



## MEMORANDUM

**TO:** The Pennsylvania House

**FROM:** Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

**DATE:** May 11, 2025

**RE: NEUTRAL ON HB 771 P.N. 1624 (MEHAFFIE)**

**Bill summary:** Under current law, Pennsylvania requires voters to present identification the first time they vote in their district. [HB 771](#) (PN 1624) would apply this requirement to **all voters each time they vote** in a primary or general election. Specifically, HB 771 would:

- Update the list of acceptable forms of photo and non-photo identification.
- Add two new forms of acceptable identification for voters who forget their ID: either a voucher or affirmation/affidavit.
- Add a new requirement for counties to notify absentee and mail-in voters within 24 hours if they are missing proof of identification along with instructions for submitting proof of ID to the county.<sup>1</sup>
- Repeal/replace outdated language in the Election Code.<sup>2</sup>

### Voter ID: Background and Context

#### Voter ID laws are a solution in search of a problem.

Voter identification laws do not address an actual problem. In-person voter impersonation is exceedingly rare; in fact, multiple investigations of voter impersonation at polling places have found the evidence to be “strikingly sparse” with fewer than .000002 percent of ballots cast of millions of votes in thousands of elections even alleging voter impersonation, much less confirming it.<sup>3</sup> In fact, over the course of 42 years, only 3 instances of in-person voter impersonation resulted in a criminal conviction.<sup>4</sup>

The phantom threat of in-person voter impersonation does not justify the time, energy, and political capital necessary to enact voter identification requirements, not to mention the additional burden to election administrators and poll workers. The General Assembly should focus on making it **easier** for **more** voters to cast a ballot. Strengthening Pennsylvania’s vote-by-mail law, allowing early voting and same day voter registration, and providing more state funding for elections are measures that would truly modernize Pennsylvania elections and bring Pennsylvania in line with other states, rather than increasing the burdens on Pennsylvania’s voters to show identification when it is unnecessary.

#### Historically, strict voter identification laws have been crafted to disenfranchise voters.

Strict voter identification laws have historically been justified under the banner of “security” or “eliminating fraud”, but most have been thinly veiled attempts to disenfranchise many Americans—disproportionately voters of color, older voters, and voters with disabilities. In two states with recently implemented voter identification laws, Black and Latino voters were disproportionately more likely to lack the proper ID to vote.<sup>5</sup>

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<sup>1</sup> Amends [25 P.S. § 3146.8](#). Canvassing of official absentee ballots and mail-in ballots.

<sup>2</sup> Replaces [25 P.S. § 2602 \(z.5\)](#) and repeals [25 P.S. § 2626 \(b\) and \(c\)](#), which reference in-person ID provisions that were struck down as unconstitutional in [Applewhite, et al. v. Commonwealth of Pennsylvania](#).

<sup>3</sup> United States Senate, Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights. [New State Voting Laws: Barriers to the Ballot?](#) (2011) (Testimony of Professor Justin Levitt).

<sup>4</sup> Heritage Foundation. [Election Fraud Map](#). Accessed March 4, 2025.

<sup>5</sup> The Brennan Center. (2022). [The Impact of Voter Suppression on Communities of Color](#).

Similarly, strict voter ID laws can disenfranchise voters with disabilities.<sup>6</sup> Strict voter ID requirements discourage voters with disabilities from voting, and for those who do choose to vote, it is more likely that they will be disenfranchised at their polling place due to the lack of acceptable ID.

### **[Applewhite: Defeating Pennsylvania's 2012 strict voter ID law.](#)**

The ACLU of Pennsylvania is part of a broad coalition of organizations that have historically opposed strict voter ID laws. The most pitched battle against voter ID in Pennsylvania began 13 years ago. In March of 2012, the Pennsylvania legislature passed, and Governor Tom Corbett enacted, a law requiring everyone to present certain types of photo ID before voting. This was one of the most restrictive voter identification laws in the nation and did not allow many commonly used identification cards for voting. The law especially burdened the elderly, those with limited mobility and disabilities, individuals with fewer resources, and the homeless.

