



State of the Disability Vote in Tennessee

White Paper



The State of the Disability Vote in Tennessee

Executive Summary

I. Introduction

2020 has proven to be an unprecedented and unpredictable year in the United States, and accordingly in Tennessee. With the specter of voting during a pandemic looming, half of all registered US voters expect it to be difficult to cast their vote on election day. If you have a disability in the state of Tennessee – that difficulty is even more pronounced.

A recent study by Rutgers University found Tennessee had the second-lowest turnout of voters with disabilities in the 2018 mid-term elections at 37.6 percent, compared to a nationwide average of 4.7%.

This broad uncertainty has exposed preexisting inequalities in access to the voting booth. Prior to COVID-19, over 40% of voters with disabilities expected difficulty casting their ballot. The barriers previously experienced by some are now faced by all.

Rising to the challenge presented by the pandemic, states across the nation have broadened access to the ballot box through primary use of mail-in voting, reduced restrictions on absentee voting, use of ballot drop boxes or enhanced convenience voting. While these steps have increased access for all, it has also cracked open a window to new opportunity for free, fair and accessible elections for Americans with disabilities beyond the pandemic.

II. Voters with disabilities

Constituting nearly one third of Tennessee residents, the population of voters with disabilities is expected to continue to grow. As voters, persons with disabilities show higher levels of interest in politics and government, but have lower turnout voter turnout rates.

III. Barriers to voting

Tennessee voters with disabilities face numerous obstacles to casting their ballot. These include physical barriers to polling places and inaccessible or nonfunctioning machines. Like much of the country, Tennessee faces a significant poll worker shortage in 2020. Changes to the requirements of poll workers, inadequate training and worker policies limit the effectiveness of poll workers to assist voters with disabilities. Several systemic obstacles including a lack of reliable public transportation and strict voter ID laws exacerbate the voter turnout gap between persons with and without disabilities.

IV. Voter access efforts in Tennessee

The state of Tennessee has implemented several initiatives that improve voting accessibility for citizens with disabilities, including purchasing new accessible machines, granting paid voting leave, offering accessible absentee ballots and permitting online voter registration.

V. Policy Solutions

Public policy measures that have successfully increased voter access for Americans with disabilities in other states should be considered to improve voter experience and turnout in Tennessee.

- **No-excuse absentee voting** allows voters with disabilities to access and complete a ballot from their home, which removes many barriers to voting. Flexible options for returning absentee ballots include the use of surrogates, absentee ballot drop boxes and paid return postage.
- **Expanding early voting sites and hours** would reduce lines and wait times on election days, both of which benefit voters with disabilities. Vote centers, which Tennessee should continue to use, reduce transportation burdens for voters with disabilities and prioritizes in-person voting accessibility.
- **Curbside voting** ensures accessible in-person voting while providing counties with flexibility while addressing existing polling places accessibility issues.
- **Modifying strict voter ID laws by allowing** for the use of alternate forms of identification, or the option to cast provisional ballots alleviates the disproportionate burden on citizens with disabilities.
- **Additional policy considerations**
 - Tennessee has unspent federal Help America Vote Act of 2002 (HAVA) funds that it could use to establish an Accessible Elections Office and purchase new voting machines.
 - Make election accommodations enacted to adapt to Covid-19 permanent. This includes the ability for voters registering for the first time using the online voter registration to vote absentee and, in the absence of no-excuse absentee voting, the expanded eligibility criteria for voters to use absentee ballots.

VI. Conclusion

Challenges all Americans have faced during this pandemic have exposed the real inequalities that many citizens with disabilities have experienced their entire lives. We have changed public policy to accommodate the adversity of 2020. This has created a new opportunity for us to open a window to a world where self-determination, secured by the right to vote, is accessible to all. We must enshrine accessibility into our new post-pandemic world and tear down the shameful wall of exclusion from the ballot box.

The State of the Disability Vote: Tennessee

On a sunny July afternoon in 1990, President George Bush Sr. and his wife Barbara strolled through a crowd of some 2,000 onlookers to a raised platform erected on South Lawn of the White House. With the Washington Monument and Jefferson Memorial as the backdrop, President Bush would sign one of the most consequential pieces of civil rights legislation in the country's history: the Americans with Disabilities Act. In signing the bill, President Bush stated that, "every man, woman and child with a disability can now pass through once-closed doors into a bright new era of equality, independence and freedom." On the 30th anniversary of that historic day, we see a country transformed by the affirmative inclusion of people with disabilities in civic life. While the lives of people with disabilities have been fundamentally changed by the ADA, not every door has been opened wide.

The Covid-19 pandemic has shed new light on the equality, independence and freedom that the ADA promised. The pandemic has revealed the reality that equal access is often dependent on health. It has revealed the inequities experienced by vulnerable people in our communities. Addressing these challenges during a pandemic teaches us lessons for the future.

To meet the moment, our country has adapted the way we live. We have moved our offices home, adjusted schooling, we are working to take care of each other and we are learning an important lesson: that our health and well-being can both dictate and limit our world. We have cracked open the window to a world where we, first and foremost, must consider how the most vulnerable among us can safely coexist.

Now that the window has been cracked and we've seen a world committed to inclusion and equality, we cannot go back. We must open the window wide and step through. We must take what steps we've made and build on them in order to ensure that all people have equal access to life in this country. This begins with our most basic right: the right to vote. In order to make the vote safe and accessible in a pandemic, our country has taken a massive leap forward in making elections accessible for people with disabilities. The enormous barriers faced by Americans to cast their vote this November are the same barriers faced by people with disabilities every election. With the efforts we've taken to vote in a pandemic, these barriers may be coming down. But we need to continue to push forward, because voter access affects every

vote. As President Bush proclaimed on that fateful July morning, “let the shameful wall of exclusion finally come tumbling down.”

