
**IN THE SUPREME COURT
OF THE COMMONWEALTH OF PENNSYLVANIA**

No. 71 MAP 2012

VIVIETTE APPLEWHITE, *et al.*,

Appellants,

v.

COMMONWEALTH OF PENNSYLVANIA, *et al.*,

Appellees.

**BRIEF FOR *AMICUS CURIAE*,
THE REPUBLICAN CAUCUS OF THE PENNSYLVANIA
HOUSE OF REPRESENTATIVES**

Appeal from the Determination on Application for Preliminary Injunction,
dated August 15, 2012, of the Commonwealth Court, No. 330 M.D. 2012

Received in Supreme Court

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STATEMENT OF INTEREST OF *AMICUS CURIAE*

Amicus Curiae, the Republican Caucus of the Pennsylvania House of Representatives, files this brief in support of the position of Appellees, the Commonwealth of Pennsylvania; Thomas W. Corbett, in his capacity as Governor; and Carol Aichele, in her capacity as Secretary of Commonwealth, in No. 71 MAP 2012.

A key issue in this appeal is the constitutionality of House Bill 934, which was enacted as the Act of March 14, 2012, P.L. 195, No. 18 (“Act 18” or “HB 934”), and is more commonly known as Pennsylvania’s Voter ID law. Similar legislation has been enacted in 32 other states. While varying in certain details, all of these Voter ID laws, like Pennsylvania’s Act 18, require that voters substantiate their eligibility to cast a ballot by producing reliable identification.

The interest of the House Republican Caucus in this case relates to the constitutional authority of the General Assembly to pass legislation, like Act 18, which regulates elections. In that capacity, the Republican Caucus has a significant interest in this case in ensuring that the informative legislative history of Act 18 is brought to bear in this Court’s analysis of Act 18, to place into proper context the contentious partisan rancor that threatens to supplant the actual careful and considered law-making process underlying Act 18.¹

¹ For brevity, *amicus curiae* incorporates by reference the Statement of Jurisdiction, Order in Question, Statement of the Question Involved, and Statement of the Case of Appellee the Commonwealth of Pennsylvania rather than setting forth those sections at length.

SUMMARY OF ARGUMENT

One person, one vote represents the fundamental principle of our democratic system. Pennsylvania's Voter ID law has always been about honoring this constitutional tenet. Expanding the franchise serves this principle, but protecting the franchise preserves its value. To make sure that an individual vote matters requires that someone else does not have the opportunity to abuse the system. Act 18 does nothing more than this. It says that every citizen who is entitled to vote should be able to vote, and that every citizen who votes should not have his or her vote diluted by someone else's fraud. Act 18 is designed to ensure that voters will be able to select their political leaders within a fair, constitutional arena without fear that their votes and constitutional right of self-government are being devalued through fraud.

This compelling purpose for Act 18 – the preservation of the franchise by combating and deterring real and potential voter fraud – is set forth at length in the contemporaneous legislative history of HB 934 as it traversed the General Assembly. By simply reading the public statements of numerous legislators on the House floor, it becomes clear that (i) the purpose of Act 18 is to protect the integrity of the voting process in Pennsylvania; (ii) preventing voter fraud is an important part of protecting the franchise; (iii) eliminating illegal, illegitimate votes is not the same as voter suppression; and (iv) Act 18 is modeled after the Voter ID law of Indiana, which the United States Supreme Court upheld as constitutional in Crawford v. Marion County Election Bd., 553 U.S. 181 (2008). Yet despite this rich legislative history, curiously absent from the Applewhite Appellants' brief is any mention whatsoever of legislators' statements during the lengthy debates on the House or Senate floor. Instead, the Applewhite Appellants resort to uninformed hyperbole rather than considered, reasoned argument. This brief seeks to correct that oversight by providing full and informative selections of the actual

legislative debates of HB 934, which became Act 18, for this Court's own careful consideration while weighing the constitutionality of Act 18.