Shortly after the law went into effect, the ACLU of Pennsylvania, Public Interest Law Center, Advancement Project, and Arnold & Porter LLP challenged the photo ID law in Commonwealth Court in [Applewhite, et al. v. Commonwealth of Pennsylvania](#). In January of 2014, Commonwealth Court Judge Bernard McGinley issued an order permanently blocking the photo identification law that threatened to disenfranchise hundreds of thousands of voters. In his opinion, [Judge McGinley stated](#) that the voter ID law “does not pass constitutional muster because there is no legal, non-burdensome provision of a compliant photo ID to all qualified electors. [...] Disenfranchising voters through no fault of the voter himself is plainly unconstitutional.” This permanent injunction remained in place when Governor Tom Corbett announced on May 8, 2014 that the state would not appeal the Commonwealth Court judge’s ruling.

### **How House Bill 771 bill differs from previous voter ID proposals.**

With this background in mind, the ACLU-PA does not take lightly our neutral position on [HB 771](#) (PN 1624). Although not ideal or even necessary, HB 771 replicates the current requirements for first-time voters and extends it to all voters each time they vote.

**The ACLU-PA’s neutrality on HB 771 is dependent on the following three provisions remaining intact. If any of the following are altered or restricted, the ACLU-PA would oppose HB 771:**

#### **1 | [Proof of identification](#): HB 771 not only mirrors the current list of acceptable photo and non-photo forms of identification required for first-time voters, it expands it.**

[First-time voters](#) are currently required to show proof of identification the first time they vote in their district.<sup>7</sup> HB 771 (PN 1624) would mirror this list,<sup>8</sup> thereby avoiding the tendency of previous voter ID proposals to cherry pick or otherwise limit the forms of acceptable identification (see comparison chart in [Appendix A](#), below).

HB 771 would also codify a long-standing practice of recognizing a county voter registration card as an acceptable form of ID. In doing so, this would effectively create a standard, statewide form of ID that is already free and easily accessible (or replaceable) simply by calling the county election office.

And finally, HB 771 would add two new forms of identification—vouchers and affirmations/affidavits—described below.

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<sup>6</sup> Kuhlmann, R. and Lewis, D. (2022) [Making the Vote \(In\)Accessible: Election Administration Laws and Turnout Among People with Disabilities](#). Taylor & Francis Online: Politics, Groups, and Identities.

<sup>7</sup> Commonwealth of Pennsylvania, [First Time Voters: Voter ID for First Time Voters](#) (accessed March 20, 2025).

<sup>8</sup> [H.B. 771 PN 1624, p. 3, line 20](#) (Pa. 2025).

## 2 | [Vouchers & affirmations: If a voter forgets to bring identification with them to the polls, they have two options to still cast their ballot in person.](#)

One of the primary questions about expanding first-time voter requirements to all voters is what happens if someone forgets their ID when they arrive at the polls. HB 771 effectively offers two additional forms of identification—a voucher and an affirmation:

1. **Voucher:** If a voter is unable to provide one of the approved photo or non-photo IDs, the person can present another voter (registered in the same election district) who can vouch for the voter's identity. The voter and the person vouching for them can sign an affirmation that affirms the name of the voter and that the voucher personally knows the voter. An election official will confirm that the name provided in the affirmation substantially matches the name of the voter as it appears in the district poll book.
2. **Affirmation/affidavit:** If a voter is unable to provide one of the approved photo or non-photo IDs or cannot identify someone to vouch for them, an election official will give the voter a form on which the voter will print their name and address, and affirm their identity. An election officer will confirm that the name provided in the affirmation substantially matches the name of the elector as it appears in the district poll book.

