

Eliminating Barriers to Voting: How Allowing College Students to Use Their Student IDs to Vote in Certain Southeastern States Can Help Make Voting Great in America

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I. INTRODUCTION

College students are often encouraged to be leaders and engaged citizens in our democratic society. One important way that college students are engaged citizens in this country is by being involved in the electoral process. Chief Justice Earl Warren in *Reynolds v. Sims* stated that “[t]he right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.”¹ It is common knowledge that “[c]ollege students are a critical—and very large—voting constituency who are often at the forefront of political activism.”² Presidential candidates traditionally debate on college and university campuses, and this is not by accident.³ In fact, nationally, voters under 30 years old “represent a big voting bloc. They cast more than 20 million votes

1. 377 U.S. 533, 555 (1964).

2. Tracey B. Carter, *College Students and State Voter ID Laws: Can I Vote in the State Where I Attend College? I Have a Student ID Card*, 45 U. MEM. L. REV. 331, 333 (2014) (quoting Kelci Lynn Lucier, *Voting as a College Student: Voting in College Requires a Little Research But Isn’t Complicated*, THOUGHTCO, <http://collegelife.about.com/od/cocurricularlife/a/studentvoting.htm> (last updated Aug. 30, 2018)).

3. See *id.* (quoting Lucier, *supra* note 2) (“[I]t’s not an accident presidential debates are historically held on college campuses!”).

in the 2012 presidential election, accounting for about 15[%] of the total.”⁴ Moreover, their turnout in 2012 was approximately 57% in North Carolina, which was “among the highest in the country.”⁵

The U.S. Supreme Court in its 1979 landmark decision *Symm v. United States* upheld the constitutional right of students to register and vote wherever they attend college.⁶ When considering whether to register to vote in their college community or in their hometowns, college students, by law, can register to vote in either location, but not in both locations.⁷ For many students, they “feel more connected and know more about the candidates and issues in their hometowns, so they want to register and vote there. Some students want to be registered at their school location to be able to vote on candidates and issues that affect

4. Matt Apuzzo, *Students Joining Battle to Upend Laws on Voter ID*, N.Y. TIMES (July 5, 2014), <https://www.nytimes.com/2014/07/06/us/college-students-claim-voter-id-laws-discriminate-based-on-age.html?r=1> (stating that the research was based “according to the Center for Information and Research on Civic Learning and Engagement, a nonpartisan center at Tufts University.”).

5. *Id.*

6. *See* *Symm v. United States*, 439 U.S. 1105, 1105 (1979) (mem.).

7. *FAQ on Voting*, HARV. KENNEDY SCH.: INST. POL., <https://iop.harvard.edu/get-involved/faq-voting> (last visited Apr. 18, 2019) (noting that college students cannot register to vote at school and in their hometown but “can only register at one location” and further notifying students that “[i]f you are from Illinois, Louisiana, Michigan, Nevada or Tennessee, and you did not register to vote in person, you may NOT vote by absentee ballot. Your states have additional identification laws that supersede HAVA [Help America Vote Act of 2002] identification requirements (see below). Note: If you have a state-funded scholarship or a privately-funded scholarship designated for a local student, be sure to check the terms of your scholarship before registering to vote in your college community. You could lose your eligibility.”); *see also* Carter, *supra* note 2, at 386 n.258 (citing *How to Register*, LEAGUE WOMEN VOTERS: MASS., <https://lwvma.org/voting-and-election-information/how-to-register/> (last visited Apr. 18, 2019)).

However, the Massachusetts League of Women Voters also noted that it is possible for college students to still be subject to taxes and student loan or scholarship regulations at their prior home address. In fact, they advised if a student has a state-funded scholarship, or a privately funded scholarship that is designated for a local student, that the student should “be sure to check the terms of [his or her] scholarship before registering in [his or her] local college community” because the student “could lose [his or her scholarship] eligibility.”

Id. (quoting *How to Register*, *supra*).

their school.”⁸ Therefore, any college student who considers their college community as their primary residence is permitted to vote where they attend college.⁹ Moreover, Harvard University’s President Lawrence S. Bacow clearly informs his students that “[y]our first homework assignment . . . if you are eligible to vote, we expect you to register, to inform yourself of the candidates and issues, and to cast a ballot.”¹⁰ Students at the Ivy League university are also encouraging their fellow peers that “[t]he most important thing is that you DO vote.”¹¹ In addition, “a bedrock principle is that states *cannot* make it more difficult for students than for others to vote (or ask them questions that they would not ask others who are similarly situated).”¹²

8. *FAQ on Voting, supra* note 7; *see also* Carter, *supra* note 2, at 385: [T]he U.S. Census Bureau counts college students as residents of their college towns, and federal funds are dispersed to local municipalities based upon statistics that include college students. Moreover, college students are a valuable resource to their college communities by serving as volunteers, creating jobs in the local community, providing an economic boost to the community, and paying taxes (e.g., gasoline and sales taxes). Other reasons that have been cited for allowing college students to register and vote in their college towns include the fact that college students “have a vested interest in the local issues” that have an effect on their quality of life, including how the community deals with “off-campus housing and zoning restrictions, the environment, taxes, transportation and personal safety.” In addition, allowing students to vote where they attend college alleviates the inconvenience of students having to obtain and return an absentee ballot.

Id. (internal footnotes omitted).

9. *See* Carter, *supra* note 2, at 385–86 (citing *How to Register, supra* note 7).

10. *Harvard Votes Challenge*, HARV. KENNEDY SCH.: INST. POL., <https://iop.harvard.edu/vote> (last visited Apr. 18, 2019). This statement from Harvard University’s President Lawrence S. Bacow is posted on the *Harvard Votes Challenge*’s website.

11. *FAQ on Voting, supra* note 7; *see also* *Harvard Votes Challenge, supra* note 10.

12. Richard G. Niemi et al., *Where Can College Students Vote? A Legal and Empirical Perspective*, 8 ELECTION L.J. 327, 332 (2009) (emphasis in original) (citing *Symm v. United States*, 439 U.S. 1105 (1979)).

State voter identification (“ID”) laws require voters to present an acceptable form of ID to vote at polling locations.¹³ Yet U.S. Supreme Court decisions, such as the monumental *Crawford v. Marion County Election Board*,¹⁴ have affirmed particular state-imposed voting requirements, including strict voter ID laws, which often have a negative impact upon college students and their ability to use their student IDs for voting purposes at the polls on Election Day in certain states.¹⁵ Therefore, despite the *Symm* decision and other constitutional protections,¹⁶ state voter ID laws in certain Southeastern states remain inequitable when applied to college students, including Tennessee’s voter ID law.¹⁷ Some states in the Southeastern region have voter ID laws that make it easier for students to use their college student IDs to vote in their particular state. Other Southeastern states have voter ID laws that make it difficult or virtually impossible for college students to use their student IDs for voting purposes. Although some Southeastern states accept college student IDs as acceptable forms of identification on Election Day,¹⁸ certain other Southeastern states do not.¹⁹ In fact, certain state voter ID laws, such as Tennessee’s, explicitly reject college student IDs from being used for voting purposes.²⁰ In states

13. Carter, *supra* note 2, at 333.

14. 553 U.S. 181 (2008).

15. See Carter, *supra* note 2, at 337.

16. See U.S. CONST. amend. XXVI, § 1, which is directly on point as it relates to college students, stating “[t]he right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age”; see also U.S. CONST. amend. XIV, § 1, providing that “[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; . . . nor deny to any person within its jurisdiction the equal protection of the laws.”

17. For Tennessee’s voter ID law, see TENN. CODE ANN. § 2-7-112 (2014 & Supp. 2018).

18. See *infra* Sections III.A and V.A.

19. See *infra* Sections III.B and V.B.

20. *E.g.*, TENN. CODE ANN. § 2-7-112(c)(2)(B) (2014) (“An identification card issued to a student by an institution of higher education containing a photograph of a student shall not be evidence of identification for purposes of verifying the person’s identification on the application for ballot.”). In contrast, Tennessee allows a person to use a handgun carry permit card to vote in Tennessee. Carter, *supra* note 2, at 347 n.67.

such as Georgia, students attending public colleges can use their college IDs for voting purposes; however, students in Georgia attending private higher education institutions cannot use their college IDs to vote.²¹

A comparative analysis of state voter ID laws as they relate to college students and their ability to use their college student IDs for voting purposes during the 2012 Presidential Election, the 2016 Presidential Election, and the recent 2018 Midterm Elections in seven Southeastern states, including Tennessee, and the six Southeastern states contiguous to Tennessee: including Alabama, Georgia, Kentucky, Mississippi, North Carolina, and Virginia, is the focus of this Article. Some Southeastern state voter ID laws are more “college student friendly” than others.²² In this Article, which expands from a previous law review article I wrote in 2014, states are “categorized as either a ‘college student friendly state’ or a ‘college student unfriendly state’ based solely upon whether college student IDs were an acceptable form of ID for voting purposes”²³ during the 2012 Presidential Election, the 2016 Presidential Election, and the recent 2018 Midterm Elections. This Article utilizes the same two categories from my first article, but only focuses on seven Southeastern states and is updated to reflect changes in the select Southeastern states’ voter ID laws during the aforementioned elections.

Voter ID laws in “college student unfriendly states” such as Tennessee often invoke frustration among college students.²⁴ Voters can easily present a handgun carry permit card to vote in Tennessee but not a college student ID.²⁵ In addition, some college students may not own or drive a car but instead use ride-hailing services such as Uber

21. See GA. CODE ANN. § 21-2-417(a)(2) (2008) (“A . . . valid identification card issued by a branch, department, agency, or entity of the State of Georgia . . . provided that such identification card contains a photograph . . .”); see also *Georgia Voter Identification Requirements*, GA. SECRETARY ST., http://sos.ga.gov/index.php/elections/georgia_voter_identification_requirements2 (last visited Apr. 18, 2019) [hereinafter *Georgia Acceptable Student ID*] (follow “Acceptable Student ID: College, University, Technical College” hyperlink); Carter, *supra* note 2, at 334, 340–41.

22. Compare *infra* Sections III.A, and V.A, with *infra* Sections III.B, and V.B.

23. See Carter, *supra* note 2, at 380.

24. See *infra* notes 154–157.

25. See *supra* note 20; see also *infra* notes 92–94, 156.

and Lyft; yet to vote in Tennessee, these students must possess a driver's license if they do not have any other acceptable form of photo ID.²⁶ Therefore, college and university IDs are ideal and "should also be a valid form of identification for students to use when voting as some students may not have the different forms of verification with them while at college."²⁷ Moreover, "[v]oting is a habit—if students stop voting due to the complexity of the process, it is unlikely that they will continue voting."²⁸

Part II of this Article provides a brief history and synopsis of state voter ID laws in general and the overall impetus behind voter ID laws in the U.S., discusses key constitutional provisions related to college students' right to vote, and emphasizes significant U.S. Supreme Court decisions regarding college students' voting rights and voter ID laws. Part III summarizes "college student friendly states" and "college student unfriendly states" in seven select Southeastern states during the November 2012 Presidential Election and the November 2016 Presidential Election. Part IV provides some of the major arguments for and against strict photo ID laws and allowing college student IDs for voter verification purposes at the polls on Election Day, including those made in some of the select Southeastern states. Part V emphasizes the status of voter ID laws in these Southeastern states as they relate to college students and their ability to use their college student IDs for voting purposes during the November 6, 2018 Midterm Elections. Part V also discusses how students attending college in Tennessee would have fewer restrictions imposed on their right to vote on Election Day if they lived or attended a college in another Southeastern state close to Tennessee. Part VI concludes that despite the arguments articulated for refusing to allow college student IDs to be used for voting purposes, especially by certain Tennessee legislators, legislators in

26. See *infra* note 92; see also Aarian Marshall, *A Third of Americans Use Ride-Hail. Uber and Lyft Need More*, WIRED (Jan. 8, 2019, 9:00 AM), <https://www.wired.com/story/uber-lyft-ride-hail-stats-pew-research/> (citing that over "half of 18- to 29-year-olds have used Uber, Lyft, and their like").