ARGUMENT

In determining the legislative intent of Act 18, this Court looks first to the unambiguous words of the statute. Here, the General Assembly's intent to preserve the integrity of the voter process in a reasonable and neutral manner is unmistakable from the clear language of Act 18. The Commonwealth Court correctly concluded as much when, in rejecting the Applewhite Appellants' facial challenge to Act 18, it held that:

On its face, Act 18 applies equally to all qualified electors: to vote in person, everyone must present a photo ID that can be obtained for free. Act 18 does not expressly disenfranchise or burden any qualified elector or group of electors. The statute simply gives poll workers another tool to verify that the person voting is who they claim to be.

Applewhite v. Commonwealth, 330 M.D. 2012, slip op. at 22-23 (Pa. Commw. Aug. 15, 2012).

Based on the "plainly legitimate sweep" and "limited burdens" evident from the unambiguous words of Act 18, the Commonwealth Court upheld that law against constitutional challenge, found the Applewhite Appellants unlikely to prevail on the merits, and denied their application for preliminary injunctive relief. Id. at 23. The Commonwealth Court should be affirmed.

If, however, in analyzing this case, this Court finds that it should delve beyond the facial legitimacy of Act 18 into its underlying legislative purpose, the extensive legislative history of Act 18 should weigh heavily in the Court's considerations. The Commonwealth Court, as part of its analysis, addressed the Commonwealth's interests supporting Act 18. Id. at 58. In so doing, the Commonwealth Court took into account material from the Commonwealth's answer, stipulations of the parties, and certain extraneous commentary. But noticeably absent from the Commonwealth Court's consideration were those interests actually stated on the floor

of the House of Representatives during the passage of HB 934, which became Act 18. The contemporaneous legislative history of any statute is, of course, an important element in ascertaining the intent of the General Assembly. See 1 Pa. C.S. § 1921(c)(7); Board of Revision of Taxes v. City of Philadelphia, 607 Pa. 104, 129 n.10, 4 A.3d 610 (2010) (collecting authority for the proposition that the statements of legislators during the debate on a bill's passage are "instructive to our analysis and persuasive evidence" of legislative intent). What follows are the powerful reasons explained, on the House floor during legislative debate, as the true purpose and intent of Act 18.

I. THE LEGISLATIVE HISTORY OF ACT 18 UNEQUIVOCALLY DEMONSTRATES THAT THE VOTER ID LAW IS INTENDED TO PRESERVE THE INTEGRITY OF THE VOTING PROCESS IN PENNSYLVANIA.

The intent of the General Assembly, from the introduction of HB 934 until its final passage and enactment as Act 18, has been to protect the integrity of the vote. The prime sponsor of House Bill 934, Representative Daryl Metcalfe, Chair of the House State Government Committee, encapsulated that purpose when he offered:

Mr. Speaker, our intent in this legislation is not to keep any law-abiding citizen from casting their vote and exercising that right. Our intent is to ensure that every law-abiding citizen has the right to integrity in the process and to have their vote counted by ensuring that the person that is showing up next to them or later in the day actually is the individual that they claim to be according to the voting rolls and actually eligible to cast a vote to be a participant in we the people's government.

2011 Pa. Leg. J. 1362 (June 21, 2011).

Representative Michael Turzai, Majority Leader of the Pennsylvania House of Representatives, expanded on this explanation at length:

What is the foundation of a democracy? Your vote. And it is one person, one vote. And to make sure that your individual vote matters means that somebody else cannot be abusing the system to be voting for somebody who has passed away and on a roll or

somebody is doing impersonation Whether it is once or over a thousand times, any time that it occurs devalues each and every one of your votes and each and every one of our constituent's votes at the polls. One person, one vote is the crux of a functioning democracy; the crux.

