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## Supreme Court weighs in on partisan struggle over state voter ID law

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WASHINGTON — The dispute over Indiana's voter identification law that is headed to the Supreme Court next week is as much a partisan political drama as a legal tussle.

The mainly Republican backers of the law, including the Bush administration, say state-produced photo identification is a prudent measure to cut down on vote fraud — even though Indiana has never had a prosecution of the kind of fraud the law is supposed to prevent.

The opponents, mainly Democrats, view voter ID a modern-day poll tax that disproportionately affect poor, minority and elderly voters — who tend to back Democrats. Yet, a federal judge found that opponents of the law were unable to produce evidence of a single Indiana resident who had been barred from voting because of the law.

The Supreme Court, which famously split 5-4 in the case that sealed the 2000 presidential election for George Bush, will take up the Indiana law on January 9, just as the 2008 presidential primaries are getting under way.

A decision should come by late June, in time to be felt in the November elections in Indiana and in Georgia, the other state with a strict photo ID requirement, as well as in a handful of other states.

The justices will be asked to decide whether the law is an impermissible attempt to discourage certain voters or a reasonable precaution among several efforts aimed at cutting down on illegal voting.

"There's more than a little bit of irony in going to the Supreme Court and asking them to rise above partisan politics in election cases," said Richard Hasen, an election law expert at Loyola Law School in Los Angeles.

The court's decision in the disputed 2000 election is partly responsible for the ensuing increase in election-related lawsuits and the loss of confidence by some groups in the voting system, Hasen said. Yet, the other branches of government seem more politicized than ever, leaving the court as the best option despite the 2000 election dispute, he said.

Indiana argues that demands for identification are frequent in today's society, and producing a photo ID at polling places is hardly onerous.

"In light of such widespread demands for ... government-issued photo identification, it is almost shocking that in late 2007 Indiana can be characterized as even unusual in requiring it at the polls," the state said in its court filing.

The Bush administration maintains states need not wait for fraud to occur to take action to prevent it. "The state's interest in deterring voter fraud before it happens is evident from the monumental harm that can come from such fraud," the government said in its supporting brief.

The law's opponents counter that an ID may be just one card among many in most people's wallets, but some groups are far less likely to have them.

Homeless people wanting to vote might face the most difficulty under the law. While the state will provide a voter ID card free of charge to the poor, applicants still must have a birth certificate or other documentation to get the ID card.

"I think it's wonderful, but if you can't prove who you are, you can't get an ID," said Carter Wolf, executive director of Horizon House, which provides services to homeless people.

Getting a birth certification isn't always easy, Wolf said, or cheap. Sometimes it can cost \$60 to \$70 to get a birth certificate from other states.

"Obtaining a photo identification card under Indiana law requires documentation that is difficult, if not impossible, for many homeless individuals to provide," Carter Phillips, a leading Supreme Court lawyer, wrote in a supporting brief.

Even without an ID, indigent people can cast provisional ballots, then show up within 10 days at county offices and sign a form attesting to their vote.

But the Marion County Election Board, which includes Indianapolis, said just two of 34 voters who cast provisional ballots because they lacked voter ID showed up at county offices to validate their vote in the 2007 municipal election. Their signatures all matched those on file, but could not be counted because of the photo ID requirement.

Hasen said while neither side has abundant evidence to back its position the fraud argument is far less plausible than the claim that an ID requirement will reduce voter turnout.

Someone wanting to sway an election through fraud would be unlikely to get individuals to show up at the polls, pretend to be someone else and then ask them to cast a secret, unverifiable ballot, said Hasen.

But he said, "When voting is more difficult, people tend to not vote."

Opponents to the law argue the real potential for voter fraud lies in the filing of absentee ballots and that Indiana has made it easier to vote absentee in recent years.

The cases are Crawford v. Marion County Election Board, 07-21, and Indiana Democratic Party v. Rokita, 07-25.

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