Canaries in the Coal Mine

Voters with disabilities are in many ways canaries in the coal mine for all voters. Secure, barrier-free elections that are accessible to voters with disabilities will protect and assist all voters. The population of persons identified as “disabled” in the United States is growing and expected to continue to grow. Across all ages, the rate of disability in the United States population has risen one half percentage point since 2008 (University of New Hampshire 2019). That means the population of Americans with disabilities has grown by over 16.4 million. With a growing elderly population, and the increasing prevalence of chronic conditions, an estimated

An estimated 30-35% of voters will need voting accommodations by 2040.

30-35% of voters will need some form of accommodation to exercise their voting rights within the next 20 years (Belt 2016). Ensuring that citizens with disabilities have an equal opportunity to vote without barriers ensures that all eligible citizens have access to the vote.

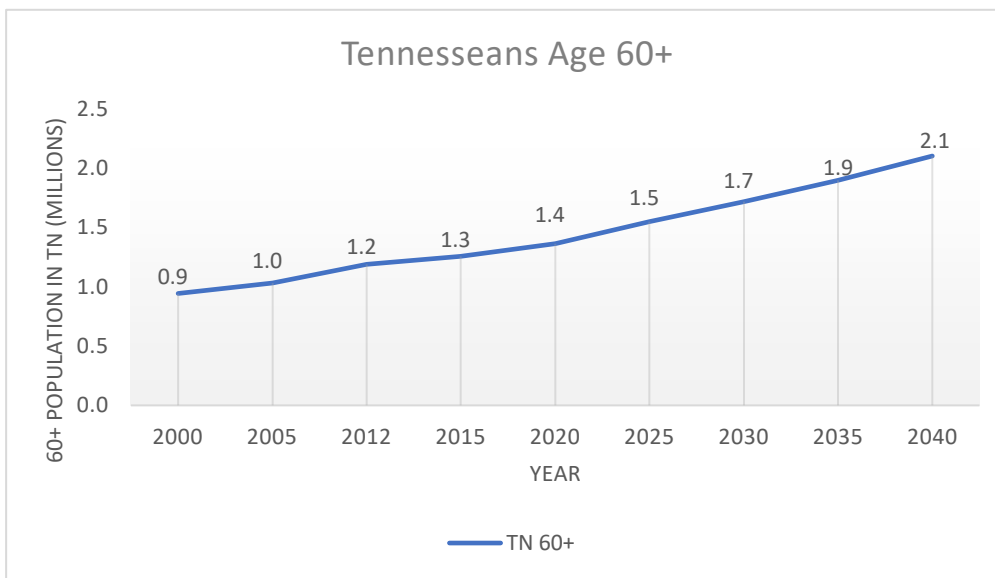
The American Community Survey reports that 26% of voting-age adults were living with some form of disability in 2018 (CDC 2018). This means that over 85.3 million voters are living with a disability and potentially experiencing obstacles to access the right to vote. This number is substantially higher in Tennessee, where nearly 30% of voting-age residents live with a disability. There are nearly 1.7 million Tennessee voters living with disabilities who deserve equal access to the ballot box (CDC 2018).



Figure 1 - CDC (2008)

The likelihood that an individual lives with a disability increases with age, and our population is aging. While 10.6% of persons in the United States aged 18 to 64 live with a disability, 30.5% of those over the age of 64 report living with a disability (Krause et al. 2017). The University of Tennessee notes that, like the country overall, the median age in the state

continues to rise (University of Tennessee 2017). Tennessee currently has 1.57 million residents over the age of 60, but is projected to have 2.1 million aged residents by the year 2040 (Fite 2017). Following national trends, this means as many as 206,500 older adults with disabilities need accessible voting in the next 20 years.



Voters with Disabilities

As the Tennessee disability population continues to grow, it is important that state take measures to

ensure that all citizens have equal access and opportunity to exercise their voting rights.

Tennesseans with disabilities face numerous barriers to voting, including polling place accessibility, registration access, systemic challenges, attitudinal barriers and a lack of resources. Voters with disabilities are more likely to live in rural areas, more likely to live in poverty, more likely to be unemployed and, when employed, more likely to work low-wage hourly positions. (University of New Hampshire 2018; Cornell University 2020; Schur & Kruse 2016; Smith 2007; BLS 2019; Kossek & Lautsch 2018). These factors compound the voting challenges faced by Tennesseans with disabilities.