Now, I would agree with many of my colleagues on the other side of the aisle that America has been about the expansion of enfranchisement – about the expansion. The Civil War was fought about citizenry for our citizens and the freedom from slavery, and that came about with the 13th, 14th, and 15th Amendments, which made it clear that each and every citizen was entitled to due process and the rights completely afforded by this country and the ability to vote. And in 1920 the right to vote was expanded to women in this country, who long had not had that opportunity. And in the seventies while we were fighting in the Vietnam war, again we expanded voter enfranchisement to those who are 18 and older, because if you can go to war and fight for this country, you should be able to vote. And we eliminated, I agree, property holding requirements, absolutely. And the key here is this: A voter ID is just saying that every citizen who is entitled to vote should be able to vote, and every citizen who votes should be sure that their vote has not been diluted by somebody else's fraud.

* * *

And, Mr. Speaker, in 2005, after the contested election for President, there was a building confidence in United States elections and the report of the Commission on Federal Election Reform, and its leaders were former President Jimmy Carter and James A. Baker, III. A quote from the letter from the cochairs: "We are recommending a photo ID system for voters designed to increase registration with a more affirmative and aggressive role for states in finding new voters and providing free IDs for those without driver's licenses." The executive summary said, ". . . to make sure that a person arriving at a polling site is the same one who is named on the list, we propose a uniform system of voter identification based on the 'REAL ID card' or an equivalent for people without a driver's license. To prevent the ID from being a barrier to voting, we recommend that states use the registration and ID process to enfranchise more voters than ever. States should play an affirmative role in reaching out to non-drivers . . . and provide photo IDs free of charge"

2012 Pa. Leg. J. 373 (Mar. 13, 2012).

Similar explanations abound in the legislative history. Representative Clymer, Chair of the House Education Committee, noted his support as follows:

Honest and free elections are imperative to a democracy where the voice of the people can be heard. Therefore, the election process cannot be and must not be compromised or tampered with. We all acknowledge that the freedoms and liberties we take for granted come at a high cost.

Today, as we debate this very issue, America's finest are engaged in foreign countries to safeguard the freedoms that we so often take for granted. Protecting the integrity of the ballot box should not be a Republican or Democrat issue. We cannot provide a brighter future for the next generations of Americans if we do not jealously safeguard the process by which we elect our political figures. Requiring a voter to show identification is a small price to pay when we consider the very undergirding of our democracy rests, to a large measure, on fair and honest elections.

Mr. Speaker, HB 934 is a standard to protect the political process, to keep it from ever being corrupted and abused by those who at times would choose to do so.

2011 Pa. Leg. J. 1458 (June 23, 2011).

Representative Barrar, representing Chester and Delaware Counties, submitted the following remarks for the record:

This bill dealing with photo ID is the number one most important thing we can do to protect the integrity of the election process. This is about one voter voting one time.

2011 Pa. Leg. J. 1477 (June 23, 2011).

In Federalist Number 35, which generally concerned taxation, Alexander Hamilton made several notable points with respect to a representative democracy and voting. He closed with this thought, "let every considerate citizen judge for himself where the requisite qualification [for an elected legislator] is most likely to be found." THE FEDERALIST NO. 35, at 217 (Alexander Hamilton) (Clinton Rossiter ed. 1961). Act 18 is about protecting the process

whereby “every considerate citizen” is able to make that judgment and be assured that his or her vote counts the same as everyone else.

II. LEGISLATORS ACTED, THROUGH THE PASSAGE OF ACT 18, TO PROTECT THE FRANCHISE BY PREVENTING VOTER FRAUD.

Cognizant of this purpose of ensuring the integrity of the voting process in Pennsylvania, the floor debate of HB 934 acknowledged numerous instances of electoral fraud² in the Commonwealth’s history as a reason to fear that the value of votes cast by qualified electors has been threatened. As Representative Bryan Cutler explained:

I believe it is important for the record to mention these following incidents that I alluded to in my opening statement. In May of 2009 a 6-month FBI investigation led to forgery and election fraud charges against seven Pittsburgh area ACORN (Association of Community Organizations for Reform Now) employees. All but one received 2 years of probation. In October of 2008 the Philadelphia Deputy City Commissioner, Fred Voigt, reported that ACORN had submitted approximately 8,000 fraudulent voter registration forms, and of those, 1500 involved apparent criminality and were referred to the D.A. for investigation. Furthermore, on October 21, 2008, an ACORN employee was arrested in Delaware County after forging and submitting fraudulent applications. He was charged with 108 counts of forgery, theft, and records tampering. He pled guilty and was sentenced to 6 to 23 months of house arrest. And also in 2008, October, an ACORN canvasser was arrested in York after he was found to have submitted more than 100 fraudulent

[At this point, Rep. Cutler’s comments were interrupted by another speaker.]

