

# VOTER ID: THE COURTS

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- Status of Voter ID
- Voter ID Litigation and Court Decisions
- Effect of Court Decisions on Voter ID Policy

# WHAT IS VOTER ID?

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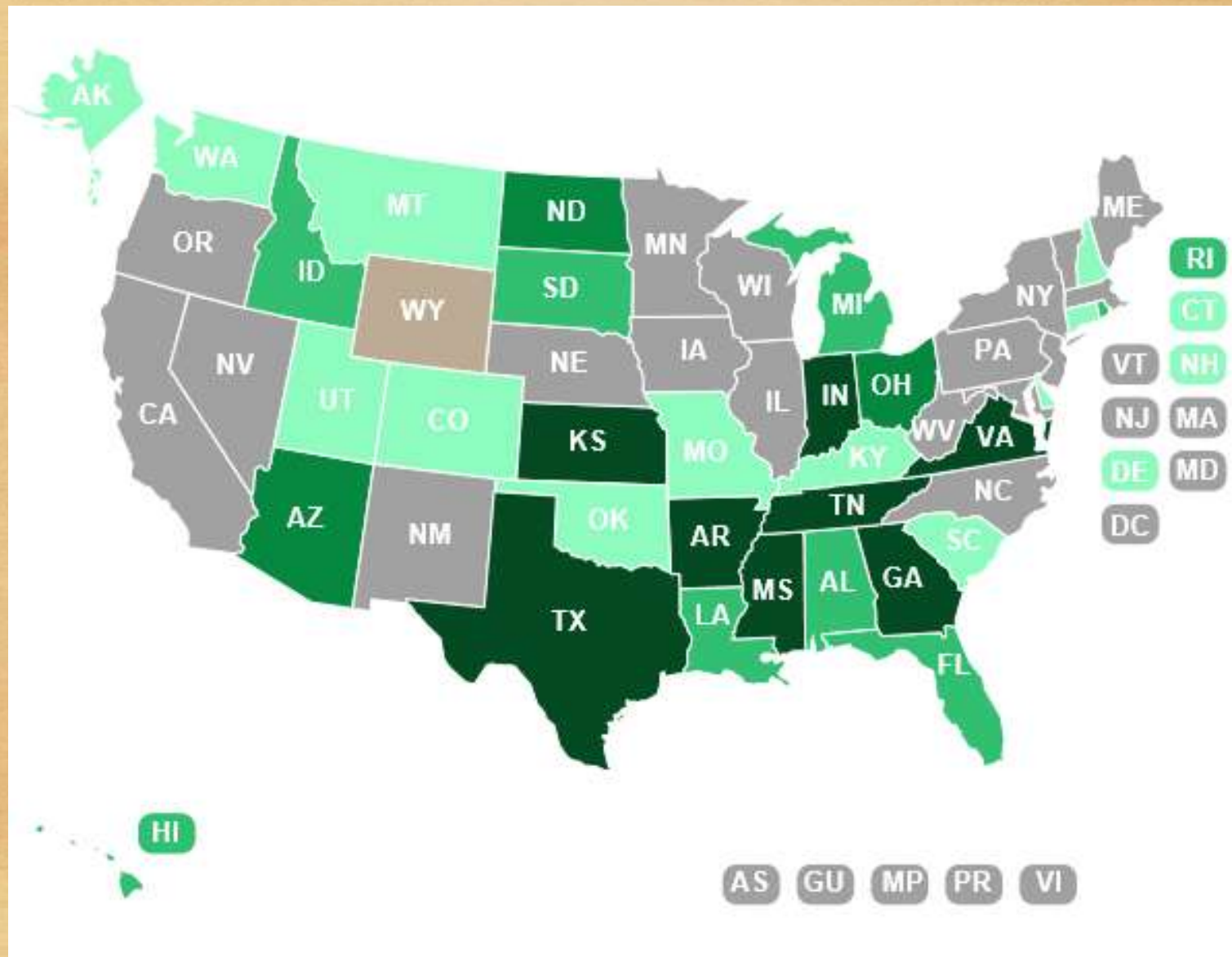
Requirement that a voter  
present a form of  
identification before voting.

# STATUS OF VOTER ID

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- 34 states have voter ID laws
- 31 state voter ID laws are in effect
- Pennsylvania and Wisconsin: struck down
- North Carolina: effective 2016





[Source: "Voter Identification Requirements/Voter ID Laws," NCSL, June 25, 2014.]

# VOTER ID CHALLENGES

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- Equal Protection (14<sup>th</sup> Amendment)
- State Constitutions
- Poll Tax (24<sup>th</sup> Amendment)
- Voting Rights Act



# EQUAL PROTECTION

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“No state shall ... deny to any person within its jurisdiction the equal protection of the laws.”

[14<sup>th</sup> Amendment, U.S. Constitution.]



# EQUAL PROTECTION

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- Indiana voter ID (upheld)
  - *Burdick* test: (1) whether the law imposes a severe burden on voters; (2) if a severe burden, the court applies strict scrutiny; and (3) if no severe burden, the court balances the burdens imposed by the law against the state's interests.
- Wisconsin voter ID (struck down)



# STATE CONSTITUTIONS

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- Voter qualifications
  - “Every person, being eighteen years of age, being a citizen of the United States, being a resident of the State ..., and being duly registered ... shall be entitled to vote ... and there shall be no other qualification attached to the right of suffrage.” [Tennessee Constitution, Art. IV, s. 1.]
- Right to vote
  - “Elections shall be free and equal.” [Pennsylvania Constitution, Art. I, s. 5.]

# STATE CONSTITUTIONS

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- Tennessee voter ID (upheld)
  - Voter qualifications/right to vote
- Pennsylvania voter ID (struck down)
  - Right to vote

# POLL TAX

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“The right of citizens of the United States to vote ... shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.”

[24<sup>th</sup> Amendment, U.S. Constitution.]



# POLL TAX

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- Cost for voter ID document vs secondary documentation
- Michigan voter ID (rejected argument)
- State Constitution/Equal Protection
  - Tennessee voter ID (rejected argument)
  - Missouri voter ID (accepted argument)



# VOTING RIGHTS ACT

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“No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.”

[Section 2, Voting Rights Act.]

# VOTING RIGHTS ACT

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- Section 2 vs Section 5
- Wisconsin voter ID (struck down)
- U.S. Department of Justice: Texas, North Carolina, Ohio, and Wisconsin

# VOTER ID POLICY DECISIONS

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- What documents count as voter ID?
- What happens if a voter does not present voter ID?



# CONCLUSION

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Although most state voter ID laws have been upheld in federal and state courts, there are important lessons in court decisions that can guide a state legislature in creating or amending its voter ID law.



# QUESTIONS?

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