



**Joint Committee on Election Laws
General Court of the Commonwealth of Massachusetts
Public Hearing
June 13, 2007**

**Testimony of Brenda Wright
Legal Director, Democracy Program
Demos: A Network for Ideas and Action**

My name is Brenda Wright. I am the Legal Director of the Democracy Program at Demos, a nonprofit research and advocacy organization established in 1999. Demos works with policy makers, advocates and scholars around the nation to improve our democracy and achieve greater economic equity. I thank the Committee for the opportunity to testify here today.

I personally have worked on issues of voting rights and election reform for the past 18 years. I believe, and Demos believes, that a vibrant American democracy requires high levels of voter turnout and participation in elections. All eligible voters must be encouraged to raise their voices and vote on Election Day without unnecessary barriers that deter participation. The adoption of new, stringent photo ID requirements and proof of citizenship requirements for voting in this Commonwealth, such as are contained in numerous bills before this Committee, would take us away from that goal and would be a step backward for Massachusetts.

Although photo ID and proof of citizenship proposals are offered as necessary to prevent fraud in elections, we know, based on experience and data from other states, that

the facts do not warrant these extreme measures, and that all available evidence suggests that voter fraud of the kind that could be prevented by these new requirements is exceedingly rare. Even more importantly, and more disturbingly, these laws would have the effect of preventing many eligible voters from meeting the most fundamental responsibility of citizenship – exercising the right to vote. This will disproportionately affect people who can't afford the necessary documents, and people who don't have drivers' licenses, such as urban residents, communities of color, senior citizens, and disabled citizens.

First, I want to address the proof of citizenship proposals. To understand the effect of imposing this kind of requirement, keep in mind that the United States is not a country where we require individuals to keep citizenship documents on their persons at all times. We don't have police, thankfully, conducting random checks of people walking down the street to determine if they have the right papers on a regular basis. As a result, there are many U.S. citizens who cannot readily present proof of their citizenship in the form of a passport, birth certificate, or naturalization papers. People are already required, of course, to affirm under oath that they are citizens when they register to vote, and the law carries severe penalties for fraudulent registration. But imposing a proof of citizenship requirement for voting would burden Massachusetts voters with a new type of poll tax, because it would require Americans to pay a fee to get the right documents in order to prove their eligibility.

It would be nice if everyone had a passport, but only one quarter of the U.S. population has a passport. A passport costs \$97. If you need to order copies of your naturalization papers, that costs \$210.

In Massachusetts, even a birth certificate costs anywhere from \$18 to \$42.50. You can't get it for \$18 unless you are able to go in person to the registry. To get a birth certificate by mail costs at least \$28, and that's only if you are able to wait 30 days for the birth certificate to arrive. It costs \$37 for so-called "expedited" service, which means 7–10 business days, and it costs \$42.50 if you order it by phone. And some U.S. citizens—such as Native Americans born on reservations, and elderly persons who may not have been born in hospitals, don't have birth certificates and can't get one at any cost.

The state of Arizona enacted a new law requiring proof of citizenship for voting. The most noticeable effect of Arizona's new law has been to prevent eligible U.S. citizens from registering to vote. Maricopa County, Arizona's most populous county, rejected 35 percent of new registrations for inadequate proof of citizenship in 2005.¹ In Pima County, sixty percent of new registrants were rejected that first year. Only a tiny fraction of those rejected are believed to be actual non-citizens; most are believed to be eligible citizens who simply lacked access to a passport, birth certificate or other required document.

Let me tell you about one such individual named Eva Steele, a 57 year-old disabled American. She is the mother of an Army reservist serving a tour of duty in Iraq, and she moved to an assisted living facility in Arizona in 2006. Because she moved, she needed to register at her new address. But, because of Arizona's proof of citizenship and identity requirements, she was unable to register to vote even though she is a U.S. citizen who has been voting all her life. As she testified before the U.S. House Committee on Administration last year, she does not have the economic means to pay the fees associated with obtaining the documents necessary to prove citizenship. In her words, "It

¹ Dennis Welch, "ID law blocking legal Maricopa County votes," *East Valley Tribune* August 16, 2006.

feels as though I am being punished for having the misfortune of being disabled with a low income.”² This soldier’s mother lost the right to vote in her country of birth because of Arizona’s unnecessarily stringent ID requirements.

Some of the other bills before this Committee, while not calling for proof of citizenship, would make the right to vote dependent on producing a government-issued photo ID, such as a drivers’ license or passport, each time a person votes. No exception would be permitted for someone who does not possess one of those forms of ID, or who loses his or her ID or forgets to bring it on election day. Again, adopting such stringent requirements would bar many eligible citizens from voting. Moreover, the burden will fall most heavily on urban residents, persons of color, and the elderly who are less likely to hold current drivers’ licenses. Let me give you some statistics.