2012 Pa. Leg. J. 356 (Mar. 13, 2012).

The bill’s prime sponsor echoed these concerns when discussing the details of several specific incidents, including one involving a Pennsylvania Senate election, in which fraud threatened to undermine the fair electoral process upon which our Commonwealth is based.

² This includes discussion of voting fraud, registration fraud and absentee ballot fraud, since these are part and parcel of the myriad of ways in which individuals and campaigns have sought to interfere with the proper execution of democratic elections.

Mr. Speaker, there have been incidents of voter fraud in Pennsylvania in the past. In fact, we had an election, the *Marks v. Stinson* election in the 1993 special election in the 2d Senatorial District, where they received testimony from political party officials, people working on behalf of the senatorial candidates who described campaign activities that were at best questionable and at worst illegal. Ultimately, the election was overturned. We also had the 1998 conviction of former Pennsylvanian [*sic*] Congressman Austin Murphy, who was convicted of absentee ballot fraud. So we have instances.

2012 Pa. Leg. J. 347 (Mar. 13, 2012) (remarks of Rep. Metcalfe).

Representative Simmons similarly remarked on a troubling report concerning voting problems:

The notion that my friends on the other side of the aisle keep putting out there, that there is no such thing as voter fraud, is an absolute farce. In an editorial in the Philadelphia Inquirer on Sunday by attorney Linda Kerns, she talks about the mystery of the two Joes: Joseph Cheeseborough, spelled C-h-e-e-s-e-b-o-r-o-u-g-h, and Joseph Cheeseboro, spelled C-h-e-e-s-e-b-o-r-o, both of whom regularly voted in the City of Brotherly Love. At a recent meeting of the city commissioners who oversee elections, the unusual names caught the eye of an enterprising activist, who visited the south Philadelphia addresses of the two Joes. One of the addresses was a vacant lot; the other address was a convenience store. Obviously, we cannot check every address on voter registration cards before an election. However, this bill would force the mysterious Joes to produce a valid ID before voting.

2012 Pa. Leg. J. 338-339 (Mar. 13, 2012).

Voter fraud – or, at least, the susceptibility of Pennsylvania elections to such voter fraud with the law as it pre-existed Act 18 – was the subject of comments made by

Representative John Taylor of Philadelphia. He had this to say about electoral fraud:

I rose to speak today mainly to challenge the assertion that has been said over and over and over, particularly from members from Philadelphia where I live, that voting fraud, voting irregularities, and voting problems are a myth. They virtually do not exist. They are nonexistent. That has been said over and over and over. And

they base this assertion merely on the fact of whether or not voting fraud has been prosecuted, and they ignore their own experiences on every single election day that they participate in. They ignore the complaints that come to them, to their committee people. They ignore calls to the Committee of Seventy, which happen all day long. They ignore the fact that calls go into the district attorney's office all day long. They ignore calls to 911 and police activity at the polling place. They ignore armed people in fatigues standing outside the polls, because it is not prosecuted. Well, prosecutors at every level have their hands full, whether you are a Federal prosecutor, a State prosecutor, a municipal prosecutor; I do not care which party you are, you have other priorities. It would be nice to prosecute voter fraud at all these levels, but it does not happen.

The other thing that was ignored is the fact that one of the largest cases of absentee voter fraud in the history of the United States was not even prosecuted. That was national news for 6 months. That was not a result of a prosecution. That was a result of a civil lawsuit in Federal court that resulted in an elected official being removed by the court – still no prosecution. So you cannot use whether or not things are being prosecuted as the way to determine whether or not there is fraud or irregularities or abuse at the polls.