27. Editorial, *Student IDs Should Also Serve as Valid Form of Identification*, IOWA ST. DAILY (Oct. 22, 2018), http://www.iowastatedaily.com/opinion/editorials/editorial-student-ids-should-also-serve-as-valid-form-of/article_048bd9ee-d64b-11e8-b5cc-1be8ae0cbbc2.html.

28. *Id.*

all six Southeastern states contiguous to Tennessee, including Alabama, Georgia, Kentucky, Mississippi, North Carolina, and Virginia, have demonstrated their commitment to providing college students with easier access to voting at the polls on Election Day. Part VI also recommends that if certain Southeastern states truly want to eliminate barriers to voting, especially Tennessee, they should allow students attending both public and private colleges and universities to use their college student IDs to vote where they attend college to really make voting great in America.

II. BRIEF HISTORY AND SYNOPSIS OF VOTER ID LAWS IN GENERAL, KEY CONSTITUTIONAL PROVISIONS RELATED TO COLLEGE STUDENTS' RIGHT TO VOTE, AND SIGNIFICANT U.S. SUPREME COURT DECISIONS REGARDING COLLEGE STUDENTS' VOTING RIGHTS AND VOTER ID LAWS

It is important to review the history of voter ID laws and understand what state voter ID laws are in general, the overall impetus behind voter ID laws in the U.S., and how they are categorized based upon state imposed voting requirements. In addition, the key constitutional provisions related to college students' right to vote and significant U.S. Supreme Court decisions regarding voter ID laws, specifically those related to college students' voting rights, are discussed below.

A. *Brief History and Synopsis of Voter ID Laws in General*

States that have voter ID laws require voters to show some form of acceptable ID prior to being allowed to cast their vote.²⁹ Voters being required to present some form of voter identification dates back to the 1950s.³⁰ In 1950, South Carolina was “the first state to request that voters show some kind of identification document at the polls. No

29. Carter, *supra* note 2, at 333.

30. Cameron Smith, *Voter ID Linked to Lower Turnout; Students, People of Color, Elderly Most Affected*, WIS. PUB. RADIO (Oct. 2, 2018, 5:30 AM), <https://www.wpr.org/voter-id-linked-lower-turnout-students-people-color-elderly-most-affected>; see also *Voter ID History*, NAT'L CONF. ST. LEGISLATURES (May 31, 2017), <http://www.ncsl.org/research/elections-and-campaigns/voter-id-history.aspx> [hereinafter *NCSL Voter ID History*] (“While voter ID has been one of the hottest topics in elections policy for the last several years, its legacy extends back to 1950.”).

photo was required—just a document bearing the voter’s name.”³¹ Twenty years later, in 1970, Hawaii became the second state “with a voter ID requirement.”³² Texas, Florida, and Alaska implemented a voter ID requirement over the following ten years, including with and without a photo ID.³³ “In some states the request was for an ID with a photo; in others, any document, with or without a photo, was fine. In all these states, provisions existed for voters to be able to cast a regular ballot even if they did not have the requested ID.”³⁴ As time progressed, “and with little fanfare, more states began to ask voters to present an identification document. By 2000, 14 states did so. These states had Democratic and Republican majorities.”³⁵

Yet during the 2000s, voter ID became a hot-button issue in the field of election law.³⁶ The controversial 2000 Presidential Election and prevention of voter fraud are often cited as the primary impetus for major election reform during the 2000s and the key reason for the influx of state voter ID laws passed throughout the U.S.³⁷ In addition,

31. *NCSL Voter ID History*, *supra* note 30.

32. *Id.*

33. *Id.* Texas required a voter ID in 1971, then Florida in 1977, followed by Alaska in 1980. *See id.*

34. *Id.*

35. *Id.*

36. *Id.*; *see also* Tracey B. Carter, *Post-Crawford: Were Recent Changes to State Voter ID Laws Really Necessary to Prevent Voter Fraud and Protect the Electoral Process?*, 12 CONN. PUB. INT. L.J. 283, 302–06 (2013) [hereinafter Carter, *Post-Crawford*].

“[V]oter ID has been a hot topic in state legislatures over the past decade.” Specifically, “[s]ince 2001, nearly 1,000 [voter ID] bills have been introduced in a total of 46 states.” This figure clearly demonstrates that there has been an increasing discussion about voter ID laws in state [legislatures] over the last decade. . . . Voter ID legislation was a hot button issue in the field of election law throughout 2011 Voter ID legislation was a hot button issue in 2012, with legislation introduced in thirty-two states.

Id. at 302–03, 306 (second and third alteration in original) (footnotes omitted).

37. *See* Matthew J. McGuane, Note, *Crawford v. Marion County Election Board: The Disenfranchised Must Wait*, 64 U. MIAMI L. REV. 713, 713 (2010) (“Since the controversial presidential election in 2000, states have enacted more restrictive election laws resulting in an increased number of lawsuits alleging disenfranchisement. Indiana enacted one of the most restrictive voter-identification laws in the country” (footnotes omitted)). Before the U.S. Supreme Court’s *Crawford* decision,

the federal Help America Vote Act of 2002 (“HAVA”) requires states to have photo or non-photo ID voting verification requirements for first-time voters desiring to vote in a federal election who registered by mail.³⁸ Yet “[t]o vote in person at the polls on Election Day, HAVA only requires voters to provide local election officials with a current and valid photo ID or with a non-photo ID (e.g., a utility bill, a bank statement, or paycheck) that shows the voter’s name and address.”³⁹

Moreover, in September 2005, the Commission on Federal Election Reform, also known as the “Carter-Baker Commission” because former Democratic President Jimmy Carter and former Republican Secretary of State James Baker co-chaired it, issued a report that included a bipartisan recommendation that voters be required to show a

the Court’s *Bush v. Gore* decision prompted numerous reforms to election laws. *See* 531 U.S. 98 (2000); *see also* Niraj Chokshi, *Voter ID Cards Are Just Months Away in Mississippi*, WASH. POST (Nov. 26, 2013), https://www.washingtonpost.com/blogs/govbeat/wp/2013/11/26/voter-id-cards-are-just-months-away-in-mississippi/?utm_term=.ba0abf5c46b9 (“Studies have found little evidence of the kind of fraud that has prompted voter ID laws, but a year-old Pew study found broad support for such requirements.”).

38. Carter, *supra* note 2, at 337 n.19 (citing 42 U.S.C. § 15483(b) (2012)).

39. *Id.* (citing 42 U.S.C. § 15483(b)(2)(A)(i) (2012)).

First-time voters, who at the time of their initial voter registration did not provide their North Carolina driver license number or the last four digits of their Social Security number, or who provided a number that could not be validated, [are] required to show identification when they vote. This identification does not have to be a photo ID. The requirement for first-time voters to show identification is a requirement of the Help America Vote Act (HAVA) of 2002, a federal law not unique to North Carolina. Acceptable forms of HAVA ID include:

...

- A current and valid photo identification; or
- A copy of one of the following documents that show the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

First-time voters who are required to show HAVA ID will have been notified of this requirement by their county board of elections.

Chris H. Smith, *Future Voter ID Requirements in North Carolina*, WAKEGOV (Jan. 8, 2014, 12:08 PM), <http://www.wakegov.com/news/Lists/Posts/Post.aspx?ID=196>.

photo ID prior to voting at the polls.⁴⁰ In 2005, shortly after this, Georgia and Indiana “pioneered a new, ‘strict’ form of voter ID. Instead of requesting an ID, these states required an ID.”⁴¹ Any voter at the polls without the required ID “voted on a provisional ballot, and that ballot was not to be counted unless the voter returned within the next few days to an elections office and showed the required ID.”⁴² Subsequently, “laws requiring all voters without exception to have specific forms of identification gained traction in 2005 after Indiana and Georgia adopted such requirements.”⁴³

Although voter ID laws vary by state, such laws are often categorized based upon whether state voter ID laws have photo ID or non-photo ID verification requirements to vote at the polls.⁴⁴ Overall, voter ID laws fit “within one of the following three categories: (1) strict photo ID; (2) photo ID; or (3) non-photo ID.”⁴⁵ “Strict photo ID” states

40. See Carter, *Post-Crawford* *supra* note 36, at 298; see also *NCSL Voter ID History*, *supra* note 30.

41. *NCSL Voter ID History*, *supra* note 30 (emphasis omitted).

42. *Id.* (noting that Georgia’s and Indiana’s strict photo ID laws “were first implemented in 2008 (after Indiana’s law was given the go-ahead by the U.S. Supreme Court, in *Crawford v. Marion County*)”).

43. Smith, *supra* note 30; see *NCSL Voter ID History*, *supra* note 30 (noting that after the 2008 U.S. Supreme Court *Crawford* decision and Georgia’s and Indiana’s implementation of their respective state voter ID laws with strict photo ID requirements, “[i]n 2011, 2012 and 2013, the pace of adoption [of voter ID laws] accelerated. States without ID requirements continued to adopt them, and states that had less-strict requirements adopted stricter ones. Many of the stricter laws were challenged in court, with mixed results. Since then, the pace of adoption has slowed dramatically.”). See *id.*, for a chart that shows voter ID enactments from 2000 to 2016 and a detailed timeline of enacted legislation from 2002 to 2017.

44. See Carter, *supra* note 2, at 337–38; *Voter Identification Requirements*, NAT’L CONF. ST. LEGISLATURES (last updated Oct. 24, 2012) (on file with author) [hereinafter *NCSL State Requirements: Oct. 24, 2012*]; see also *Voter Identification Requirements: Voter ID Laws*, NAT’L CONF. ST. LEGISLATURES (Jan. 17, 2019), [hereinafter *NCSL Voter Identification Requirements: Jan. 17, 2019*], <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx> (“Voter ID laws can be categorized in two ways. First, the laws can be sorted by whether the state asks for a photo ID or whether it accepts IDs without a photo as well. Second, the laws can be divided by what actions are available for voters who do not have ID. These two categorization schemes can and do overlap.”).

45. Carter, *supra* note 2, at 337; see also Carter, *Post-Crawford*, *supra* note 36, at 297–98.

require voters to show an acceptable form of photo ID to vote,⁴⁶ but, “photo ID” states request that voters show a photo ID but do not require voters to do so to vote at the polls.⁴⁷ “Non-photo ID” states require voters to show some form of acceptable documentation that does not have to contain a photo to be allowed to vote at the polls.⁴⁸ Some states permit voters who do not have the required ID to cast provisional ballots.⁴⁹ Regardless of the category a state falls under in promulgating voter ID laws, the Fourteenth and Twenty-Sixth Amendments provide safeguards to protect college students’ right to vote.

46. See Carter, *supra* note 2, at 337–38.

47. *Id.* at 338.

48. *Id.* at 338 & n.22.

49. *Id.* at 338; see also *NCSL Voter Identification Requirements: Jan. 17, 2019*, *supra* note 44:

Procedures for when a voter does not have identification: If a voter fails to show the ID that is asked for by law, states provide alternatives. These laws fit two categories, non-strict and strict. . . .

Non-strict: At least some voters without acceptable identification have an option to cast a ballot that will be counted without further action on the part of the voter. For instance, a voter may sign an affidavit of identity, or poll workers may be permitted to vouch for the voter. In some of the “non-strict” states (Colorado, Florida, Montana, Oklahoma, Rhode Island, Utah and Vermont), voters who do not show required identification may vote on a provisional ballot. After the close of Election Day, election officials will determine (via a signature check or other verification) whether the voter was eligible and registered, and therefore whether the provisional ballot should be counted. No action on the part of the voter is required. In New Hampshire, election officials will send a letter to anyone who signed a challenged voter affidavit because they did not show an ID, and these voters must return the mailing, confirming that they are indeed in residence as indicated on the affidavit.

Strict: Voters without acceptable identification must vote on a provisional ballot and also take additional steps after Election Day for it to be counted. For instance, the voter may be required to return to an election office within a few days after the election and present an acceptable ID to have the provisional ballot counted. If the voter does not come back to show ID, the provisional ballot is not counted.

Id. (emphasis omitted).