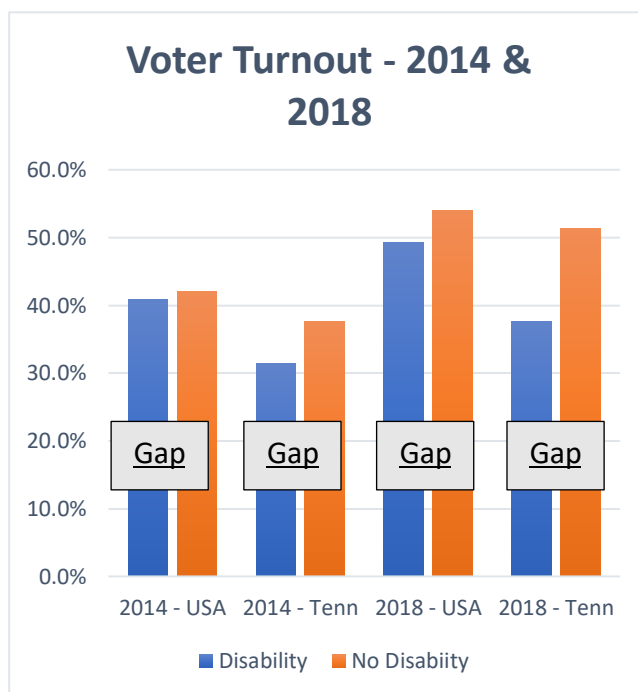
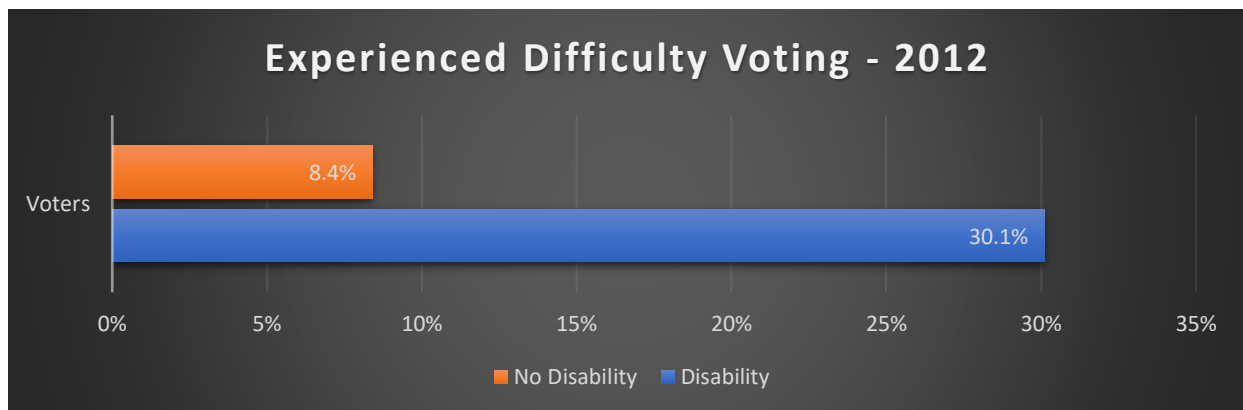


Figure 2 - Schur and Kruse 2018

These barriers have historically limited voting for people with disabilities. While nationwide voter turnout surged between the 2014 and 2018 mid-term elections, Tennessee had the second lowest 2018 turnout among voters with disabilities in the country at 37.6%. The nationwide turnout gap between those with and without disabilities also surged, from 1.3% to 4.7%. Tennessee again fared far worse than the country as a whole, with the voting gap between those with and without disabilities rising from 6.2% in 2014 to 13% in 2018. The 13% voter turnout gap was the fifth largest in the country in 2018 (Schur & Kruse 2018).

In 2016, 40.1% of voters with disabilities cited a permanent disability or illness as a reason not to register and vote. In Tennessee, 19% of non-voters cited disability or illness as a



factor in not voting (Stewart III 2016). Of those who were able to cast a vote, over 30% of voters with disabilities experienced difficulty in casting their ballot, compared to only 8.4% of those without disabilities (Schur, Ameri & Kruse 2013) Experiencing difficulties when voting, or even the expectation of difficulties, serves to depress turnout of voters with disabilities.

While it may be tempting to blame the voter turnout gap on individual circumstances and decisions, Schur and Kruse's (2018) survey of voters does not bear this out. The authors found that among non-voters, people with disabilities were more likely to express interest and involvement in politics than those without. In 2016, voters with disabilities were more likely to think about the election a lot, follow the campaign closely and believe that it really matters who wins the election (Igielnik 2016). This may be because people with disabilities are more dependent on elected officials to use the levers of government to support and defend their interests. Because people with disabilities may need to

People with disabilities are more likely to call representatives, canvass and join political organizations than those without disabilities.

rely on government assistance and protection to navigate a world built for the non-disabled, they may have more at stake when determining who will represent them.

Powell (2015) found that people with disabilities were more likely to engage in non-voting behavior, such as calling a representative, canvassing or joining political organizations. These types of civic engagement can be accomplished more easily and with fewer barriers to participation. Schur, Ameri and Adya (2017) found that when controlling for other factors, including race, education, gender and marital status, the voting gap between those with and without disabilities remained stubbornly high. The study showed that the presence of a disability was the most significant indicator of non-voting.

It is important to note that voters with disabilities do not represent a homogenous block of individuals with like preferences, capabilities or needs. Likewise, their experiences with voting, the obstacles they may or may not face, and reasons for or against participation are varied and unique. It is not the presence of a disability, it is the obstacles and barriers presented to people with disabilities that prohibit voting.