Voters who forgot their ID would still be able to cast a ballot with a voucher or affirmation. However, voters who (1) arrive to vote in person, but do not appear in the district poll book<sup>9</sup> or (2) requested a mail-in ballot, arrive in-person to vote, but do not have their mail ballot packet with them to surrender, would still be required to vote provisionally.<sup>10</sup>

And the law is clear—penalties for voter fraud is a crime, including offenses for making false statements or falsely swearing on a voucher or affirmation (see [Appendix B](#), below).

## 3 | [Vote by mail: HB 771 does not change the current process or requirements for providing proof of identification for voters who choose to vote by mail or absentee ballot.](#)

Currently, Pennsylvanians who vote absentee or by mail can provide one of the following forms of voter identification—HB 771 does not propose ANY changes to this process or identification requirements:<sup>11</sup>

- A. Driver's license number or non-driver PennDOT ID number;
- B. Last four digits of their Social Security number;
- C. For voters who have a religious objection to being photographed, a copy of an approved non-photo ID;  
OR
- D. For voters who do not have a current and valid driver's license or Social Security number, a copy of an approved form of identification.

Additionally, HB 771 would add a new requirement for counties to notify absentee and mail-in voters within 24 hours if they are missing proof of identification along with instructions for how to submit proof of their ID.<sup>12</sup>

**The ACLU-PA will remain neutral on HB 771 as long as there are no restrictive changes added or made to any of the three provisions above. If there are, the ACLU-PA would oppose the bill.**

<sup>9</sup> [25 P.S. § 3050 \(a.4\)\(1\). Manner of applying to vote; persons entitled to vote; voter's certificates; entries to be made in district register; numbered lists of voters; challenges.](#)

<sup>10</sup> [25 P.S. § 3150.16 \(2\). Voting by mail-in electors.](#)

<sup>11</sup> [25 P.S. § 2602 \(z.5\)\(3\). Definitions.](#)

<sup>12</sup> [H.B. 771 PN 1624, p. 8, line 14](#) (Pa. 2025).

## APPENDIX

### A | Comparison of acceptable forms of voter identification. **\*\*Text in red = new forms of ID.\*\***

Currently accepted forms of identification <sup>13</sup>	HB 771 PN 1624
<p><b>Photo ID:</b> At every primary and election each elector who appears to vote in that election district for the first time and who desires to vote shall first present to an election officer one of the following forms of photo identification:</p>	<p><b>Photo ID:</b> One of the following forms of photo identification that shows a photo of the elector, the name of the elector to whom the document was issued and the name substantially matches the name of the elector as it appears in the district register:</p>
<ul style="list-style-type: none"> <li>Valid driver’s license or identification card issued by the Department of Transportation or a valid identification card issued by any other agency of the Commonwealth.</li> </ul>	<ul style="list-style-type: none"> <li>A driver's license or identification card issued by the Commonwealth or an agency thereof.</li> </ul>
<ul style="list-style-type: none"> <li><b>N/A</b></li> </ul>	<ul style="list-style-type: none"> <li><b>A document issued by a county, municipality or school district of this Commonwealth.</b></li> </ul>
<ul style="list-style-type: none"> <li>Valid identification card issued by the United States Government, including a valid passport.</li> </ul>	<ul style="list-style-type: none"> <li>A document issued by the Federal Government or by a federally recognized tribal government, including a passport.</li> </ul>
<ul style="list-style-type: none"> <li>Valid armed forces of the United States identification card.</li> </ul>	<ul style="list-style-type: none"> <li>A document from an agency of the armed forces of the United States or their reserve components, including the PA National Guard, establishing that the elector is a current member of or veteran of the United States Armed Forces or national guard.</li> </ul>
<ul style="list-style-type: none"> <li><i>(Current law allows for a non-photo firearm permit—see below.)</i></li> </ul>	<ul style="list-style-type: none"> <li>A firearm permit.</li> </ul>
<ul style="list-style-type: none"> <li>Valid student identification card.</li> </ul>	<ul style="list-style-type: none"> <li>A student identification card.</li> </ul>
<ul style="list-style-type: none"> <li>Valid employee identification card.</li> </ul>	<ul style="list-style-type: none"> <li>An employee identification card issued by a private or public employer.</li> </ul>
<p><b>Non-photo ID:</b> Where the elector does not have a photo identification as provided for in subsection (a) [above], the elector shall present for examination one of the following forms of identification that shows the name and address of the elector:</p>	<p><b>Non-photo ID:</b> If an elector does not have photo identification as provided for in subparagraph (i) [above], the elector may present to the election officer for examination one of the following forms of identification that contains the elector's name and the name substantially matches the name of the elector as it appears in the district register:</p>
<ul style="list-style-type: none"> <li>Non-photo identification issued by the Commonwealth, or any agency thereof.</li> </ul>	<ul style="list-style-type: none"> <li>In the case of an elector who has a religious objection to being photographed, a without-photo driver's license or a without-photo identification card issued by the Commonwealth.</li> </ul>
<ul style="list-style-type: none"> <li>Non-photo identification issued by the Commonwealth, or any agency thereof.</li> </ul>	<ul style="list-style-type: none"> <li>A document issued by the Commonwealth, or an agency, <b>county, municipality or school district</b> of this Commonwealth, <b>including a voter identification card issued in accordance with 25 Pa.C.S. § 1328(c) (relating to approval of registration</b></li> </ul>