B. Key Constitutional Provisions Related to College Students' Right to Vote

The Equal Protection Clause of the Fourteenth Amendment grants college students who are citizens of the U.S. the right to vote.⁵⁰ Specifically, “the Fourteenth Amendment states, in relevant part, that ‘[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . . nor deny to any person within its jurisdiction the equal protection of the laws.’”⁵¹ In addition, the Twenty-Sixth Amendment is also a key constitutional amendment related to a college student’s right to vote and provides that “[t]he right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.”⁵² Moreover, the 1971 U.S. Senate, when discussing college students’ voting rights and the Twenty-Sixth Amendment, stated the following:

[F]orcing young voters to undertake special burdens obtaining absentee ballots, or traveling to one centralized location in each city, for example in order to exercise their right to vote might well serve to dissuade them from participating in the election. This result and the election procedures that create it, are at least inconsistent with the purpose of the Voting Rights Act, which sought to encourage greater political participation on the part of the young; such segregation might even amount to a denial of their 14th Amendment right to equal protection of the laws in the exercise of the franchise.⁵³

Therefore, the Equal Protection Clause of the Fourteenth Amendment and the Twenty-Sixth Amendment of the U.S. Constitution provide key provisions designed to both protect and encourage college students’ voting rights. While these amendments are designed to equally protect

50. See U.S. CONST. amend. XIV, § 1; Carter, *supra* note 2, at 335–36.

51. Carter, *supra* note 2, at 336 (citing U.S. CONST. amend. XIV, § 1).

52. U.S. CONST. amend. XXVI, § 1.

53. *United States v. Texas*, 445 F. Supp. 1245, 1254 (S.D. Tex. 1978) (quoting S. REP. NO. 92-26 (1971)), *aff’d sub nom.*, *Symm v. United States*, 439 U.S. 1105 (1979).

college students' right to vote, recent Supreme Court decisions have eroded some of that protection.

C. Significant U.S. Supreme Court Decisions Regarding College Students' Voting Rights and Voter ID Laws

The U.S. Supreme Court's 1979 landmark *Symm v. United States* decision⁵⁴ is important because it upheld college students' voting rights and affirmed that students have the constitutional right to register and vote in the towns and cities where they go to college.⁵⁵ Yet the U.S. Supreme Court's 2008 monumental *Crawford v. Marion County Election Board* decision has seriously impacted college students' voting rights.⁵⁶ Specifically, enactment of Indiana's strict photo ID law, as upheld in the *Crawford* case, was considered "one of the most restrictive photo identification requirements in the country" because its voter ID statute requires Indiana residents to show a government-issued photo ID before voting at the polls on Election Day, which hampers college students trying to vote in the state who do not possess such a photo ID.⁵⁷

54. 439 U.S. 1105 (1979).

55. *See id.* at 1105; Carter, *supra* note 2, at 336 (citing *Symm*, 439 U.S. at 1105); Niemi et al., *supra* note 12, at 332 ("[A] bedrock principle is that states *cannot* make it more difficult for students than for others to vote (or ask them questions that they would not ask others who are similarly situated." (citing *Symm*, 439 U.S. at 1105)); *Student Voting*, FAIR ELECTIONS LEGAL NETWORK, <http://fairelectionsnetwork.com/students/> (last visited Apr. 20, 2019) ("Students have the right to vote in the towns and cities where they attend college if they so choose. The U.S. Supreme Court upheld this right in *Symm v. United States* (1979).") (emphasis omitted)); *Student Voting Guide: Georgia*, BRENNAN CTR. FOR JUST. (Aug. 15, 2014), <https://www.brennan-center.org/analysis/student-voting-guide-georgia>.

56. *See* 553 U.S. 181 (2008); *see also* ERWIN CHERMERINSKY, CONSTITUTIONAL LAW 1091 (3d ed. 2009); Kelly E. Brilleaux, Note, *The Right, the Test, and the Vote: Evaluating the Reasoning Employed in Crawford v. Marion County Election Board*, 70 LA. L. REV. 1023 (2010) (analyzing the decision in *Crawford*); Carter, *supra* note 2, at 337 (citing *Crawford*, 553 U.S. at 202–03 (plurality opinion)).

57. Carter, *supra* note 2, at 381 n.236 (quoting *Crawford*, 553 U.S. at 236 (Souter, J., dissenting) ("Without a shred of evidence that in-person voter impersonation is a problem in the State, . . . Indiana has adopted one of the most restrictive photo identification requirements in the country.")).

Indiana law required its "residents to present a government-issued photo ID before casting a ballot at the polls on Election

In addition, the 2013 U.S. Supreme Court decision *Shelby County v. Holder* caused another negative turning point in voting rights.⁵⁸ In that decision, the U.S. Supreme Court held that Section 4 of the Voting Rights Act of 1965 was unconstitutional and that nine states and several counties previously required to obtain federal pre-clearance prior to implementing voting changes were no longer required to do so.⁵⁹ More importantly, hours after the *Shelby County* decision, “Texas implemented its strict photo ID law, which had been ‘postponed by the Justice Department,’ requiring voters to show a valid photo ID prior to casting a ballot. On the same day as the ruling, Mississippi and Alabama also announced that each state would immediately enforce their voter ID laws.”⁶⁰ These states moved quickly “to

Day.” In Indiana, an ID had to meet the following four criteria in order to be considered acceptable for voting purposes in that state: (1) the ID must show the voter’s photo; (2) the ID must show the voter’s name and the name must conform, but does not have to be identical, to the name on the voter’s voter registration record; (3) the ID must include an expiration date and must either be current or have expired sometime after the most recent General Election; and (4) the ID must have been issued by the U.S. government or the State of Indiana. Therefore, “[i]n most cases, an Indiana driver license, Indiana photo ID card, Military ID or U.S. Passport is sufficient.”

Similar to Georgia, Indiana students attending state higher education institutions could use their student IDs for voting purposes as long as the student IDs “me[t] all of the 4 criteria specified above.” However, a “student ID from a private institution [could] not be used for voting purposes” in Indiana.

Id. at 341 (alterations in original) (footnotes omitted).

58. See *id.* at 391 (first citing Adam Liptak, *Supreme Court Invalidates Key Part of Voting Rights Act*, N.Y. TIMES (June 25, 2013), <http://www.nytimes.com/2013/06/26/us/supreme-court-ruling.html>; then citing Emily Schultheis, *Stage Set for Voter ID Battle*, POLITICO (June 26, 2013, 5:07 AM), <http://www.politico.com/story/2013/06/supreme-court-voter-id-voting-rights-93396.html>)).

59. *Shelby County v. Holder*, 570 U.S. 529, 557 (2013) (“The formula in [Section 4] can no longer be used as a basis for subjecting jurisdictions to preclearance.”).

60. Carter, *supra* note 2, at 391–92 (citing Schultheis, *supra* note 58); see also Michael Cooper, *After Ruling, States Rush to Enact Voting Laws*, N.Y. TIMES (July 5, 2013), <https://www.nytimes.com/2013/07/06/us/politics/after-Supreme-Court-ruling-states-rush-to-enact-voting-laws.html>. For a discussion on the reaction to *Shelby County* in Tennessee, see *Bill Allowing State College IDs to Vote Delayed*, NASHVILLE

implement voting changes that were previously thought or suspected of being discriminatory.”⁶¹ In fact, after the *Shelby County* decision, “eight states previously covered under Section 4 . . . passed or implemented new voting restrictions,” including North Carolina.⁶² Moreover, it was stated that “certain states having been freed from federal oversight moved quickly to pass ‘blatantly discriminatory voting restrictions.’”⁶³ Therefore, certain states implemented restrictive voter ID laws that created barriers as opposed to encouraging students to vote.⁶⁴ Moreover, one person commented that “[p]olitical leaders should be encouraging young adults to participate in civic life,’ but many Republican ‘state lawmakers [were] doing everything they [could] instead to prevent students from voting in the 2012 presidential election.”⁶⁵

III. “COLLEGE STUDENT FRIENDLY STATES” AND “COLLEGE STUDENT UNFRIENDLY STATES” IN SELECT SOUTHEASTERN STATES DURING THE NOVEMBER 2012 PRESIDENTIAL ELECTION AND THE NOVEMBER 2016 PRESIDENTIAL ELECTION

A review of Tennessee’s voter ID law and the voter ID laws of the six Southeastern states of Alabama, Georgia, Kentucky, Mississippi, North Carolina, and Virginia that are contiguous to Tennessee show that some Southeastern state voter ID laws are more “college student friendly” than others. Below is a brief summary of states categorized as “college student friendly states” and “college student unfriendly states” contingent upon whether these seven Southeastern

LEDGER (Mar. 1, 2013), <http://www.nashvilleledger.com/editorial/Article.aspx?id=64901>.

61. Carter, *supra* note 2, at 392 (citing Cooper, *supra* note 60).

62. Ari Berman, *Members of Congress Introduce a New Fix for the Voting Rights Act*, THE NATION (Jan. 16, 2014), <https://www.thenation.com/article/members-congress-introduce-new-fix-voting-rights-act-test/>.

63. Carter, *supra* note 2, at 393.

64. *See id.* at 392 (citing Camira Powell, *Voter ID Laws Could Keep Students from Voting in 2012 Elections*, THE VOTING NEWS (Dec. 29, 2011), <https://thevoting-news.com/the-voting-news-123011/>).

65. Editorial, *Keeping Students from the Polls*, N.Y. TIMES (Dec. 26, 2011), <http://www.nytimes.com/2011/12/27/opinion/keeping-college-students-from-the-polls.html>.

states allowed college student IDs as an acceptable form of ID for voting purposes during the November 6, 2012 Presidential Election and during the November 8, 2016 Presidential Election.⁶⁶ Four of the seven Southeastern states were considered “college student friendly” for the November 2012 Presidential Election, with one state being “unfriendly” and two others not having voter ID requirements in effect at the time of the election. Five of the seven Southeastern states were “college student friendly,” one state remained “college student unfriendly,” and another state’s law was unconstitutional at the time of the November 2016 Presidential Election.

A. Summary of “College Student Friendly States” in Select Southeastern States During the November 2012 and November 2016 Presidential Elections

Of the seven Southeastern states, the following four states had “college student friendly” voter ID laws in effect during the November 6, 2012 Presidential Election: Alabama, Georgia, Kentucky, and Virginia.⁶⁷ These same four states remained “college student friendly” during the November 8, 2016 Presidential Election.⁶⁸ Below is a brief summary of each state’s law.

1. Alabama

During the November 2012 Presidential Election, Alabama had a non-strict, non-photo voter ID law in effect.⁶⁹ Alabama permitted students to use a college student photo ID at the polls for voting purposes during the election.⁷⁰ Specifically, Alabama’s law allowed “identification cards containing the photo of the elector produced by a

66. See Carter, *supra* note 2, wherein I, the author of this Article, categorize states with voter ID laws as “college student friendly states” and “college student unfriendly states” based solely upon whether college student IDs were an acceptable form of ID for voting purposes during the 2012 Presidential Election, during the 2016 Presidential Election, and during the 2018 Midterm Elections.

67. See Carter, *supra* note 2, at 380–81.

68. See *infra* notes 72–73, 77–78, 83, and 87.

69. Carter, *supra* note 2, at 354.

70. *Id.* at 354–55.

public or private college, university, or postgraduate technical or professional school located within the state” to be used as acceptable forms of ID to vote at the polls during the November 2012 Presidential Election.⁷¹

Alabama’s voter ID law did not change as it relates to college students between the 2012 and 2016 Presidential Elections and continued to permit students to use a college student photo ID at the polls for voting purposes during the November 2016 Presidential Election.⁷² Specifically, Alabama’s statute listed “[a] valid student . . . identification card issued by a public or private college, university, or postgraduate technical or professional school located within the state, provided that such identification card contains a photograph of the elector” as an acceptable form of photo identification to allow college students to vote at the polls during the November 2016 Presidential Election.⁷³

2. Georgia

Georgia is under the “college student friendly” designation because it allows students to use college student IDs when voting at the polls, but it only permits certain students to do so. Georgia had strict photo ID voting requirements in effect during the November 2012 Presidential Election.⁷⁴ Georgia’s strict photo voter ID law permitted students enrolled at one of its sixty-two designated *state* colleges, universities, and technical colleges to use their college student photo ID at the polls for voting purposes during the November 2012 Presidential Election.⁷⁵ Yet any student attending a *private* college or university in Georgia had to show another (non-student) form of acceptable photo

71. ALA. CODE § 17-9-30(a) (2012).

72. See ALA. CODE § 17-9-30(a)(5) (2012). Alabama’s 2011 voter ID law was still in effect during the November 2016 Presidential Election, which continued to allow college student photo IDs to be used at the polls for voting purposes.

