



PROTECTING THE VOTE FOR ALL AMERICANS

November 12, 2019

Secretary of the Senate  
State Capitol Building  
Des Moines, Iowa 50319

Chief Clerk  
State Capitol Building  
Des Moines, Iowa 50319

***Via email and U.S. mail***

Members of the Iowa Legislature:

Fair Elections Center<sup>1</sup> writes to urge the Iowa Legislature to amend the state's voter ID statute so that individuals who vote using one of the forms of ID identified in Iowa Code §§ 48A.7A(1)(b.)(1), 49.78(3)(b.) do not have to present proof of residence when they go to vote in person at their polling place. It is the Center's position that such a clarification would erase unnecessary, irrational distinctions between these forms of ID and those specifically identified in Section 49.78(2)(a.).

Currently, Iowa residents can register to vote online if they possess an Iowa driver's license or ID card,<sup>2</sup> or by mail with an Iowa driver's license, Iowa ID, or Social Security number.<sup>3</sup> Election officials automatically mail free voter ID cards to individuals who register using their Social Security numbers; according to Secretary of State Pate's office, "[o]btaining the Voter ID Card does not require any further documentation or action by the voter."<sup>4</sup> To vote in person on Election Day, Iowa Code

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<sup>1</sup> Fair Elections Center is a national, nonpartisan voting rights 501(c)(3) organization based in Washington, D.C.

<sup>2</sup> See *Iowa Electronic Voter Registration*, IOWA DEPT. OF TRANS., <https://mymvd.iowadot.gov/Account/Login?ReturnUrl=%2fVoterRegistration> (last visited Nov. 12, 2019).

<sup>3</sup> See *State of Iowa Official Voter Registration Form*, IOWA SEC'Y OF ST. (Nov. 30, 2018), <https://sos.iowa.gov/elections/pdf/voteapp.pdf>.

<sup>4</sup> *Voter ID FAQ*, IOWA SEC'Y OF ST., <https://sos.iowa.gov/elections/voterinformation/voterIDfaq.html> (last visited Nov. 12, 2019).

§ 49.78(2)(a.) requires voters to establish their identity with one of the following forms of ID:

- An Iowa driver's license or identification card;
- U.S. passport;
- U.S. military or veterans identification card; or
- A "current, valid tribal identification card or other tribal enrollment document issued by a federally recognized Indian tribe or nation, which includes a photograph, signature, and valid expiration date."

See IOWA CODE § 49.78(2)(a.)(1)-(5). Registered voters presenting one of these forms of ID, whose residence has already been confirmed by election officials, do not need to present proof of residence at the polls. U.S. passports and military and veterans ID cards do not contain addresses, and the statute does not require voters to present an Iowa driver's license, Iowa ID card, or tribal ID card that bears a current address. Instead, "[t]he precinct election official shall use the information on the identification card, including the signature, to determine whether the person offering to vote appears to be the person depicted on the identification card." *Id.* § 49.78(2)(b.). In a phone conversation with an employee at Secretary of State Pate's office on October 25, 2019, Fair Elections Center's counsel confirmed that precinct officials use the proffered voter ID to confirm a voter's identity, *i.e.* that their name and photo match, not the voter's address within the precinct. Alternatively, voters may use their voter ID card to prove their identity. *Id.* § 49.78(3)(a.).

However, the statute also allows registered voters to prove their identity using "[o]ther forms of identification sufficient to establish identity and residence under section 48A.7A, subsection 1, paragraph 'b'", the statute governing Election Day registration. *Id.* § 49.78(3)(b.). Section 48A.7A provides that unregistered voters may register on Election Day with appropriate documentation establishing the voter's identity and residence within the precinct. Such documentation includes an Iowa driver's license or ID card, or any of the following forms of ID if it provides a photograph of the voter and a valid expiration date:

- An out-of-state driver's license or identity card;
- U.S. passport;
- U.S. military or veterans identification card;
- An identification card issued by the voter's employer;
- "A student identification card issued by an Iowa high school or an Iowa postsecondary educational institution"; or
- "A tribal identification card or other tribal enrollment document issued by a federally recognized Indian tribe or nation, if the tribal identification card or other tribal enrollment document is signed before the card or document is presented to the election official."

*Id.* § 48A.7A(1)(b)(1)(a)-(f). As discussed above, U.S. passports, military and veterans ID cards, and tribal ID cards are sufficient to prove identity under the voter ID statute without accompanying proof of residence. Yet, according to discussions between Fair Elections Center’s counsel and a second official at Secretary Pate’s office on October 29, 2019, registered voters must present proof of residence when voting in person on Election Day with an out-of-state driver’s license or ID card, employer-issued ID, or student ID card. This rule serves no rational purpose and unnecessarily burdens registered voters who are otherwise able to establish their identity. It inexplicably requires proof of residence when voting with some forms of ID listed under § 48A.7A(1)(b)(1), but not others listed within the same provision.