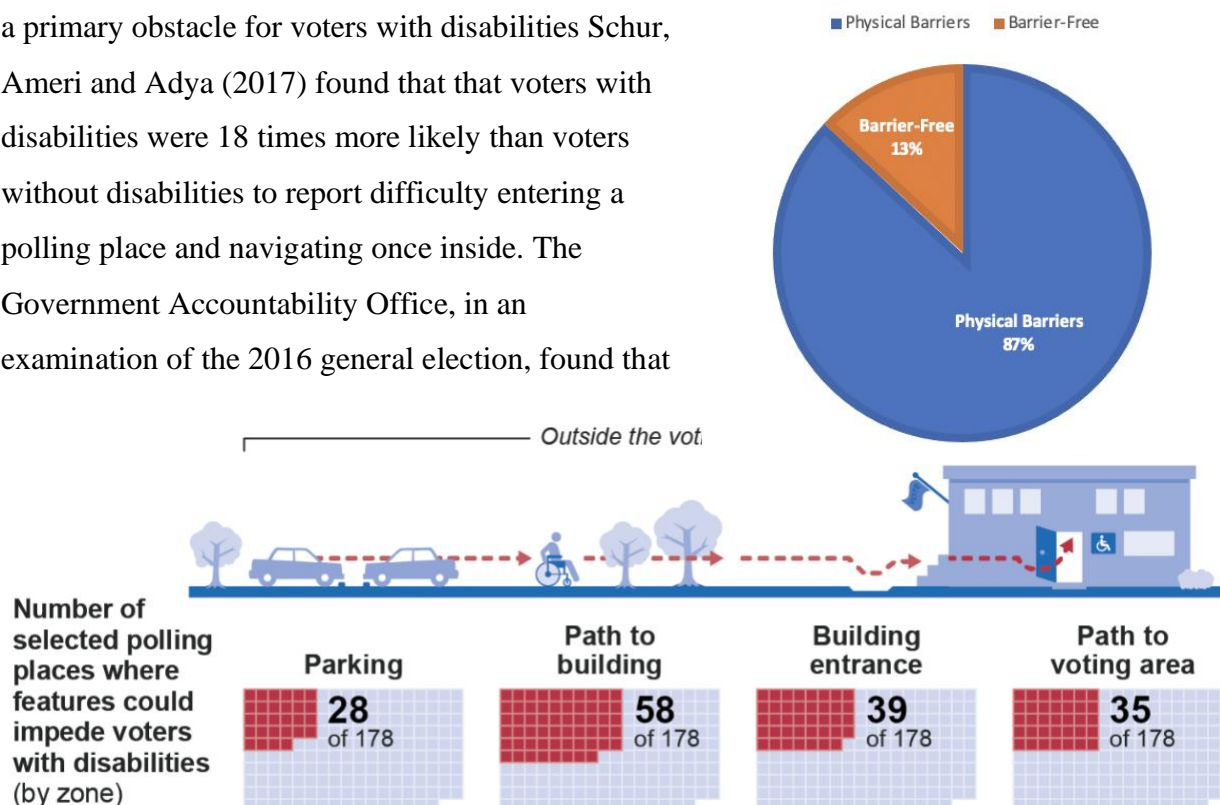
Barriers to Voting

Polling Place Accessibility

The accessibility of polling places is dependent on a wide variety of variables. Voters with different disabilities require different accommodations in order to access the ballot box. This may include features such as ramps to entryways for persons with mobility-related disabilities, sign language interpretation for persons with hearing disabilities, audio features on voting machines for persons with vision disabilities or voting assistance provided by a surrogate designated by the voter. The ADA requires that election officials make reasonable accommodations to prevent discrimination in the voting experience.

The physical accessibility of polling places is a primary obstacle for voters with disabilities Schur, Ameri and Adya (2017) found that that voters with disabilities were 18 times more likely than voters without disabilities to report difficulty entering a polling place and navigating once inside. The Government Accountability Office, in an examination of the 2016 general election, found that

POLLING PLACES IN TENNESSEE - 2018



Source: GAO analysis of polling place data collected during the 2016 general election. | GAO-18-4

Figure 3 - GAO 2018

only 40% of polling sites surveyed were free of physical impediment to even entering a polling place. Only 17% had no physical impediments outside and inside surveyed polling places. In Tennessee, Disability Rights Tennessee found that only 13% of polling sites in the state were free of physical impediment.

Similarly, Schur, Ameri and Adya (2015) found that voters with disabilities were almost 2.5 times more likely to report that they had difficulty waiting in line. Across the country, 6.8% of voters reported waiting more than 30 minutes to cast a vote, which is above the acceptability threshold established by the Presidential Commission on Election Administration (Stewart III 2016). In Tennessee, almost 8% of voters reported waiting in line for over 30 minutes.

Voting accessibility is not limited to the physical accessibility of the polling site. Voters with disabilities may also face obstacles to accessing voting machines and ballots. Nationwide, voters with disabilities disproportionately experienced difficulty reading or seeing the ballot (13 times higher), understanding how to use the voting equipment (8 times higher), signing their

name on the ballot (15 times higher) and operating the voting machine (2 times higher) (Schur, Kruse & Adya 2013). If these statistics hold true in Tennessee, too many Tennesseans lack equal access to the ballot. Almost 199,000 Tennesseans would report difficulty reading or seeing the ballot, 175,000 Tennesseans would have difficulty understanding how to use our machines, 76,500 would have difficulty signing the ballot and over 22,000 would have difficulty operating the voting machines.

Voting Machines Are Over a Decade Old in Most of the Country

The first year voting machines in the 2016 election were used.

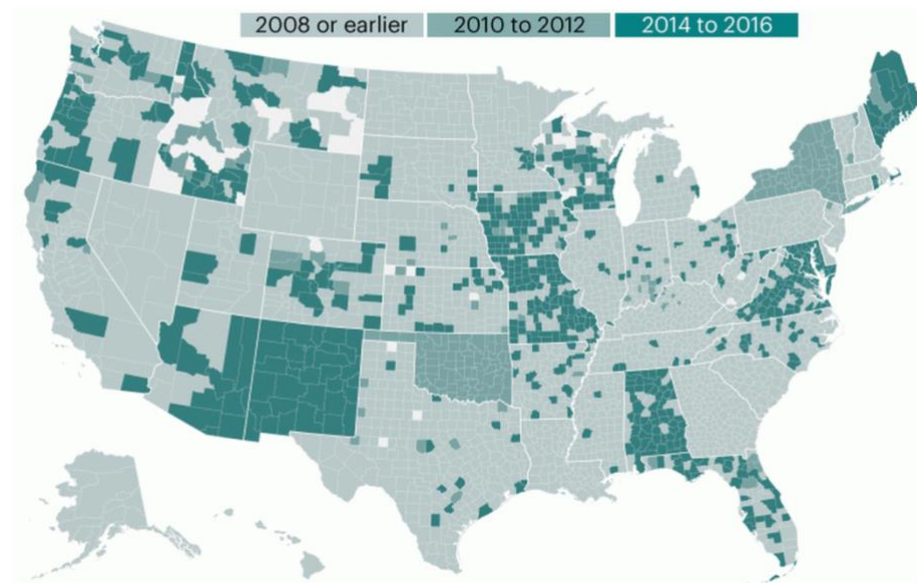


Figure 4 - Rabinowitz 2018

The Help America Vote Act of 2002 (HAVA) required polling places to have an accessible voting system available to voters with disabilities (USDOJ 2014). The minimum standard is to have one accessible voting machine per polling site. The Brennan Center (2018)