73. *Id.*

74. See Carter, *supra* note 2, at 339–40.

75. See *id.* at 340 (citing *Georgia Acceptable Student ID*, *supra* note 21) (detailing the state colleges, universities, and technical colleges in Georgia where student photo IDs were allowed to be used by students during the November 2012 Election); see also GA. CODE ANN. § 21-2-417(a)(2) (2010) (stating proper voter identification includes a “valid identification card issued by a[n] . . . agency, or entity of the State of Georgia, any other state, or the United States . . . provided that such identification card contains a photograph of the elector”).

ID prior to being allowed to vote during the November 2012 Presidential Election.⁷⁶

Georgia's voter ID law remained the same and continued to allow students enrolled at certain designated state colleges, universities, and technical colleges to use their college student photo ID at the polls for voting purposes during the November 2016 Presidential Election.⁷⁷ Yet students attending private colleges or universities in Georgia still could not use their college student photo ID at the polls for voting purposes and were required to present another form of acceptable photo ID prior to voting at the polls during the November 2016 Presidential Election.⁷⁸

3. Kentucky

Similar to Alabama, during the November 2012 Presidential Election, Kentucky had a non-strict, non-photo voter ID law in effect.⁷⁹ Kentucky permitted "college student photo IDs as an acceptable form of identification for voting purposes during the November 2012 Election as long as the student photo ID showed the student's signature."⁸⁰

76. Carter, *supra* note 2, at 340–41 (citing *Student Voting Guide: Georgia*, BRENNAN CTR. FOR JUST. (Aug. 15, 2014), <http://www.brennancenter.org/analysis/student-voting-guide-georgia> ("If you attend a public college or university in Georgia, you can use your student ID.")). "Students who attend private colleges or universities cannot use their student ID and must provide one of the other acceptable forms of ID." *Student Voting Guide: Georgia*, *supra*, at n.30 (citing *Georgia Acceptable Student ID*, *supra* note 21).

77. *Georgia Acceptable Student ID*, *supra* note 21; *see also* GA. CODE ANN. § 21-2-417(a)(2) (2015).

78. *See Georgia Acceptable Student ID*, *supra* note 21.

79. Carter, *supra* note 2, at 368.

80. *Id.* at 368–69, 369 n.180 (first citing 31 KY. ADMIN. REGS. 4:010 (2014); then citing *Student Voting Guide: Kentucky*, BRENNAN CTR. FOR JUST. (Aug. 15, 2014), <http://www.brennancenter.org/analysis/student-voting-guide-kentucky> ("You can show a driver's license from Kentucky or from another state, your Social Security card, a credit card, or any other ID card issued to you by the county in Kentucky you are voting in, as well as any photo ID with your signature. You may not use your student ID unless it has both your photo and signature."); then citing COMMONWEALTH OF KY. STATE BD. OF ELECTIONS, SBE1000, VOTER INFORMATION GUIDE (July 2014), [http://elect.ky.gov/SiteCollectionDocuments/Voter%20Information/SBE%201000%20-%20Voter%20Information%20Guide%20\(BQ\)\(LZ\).pdf](http://elect.ky.gov/SiteCollectionDocuments/Voter%20Information/SBE%201000%20-%20Voter%20Information%20Guide%20(BQ)(LZ).pdf)).

Kentucky amended its voter ID law in 2016, and its new law became effective on July 15, 2016.⁸¹ Its new law, in relevant part, allowed as acceptable identification for voting at the polls “any identification card with [a] picture and [a] signature, . . . [as well as] any Kentucky state government-issued identification card with [a] picture.”⁸² Therefore, Kentucky continued to permit college student IDs as an acceptable form of identification for voting purposes during the November 2016 Presidential Election as long as the ID showed both the student’s photo and the student’s signature.⁸³

4. Virginia

Virginia had a strict, non-photo voter ID law in effect during the November 2012 Presidential Election.⁸⁴ To vote at the polls in Virginia during the November 2012 Election, “acceptable IDs included a valid student ID card issued by higher education institutions within the Commonwealth of Virginia.”⁸⁵

Yet Virginia amended its voter ID law over the years between 2012 and 2016, and its new, strict photo ID law became effective on July 1, 2014, which allowed as an acceptable ID “any valid student identification card containing a photograph of the voter and issued by any institution of higher education located in the Commonwealth.”⁸⁶ In addition, effective January 2, 2016, Virginia’s strict, photo ID law was expanded to allow college students to vote at the polls using “any valid student identification card containing a photograph of the voter

81. KY. REV. STAT. ANN. § 117.227 (2016).

82. *Id.*

83. *See id.*

84. Carter, *supra* note 2, at 379. For a description of strict voter ID laws, see also *supra* text accompanying note 49.

85. Carter, *supra* note 2, at 379 (citing VA. CODE ANN. § 24.2-643(B) (2011 & Supp. 2013); see also *NCSL State Requirements: Oct. 24, 2012*, *supra* note 44).

86. VA. CODE ANN. § 24.2-643(B) (2014) (amended 2016) (indicating that Virginia’s new law, which passed in 2013, was to become effective on July 1, 2014); see also *NCSL Voter ID History*, *supra* note 30 (noting that in 2013, Virginia “moved to [a] strict photo ID requirement”).

and issued by any institution of higher education located in the Commonwealth or any private school located in the Commonwealth” during the November 2016 Presidential Election.⁸⁷

B. Summary of “College Student Unfriendly States” in Select Southeastern States During the November 2012 and November 2016 Presidential Elections

Only one of the seven Southeastern states prohibited college students from using their college student ID issued by higher education institutions within their respective state for voting purposes during the November 6, 2012 Presidential Election: Tennessee.⁸⁸ Therefore, Tennessee had a “college student unfriendly” voter ID law in effect at the time of the November 2012 Presidential Election.⁸⁹ Tennessee’s law remained “college student unfriendly” during the November 8, 2016 Presidential Election.⁹⁰ Below is a brief summary of Tennessee’s law.

Tennessee had a strict photo voter ID law in effect at the time of the November 2012 Presidential Election.⁹¹ Tennessee’s law required all voters to present an acceptable form of government-issued photo ID prior to being allowed to vote at the polls,⁹² but Tennessee’s voter ID

87. VA. CODE ANN. § 24.2-643(B) (2016) (showing that Virginia began allowing college student photo IDs issued by private schools located in the Commonwealth as acceptable forms of IDs for voting at the polls in early 2016).

88. See Carter, *supra* note 2, at 381 (listing Oklahoma and South Carolina as other states that prohibited college students from using their student IDs to vote in the 2012 Presidential Election).

89. See *id.*

90. See *infra* notes 96–97.

91. See Carter, *supra* note 2, at 347 (noting that Tennessee’s new strict photo ID law “went into effect on January 1, 2012”).

92. *Id.* (citing TENN. CODE ANN. § 2-7-112(a) (2012)).

Tennessee voters were required to present one of the following forms of photo ID at the polls, even if the ID had expired: (1) a Tennessee driver’s license with the voter’s photo; (2) a valid photo ID card issued by a branch, department, agency or entity of the State of Tennessee, by any other state, or by the U.S. government; (3) a valid photo ID card issued by the Tennessee Department of Safety and Homeland Security; (4) a valid U.S. passport; (5) a valid employee photo ID card issued by a branch, department, agency or entity of the State of Tennessee, by any other state, or by the U.S. government (including employee IDs issued by state universities);

law specifically excluded “student photo ID cards issued by higher education institutions as acceptable forms of photo IDs for voting purposes at the polls during the November 2012 Election.”⁹³ Tennessee’s statute states that “[a]n identification card issued to a student by an institution of higher education containing a photograph of a student shall not be evidence of identification for [voting] purposes.”⁹⁴ It is important to note that several House bills and Senate bills were presented that would have permitted college students in Tennessee to use their student photo IDs for voting purposes, but all the bills failed.⁹⁵

Tennessee’s strict photo voter ID law remained the same during the 2012 and 2016 Presidential Elections as it relates to college student IDs.⁹⁶ Tennessee’s voter ID statute continued to exclude college students from using their college student photo ID for voting at the polls during the November 2016 Presidential Election.⁹⁷

C. Status of Other Southeastern States’ Voter ID Laws During the November 2012 and November 2016 Presidential Elections

Two of the seven Southeastern states did not have voter ID requirements in effect in their respective states during the November 2012 Presidential Election: Mississippi and North Carolina.⁹⁸ Yet Mississippi did have a “college student friendly” law in effect during the November 2016 Presidential Election, and North Carolina’s law was considered unconstitutional during the November 2016 Presidential Election.⁹⁹ Below is a summary of both state’s laws at the time of the 2012 and 2016 Presidential Elections.

(6) a valid U.S. military photo ID; or (7) an employee ID card for retired state employees.

Id. at 347 n.67 (citing TENN. CODE ANN. § 2-7-112(c) (2012)).

93. *Id.* at 348.

94. TENN. CODE ANN. § 2-7-112(c)(2)(B) (2012).

95. Carter, *supra* note 2, at 347 n.68.

96. Compare § 2-7-112(c)(2)(B) (2012), with § 2-7-112(c)(2)(B) (2015).

97. § 2-7-112(c)(2)(B) (2015) (“An identification card issued to a student by an institution of higher education containing a photograph of a student shall not be evidence of identification for purposes of verifying the person’s identification on the application for ballot.”).

98. See *infra* notes 103, 108, and accompanying text.

99. See *infra* notes 105, 110–115, and accompanying text.

1. Mississippi

In 2012, Mississippi Governor Phil Bryant signed into law a new strict photo voter ID law requiring voters to show an acceptable form of government-issued photo ID to vote at the polls.¹⁰⁰ Mississippi's new law required voters to present "current and valid photo identification" to vote at the polls.¹⁰¹ The law included "a student photo ID card issued by any accredited university, college, community college, or junior college in the State of Mississippi" as an acceptable form of photo ID for voting purposes.¹⁰² Yet Mississippi did not have a voter ID requirement in effect during the November 2012 Presidential Election, despite its new strict photo voter ID law, because the law required preclearance approval.¹⁰³

Although Mississippi's strict photo voter ID law was not in effect during the November 2012 Presidential Election, Mississippi announced on the same day as the 2013 U.S. Supreme Court's decision in *Shelby County* that it would immediately implement its new voter ID law.¹⁰⁴ During the November 2016 Presidential Election, Mississippi's new voter ID law was in effect and specifically listed "[a] current and valid student identification card, containing a photograph of the elector, issued by any accredited college, university or community or junior college in the State of Mississippi" as an acceptable form of photo ID

100. Carter, *supra* note 2, at 342–43.

101. MISS. CODE ANN. § 23-15-563(1) (2012 & Supp. 2013).

102. Carter, *supra* note 2, at 343 (citing MISS. CODE ANN. § 23-15-563(2)(h) (2012 & Supp. 2013)).

103. *Id.* at 343 n.45; see also *NCSL State Requirements: Oct. 24, 2012*, *supra* note 44 (stating that in the November 6, 2012 Election, there was no voter ID requirement in Mississippi, even though a strict photo ID requirement was signed into law in the state, because approval was required of the new law (i.e., preclearance) and was pending federal preclearance from the U.S. Department of Justice under Section 5 of the Voting Rights Act on Election Day). The following nine states were listed by the U.S. Department of Justice in 2012 to be "covered as a whole," subjecting these states to preclearance by the federal government under Section 5 prior to making any voting law changes: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia. *Jurisdictions Previously Covered by Section 5 at the Time of the Shelby County Decision*, U.S. DEP'T. JUST., <https://www.justice.gov/crt/jurisdictions-previously-covered-section-5> (last visited Apr. 21, 2019).

104. See Carter, *supra* note 2, at 391–92.

for voting in person at the polls.¹⁰⁵ Therefore, Mississippi was a “college student friendly state” during the November 8, 2016 Presidential Election.

