the Voting Rights Act requires federal review of changes in election procedures in certain states with a history of problems. It applies to Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, Virginia, Arizona and Texas and parts of California, Florida, Michigan, New York, North Carolina and South Dakota.

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