reported in 2018 that 33 states needed to replace their voting machines by 2020 in order to ensure that they are fully functional and available. The report notes that 44 states will use machines that are more than a decade old in the 2020 election, and 14 states will use machines that are more than 15 years old. During the 2016 election, the majority of counties in Tennessee were using voting machines that were over ten years old (Norden & Famighetti 2015). Older machines are more prone to malfunction, or break down. If the single accessible machine fails to function, there may be no replacement, and access is lost

The use of accessibility features on voting machines is also dependent on poll workers to set up, operate and troubleshoot the systems. Often, poll workers receive insufficient training on accessible voting machines and accommodations for voters with disabilities. During the 2012 election, 29.5% of voters with disabilities received assistance when voting, compared to only

10.7% of those without. 42% of those who received assistance were helped by election officials (Schur, Kruse & Adya 2013). Even with assistance, voters with disabilities still face obstacles to using accessible voting machines in polling places. In 2012, 25% of voters with disabilities found that the machines were not set up or operating when they arrived at the polling place. Additionally, 3.1% of voters with disabilities stated that poll workers did not know how to set up or operate accessibility features (Schur, Kruse & Adya 2013). While this may seem a small portion of voters, it is about 2.5 million potential voters with disabilities, which is a significant number of votes.

Access to Registration, Accessibility to the Vote and Election Materials

In Tennessee, people with disabilities experience challenges to legally casting ballots, registering to vote and obtaining candidate and election information. In 2012, the Tennessee State Legislature passed one of the strictest voter identification laws in the country. The law required that, in order for a vote to be counted, the voter must present a state or federally issued photo identification document. It is estimated that nearly 10% of voters with disabilities nationwide do not possess a valid photo ID (Belt 2016). In Tennessee that would mean that

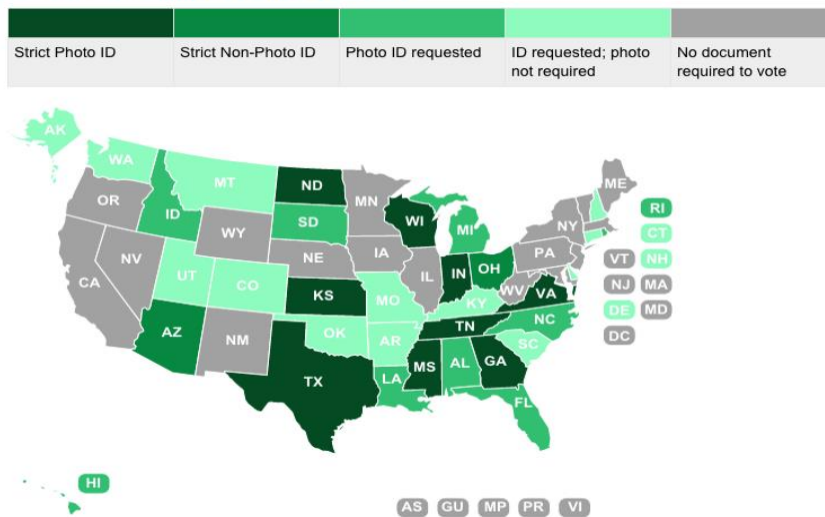


Figure 5 - O'Neill & Herman 2020

170,000 or more Tennesseans with disabilities may not possess a photo ID that permits them to vote. Given that people with disabilities are more likely to be over the age of 60, live in rural counties or live in poverty, all contributing factors to lack of valid photo ID, the number of disenfranchised voters with disabilities could be even higher.

To address the problem, state officials do offer, through the Department of Safety, a non-driving state photo ID. This can be obtained free of charge. However, in order to obtain an ID, the potential voter must be able to travel to a driver services center, provide proof of citizenship and provide two proofs of Tennessee residency. These are often high hurdles for people with disabilities.

Because individuals in need of a photo ID lack a driver's license, a person must rely on a friend, neighbor, family member or service provider to get them to one of these locations. Because people with disabilities are more likely to live in rural counties with fewer driver services centers, they may have to ask someone to help them travel a significant distance. Likewise, public transportation in the state is ranked 39th in the country by AllTransit and is significantly less available in rural areas. Poverty further exacerbates the need for transportation assistance.

People with disabilities working to get a state issued photo ID may also face obstacles in obtaining proof of residency. Tennesseans living with disabilities that live at home with family caregivers, or in group or congregate settings may not have proof of residency bearing their name. Similarly, individuals in the homeless population disproportionately live with a disability, making it unlikely that they would be able to produce proof of residence.

Tennessee recently passed legislation that permits the state to purge voters from the registration rolls if they do not respond to a notice sent to their home and do not vote in two consecutive federal elections after the notice. This presents numerous difficulties for voters with disabilities. Voters with disabilities may not be aware of their registration status or that they have been purged. Those voters made inactive by their county election commission office still have some options for casting a vote at their appropriate polling place on election day, but this adds to an already challenging voting process for many.