2. North Carolina

North Carolina did not require voter IDs at the polls prior to 2011.¹⁰⁶ There was a proposal for a new strict photo ID law in the state in 2011; however, North Carolina’s Governor vetoed the new voter ID proposal in 2011.¹⁰⁷ North Carolina did not have a voter ID law in effect during the November 2012 Presidential Election.¹⁰⁸

North Carolina enacted a strict voter ID law in 2013 that became effective on January 1, 2016, and the photo ID law did not allow college students to use their college student ID for voting at the polls.¹⁰⁹ Yet the Fourth Circuit declared this voter ID law unconstitutional on July 29, 2016, in *N.C. State Conference of NAACP v. McCrory*—holding that the North Carolina legislature’s enactment of its voter ID law was motivated by discriminatory racial intent; therefore, it was unconstitutional, and the court “enjoin[ed] only the challenged provisions of SL 2013–381 regarding photo ID, early voting, same-day registration, out-of-precinct voting, and preregistration.”¹¹⁰ In sum, “a panel of the U.S.

105. MISS. CODE ANN. § 23-15-563(2)(h) (2012 & Supp. 2013).

106. See Carter, *Post-Crawford*, *supra* note 36, at 303 n.169.

107. *Id.* at 304; see also *NCSL State Requirements: Oct. 24, 2012*, *supra* note 44 (noting that the Governor of North Carolina vetoed a “strict new photo ID law[] in 2011”).

108. See Carter, *Post-Crawford*, *supra* note 36, at 303; see also *supra* note 106 and accompanying text.

109. N.C. GEN. STAT. § 163–166.13 (2016) (current version at N.C. GEN. STAT. § 163A-1145.1 (2018)).

110. *N.C. State Conference of NAACP v. McCrory*, 831 F.3d 204, 239 (4th Cir. 2016); see also Paul Woolverton, *Voter ID in North Carolina: Why Is This a Big Deal?*, FAYETTEVILLE OBSERVER (Aug. 18, 2018, 12:01 AM), <https://www.fayobserver.com/news/20180818/voter-id-in-north-carolina-why-is-this-big-deal>. Paul Woolverton recently stated:

[North Carolina’s] photo ID mandate was used in the 2016 spring primaries before it was struck down that summer by a federal appeals court. A lawsuit alleged that North Carolina’s implementation of voter ID was biased against black voters, and the court agreed.

Court of Appeals for the Fourth Circuit struck down photo ID requirements and associated laws in North Carolina (S.L. 2013-381, as amended by S.L. 2015-103).¹¹¹ Therefore, the State of North Carolina was “considering its options. Barring a different outcome on appeal, photo ID [would] not be required in the upcoming [2016] general election.”¹¹² Based upon its voter ID law being struck down, North Carolina voters were not required to show “an ID at polls during early voting or on Election Day” during the November 2016 Presidential Election.¹¹³ Although North Carolina’s photo ID law was not in effect during the November 2016 Presidential Election, its voter ID law, as enacted, did not allow college students to use their college student ID for

The ruling listed a damning set of facts:

- Early drafts of the voter ID bill included a larger list of the types of acceptable IDs, but those options were removed in the final law.
- Evidence emerged that the bill’s authors had done research that found that black voters were disproportionately less likely than others to have DMV-issued IDs. Those voters often had other types of government-issued photo ID—the type of ID that were trimmed out of the bill.
- The Supreme Court in 2013 struck down part of the 1965 Voting Rights Act, which said the federal government had to approve any changes to voting regulations in states with histories of suppressing the black vote. After that decision, the authors of North Carolina’s voter ID bill modified it to exclude the types of photo ID that black voters were more likely to have, including college IDs and those issued by public assistance programs.

Id.

111. *Voter ID Requirements in North Carolina*, N.C. ST. BOARD ELECTIONS & ETHICS ENFORCEMENT (last updated Nov. 6, 2018) (on file with author); *see also* Woolverton, *supra* note 110.

112. *Voter ID Requirements in North Carolina*, *supra* note 111.

113. WUNC Staff, *North Carolina Voter Guide for the 2016 Election*, WUNC 91.5 (Oct. 20, 2016), <http://www.wunc.org/post/north-carolina-voter-guide-2016-election>.

voting at the polls during elections in 2016.¹¹⁴ As of April 2017, North Carolina's photo ID law remained unconstitutional.¹¹⁵

IV. MAJOR ARGUMENTS FOR AND AGAINST STRICT PHOTO ID LAWS AND ALLOWING COLLEGE STUDENT IDs FOR VOTER VERIFICATION PURPOSES

Various arguments have been made both for and against strict photo ID laws. In addition, numerous arguments have been raised for allowing and not allowing student IDs to be used for voter verification purposes when students vote in person. Below is a summary of the major arguments articulated by both proponents and opponents on both sides of this voter ID debate.

A. Major Arguments For Strict Photo ID Laws

The major arguments that are made for the enactment of strict photo ID laws often mirror the arguments articulated in the U.S. Supreme Court's *Crawford* decision. In its decisive 2008 *Crawford* plurality decision, the U.S. Supreme Court affirmed "Indiana's arguments that (1) election modernization, (2) prevention and detection of in-person voter fraud, and (3) safeguarding voter confidence in the integrity of the electoral process were justifiable state interests for enactment of

114. See N.C. GEN. STAT. ANN. § 163-166.13(e) (2016) (current version at N.C. GEN. STAT. § 163A-1145.1 (2018)) (listing the permissive forms of ID); see also Woolverton, *supra* note 110 (noting after the 2013 U.S. Supreme Court *Shelby County* decision, "the authors of North Carolina's voter ID bill modified it to exclude the types of photo ID that black voters were more likely to have, including college IDs" and that North Carolina's "photo ID mandate was used in the 2016 spring primaries before it was struck down that summer by a federal appeals court").

115. See N.C. State Conference of NAACP v. McCrory, 831 F.3d 204 (4th Cir. 2016), *cert. denied sub nom.*, North Carolina v. N.C. State Conference of NAACP, 137 S. Ct. 1399 (2017); see also NCSL *Voter Identification Requirements: Jan. 17, 2019*, *supra* note 44 (stating that "[i]n 2013 North Carolina passed a strict ID requirement, which was amended by the legislature in 2015 to fall into the non-strict category. Even so, the law was struck down by a federal court in July 2016, and the U.S. Supreme Court declined to hear the case in May 2017. For now, North Carolina does not require voters to show an identification document at the polls.").

the state's strict photo ID law."¹¹⁶ As noted in the opinion, "[t]here is no question about the legitimacy or importance of the State's interest in counting only the votes of eligible voters [T]he propriety of [preventing election fraud] is perfectly clear."¹¹⁷ In sum, the primary reasons provided by proponents of strict photo ID laws are ensuring the integrity of elections and preventing fraudulent votes from being cast at the polls on Election Day.

116. Carter, *supra* note 2, at 381–82 (citing *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 187–91 (2008) (plurality opinion)).

117. *Crawford*, 553 U.S. at 196 (plurality opinion); *see also* Kris Kobach, Opinion, *Voter ID Laws Are Good Protection Against Fraud*, WASH. POST (July 13, 2011), https://www.washingtonpost.com/opinions/voter-id-laws-are-good-protection-against-fraud/2011/07/08/gIQAGnURBI_story.html?noredirect=on&utm_term=.e79f241bd0ad; (commenting on the importance of photo IDs for secure elections); Hans A. von Spakovsky, *Voter ID Laws Protect the Integrity of Our Democracy*, U.S. NEWS & WORLD REP. (July 13, 2012, 3:24 PM), <https://www.usnews.com/debate-club/should-photo-id-be-required-to-vote/voter-id-laws-protect-the-integrity-of-our-democracy>:

ALL STATES SHOULD require photo ID both to vote in person and to vote by absentee ballot (by providing a copy of the ID). This is a basic requirement to help ensure the integrity of elections. All Americans who are eligible should have the opportunity to vote, but their ballots should not be stolen or diluted by fraudulent votes.

. . . Voter ID can significantly defeat and deter impersonation fraud at the polls, voting under fictitious names or in the names of dead voters, double-voting by individuals registered in more than one state, and voting by individuals who are in the United States illegally. The Supreme Court has upheld voter ID since “flagrant examples of [voter] fraud . . . have been documented throughout this nation’s history.”

No one claims that there is voter fraud in every election. But, as the Supreme Court said, “not only is the risk of voter fraud real,” but “it could affect the outcome of a close election.” And it wasn’t too long ago that we had a presidential election decided by only about 500 votes. Voter ID also increases the public’s confidence in election results, an essential element in a stable democracy.

Id. (alteration in original) (emphasis omitted).

B. Major Arguments Against Strict Photo ID Laws

In contrast to the major arguments often cited by proponents of strict photo ID laws and those made by the *Crawford* plurality, arguments have also been made against the imposition of strict photo ID laws. A summary of the major arguments, articulated by the dissenting justices in *Crawford* against upholding Indiana’s strict photo ID law and often cited by opponents of strict photo ID laws, are as follows: “(1) the imposition of serious and great burdens on the right to vote for a significant percentage of voters, (2) deterrence of voting by eligible voters, and (3) the lack of evidence of in-person voter impersonation fraud at the polls.”¹¹⁸ Justice Souter stated, “[w]ithout a shred of evidence that in-person voter impersonation is a problem in the State, . . . Indiana has adopted one of the most restrictive photo identification requirements in the country.”¹¹⁹ Similar to *Crawford*’s dissenting justices, New York University’s Brennan Center for Justice has consistently found that in-person voter fraud is rare in various studies conducted by the Center.¹²⁰ In fact, Wisconsin’s passage of a strict

118. Carter, *supra* note 2, at 382; see also *Oppose Voter ID Legislation—Fact Sheet*, ACLU, <https://www.aclu.org/other/oppose-voter-id-legislation-fact-sheet> (last visited Apr. 23, 2019) (“Voter identification laws are a part of an ongoing strategy to roll back decades of progress on voting rights. . . . Voter ID laws deprive many voters of their right to vote, reduce participation, and stand in direct opposition to our country’s trend of including more Americans in the democratic process. Many Americans do not have one of the forms of identification states acceptable [sic] for voting. These voters are disproportionately low-income, racial and ethnic minorities, the elderly, and people with disabilities. Such voters more frequently have difficulty obtaining ID, because they cannot afford or cannot obtain the underlying documents that are a prerequisite to obtaining [a] government-issued photo ID card.”); Wendy Weiser, *Voter ID Laws Are Designed to Keep People from Voting*, U.S. NEWS & WORLD REP. (July 13, 2012, 3:22 PM), <https://www.usnews.com/debate-club/should-photo-id-be-required-to-vote/voter-id-laws-are-designed-to-keep-people-from-voting>.

119. *Crawford*, 553 U.S. at 236 (Souter, J., dissenting).

120. See WENDY WEISER & VISHAL AGRAHARKAR, BRENNAN CTR. FOR JUSTICE, *BALLOT SECURITY AND VOTER SUPPRESSION: WHAT IT IS AND WHAT THE LAW SAYS* 1, 1 n.1 (2012), https://www.brennancenter.org/sites/default/files/legacy/Democracy/Ballot_Security_Voter_Suppression.pdf (“[S]tudy after study shows that actual voter fraud is extraordinarily rare. . . . [And] Americans are more likely to be struck by lightning than to commit voter fraud.”); see also JUSTIN LEVITT, BRENNAN CTR. FOR JUSTICE, *THE TRUTH ABOUT VOTER FRAUD* 3 (2007),

photo ID requirement in 2011 was motivated “by Republican concerns about ostensible voter fraud.”¹²¹ Yet such purported voter fraud “justification has been discredited by several subsequent studies” conducted by the Brennan Center¹²² and “rejected by a federal judge who in 2016 labeled concerns over voter fraud ‘mostly phantom.’”¹²³ In sum, the primary reasons often cited by opponents against strict photo ID laws include that such laws often impose unnecessary burdensome voter ID requirements; they are voter suppression efforts designed to deter certain groups of eligible voters from voting; and there is an overall lack of evidence of in-person voter fraud at the polls on Election Day.