2012 Pa. Leg. J. 372 (Mar. 13, 2012).

No one ever gets caught jumping the fence when the gate is left open. While voter fraud may not be rampant, there is no doubt that it has happened many times and, without Act 18, could easily happen again. Each and every instance of such fraud dilutes the votes of those who play by the rules. As evidenced by the discussion on the House floor during the passage of Act 18, and particularly by Rep. Taylor's floor comments, Act 18 simply closed the gate and, in so doing, provided an additional tool to detect and deter voter fraud.

III. THOSE WHO VOTED FOR ACT 18 UNDERSTOOD THAT ELIMINATING ILLEGITIMATE, FRAUDULENT VOTES IS NOT VOTER SUPPRESSION.

Despite nefarious and unfounded allegations to the contrary, Act 18 was never about suppression of any legitimate votes. Representative Ryan Aument, of Lancaster County,

gave perhaps the most impassioned and eloquent explanation of this on March 14, 2012, while recalling the perspective on American democracy provided to him by his service in Iraq:

Mr. Speaker, 9 years ago this summer I was a captain serving with the 4th Infantry Division in central Iraq. The young men I served with fought not just for the rights, our rights, as citizens of this country, but to extend the right to vote to Iraqis who did not previously have the privilege to choose their leaders. In June of 2003, I was in Tuz, Iraq. Tuz was a small Kurdish village on the outskirts of Kirkuk. The Kurds were a people brutally terrorized by Saddam Hussein's regime. The young men in my infantry company, engaged in a war far from the borders of their own country, fought to ensure those people were able to vote in a local town council election for the very first time in the summer of 2003. Those young men I served with fought for the right to vote, but for the integrity of that young system as well. Remember the purple-stained finger.

Some have used the term "fought and shed blood" rather casually. I do not. I can still hear the call of the wounded. I can close my eyes and still see the wounded soldiers evacuated from the field of battle. The "shedding of blood" is not a casual term for me. It is very, very real. The idea that my support of this bill would somehow constitute voter suppression is personally offensive and it is wrong.

I utterly reject the notion that insisting on one person, one vote; insisting on integrity; and insisting that voter confidence is somehow misguided will suppress turnout. Turnout is suppressed when political leaders engage in heated, heated negative rhetoric that has no relation to fact.

2012 Pa. Leg. J. 402 (Mar. 14, 2012).

In fact, as noted in the floor debate, similar efforts to ensure voting integrity in other states by requiring identification have actually increased voter turnout rather than suppressing it.

The issue here is one person, one vote. And I would also indicate that after Indiana implemented it, there was an increase by 2 percent overall in the first election after the voter ID law went into effect.

2012 Pa. Leg. J. 320 (Mar. 12, 2012) (remarks of Rep. Turzai). This same point was made on the following session day by Representative Bryan Cutler, who said:

Mr. Speaker, furthermore, there have been allegations that somehow requiring an ID would suppress voter turnout. That certainly has not been the case in Georgia and Arizona where after their ID law, minority turnout was up.

2012 Pa. Leg. J. 356 (Mar. 13, 2012). The point was reiterated again and again during debate:

Mr. Speaker, this is a commonsense approach. It is not overreaching. It is not designed to suppress voter turnout. In fact, study after study has shown that it has not suppressed any voter turnout. A good friend and colleague of mine on our side of the aisle specifically pointed out that in Indiana, the President, incumbent President won the State of Indiana after voter ID was implemented. The fact of the matter is, this is real reform.

2012 Pa. Leg. J. 373 (Mar. 13, 2012) (remarks of Rep. Turzai).

Finally, Representative Kate Harper of Montgomery County, Chair of the House Children and Youth Committee, provided some practical perspective on implementation of HB 934 when she assured fellow legislators:

I have been worried that seniors who do not drive and who have been voting for years and years will not be allowed to vote without voter ID. I wanted to let the members know that the Corbett administration has just agreed that they will help seniors get the necessary ID if they do not have driver's licenses. They will – and I did send this to all of you by e-mail – they will work with the Department of Aging and the Pennsylvania Department of Transportation to make sure that any senior who no longer has a valid driver's license can nevertheless vote with a PENNDOT nondriving voter ID. Because they have made this commitment, I feel sure that every Pennsylvanian who is eligible to vote and who wants to vote will be able to do so, and I will personally make sure that my constituents take full advantage of this opportunity to get a nondriving voter ID if that is what they need.