There is no justification for this requirement. If anything, the documentation requirements to obtain a driver’s license or ID card issued by another state are more rigorous than those for securing a U.S. passport. To obtain a driver’s license or state ID, the majority of states and the District of Columbia require applicants to submit documentation showing their full legal name, date of birth, Social Security number, two proofs of address of principal residence, and lawful status.<sup>5</sup> In contrast, U.S. passport applicants may prove their identity through any number of means—including an out-of-state driver’s license or ID card, in conjunction with another document like a Social Security card, expired driver’s license, draft card, Medicare card, or even a “[s]chool yearbook with identifiable photograph.”<sup>6</sup> To prove citizenship, passport applicants who lack a birth certificate may submit documents like a baptism certificate, a family Bible record, early school records, or post-natal medical records.<sup>7</sup>

Despite the laxer standards for acquiring a passport, passport-holding voters can apply to vote using the last four digits of their Social Security numbers and vote in person using their passports without additional documentary proof of residence, as long as their voter ID cards are not returned to election officials as undeliverable. But voters who register according to the same process and seek to prove their identity using an out-of-state driver’s license or ID face the additional hurdle of producing proof of residence each time they vote, if for whatever reason they do not receive their voter ID card or lose it and cannot replace it in time for Election Day. Any proof of residence document used at the polls must be no more than 45 days old. IOWA CODE § 48A.7A(1)(b)(2). Furnishing this proof may be especially difficult for voters who live in homes owned by relatives, rent under less formal agreements than traditional lease contracts, or who reside at shelters and halfway homes.

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<sup>5</sup> *REAL ID Frequently Asked Questions for the Public*, U.S. DEPT. OF HOMELAND SEC., <https://www.dhs.gov/real-id-public-faqs> (last updated Oct. 2, 2019).

<sup>6</sup> *Photo Identification*, U.S. DEPT. OF ST., <https://travel.state.gov/content/travel/en/passports/how-apply/identification.html> (last visited Oct. 30, 2019).

<sup>7</sup> See *Citizenship Evidence*, U.S. DEPT. OF ST., <https://travel.state.gov/content/travel/en/passports/how-apply/citizenship-evidence.html> (last visited Nov. 12, 2019).

Requiring proof of residence of voters who vote with alternative forms of ID also hurts voters who hold more affordable, accessible, and common forms of ID. Few voters are likely to possess passports or military, veterans, or tribal ID cards. It costs \$110 to apply for a passport, not including the costs of obtaining a photograph and documents like birth certificates<sup>8</sup>—a princely sum for students, voters living in poverty, or those on fixed incomes. Only 0.4 percent of Americans currently serve in the military, while 0.7 percent have served in their lifetimes.<sup>9</sup> Similarly, 1.7 percent of Americans belong to a federally recognized tribe.<sup>10</sup>

The problem with Secretary Pate's construction of Section 49.78(3)(b.) was recently demonstrated in Polk County. There, several Drake University students, who attended high school outside of Iowa, and who lack Iowa driver's licenses or ID cards, registered to vote or updated their registration using the last four digits of their Social Security numbers. However, several students reported not receiving their voter ID cards in the mail. In the October 25th phone conversation between Secretary Pate's office and Fair Elections Center, a representative told counsel that Iowa has recently experienced postal service issues, and that the delays may have resulted from those issues. Some of the students lack U.S. passports, but hold out-of-state driver's licenses or state ID cards. In the October 29th conversation with another employee, counsel confirmed that these students would need to produce proof of residence, along with their out-of-state driver's licenses or state ID cards, in order to vote in person on Election Day.

There is no conceivable reason to discriminate between voters holding U.S. passports and out-of-state driver's licenses or ID cards. Indeed, such an arbitrary, irrational distinction violates the First and Fourteenth Amendments to the U.S. Constitution. Accordingly, Fair Elections Center respectfully requests that the Legislature amend Iowa Code § 49.78(3)(b.) to clarify that registered voters using alternative documentation listed in § 48A.7A(1)(b.) need not also produce documentary proof of residence. Such an easy change to the law would benefit Iowa student voters, who by law have a right to vote in Iowa elections, as well as more transient voters, such as those living in poverty or experiencing homelessness, which of course includes many veterans, or subject to frequent moves due to the nature of their professions. These voters, who rely on timely receipt of their voter ID cards, should not have to clear additional hurdles to cast their ballot when circumstances outside of their control prevent them from receiving their voter ID cards on time.

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<sup>8</sup> *Passport Fees*, U.S. DEPT. OF ST., <https://travel.state.gov/content/travel/en/passports/how-apply/fees.html> (last visited Oct. 30, 2019).

<sup>9</sup> See Mona Chalabi, *What Percentage of Americans Have Served in the Military?* FiveThirtyEight (Mar. 19, 2015, 6:19 AM), <https://fivethirtyeight.com/features/what-percentage-of-americans-have-served-in-the-military/>; Kristen Bialik, *The changing face of America's veteran population*, PEW RES. CTR. (Nov. 10, 2017), <https://www.pewresearch.org/fact-tank/2017/11/10/the-changing-face-of-americas-veteran-population/>.

<sup>10</sup> *Indian Country Demographics*, NAT'L CONG. OF AM. INDIANS, <http://www.ncai.org/about-tribes/demographics> (last visited Oct. 30, 2019).

Thank you for considering Fair Elections Center's request. We hope you will continue to support measures that make it easier—not harder—for Iowans to vote.

Sincerely,

/s/ Cecilia Aguilera

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