<http://www.brennancenter.org/sites/default/files/leg-acy/The%20Truth%20About%20Voter%20Fraud.pdf> (“Allegations of widespread voter fraud . . . often prove greatly exaggerated.”). “Allegations of widespread fraud by malevolent voters are easy to make, but often prove to be inaccurate. The Brennan Center has analyzed public materials in some of the areas branded as notorious election fraud ‘hot spots,’ finding that various election irregularities led to inflated claims of widespread fraud.” *Id.* at 23; *cf.* Kobach, *supra* note 117 (“Photo IDs have become ubiquitous and unavoidable. You can’t cash a check, board a plane or drive without one. That is why it’s not unreasonable to require picture identification to protect our most important privilege of citizenship. And just in case a voter lacks a photo ID, Kansas’s legislation requires that he or she be given one free of charge. Photo ID requirements are a reasonable way to secure our elections. It’s absurd to suggest that anyone is ‘disenfranchised’ by such protective measures. More states are moving to ensure the integrity of our voting process by requiring photo IDs, not as part of a devious plot to discourage voting, but because voter fraud is a real problem. And it’s a problem that voters want solved. According to a 2010 SurveyUSA poll of 500 Kansans, 85 percent supported photo ID laws. Fortunately, state legislators are listening to their constituents, not the Brennan Center, on this question.”).

121. Smith, *supra* note 30.

122. *Id.* (citing *Debunking the Voter Fraud Myth*, BRENNAN CTR. FOR JUST. (Jan. 31, 2017), <https://www.brennancenter.org/analysis/debunking-voter-fraud-myth>).

123. *Id.* (citing Patrick Marley & Jason Stein, *Judge Strikes Down Wisconsin Voter ID, Early Voting Laws*, J. SENTINEL (July 31, 2016, 3:45 PM), <https://www.jsonline.com/story/news/politics/2016/07/30/judge-strikes-down-wisconsin-voter-id-early-voting-laws/87803408/>).

C. *Major Arguments For and Against Allowing College Student IDs for Voter Verification Purposes*

Similar to the strict photo ID debate above, there have been debates on allowing and not allowing college students to use their college student IDs for in-person voting. Below is a summary of the major arguments articulated by both proponents and opponents of allowing college student IDs to be used for voter verification purposes at the polls on Election Day.

1. *Major Arguments for Allowing College Student IDs for Voter Verification Purposes*

Proponents have articulated major arguments for allowing college student IDs for voter verification purposes at the polls on Election Day. Proponents assert that permitting college students to use their student IDs for voting purposes does the following: (1) allows college students access to the voting booths on Election Day;¹²⁴ (2) improves convenience for college students to vote since a lot of students do not have driver's licenses and often do not carry other forms of identification;¹²⁵ and (3) alleviates a "double standard" when other IDs, such as driver's licenses, are not scrutinized to the extent college student IDs are, which negatively impacts the younger voting population.¹²⁶

124. Carter, *supra* note 2, at 386; *see also* Dan Fromkin, *Voter ID Laws Take Aim at College-Student Voters*, HUFFINGTON POST: POL. (Sept. 22, 2012, 9:39 AM), http://www.huffingtonpost.com/2012/09/22/voter-id-laws-gop-college-student_n_1791568.html. (“Hedy Weinberg, [E]xecutive [D]irector of the American Civil Liberties Union in Tennessee, said banning student IDs as voter verification ‘makes it really obvious that the goal is to suppress the students’ access to the ballots.’”)

125. Jack Fitzpatrick, *Some Voter ID Laws Keep College Students from Voting*, THE LEDGER (Aug. 23, 2012, 3:52 PM), <http://www.theledger.com/article/20120823/POLITICS/120829744?p=1&tc=pg>; Carter, *supra* note 2, at 386.

126. *See* Jacob Porter, *Pennsylvania Voter ID Law Will Prevent College Students from Voting*, MIC (June 25, 2012), <http://www.mic.com/articles/10081/pennsylvania-voter-id-law-will-prevent-collegestudents-from-voting> (noting that other IDs allowed for voting, as opposed to student IDs, “are not subjected to such scrutiny. For example, [some] driver’s licenses are still valid 12 months after they expire despite there being an accessible black market for driver’s licenses. Therefore, [Pennsylvania’s] voter ID law makes a double standard that disadvantages young people.”); Carter, *supra* note 2, at 387

2. Major Arguments Against Allowing College Student IDs for Voter Verification Purposes

Despite the arguments by proponents for allowing college student IDs for voter verification, others argue against allowing it. Opponents against permitting college students to use their student IDs for voting purposes have made the following major arguments: (1) student IDs are often fake IDs; (2) there is an absence of uniformity among student IDs; and (3) verifying the validity of various student IDs is burdensome on poll workers.¹²⁷

D. Major Arguments Made for and Against Allowing College Student IDs for Voter Verification Purposes in Several Select Southeastern States

Similar to the arguments above, both proponents and opponents of allowing college student IDs for voter verification purposes have made arguments in the specific Southeastern states discussed in this Article. Below is a brief summary of the arguments on both sides of the debate regarding permitting college student IDs for voting purposes that have been made within four of the select Southeastern states discussed in this Article: Georgia, Mississippi, North Carolina, and Tennessee.

1. Georgia

Georgia's voter ID law permits college student IDs issued by state higher education institutions to be used while voting in-person on Election Day but not such IDs from private colleges and universities.¹²⁸ Due to the lack of uniformity between student IDs, Georgia legislators excluded student IDs issued by private colleges and universities from the state's voter ID law because of the supposed likelihood that it will burden poll workers.¹²⁹ Yet it is totally inequitable that "Morehouse College students can use their ID cards to buy food and school supplies,

127. See Carter, *supra* note 2, at 386–87, 390.

128. *Id.* at 390; see also *supra* notes 74–76 and accompanying text.

129. Fitzpatrick, *supra* note 125 (stating that the legislators in Georgia "rejected student IDs from private schools, saying the lack of uniformity among school IDs would be a burden for poll workers").

use computer labs and get books from the library, but they can't use ID from the historic Atlanta school to vote."¹³⁰ In contrast, "[a] few miles away, Georgia State University students use their ID in the same way, but their cards allow them to vote."¹³¹

2. Mississippi

Mississippi's voter ID law permits college student IDs issued by higher education institutions within the State of Mississippi to be used by college students to vote at the polls on Election Day.¹³² Including a college ID as an acceptable form of ID for voting at the polls was "approved by [Mississippi] voters in 2011 and put into law by state lawmakers the next year."¹³³ Moreover, Mississippi's voter ID law was drafted "with input from the U.S. Department of Justice, which was completely different than Texas' voter ID law that was struck down . . . by the 5th Circuit U.S. Court of Appeals. [Mississippi's Secretary of State Delbert Hosemann stated that,] 'We took a completely different tactic than Texas . . . We did it right.'"¹³⁴ Consequently, "Hosemann said 62[%] of voters approved Mississippi's voter ID law as [a] constitutional amendment."¹³⁵

Moreover, Hosemann encourages Mississippi college students to register to vote in the state. When talking to Mississippi State University students in 2018, he remarked how over 3,000 members of Mississippi's Army National Guard's 155th Armored Brigade Combat Team "are making significant sacrifices to protect core values such as the right to vote."¹³⁶ Hosemann then stated, "You have a right to cast a ballot, and that right has been defended by countless Americans overseas You have the right, and an obligation. You have an obligation

130. *Id.*

131. *Id.*

132. *See supra* notes 100–103 and accompanying text.

133. Chokshi, *supra* note 37.

134. Jimmie E. Gates, *Hosemann: State Voter ID Law Will Survive*, CLARION LEDGER (July 21, 2016, 4:30 PM), <https://www.clarion-ledger.com/story/news/2016/07/21/hosemann-state-voter-id-law-survive/87407188/>.

135. *Id.*

136. James Carskadon, *Hosemann Encourages MSU Students to Make Their Voices Heard*, MISS. ST. U. (Sept. 25, 2018), <https://www.msstate.edu/newsroom/article/2018/09/hosemann-encourages-msu-students-make-their-voices-heard/>.

to go vote for those 3,000 Mississippians.”¹³⁷ In sum, Mississippi’s Secretary of State Hosemann has attended voter registration drives at higher education institutions to make it clear that Mississippi college students should vote, and he wants to ensure that college students in his state know that college student IDs are acceptable IDs for voting at the polls in Mississippi under the state’s voter ID law.¹³⁸

3. North Carolina

North Carolina’s 2013 voter ID law excluded both public and private college student IDs as acceptable forms of identification for voting at the polls in 2016, but the law “was invalidated in 2016 by a panel of federal judges who said the law tried to make it harder for African-Americans to vote.”¹³⁹ While the law was in effect during the 2016 primary, “it caused confusion at the polls for some college students.”¹⁴⁰ Proponents of allowing North Carolina college student IDs to be used for voting purposes at the polls argue such IDs “are trustworthy. Universities likely have more contact with ID holders than election[] boards have with registered voters, . . . noting the application, class selection, orientation[,] and cafeteria entry processes.”¹⁴¹ In contrast, opponents of allowing college student IDs to be used for voting purposes at the polls on Election Day in North Carolina have “expressed doubt about the legitimacy of elections and support for voter

137. *Id.*; see also Charlie Benton, *Hosemann Kicks Off Voter Registration at MSU*, STARKVILLE DAILY NEWS (Sept. 26, 2018) (on file with author) (noting that Secretary of State Hosemann “emphasized the point that if deployed military could vote, students should vote too. He also said college identification cards counted under the state’s voter ID laws. ‘You have a right to cast a ballot,’ Hosemann said. ‘That right is being defended by countless tens of thousands of Americans. You have that right, but you have an obligation to go vote for those 3,000 Mississippians who are in the sand dunes.’”).

138. See *supra* notes 134–37 and accompanying text.

139. Paul A. Specht, *Amid Voter ID Debate, NC May Push for More Uniformity in College IDs*, NEWS & OBSERVER (Nov. 26, 2018, 6:34 PM), <https://www.newsobserver.com/news/politics-government/article222183955.html>; see also *supra* notes 110–115.

140. Specht, *supra* note 139.

141. *Id.* (referencing comments made by Hope Williams, President of the North Carolina Independent Colleges and Universities).

ID. Some said they oppose allowing IDs from any college, arguing that college IDs are more easily faked.”¹⁴²

4. Tennessee

Tennessee’s voter ID law explicitly excludes college student IDs as acceptable forms of identification for voting at Tennessee polls.¹⁴³ In opposing the use of college student IDs but permitting state university-issued photo IDs for voting at the polls for college faculty, Senator Bill Ketron (R-Tennessee), Tennessee’s voter ID bill sponsor, said that the difference is because “student IDs are frequently forged so students can lie about their age.”¹⁴⁴ Moreover, Senator Stacey Campfield (R-Tennessee) “expressed concern about just how valid a college ID would be, saying it doesn’t have proper security markings and that it puts pressure on election workers to ‘identify all types of college IDs’ and determine their validity.”¹⁴⁵ In addition, then-Press Secretary for the Tennessee House Republicans Caucus, Cade Cothren, echoed these same sentiments, stating that the argument against Tennessee’s “legislature’s voter ID laws ‘frankly does not make sense.’ Citing the ‘variety of IDs that exist out there for college campuses,’ including private, public, specialty and art schools, Cothren said he sees the law as a way to both prevent voter fraud and make poll worker’s jobs less difficult.”¹⁴⁶ Cothren further stated “[i]t shouldn’t really be up to (poll workers) to look at a hundred different varieties of IDs and determine themselves ‘Is this valid or is it not?’”¹⁴⁷ Adam Ghassemi, a then-spokesman for Tennessee Secretary of State Tre Hargett, in response to Tennessee college students’ protest over voter ID laws, stated that Tennessee’s voter ID law was “‘designed to prevent voter fraud while ensuring all registered Tennesseans exercise their right to vote.’ There

142. *Id.* (summarizing public comments related to the law).

143. *See* TENN. CODE ANN. § 2-7-112 (2014 & Supp. 2018); *see also supra* notes 88–97 and accompanying text.

144. Froomkin, *supra* note 124; *see Bill Allowing State College IDs to Vote Delayed, supra* note 60.

145. *Bill Allowing State College IDs to Vote Delayed, supra* note 60.