2012 Pa. Leg. J. 404 (Mar. 14, 2012).³

The notion of one person, one vote represents the fundamental principle of our democratic system. When votes are diluted through fraud, the system breaks down. As repeated time and again during the legislative debate in the House of Representatives, Act 18 was never about suppression of legitimate votes. And the empirical evidence recited on the House floor showed just the contrary. In the wake of Indiana and Georgia passing Voter ID laws, there was an increase in the number of legitimate votes cast. The Administration expressed its intention, as noted during the debate and recognized in the Commonwealth Court's opinion, that legitimate voters would not be disenfranchised by Act 18. Thus, Act 18 has always been about creating a level playing field where every Pennsylvanian's vote represents an equal opportunity to have a voice in government.

IV. PENNSYLVANIA'S VOTER ID LAW WAS CAREFULLY CRAFTED TO CONFORM WITH CONSTITUTIONAL REQUIREMENTS.

The legislative history of Act 18 also demonstrates that the General Assembly carefully crafted the Voter ID law to conform to constitutional requirements. In addressing this goal, the Pennsylvania General Assembly was fortunate to enjoy guidance from the United States Supreme Court's decision in Crawford v. Marion County Election Bd. In that case, the United

³ The Commonwealth Court expressed similar confidence, explaining:

[C]onsidering the believable testimony about the pending DOS photo IDs for voting, and the enhanced ability of birth confirmation through the Department of Health for those born in Pennsylvania, I am not convinced any qualified elector need be disenfranchised by Act 18 . . . based on the availability of absentee voting, provisional ballots, and opportunities for judicial relief for those with special hardships, I am not convinced any of the individual Petitioners or other witnesses will not have their votes counted in the general election.

Applewhite, 330 M.D. 2012 at 11.

States Supreme Court evaluated whether Indiana's Voter ID law, Indiana Senate Enrolled Act No. 483, 2005 Ind. Acts 2005, complied with federal constitutional guarantees under the Equal Protection Clause of the Fourteenth Amendment. After detailed analysis, the Supreme Court concluded that Indiana's Voter ID law was constitutionally firm because "application of the statute to the vast majority of Indiana's voters is amply justified by the valid interest in protecting 'the integrity and reliability of the electoral process.'" Crawford, 553 U.S. at 204 (quoting Anderson v. Celebrezze, 460 U.S. 780, 788, n.9 (1983)).

Indiana's law did not merely influence the evolution of HB 934 in the legislative process, but was the explicit example after which Act 18 was modeled. The prime sponsor explained:

[W]e drafted this legislation specifically to follow along the same parallel lines as the Indiana legislation has progressed to require voter ID, a photo ID by voters, which has been upheld by the U.S. Supreme Court, and we want to keep our legislation in line with what has been tested through the Supreme Court to ensure that it withstands any potential challenges down the road.

2011 Pa. Leg. J. 1297 (June 20, 2011) (remarks of Rep. Metcalfe); see also 2011 Pa. Leg. J. 1367 (June 21, 2011) (remarks of Rep. Metcalfe).⁴ This point was reiterated throughout the various stages of the legislative debate.

HB 934 is quite similar and is based upon the State of Indiana statute. The State of Indiana statute was upheld in a 6-to-3 United States Supreme Court decision, the validity. And in addition, that statute, after it was passed, that State went with the incumbent President, so this notion that somehow it is voter suppression or an attempt to change the outcome of an election is just not accurate.

⁴ Rep. Metcalfe explained that the "objective . . . [was] staying parallel to the law that has been found to be constitutional by the U.S. Supreme Court."

2012 Pa. Leg. J. 352 (Mar. 13, 2012) (remarks of Rep. Turzai). The General Assembly's cautious approach, by modeling Act 18 on Indiana's Voter ID law, demonstrates its respect for the important constitutional rights at issue.