Tennessee permits voters to register using an online voter registration system or mail-in application, as well as obtain a registration application at some county government locations, such as the County Clerk's office, or individuals may register during a transaction at public service agencies, such as the Department of Human Services. Prior to a September 2020 court injunction, however, the state required those who used the most

accessible options, the online voter registration system or mail-in option, to vote in person the first time. Today, approximately 12,000 Tennesseans with disabilities between the ages of 18 and 20 have an opportunity to register and vote for the first time. When the injunction ends, new online or mail-in registrants will face the very voting barriers that the online voter registration system serves to address.

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Voters with disabilities in Tennessee also face difficulties accessing web-based election information, including important materials for registering or requesting an absentee ballot, election day instructions and candidate information. In the United States, people with disabilities are less likely to own internet capable tools and less likely to use the internet (Perrin & Anderson 2017; Duplaga 2017). In Tennessee, households with internet accessible devices and households with internet access are below the national average, both ranking among the bottom ten states in the country (IES 2016) Access to and use of the internet varies by disability type and generally resembles access gaps across other demographic identifiers, such as socioeconomic status and age. This "digital divide," exacerbated by accessible transportation barriers, contributes to inequitable access to vital voting materials, such as registration forms and absentee ballot requests.

The accessibility of important voter materials on state and local websites is also inconsistent. Section 508 of the Federal Register requires that state government websites meet minimum accessibility standards. Website Content Accessibility Guidelines 2.0 (WCAG 2.0) are considered the most contemporary gold standard for website disability accessibility. Official election websites should strive to meet WCAG 2.0 standards. This includes the Tennessee Secretary of State's website, where most state-issued election materials are found. The state's

elections webpage had at least seven WCAG 2.0 violations, and the online voter registration page had at least four WCAG 2.0 violations at last check.

Systemic Barriers

Voters with disabilities in Tennessee face a number of systemic barriers. This includes lack of accessible transportation and uncertainty around polling site availability and accessibility. People with disabilities use local public transportation at a higher rate than persons without disabilities, relying on the frequency, close proximity and accessible infrastructure necessary for its use (BTS 2018). However, public transportation in Tennessee was recently given a D+ ranking from the American Society of Civil Engineers, and was ranked 39th in the country by AllTransit for its connectivity, frequency and access to jobs. Further, public transportation is less available in rural areas, where people with disabilities make up a larger share of the population.

The Americans with Disabilities Act requires that localities providing public transportation to its population also provide complimentary paratransit for people with disabilities. Paratransit provides transportation, usually in a bus designed specifically for accessibility, to individuals with disabilities who are unable to use traditional public transportation independently. Each jurisdiction in Tennessee has some flexibility to set paratransit guidelines. Experience reveals that system requirements are often burdensome and service can often be unreliable and inefficient. Tennessee paratransit riders have reported no-shows, long wait times, long shared rides and inconsistent service (Jackman 2019; Abell 2019).

Voters with disabilities disproportionately cite issues with transportation as a major obstacle to voting in person. A Rutgers study of the 2018 midterm elections found that 7.7% of registered voters with disabilities who chose not to vote cited transportation problems as the

In 2012, voters with disabilities were 64 times more likely to cite transportation barriers as the primary reason they chose not to vote than those without.

primary reason they did not vote. Only 2.1% of persons without disabilities pointed to transportation problems as the reason they chose not to vote (Schur & Kruse 2018). In 2012, voters with disabilities were 64 times more likely than voters without disabilities to cite expected difficulty in getting to a polling place as the primary reason they chose not to vote (Schur, Kruse, & Adya 2013).

Voters who must prepare plans in advance for transportation or polling place assistance rely on consistent, timely and accurate information about election day in order to access their right to vote. This year, the General Assembly passed a law allowing counties to consolidate polling places into what are known as “super sites”.

The law also permits election officials to make this decision up to 10 days before an election. This may force some voters to delay their election day planning and may dissuade others from voting (TCA 2-3-101). In neighboring states, such as Kentucky and Georgia, “super sites” have been associated with long wait times, increased travel times and



Figure 6 - Fausset & Epstein 2020

inadequate numbers of poll workers and voting machines (Durkin & Montellaro 2020; Fowler 2020). Last minute changes to election procedures have also been associated with longer lines and decreased voter turnout (Yoder 2020). Polling place uncertainty, long lines and increased travel time are all barriers to voters with disabilities.

Tennessee, like all states, must hold elections that are secure, fair, equitable, and accessible to all eligible citizens. Measures undertaken to “protect the vote” sometimes limit access to voting by legitimate voters, especially those who have disabilities. The state of Tennessee has spent the last nine years enacting laws that limit voter access to the polls. In that time, the state has passed laws that increase the requirements of a voter’s ID, require proof of citizenship to vote, hindered 3rd party registration drives and reduced early and absentee voting days (Brennan Center 2020). For the 2016 Presidential election, the ease of voting in Tennessee was ranked 2nd to last in the country using the