146. *Students Challenge State Voter ID Law*, FISK UNIV., <https://www.fisk.edu/articles/students-challenge> (last visited May. 13, 2019) (quoting Cade Cothren’s remarks).

147. *Id.*

is ‘a mechanism’ in place for citizens who cannot afford to pay for valid IDs.”¹⁴⁸

Conversely, Senator Bill Ketron (R-Tennessee) changed his mind about Tennessee’s voter ID law and introduced a bill in 2013 that would have permitted college student IDs issued by state colleges and universities to be used to vote at the polls, but it failed.¹⁴⁹ Other similar unsuccessful bills have been proposed by Democrats in Tennessee, including one in 2014 that would have amended Tennessee’s voter ID law to add state-issued college student IDs as an acceptable form of voter ID.¹⁵⁰ In addition, Tennessee Representative Harold Love (D-Nashville) stated in 2016 that he “was particularly concerned about the

148. Adam Tamburin & Jake Lowary, *Tennessee College Students Protest Voter ID Laws*, TENNESSEAN (Nov. 7, 2016, 4:41 PM), <https://www.tennessean.com/story/news/politics/2016/11/07/tennessee-college-students-protest-voter-id-laws/93414964/> (quoting Adam Ghassemi’s remarks). Ghassemi further noted “that Hargett’s office had helped to register more than 7,000 college students in this election cycle ‘to ensure they are not excluded.’” *Id.* (same). “Ghassemi . . . also worked with students to host voter registration drives at Fisk and Tennessee State University.” *Id.*

149. See *Bill Allowing State College IDs to Vote Delayed*, *supra* note 60 (stating the bill sponsored by Senator Ketron passed in committee 8-0 but failed on the Senate floor).

150. See Chas Sisk, *Senate Panel Kills Plan for Students to Vote Using Campus IDs*, TENNESSEAN (Jan. 21, 2014, 11:00 PM), <https://www.tennessean.com/story/news/politics/2014/01/22/senate-panel-kills-plan-for-students-to-vote-using-campus-ids/4757855/>.

A Senate committee rejected a bill Tuesday that would have let students at public colleges and universities use their campus identification cards to vote.

The Senate State and Local Committee voted 7–2 against Senate Bill 1082, which would have amended the voter ID law that the Tennessee General Assembly passed less than three years ago.

Senate Minority Leader Jim Kyle, the Memphis Democrat who sponsored the measure, argued that the voter ID requirement has been a burden to students because they often do not have driver’s licenses.

“Voter ID is not wrong, in my mind, per se,” he said. “Where I do believe states get into difficulty . . . is whether or not the access to the voter ID is fair and reasonable.” The panel spent about seven minutes debating the bill, which has been pending since last year. Similar measures have failed in the past.

Id. (omission in original).

fact that a number of students who come to Tennessee from other states are unable to use their state-issued IDs to participate in elections.”¹⁵¹ Representative Love stated, “[t]hey pay tuition here, some of them pay rent here and surely they contribute to our society here, . . . And yet we say that we don’t acknowledge the fact that they are who they say they are based upon their other state’s identification. To me, that’s wrong.”¹⁵² The Tennessee Democratic Party Chair Mary Mancini has “blamed Republicans in the General Assembly for passing laws that have put obstacles in front of young people, people of color and the elderly[.] ‘This has been by design,’ Mancini said, calling for an end to the state’s voter ID law.”¹⁵³

Moreover, Tennessee college students have advocated for college student IDs as an acceptable ID to allow them to cast a ballot in Tennessee on Election Day.¹⁵⁴ Fisk University student and activist Justin Jones stated he was not able to vote in the November 8, 2016 Presidential Election “because he didn’t have one of the acceptable IDs. He noted that the same is true for many other Nashville students who are from out of state.”¹⁵⁵ Jones inquired, “Why are we making it easier in Tennessee to get a gun and yet harder to vote?”¹⁵⁶ Likewise, Tennessee House Bill 2457 introduced by Democratic Representatives G.A. Hardaway and Sara Kyle, which would have permitted college student IDs as an acceptable form of voter ID, was voted down in 2018 by the Committee on Local Government “without hearing from those who would be most impacted by its passage”: Tennessee college students.¹⁵⁷

151. Joel Ebert, *Democrats Call for Changes to Tennessee Voter ID Law*, TENNESSEAN (Aug. 2, 2016, 12:56 PM), <https://www.tennessean.com/story/news/politics/2016/08/02/democrats-call-changes-tennessee-voter-id-law/87955056/>.

152. *Id.*

153. *Id.* (quoting Mary Mancini’s remarks).

154. *See* Tamburin & Lowary, *supra* note 148.

155. *Id.*

156. *Id.* (quoting Justin Jones’ remarks).

157. Rebekah Barber, *Tennessee Students Double Down in Fight Against Voter ID Law*, TRUTHOUT: POL. & ELECTIONS (Apr. 5, 2018), <https://truthout.org/articles/tennessee-students-continue-their-fight-against-a-discriminatory-voter-id-law> (noting that Tennessee Representative Tim Wirgau, Republican Chair of Tennessee’s Committee on Local Government, minutes before an impromptu press conference, called outside of his office by Tanya Torres, President of Fisk University’s Student Government, “refused to allow Torres and about two dozen other students from Fisk

V. “COLLEGE STUDENT FRIENDLY” STATES AND “COLLEGE STUDENT UNFRIENDLY” STATES IN SELECT SOUTHEASTERN STATES DURING THE NOVEMBER 2018 MIDTERM ELECTIONS

Of the seven Southeastern states of Alabama, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia, below is a brief summary of those states categorized as “college student friendly” Southeastern states and “college student unfriendly” Southeastern states based solely upon college students’ ability to use their college student IDs for voting purposes during the November 6, 2018 Midterm Elections as set forth in each state’s voter ID law.¹⁵⁸

A. “College Student Friendly” Southeastern States

Of the seven Southeastern states of Alabama, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia, the following five states had “college student friendly” voter ID laws in effect during the November 2018 Midterm Elections: Alabama, Georgia, Kentucky, Mississippi, and Virginia.

1. Alabama

Alabama’s voter ID law continued to permit students to use a college student photo ID at the polls for voting purposes during the November 2018 Midterm Elections.¹⁵⁹ Specifically, Alabama’s statute listed “[a] valid student . . . identification card issued by a public or private college, university, or postgraduate technical or professional school located within the state, provided that such identification card contains a photograph of the elector” as an acceptable form of photo

and Tennessee State University (TSU), another historically black school in Nashville, to testify in support of House Bill 2457.”)

158. The author reviewed each Southeastern state’s voter ID statute and Secretary of State’s website the day of the November 6, 2018 Midterm Elections to obtain each state’s most current voter ID requirements on Election Day.

159. See ALA. CODE § 17-9-30(a)(5) (2018); *Photo Voter ID*, ALA. SECRETARY ST., <https://sos.alabama.gov/alabama-votes/voter/voter-id> (last visited May 14, 2019); *NCSL Voter Identification Requirements: Jan. 17, 2019*, *supra* note 44 (noting in Table 2 that a student ID issued by Alabama’s colleges or universities is permissible so long as it includes a photo).

identification to allow college students to vote at the polls during the November 2018 Midterm Elections.¹⁶⁰

2. Georgia

Georgia's strict photo voter ID law remained the same and continued to allow students enrolled at certain designated state colleges, universities, and technical colleges to use their college student photo ID at the polls for voting purposes during the November 2018 Midterm Elections.¹⁶¹ Yet students attending private colleges or universities in Georgia still could not use their college student photo ID at the polls for voting purposes and were required to present another form of acceptable photo ID prior to voting at the polls during the November 2018 Midterm Elections.¹⁶²

3. Kentucky

During the November 2018 Midterm Elections, Kentucky's voter ID statute continued to allow as a form of acceptable identification for voting at the polls "any identification card with picture and signature, . . . any Kentucky state government-issued identification card with picture."¹⁶³ Therefore, Kentucky continued to permit college

160. § 17-9-30(a)(5).

161. See GA. CODE ANN. § 21-2-417(a)(2) (2018) (stating under Section (a) that proper identification at the polls "shall consist of any one of the following: . . . [a] valid Georgia voter identification card issued under Code Section 21-2-417.1 or other valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector . . ."); *Georgia Acceptable Student ID*, *supra* note 21; *NCSL Voter Identification Requirements: Jan. 17, 2019*, *supra* note 44.

162. See GA. CODE ANN. § 21-2-417(a)(2) (2018); *Georgia Acceptable Student ID*, *supra* note 21; *NCSL Voter Identification Requirements: Jan. 17, 2019*, *supra* note 44.

163. KY. REV. STAT. ANN. § 117.227 (2016); see also *Election Day Information*, KY. ST. BOARD ELECTIONS, <https://elect.ky.gov/Frequently-Asked-Questions/Pages/Election-Day-Information.aspx> (last visited May 14, 2019). For information on college students in Kentucky and their voting options, see *College Students*, KY. ST. BOARD ELECTIONS, <https://elect.ky.gov/Voters/Pages/College-Students.aspx>

student IDs as an acceptable form of identification for voting purposes during the November 2018 Midterm Elections as long as the ID contained the student's photo and signature.¹⁶⁴

4. Mississippi

During the November 2018 Midterm Elections, Mississippi's strict photo voter ID law was in effect,¹⁶⁵ and its statute specifically listed "[a] current and valid student identification card, containing a photograph of the elector, issued by any accredited college, university or community or junior college in the State of Mississippi" as an acceptable form of photo ID for voting in person at the polls.¹⁶⁶

5. Virginia

Virginia's strict photo voter ID law continued to allow college students to vote at the polls using "any valid student identification card containing a photograph of the voter and issued by any institution of higher education located in the Commonwealth or any private school located in the Commonwealth" during the November 2018 Midterm Elections.¹⁶⁷

(last visited May 14, 2019) (providing answers for college students regarding requesting absentee ballots and information for Kentucky college students who wanted to vote in Kentucky elections or vote in their home state elections).

164. See § 117.227; *Election Day Information*, *supra* note 163.

165. See MISS. CODE ANN. § 23-15-563 (2018); *Mississippi Voter ID—Easy & Free*, MISS. SECRETARY ST., <http://www.msvoterid.ms.gov/Pages/VoterIDAcceptID.htm> (last visited May 14, 2019); *NCSL Voter Identification Requirements: Jan. 17, 2019*, *supra* note 44 (noting in Table 2 that student IDs issued by Mississippi's accredited universities, colleges, community colleges, and junior colleges suffice for voter ID purposes).

166. § 23-15-563(2)(h).

167. VA. CODE ANN. § 24.2-643(B) (2016). See *Photo ID Required to Vote*, VA. DEP'T ELECTIONS, <https://www.elections.virginia.gov/registration/photo-ids-required-to-vote/index.html> (last visited May 14, 2019); *NCSL Voter Identification Requirements: Jan. 17, 2019*, *supra* note 44.

B. “College Student Unfriendly” Southeastern States

One of the seven Southeastern states did not allow college students to use their college student ID for voting at the polls during the November 2018 Midterm Elections: Tennessee.¹⁶⁸ Therefore, Tennessee had a “college student unfriendly” voter ID law at the time of the November 2018 Midterm Election. Tennessee’s strict photo voter ID law continued to exclude college student IDs as a form of acceptable ID for college students to present at the polls to vote during the November 2018 Midterm Elections.¹⁶⁹ Tennessee’s statute stated that “[a]n identification card issued to a student by an institution of higher education containing a photograph of a student shall not be evidence of identification for purposes of verifying the person’s identification on the application for ballot.”¹⁷⁰

C. Status of Other Southeastern States’ Voter ID Laws During the 2018 Midterm Elections

Because the U.S. Court of Appeals for the Fourth Circuit in July 2016 declared North Carolina’s voter ID law unconstitutional and the U.S. Supreme Court declined in 2017 to hear the case on appeal, North Carolina’s photo ID law was not in effect during the November 2018 Midterm Elections.¹⁷¹ North Carolina had a ballot measure before the

168. See *infra* notes 169–170 and accompanying text.

169. TENN. CODE ANN. § 2-7-112(c)(2)(B) (2014 & Supp. 2018); see also *What ID is Required When Voting?*, TENN. SECRETARY ST., <https://sos.tn.gov/products/elections/what-id-required-when-voting> (last visited May 15, 2019) (stating under *What IDs are not acceptable?* that “[c]ollege student IDs and photo IDs not issued by the federal or Tennessee state government are NOT acceptable. This includes county or city issued photo IDs, such as library cards, and photo IDs issued by other states.”); *NCSL Voter Identification Requirements: Jan. 17, 2019*, *supra* note 44 (showing college student IDs are not listed as acceptable forms of ID).

