



Good Morning. My name is Teresa Nelson, and I am legal counsel for the American Civil Liberties Union of Minnesota, funded and supported by over 8,500 members statewide. Our mission is to defend constitutional rights under the United States and Minnesota constitutions.

Voting is not a privilege, it is a constitutional right.

- The right to vote is protected by more constitutional amendments - the First, Fourteenth, Fifteenth, Nineteenth, and Twenty-Sixth - than any right we enjoy as Americans.
- The fundamental constitutional right to vote is also protected by the Minnesota Constitution as well as well as declarations by the U.S. and Minnesota Supreme Courts that the right to vote is fundamental because it preserves all other political rights.
- A fundamental constitutional right is a right that cannot be taken away by a vote of the majority. This is well established and undisputed constitutional law.
- The voter ID bills before the committee today appear to violate this fundamental right, under the Federal Constitution, under the State Constitution, and under Minnesota election statutes.

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In 2008, the United States Supreme Court upheld an Indiana voter identification law on the grounds that Indiana had a history of voting fraud and bloated, antiquated voter registration lists; and on the grounds that there was no evidence that the voter ID law burdened any particular class of voter.

Minnesota is not Indiana.

- First, the microscopic scrutiny of two election recounts in 2008 and 2010 have not led to a single conviction for voter impersonation fraud – the only type of voter fraud that photo id requirements could possibly address. Our voter registration lists are by law updated monthly; automatically reflecting change of address and removal because of death. Minnesota has a proud history of clean elections and high voter turnout. Moreover, there were only 26 felon voting convictions out of 2.9 million voters – contrast that miniscule number with the thousands of voters who may be disenfranchised because of a new photo id requirement.
- Second, Indiana does not have any federally recognized Indian tribes. Minnesota has eleven. Voter identification requirements particularly affect Indian voters in two ways. First, the U.S. and Minnesota Constitutions guarantee the right of free exercise religion, and along with other religions, many Indians have religious objections to identification cards bearing their photographs. The proposed voter identification bills appear to violate the free exercise of religion in Minnesota. Unlike HF 210, the Indiana law had an explicit religious exemption to the photo id requirement. There was a time in Minnesota's history when we denied Indians the right to vote unless they could prove that they "had adopted the habits and



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customs of civilization”. It would be shameful if we denied Indians the right to vote now because of their sincerely held religious beliefs. Second, many Indian voters in Minnesota register to vote with tribal IDs which contain a picture but no address. In a 2004 NCAI V. Kiffmeyer, the ACLU and the National Congress of American Indians filed a lawsuit in Minnesota over this issue. The case was resolved by a Federal District Court Consent Decree that required the state to either adopt administrative rules or statutory changes to make clear that a tribal ID with a utility bill containing current address was sufficient to register to vote. On the face of it, HF210 violates this consent decree. Were it to become law, this bill would necessitate reopening that case, exposing the state to expensive litigation.

Therefore, the grounds on which the Indiana law passed constitutional scrutiny do not exist in Minnesota.

Furthermore, the Minnesota Constitution protects voting rights. Facts and circumstances determine whether the Minnesota Constitution provides greater protection of voting rights than the United States Constitution, especially when a law implicates racial or ethnic discrimination. We urge you in the strongest possible terms to consider the impact of this bill on the elderly, the poor, the disabled and Native Americans.

In Minnesota, voting may be regulated, but the regulation must not unnecessarily make voting difficult or dilute the effectiveness of some citizens’ votes. Travelling long distances to obtain a voter ID is a painful burden on frail elderly voters. Requiring birth certificates and marriage certificates and rejecting passports or military IDs makes voting an administrative maze. Denying a voter the opportunity to vote on election day and offering a provisional ballot instead dilutes the effectiveness of a voter who may be unable to return within the allotted time to vote, or may choose not to return based on the known outcome of the election. Voter IDs costs money – even if the IDs themselves are free, the birth certificates, passports, or other documents required to get an ID are not.

Given these burdens and the lack of election fraud in Minnesota, we strongly question the constitutionality of these proposed voter ID bills.

Finally, Minnesota election laws apply to absentee voting. These bills do nothing to address how a photo ID requirement applies to absentee ballots. So, these bills would either violate existing law or create a two-class system of voting in Minnesota. Either way, the confusion they create begs for lawsuits.

The supporters of Jim Crow justified their voter suppression laws as “equal treatment of all our voters.” We urge you not to follow the rumors of blogs or the manufactured fear of fraud yet-to-come and vote NO on this voter suppression bill.