The constitutional guarantee of Equal Protection is universally recognized in American law as the fundamental bedrock of fair elections. Just as the United States Supreme Court applied that guarantee in Crawford, so too has this Court applied substantively identical principles in such cases as Kramer v. Workers' Comp. Appeal Bd. (Rite Aid Corp.), 584 Pa. 309, 332, 883 A.2d 518 (2005), Commonwealth v. Albert, 563 Pa. 133, 138, 758 A.2d 1149, 1151 (2000), and many others. The Commonwealth Court correctly looked to that decisional guidance when evaluating Act 18, and the legislative history of Act 18 is also replete with references to Crawford and the constitutional principles it enforces when the General Assembly was shaping and debating Pennsylvania's Voter ID law. To prevent voter fraud is to protect the franchise of those legally qualified to vote. And while one cannot suppress voters who are not entitled to vote in the first place, the General Assembly was keenly aware that a recklessly drafted Voter ID law could itself work unintended mischief to the franchise. So to ensure that Act 18 prevented voter fraud without overzealously policing elections in a manner that might threaten to harm the franchise, the General Assembly purposefully adhered to the constitutionally-tested and judicially-endorsed text of Indiana's Voter ID law.

The General Assembly's fidelity to the constitutional teachings of Crawford is evident in the many ways in which Act 18 corresponds with Indiana's Voter ID law. Indeed, the two states' statutes are remarkably similar, with Pennsylvania generally departing from Indiana law only in manners that further protect the franchise. For example, Pennsylvania law provides many more forms of acceptable identification, with more exceptions, than the Indiana law

already found to have passed constitutional muster. The following chart summarizes the striking – and purposeful – similarities between the laws:

Topic	Pennsylvania	Indiana
Persons required to present proof of identity	<p>Each voter who appears to vote, in person, at each election.</p> <p>Each absentee voter at each election.</p>	<p>Each voter who appears to vote, in person, at each election.</p> <p>Absentee voters are not required to provide proof of identification.</p> <p>Voters who live in a licensed care facility which also serves as a polling place are not required to provide proof of identification.</p>
Criteria for the proof of identification	<p>Acceptable proof of identification for <i>in-person voters</i> must:</p> <ul style="list-style-type: none"> • Include the name of the voter that substantially conforms to the name on the voter rolls; • Include a photograph of the voter; • Include an expiration date, and the document is not expired;⁵ and • Have been issued by the U.S. government, the Commonwealth, a municipality of the Commonwealth to an employee of a municipality, an accredited Pennsylvania public or private institution of higher learning or a Pennsylvania care facility. <p>Acceptable proof of identification for <i>absentee voters</i>, the voter must submit the following with his or her absentee ballot application:</p>	<p>Acceptable proof of identification must:</p> <ul style="list-style-type: none"> • Include the name of the voter that conforms to the name on the voter rolls; • Include a photograph of the voter; • Include an expiration date, and the document is not expired or expired after the date of the most recent general election; and • Have been issued by the U.S. or the state of Indiana.

⁵ There are two exceptions to this requirement. First, a military identification card that includes a designation that the expiration date is indefinite will be accepted. Second, a Pennsylvania Department of Transportation-issued document (e.g., a driver's license or non-driver's identification card) which is not more than twelve months past the expiration date will be accepted.