According to the 2001 National Commission on Federal Election Reform, 6 to 10 percent of voting-age Americans have no driver’s license or state-issued non-driver’s photo identification card—approximately 11 to 20 million citizens. Those who lack photo ID are disproportionately poor and urban.³ A more recent national survey found that twenty-five percent of African-American voting-age citizens have no current government-issued photo ID.⁴

² Testimony of Eva Steele, Arizona Advocacy Network, before House Committee on Administration, August 13, 2006; see also *Arizona Republic*, August 13, 2006.

<http://www.azcentral.com/arizonarepublic/local/articles/0813montini0813.html>

³ John Mark Hansen, Coordinator, Task Force on the Federal Election System, Report, at VI-4 in Task Force Reports to Accompany the Report of the National Commission on Election Reform (Aug. 2001); National Commission on Election Reform, *To Assure Pride and Confidence in the Electoral Process*, at 32 (Aug. 2001).

⁴ Brennan Center for Justice, *Citizens Without Proof: A Survey of Americans’ Possession of Documentary Proof of Citizenship and Photo Identification* (November 2006), available at <http://www.federalectionreform.com/pdf/Citizens%20Without%20Proof.pdf>.

When a photo ID requirement was pending before the Wisconsin legislature, a report by the University of Wisconsin-Milwaukee found that among African-Americans in that state, only 45 percent of males and 51 percent of females had a valid drivers license. For Hispanics, only 54 percent of males and only 41 percent of females had a valid drivers license. For young adults (ages 18 through 24) even fewer minorities had valid drivers licenses to use for voter identification. Statewide, only 22 percent of young African American males – only one out of five -- had a valid license, and only 34 percent of young African American females. For young Hispanics, 43 percent of males and only 37 percent of females had a valid license.⁵

Here in Massachusetts, U.S. Census data show that 33 percent of households in Boston own no vehicle. These rates are even higher among minority households in Boston than among white households: 38 percent of African-American households, 41 percent of Latino households, and 45 percent of Asian households lack any vehicle, compared to 29 percent of white households. Again, a photo ID requirement would disenfranchise the very communities that have had to work the hardest to gain the right to vote and to get people registered to vote.

What about disabled persons? In 2005, the American Association of People with Disabilities estimated that more than 3 million Americans with disabilities do not possess a driver's license or state-issued photo ID.⁶

⁵ John Pawasarat, *The Driver License Status of the Voting Age Population in Wisconsin* Employment and Training Institute, University of Wisconsin-Milwaukee, June 2005.

⁶ American Association of People with Disabilities et al, Statement in Opposition to a National Voter Identification Card, June 29, 2005.

And what about seniors? The American Association of Retired People of Georgia estimated that about 153,000 Georgia residents over the age of 60 *who voted* in 2004 did not possess a government-issued photo ID.⁷

Georgia's photo ID law was thrown out by the courts on the grounds that it constituted an illegal poll tax. Voter ID requirements have also been struck down by the courts in Missouri. Here in Massachusetts, just a few years ago, a court enjoined the city of Lawrence from imposing a new ID requirement for city elections.

These new stringent requirements simply are not needed as a means of preventing so-called voter fraud. Impersonating a voter or registering when you are ineligible is already a felony in Massachusetts, punishable by up to 5 years in jail and a \$10,000 fine. (56 MA ST. §§ 8, 26). It's also a federal crime to commit voter fraud in a federal election. Everyone who registers to vote must swear, under penalty of perjury on top of all the other penalties, that he or she is an eligible U.S. citizen. An extensive analysis of the extent of election fraud conducted by Lorraine Minnite, a professor at Barnard College, found that voter fraud is exceedingly rare, that safeguards to prevent fraud are already in place, and that the rare instances of individual voter fraud have minimal impact on election outcomes.⁸ Further, while some 200 million votes were cast in federal elections from 2002 to 2005, U.S. Justice Department statistics show that only 24 individuals have been convicted of illegal voting—and virtually none for offenses that would have been prevented by a photo ID requirement.⁹ You are literally more likely to be struck by lightning on your way to the polls than to commit voter fraud once you

⁷ States Debate Photo ID at the Polls, Associated Press, Mar. 31, 2005.

⁸ Lorraine Minnite and David Callahan, *Securing the Vote: An Analysis of Election Fraud* (New York: Demos: A Network for Ideas & Action 2003), available at <http://www.demos.org/pub111.cfm>.

⁹ Lorraine Minnite, *The Politics of Voter Fraud*, at 8 (Washington: Project Vote, 2007).

arrive there. Strict photo ID requirements will block thousands of legitimate votes for the one, rare fraudulent ballot. That is a bad bargain for democracy.

For all these reasons, I urge the Committee not to approve any bill that would impose proof of citizenship or strict photo ID requirements as a new condition of voting in Massachusetts. Thank you very much for the opportunity to testify today.