<sup>13</sup> The [Applewhite. et al. v. Commonwealth of Pennsylvania](#) decision struck down Pennsylvania’s in-person voter ID requirements enacted in 2012, ruling that they were unconstitutional. Unfortunately, the PA General Assembly never amended the Election Code voter ID requirements, currently found under [25 P.S. § 2602 \(z.5\)](#) (relating to definitions). **As such, the in-person voter identification requirements pre-2012 under 25. P.S. § 3050 are CURRENT LAW.**

	applications).
<ul style="list-style-type: none"> <li>• Non-photo identification issued by the United States Government, or agency thereof.</li> </ul>	<ul style="list-style-type: none"> <li>• A document issued by the Federal Government or by a federally recognized tribal government.</li> </ul>
<ul style="list-style-type: none"> <li>• Firearm permit.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>(HB 771 would allow for a photo firearm permit—see above.)</i></li> </ul>
<ul style="list-style-type: none"> <li>• Current utility bill.</li> </ul>	<ul style="list-style-type: none"> <li>• A utility bill, including a bill from a cellular telecommunications provider.</li> </ul>
<ul style="list-style-type: none"> <li>• Current bank statement.</li> </ul>	<ul style="list-style-type: none"> <li>• A bank statement.</li> </ul>
<ul style="list-style-type: none"> <li>• Paycheck.</li> </ul>	<ul style="list-style-type: none"> <li>• A paycheck or paystub.</li> </ul>
<ul style="list-style-type: none"> <li>• A government check.</li> </ul>	<ul style="list-style-type: none"> <li>• A government check.</li> </ul>
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• A document from a care facility in this Commonwealth.</li> </ul>
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• A proof of insurance document.</li> </ul>
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• A tax filing or document.</li> </ul>
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• A registration, fee statement or transcript from an institution of higher education.</li> </ul>
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• A mortgage document.</li> </ul>
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• A residential lease.</li> </ul>
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<p><b>Voucher:</b> An elector who is unable to provide a form of identification [listed above] may present a qualified elector of the election district who can vouch for the elector's identity. The elector and voucher shall sign an affirmation affirming the name of the elector and that the voucher personally knows the elector. An election official shall confirm that the name provided in the affirmation substantially matches the name of the elector as it appears in the district register. The Secretary of the Commonwealth shall prescribe the form of affirmation which shall include disclosure of the penalties under section 1802.</p>
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<p><b>Affirmation/affidavit:</b> An elector who is unable to provide a form of identification [listed above] or a voucher may provide a form, prescribed by the Secretary of the Commonwealth and provided to the elector by an election officer, on which the elector shall print their name and address, and affirm their identity. An election officer shall confirm that the name provided in the affirmation substantially matches the name of the elector as it appears in the district register. The affirmation shall include a disclosure of the penalties under section 1802.</p>
<p><b>Absentee and mail-in voting:</b> For a qualified absentee elector under section 1301 or a qualified mail-in elector under section 1301-D:</p>	<p><b>NO CHANGES</b></p>
<ul style="list-style-type: none"> <li>• In the case of an elector who has been issued a current and valid driver's license, the elector's driver's license number.</li> </ul>	