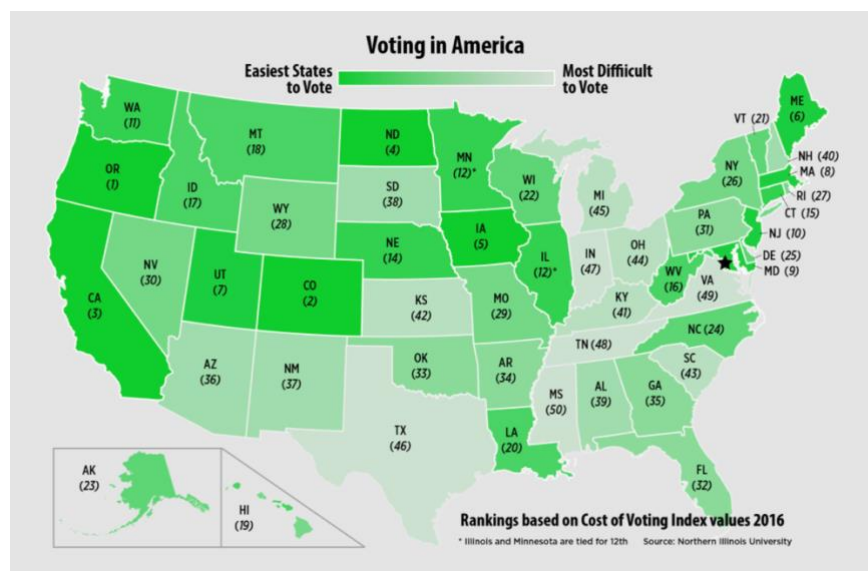


Figure 7 - Ingraham 2018

Cost of Voting Index, a measurement based on state laws that make registering and voting easier or harder (Ingraham 2018). The Brookings Institute gave Tennessee a 6 out of 22 for access to mail-in voting during a pandemic (Kamarck et al. 2020). In 2016, Tennessee ranked 49th in an evaluation of the quality and fairness of the state's election process (Norris, Garnett & Gromping 2016). Where state laws negatively impact people without disabilities who want to vote, this effect is magnified for voters with disabilities.

Tennessee's election laws have been subject to challenge by citizens' groups. As of September 2020, the state is currently in litigation in six different lawsuits related to burdensome restrictive voting laws (Brennan Center 2020). In what is now a very active election season, the injunctions and amendments relative to these lawsuits have created even more confusion leading up to this election.

Lack of Resources

Administrators of elections need adequate resources to ensure the availability of accessible voting. As of September 2020, Tennessee is in need of 16,000 to 17,000 additional poll workers to administer the 2020 presidential election (WRCB 2020). Adequate numbers of poll workers are needed to provide necessary assistance to people with disabilities. In a survey of voters with disabilities following the 2012 election, 15% reported that there was no designated poll worker available for voters with disabilities, and that no poll worker assisted them throughout the entire voting process (Sanford et al. 2013).

**As of September 2020,
Tennessee needs to recruit
hire and train 16,000-17,000
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In the 2012 election, 27% of surveyed voters with disabilities found that poll workers had difficulty setting up and operating the voting machine, as well as problems troubleshooting unexpected issues (Sanford et al. 2013). Poll workers hired to assist with administering an election have very little time available to them for training. Trainings are likely to include significant amounts of vital information. Instruction about working with voters with disabilities, operating accessible voting machine features and understanding rules and protections is a small part of training that may be inadequate. Given the impact of the pandemic, poll worker trainings

are unlikely to be held in person and with machines. This may make it difficult for potential poll workers to learn accessibility features for voting machines and have the opportunity to practice them. Given the rollout of new machines in 16 Tennessee counties, this presents a situation in which poll workers on election day have not had sufficient experience with the machines, including the opportunity to use and trouble shoot the machines' accessible features.

In typical election cycles, the state of Tennessee makes nursing homes and some other long-term care facilities official polling places in order to accommodate the needs of residents. In prior elections, residents of nursing homes could vote on-site with the assistance of a team of representatives from county election commissions, who would then collect and return the

As of July 2020, voters with disabilities in nursing homes may not be able to vote absentee. Nursing home residents may have difficulty obtaining and completing a ballot, and nurses may not be equipped to provide a free and fair election for nursing home residents with disabilities.

completed ballots. Given the impact of the pandemic, it is likely that many nursing homes that continue to bar visitors may not allow this team of officials into the facility to conduct a vote. In order to account for this potential obstacle, the state laid out plans in April to train and deputize nurses to administer the vote (Gordon 2020). As of July 2020, voters living in nursing homes continue to be ineligible for absentee ballots. (Ebert 2020). Nursing home residents with

disabilities may have trouble obtaining or completing a ballot and, despite potential training efforts, nurses may not be equipped to ensure a free and fair election for nursing home residents (Underhill 2013). Likewise, if residents of long-term care facilities are unable to vote at their place of residence, they would be required to vote in-person on election day. This presents long-term care facility residents, who, by definition experience disability, with clear and significant obstacles to casting their votes.

Attitudes and Expectations

Not all barriers to full participation in the voting process are structural. Long-held and inaccurate public perceptions about the abilities of people with disabilities to vote are problematic. Too often, people with disabilities themselves come to believe those narratives themselves. This is especially true for individuals with intellectual or developmental disabilities

who vote at a rate significantly lower than those without disabilities, as well as a rate lower than individuals with other types of disability. In 2016, the turnout gap between individuals with IDD and individuals without disabilities was nearly 20% (Schur & Kruse 2017).

In 2016, the turnout gap between people with IDD and people without disabilities was nearly 20%.

Bell, McKay and Phillips (2001) argue that one of the primary contributors explaining this gap is attitudes of caregivers and that of the general public. This is borne out by experiences in Tennessee. Too often people assume that people with IDD cannot understand political issues and cannot make an informed vote. In a survey of direct support personnel who work with individuals with IDD, 32% said that they believed that people with IDD did not have the ability or capacity to vote. This leads some direct support personnel to forego education or assistance to persons with IDD with the process of voting. Agran and Hughes (2013) found that only 10% of support personnel had ever engaged in voting instruction with their clients.

Voters with disabilities may be denied access to the ballot through legal means, again based on inaccurate and inappropriate assumptions about disability. As of 2018, 39 states may strip persons under guardianship of their voting rights if they are deemed to be “incompetent” or “incapacitated” by a judge (Vasilogambros 2018). Some states still use wording such as “idiot” or “insane person” to define this dismissal of rights. Tennessee is one of 10 states in which persons deemed to be mentally incompetent are automatically banned from voting by the state constitution (Hall 2017). Not only are these blanket assumptions wrong, they serve to impose a higher standard on access to the vote. Other citizens are not expected to demonstrate, or to be “tested” for an ability to understand politics and/or to make an informed vote. Voting is a constitutional right.