	<ul style="list-style-type: none"> • If the voter has a driver's license or non-driver identification from Department of Transportation, the license or identification number; • If the voter does not have either form of Department of Transportation identification, the last four digits of the voter's social security number; • For voters who do not have a Department of Transportation identification or a social security number, a copy of one of the forms of acceptable proof of identification for in-person voters. <p>For voters who have a <i>religious objection to being photographed</i>, a valid-without-photo driver's license or identification card issued by the Department of Transportation is acceptable proof of identification.</p>	
Availability of free identification	The law requires the Department of Transportation to issue a non-driver identification card, at no charge, to any voter who signs a statement declaring under oath or affirmation that he or she does not possess proof of identification and that he or she requires proof of identification for voting purposes.	The law requires the Indiana Bureau of Motor Vehicles to issue a free identification card to any individual who does not have a valid Indiana driver's license and will be at least 18 years' old at the next election. The voter is not required to sign an affirmation stating that he or she does not possess proof of identification and requires such identification for voting purposes.
Procedure where voter appears without valid identification	<p>Voters who appear on election day without valid identification may cast a provisional ballot.</p> <p>A voter who casts a provisional ballot because he or she is unable to provide proof of identification on election day must execute an affirmation that he or she is the same person who appeared to vote on election day and must do one of the following within six calendar days</p>	<p>Voters who appear on election day without valid identification may cast a provisional ballot.</p> <p>In order to have his or her provisional ballot counted, the voter must personally appear before the circuit court clerk or the county election board no later than noon on the 10th day following the election with his or her proof of identification and an affidavit</p>

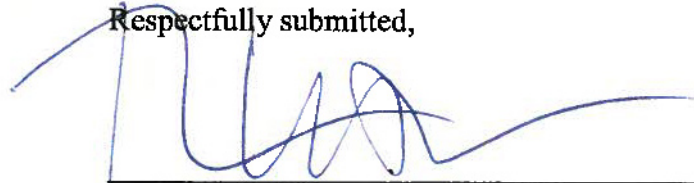
	<p>after the election: (i) Appear in person at the county board of elections to complete the affirmation and present proof of identification; or (ii) Submit an electronic, facsimile or paper copy of the affirmation and the proof of identification.</p> <p>A voter who is indigent and unable to obtain proof of identification without payment of a fee must submit an affirmation that he or she is the same person who appeared to vote on election day and that he or she is indigent in the same time frame and manner as described above.</p>	<p>indicating that he or she is the same person who appeared to vote.</p> <p>A person who voted by provisional ballot and is indigent and unable to obtain proof of identification without payment of a fee is not required to provide proof of identification after the election, but must personally appear and sign the required affidavit. A person who has a religious objection to being photographed is not required to provide proof of identification after the election, but must personally appear and sign the required affidavit.</p>
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As demonstrated above, Pennsylvania’s Voter ID law retreads the safe constitutional territory blazed by Indiana’s Voter ID law. The United States Supreme Court approved of Indiana’s law in Crawford. 553 U.S. at 204; see also Texas v. Holder, No. 2012-0128, slip op. at 9 (D.D.C. Aug. 30, 2012) (quoting Crawford at 191) (“After all, states not covered by section 5 have successfully implemented voter ID laws to ‘deter [] and detect [] voter fraud . . . improve and modernize election procedures . . . [and] safeguard [] voter confidence.’”). Given the Pennsylvania General Assembly’s purposeful modeling of Indiana law and its adherence to Crawford, this Court should not find it difficult to give Act 18 the same constitutional endorsement that Indiana’s law received.

CONCLUSION

“Voter identification is designed not to infringe upon the sanctity of each citizen’s vote, but to safeguard the sanctity of each citizen’s vote. We are protecting the individual’s right in a democracy.” 2011 Pa. Leg. J. 1450 (June 23, 2011) (remarks of Rep. Turzai). For all the foregoing reasons, *Amicus Curiae*, the Republican Caucus of the Pennsylvania House of Representatives, requests that this Court affirm the decision of the Commonwealth Court.

Respectfully submitted,



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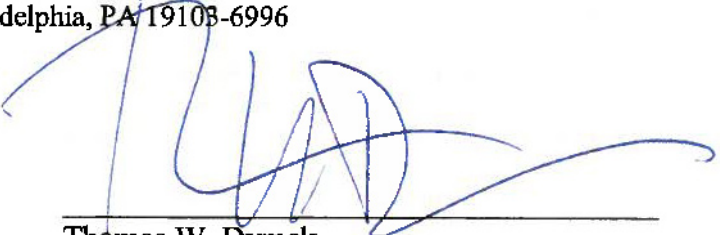
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