<ul style="list-style-type: none"> <li>• In the case of an elector who has not been issued a current and valid driver's license, the last four digits of the elector's Social Security number.</li> </ul>	
<ul style="list-style-type: none"> <li>• In the case of an elector who has a religious objection to being photographed, a copy of a document that satisfies paragraph (1); or</li> </ul>	
<ul style="list-style-type: none"> <li>• In the case of an elector who has not been issued a current and valid driver's license or Social Security number, a copy of a document that satisfies paragraph (2).</li> </ul>	

## B | Select penalties for violating PA election law

### [Title 25 P.S. Article XVIII - Penalties](#)

- [§ 3502. Perjury](#): If you lie on an affirmation or affidavit, you could be charged with perjury, which is graded as a first-degree misdemeanor, punishable by up to 5 years in prison and \$10,000 in fines.
- [§ 3533. Unlawful voting](#): If you vote or attempt to vote in an election that you are not qualified to vote in, you could be charged with unlawful voting, which is graded as a first-degree misdemeanor, punishable by up to 5 years in prison and \$10,000 in fines.
- [§ 3553. Violations of Provisions Relating to Absentee and Mail-in Ballots](#): If you falsely sign an absentee or mail-in ballot application, vote a ballot that isn't yours, or vote or attempt to vote more than once using an absentee or mail-in ballot, you could be charged with this offense, which is graded as a third-degree misdemeanor, punishable by up to 2 years in prison and \$2,500 in fines.
- [§ 3535. Repeat voting at elections](#): If you vote in more than one election district, fraudulently vote more than once in the same election, vote a ballot that isn't yours, or advise or procure someone else to do so, you could be charged with repeat voting, which is graded as a third-degree felony, punishable by up to 7 years in prison and \$15,000 in fines.
- [§ 3552. Persons Convicted of Violating Act to Be Disfranchised for Four Years](#): If you are convicted of any election code offenses, you will face the penalties for the specific violation(s) AND WILL ADDITIONALLY be deprived of the right to vote for four years from the date of the conviction.

[Title 25 P.S. § 3050\(e\). Manner of applying to vote: persons entitled to vote \[...\]](#): If you wilfully commit fraud or conspire to commit fraud in relation to any of the provisions of this section, you can be charged with a third-degree felony, punishable by up to 7 years in prison and \$15,000 in fines. If convicted, you will be barred for life from serving as a judge, inspector or clerk of election, machine inspector translator, county election board official, poll watcher or in any other official capacity relating to Pennsylvania elections.

### [Title 18 Pa.C.S. § 4904 \(a\)-\(d\). Unsworn falsification to authorities:](#)

**Misleading a public servant:** If you mislead a public servant by (1) making a false statement, (2) submitting anything forged, altered, or otherwise inauthentic, or (3) submitting any false or inauthentic object, you can be charged with a second-degree misdemeanor, punishable by up to 2 years in prison and \$5,000 in fines.

**Statements "under penalty":** If you make a written false statement, you can be charged with a third-degree misdemeanor, punishable by up to 1 year in jail and \$2,500 in fines.

**Perjury:** If you commit perjury, you can also be charged with a third-degree felony under [Title 18 § 4902 \(c\)-\(f\)](#), punishable by up to 7 years in prison and \$15,000 in fines.

**Mandatory fine:** Finally, in addition to any other penalty that may be imposed, a person convicted under this section shall be sentenced to pay a fine of at least \$1,000.