170. § 2-7-112(c)(2)(B).

171. See *N.C. State Conference of NAACP v. McCrory*, 831 F.3d 204, 241 (4th Cir. 2016), *cert. denied sub nom.*, *North Carolina v. N.C. State Conference of NAACP*, 137 S. Ct. 1399 (2017); see also *NCSL Voter Identification Requirements: Jan. 17, 2019*, *supra* note 44 (noting that North Carolina’s strict photo voter ID law “was struck down by a federal court in July 2016, and the U.S. Supreme Court declined to hear the case in May 2017. For now, North Carolina does not require voters to show an identification document at the polls.”). In addition, the NCSL notes in

people in November 2018 “to amend the state constitution to require voter identification.”¹⁷² “[P]hoto identification would be required, but the amendment require[d] the legislature to enact laws governing photo identification, which ‘may include exemptions.’”¹⁷³ North Carolina’s House “voted 72-40 Wednesday [December 19, 2018] to override Gov. Roy Cooper’s veto of Senate Bill 824, legislation implementing a constitutional amendment mandating voters present approved state-approved photo identification. The Senate’s vote Tuesday [December 18, 2018] was 32-13, so the measure will become law.”¹⁷⁴ The types of IDs allowed for voters to take to the polls on Election Day include “student IDs from community colleges and public or private universities.”¹⁷⁵

D. Tennessee Lacks A “College Student Friendly” Voter ID Law Compared to Other Southeastern States

Tennessee being categorized as a “college student unfriendly” Southeastern state above in this Article shows that Tennessee lacks a “college student friendly” voter ID law when its law is compared to the other Southeastern states contiguous to Tennessee. In fact, when reviewing the voter ID laws of Alabama, Georgia, Kentucky, Mississippi, North Carolina, and Virginia, it is apparent that state legislatures in most of these states took less restrictive measures by allowing college students to use their college student IDs to vote at the polls on Election Day in their states when passing their respective voter ID laws. Five contiguous Southeastern states to Tennessee, including Alabama, Georgia, Kentucky, Mississippi, and Virginia, enacted voter ID laws that allowed college student IDs as acceptable forms of identification

Table 1: Voter Identification Laws In Force In 2018 “refers to laws that are in effect in 2018 North Carolina . . . enacted a photo voter ID law that has been struck down by the courts.” *Id.* Therefore, it was “not included in this chart of in-force laws.” *Id.*; see also N.C. GEN. STAT. ANN. § 163A-1145 (2017) (repealed 2018).

172. *Voter Identification Requirements: Voter ID Laws*, NAT’L CONF. ST. LEGISLATURES (Oct. 31, 2018) (on file with author).

173. *Id.*

174. CJ Staff, *House Overrides Cooper Veto; Voter ID Legislation Becomes Law*, CAROLINA J. (Dec. 19, 2018, 3:40 PM), <https://www.carolinajournal.com/news-article/house-overrides-cooper-veto-voter-id-legislation-becomes-law/>.

175. *Id.*

to vote at the polls, including during the most recent November 6, 2018 Midterm Elections, whereas Tennessee continued to exclude such college student IDs.¹⁷⁶ Moreover, as of December 2018, North Carolina also allows college student IDs to be presented for voter identification purposes at the polls on Election Day.¹⁷⁷ Tennessee could easily make voting great for college students by changing its current voter ID law to permit college student IDs to be used for voter verification purposes at the polls on Election Day, thereby flipping the state from a “college student unfriendly” state to a “college student friendly” state in terms of its voter ID law.

Senate Minority Leader Jim Kyle (D-Memphis) “questioned why [Tennessee] lawmakers continue to resist letting college students show their campus IDs at the polls. He noted that other states, including Arkansas and Mississippi, allow them.”¹⁷⁸ Kyle stated, “[i]t again raises the question of whether this is an issue of voter identification or an issue of voter suppression.”¹⁷⁹ He further remarked, “[q]uite frankly, it’s a political issue. Many students that are in college don’t vote for Republicans or have any reason to vote for Republicans. And consequently, if you can’t win them over, stop them.”¹⁸⁰

Additionally, President of Fisk University’s Student Government Tanya Torres has “challenged the unsubstantiated claim that student IDs are more easily replicated and thus susceptible to fraud. A former legislative intern, Torres noted that she was able to use her intern ID—which is no more secure than a student ID—to vote.”¹⁸¹ Torres “observed that 70[%] of the students at Fisk are from out of state and thus face barriers in accessing IDs acceptable under Tennessee law. She also pointed out that Alabama, Kentucky, Mississippi, and Virginia allow student IDs to be used for voting.”¹⁸² Therefore, students attending college in Tennessee have more restrictions imposed on their right to vote on Election Day than students who attend colleges in another

176. *See supra* Sections V.A & V.B.

177. *See* CJ Staff, *supra* note 174.

178. Sisk, *supra* note 150.

179. *Id.* (quoting Senate Minority Leader Jim Kyle).

180. *Id.* (quoting Senate Minority Leader Jim Kyle).

181. Barber, *supra* note 157.

182. *Id.*

Southeastern state close to Tennessee. These restrictions place unnecessary limits on a critical demographic in America who are often already limited in where and how they can vote by being without an alternative form of identification or by attending college out of state.

VI. CONCLUSION

Tennessee State Senator Bill Ketron (R-Murfreesboro) once remarked “[o]ur right to vote is one of the most sacred symbols of our freedoms and we must protect the integrity of our elections.”¹⁸³ It is known that “[c]ollege students have the potential to influence elections. There were 17.3 million undergraduate students enrolled in degree-granting postsecondary institutions in 2014, according to the National Center for Education Statistics. Experts predict that population will increase to 19.8 million by 2025.”¹⁸⁴ Yet some states have passed voter ID requirements that make it difficult for college students to exercise their constitutional right to vote.¹⁸⁵

Some “[e]xperts have speculated on a number of reasons why college students don’t vote: [t]hey don’t feel connected to the community, don’t like the candidates or don’t know enough about the issues.”¹⁸⁶ In reality, for many college students, “this isn’t because of voter apathy, but rather the hassle involved with registering to vote and casting their ballot while in college. They face hurdles including proof of residency, absentee ballot use and voter identification,” which issues often “tend to disproportionately affect college students because so many students travel out of state for college.”¹⁸⁷ Therefore, according to Mike Burns, National Director for the nonpartisan Campus Vote

183. Ebert, *supra* note 151 (quoting Senator Ketron).

184. Elizabeth Campbell, *Voting Hurdles Often Keep College Students Away from the Ballot Box*, NBC NEWS (Aug. 25, 2016, 8:08 AM), <https://www.nbcnews.com/feature/college-game-plan/voting-hurdles-often-keep-college-students-away-ballot-box-n637046>.

185. *See, e.g.*, Campbell, *supra* note 184 (noting that “[v]oter ID laws create new barriers” and that “[w]hile more states now require IDs at the polls, many don’t accept student IDs as a valid form. Nine states never accept student IDs, and 21 others only accept them if they meet certain criteria such as an address or expiration date.”); Powell, *supra* note 64.

186. Campbell, *supra* note 184.

187. *Id.*

Project, which focuses on informing college students of their voting rights and helping to resolve college student voting issues, “[t]here’s a whole group of states that are trying to make it harder and harder every year to get to the ballots . . . It’s stuff that boils down to a lack of information as opposed to a lack of interest” by college students in the voting process.¹⁸⁸ Another commentator recently remarked:

As the 2018 general midterm election approaches, college student voting rights are under attack. Students are being specifically targeted for voter suppression in a number of states by excluding student identification as an acceptable form of voter identification, tightening up residency requirements, and selectively spreading misinformation. Fortunately, in several states, campus-wide and student-led movements are organizing and mobilizing college voters in a recognition of the historic role that students have played in the civil and voting rights movements in the United States and abroad.¹⁸⁹

College students whose voting rights are being suppressed are advocating for changes in their state’s voter ID laws. For example, in Tennessee, “[o]n the 50th anniversary of the historic Selma to Montgomery Voting Rights March in 2015, nine students from Fisk and TSU—collectively known as the Nashville Student Organizing Committee—filed a federal voting rights lawsuit against Tennessee Secretary of State Tre Hargett.”¹⁹⁰ The lawsuit cited both the Fourteenth Amendment and the Twenty-Sixth Amendment to the U.S. Constitution and asserted that Tennessee’s “voter ID law intentionally discriminates against students by barring them from using their school IDs

188. *Id.* (quoting Mike Burns).

189. Michael Latner, *As States Target University Students for Voter Suppression, Student Groups Are Fighting Back*, UNION CONCERNED SCIENTISTS (Aug. 7, 2018, 5:11 PM), <https://blog.ucsusa.org/michael-latner/as-states-target-university-students-for-voter-suppression-student-groups-are-fighting-back>.

190. Barber, *supra* note 157.

even though the nearly identical employee IDs used by college and university faculty are acceptable.”¹⁹¹ The student activists lost their lawsuit but “[t]hey’re considering further litigation.”¹⁹² Fisk student Justin Jones, one of the plaintiffs in the 2015 lawsuit, remarked, “[i]f our votes were not powerful, they would not be trying to stop us” from using student IDs to vote at the polls in Tennessee.¹⁹³ Moreover, U.S. Representative Jim Cooper (D-Tennessee), quoting Abraham Lincoln, remarked “[h]e said that government is of the people, by the people and for the people. The people cannot express their wishes unless they vote, . . . several state legislatures, including ones in the South, [have] successfully passed laws to ‘not only ID voters but to suppress the vote.’”¹⁹⁴

Currently, students attending college in Tennessee have more restrictions placed on their voting rights than students attending college in all of the other six Southeastern states contiguous to Tennessee.¹⁹⁵ Although many college students “are stepping up to take on their historic responsibility as agents of change, and showing it at the ballot box,”¹⁹⁶ students attending both public and private colleges and universities in the select Southeastern states discussed in this Article should continue to be allowed to present their college student IDs as acceptable forms of identification to vote in person at the polls on Election Day. Despite the arguments articulated for refusing to allow college student IDs to be used for voting purposes by certain Tennessee legislators, currently all six Southeastern states contiguous to Tennessee, including Alabama, Georgia, Kentucky, Mississippi, North Carolina, and Virginia, have less restrictive voter ID laws in effect and allow college students to use their college student IDs to vote at the polls on Election Day. Therefore, these Southeastern states have demonstrated their commitment to providing college students with easier access to voting in person at polling booths on Election Day.

191. *Id.*

192. *Id.*

193. *Id.* (quoting Justin Jones).

194. Ebert, *supra* note 151 (quoting Representative Cooper).

195. *See generally supra* Section V.D.

196. Latner, *supra* note 189.

College students are able to decide “where they want to vote, whether it is in their home state or the state where they attend college.”¹⁹⁷ Yet “[t]here should not be any substantial barriers for college students to exercise their fundamental right guaranteed by the U.S. Constitution and by U.S. Supreme Court precedent: the right to vote.”¹⁹⁸ In sum, if certain Southeastern states, especially Tennessee, truly want to eliminate barriers to voting, they should allow students attending both public and private colleges and universities to use their college student IDs to vote where they attend college to really make voting great in America.

197. Carter, *supra* note 2, at 394 (citing Lucier, *supra* note 2); see also *supra* notes 6–9 and accompanying text. But see *College-Town Worry: Will 18-to-21 Voters Take Over?*, U.S. NEWS & WORLD REP. (July 1, 2016, 12:01 AM), <https://www.us-news.com/news/articles/2016-07-01/college-town-worry-will-18-to-21-voters-take-over>.

198. Carter, *supra* note 2, at 394.