Inaccurate beliefs and expectations about the voting behaviors of people with disabilities not only denies access to the voting booth itself, but reinforces the social message that those who need accommodations for accessibility in society are unwelcome, of lesser value and incapable of self-determination. Schur, Adya and Kruse (2013) found that 17% of voters with a disability chose not to vote because they believed that their vote would not matter, compared to 12% without disabilities. A review of the 2012 general election found that 44% of surveyed voters

with disabilities cited poll worker's ignorance in interacting with them as one of the primary barriers to casting a vote (Sanford et al 2013). Repeated slights such as poll worker ignorance or physical inaccessibility serve to reduce enthusiasm for voting. According to Schur, Adya and Kruse (2013), over 40% of surveyed voters with disabilities who chose not to vote in the 2012 election did so because of they expected difficulties in casting their ballot.

In 2012, 44% of surveyed voters with disabilities cited poll worker ignorance in interacting with them as one of the primary barriers to casting a vote.

Voter Access Efforts: Tennessee

While many barriers to voting for people with disabilities exist in Tennessee, the state has worked to support better access to the polls. Tennessee recently used HAVA funds to purchase new voting machines for 16 counties in the state. The state purchased ES&S ExpressVote machines, which, according to the Election Accountability Commission, meet all federal requirements for accessibility.

Replacing old machines with new machines helps to ensure that they are more likely to be working and fully functional on election day. Tennessee has over \$10 million left in HAVA funds that could potentially be used to replace old voting machines.

As of August 2020, Tennessee is one of 40 states that have currently implemented an online voter registration system. This relatively new system helps people with disabilities get better access to registration without facing transportation, resource, and scheduling issues. Tennesseans who register online must vote in person the first time. As noted earlier, this requirement has been suspended for the 2020 presidential election. If the General Assembly changes the law, voters with disabilities would be allowed to register and vote from home, avoiding the numerous and significant barriers unique to those with disabilities to registering and voting in person.

Tennessee is one of 26 states that require employers to give time off to employees for the purpose of voting. Because Tennessee voters with disabilities are more likely to work in hourly positions with inflexible hours, this is an important and helpful rule that reduces employment-

related barriers that typically prevent people with disabilities from voting (Smith 2007; BLS 2020; Kossek & Lautsch 2018).

In a significant and positive move, Tennessee rolled out accessible absentee voting ballots for voters with print disabilities in the summer of 2020. Replacing paper absentee ballots, these ballots allow people with disabilities to complete the application and ballot online using

In 2020, Tennessee rolled out accessible absentee ballots for voters with print disabilities.

assistive technology. They may print, sign and return their accessible ballots. Tennessee is one of only a few states in the country, including Michigan, New York, New Hampshire and Maine, to offer accessible absentee voting applications and ballots (May 2020; NY State Board of Elections 2020; Disability Rights NH 2020; Mannino 2020).

Policy Solutions

As Tennessee's population ages and the number of people with disabilities continues to grow, it is clear that additional effort is needed to assure that voting systems work for all eligible citizens. It is important to our democracy. It is possible to reduce the barriers that affect voters with disabilities and to eliminate the voting gap between those with and without disabilities. There is no single "fix", but each meaningful reform brings the state of Tennessee closer to achieving this important goal. There are several initiatives that Tennessee could explore to address disparities. The following reforms could each, in their own way, move our state closer to achieving a voting system that is easy, fair and accessible for voters with disabilities and for all voters.

No-Excuse Absentee Voting

This year's pandemic has heightened interest in methods of voting outside of a traditional polling place. Absentee voting is a form of mail-in voting. There are several types of mail-in voting used in the United States, including excuse-only and no-excuse absentee voting, permanent absentee voting and all-mail voting. Some states permit permanent absentee voting, in

which, a voter who requests and qualifies by the state's rule, is allowed to permanently vote by mail. All-mail voting is only used in five states for all elections. This form of mail-in voting involves ballots automatically sent to registered voters, who complete them at home and return by mail (or sometimes by ballot box or designated return locations).

Typically, Tennessee is an excuse-only state and requires an individual attempting to vote absentee to meet one of several requirements. Tennessee's law identifies persons who are "hospitalized, ill or disabled" as eligible to vote absentee, among other eligibility criteria.

However, the code also requires that these persons must be "unable to appear at the person's polling place on election day." Of course, not all disabilities result in an inability to appear at the polls, nor does the law provide any clarity on exactly what that means. If transportation is unavailable, or if a polling place is inaccessible does that constitute "unable to appear at the polls"? The unclear and confusing language in the law, combined with threats of legal punishment for misinterpretation of the rule, ultimately leads some voters to abandon their efforts to vote for fear of getting in trouble. This is one way the turnout gap has grown.

One potential solution is to remove the two-part requirement from the law. Another, simpler solution would be to allow no-excuse absentee voting. Eliminating a list of excuses and requirements has been shown to increase the number of voters choosing to vote absentee. As of May 2020, 34 states currently permit voters to vote using an absentee ballot without a documented excuse (NCSL 2020). States with the highest rate of absentee voting occurs in no-excuse states, including Arizona (68%), Montana (57%), California (51%) and Florida (27%). The highest rates of absentee voting in states that require an excuse are South Carolina (8%), Texas (7%), New Hampshire (6%) and Indiana (5%) (Hartig, Jones & Gomez 2020). This indicates that policies requiring excuses to absentee vote, such as those in Tennessee, greatly

Types of Mail-In Voting

- **All-Mail voting**
 - **Every registered voter receives a ballot in the mail**
 - **5 states**
- **No-Excuse Absentee voting**
 - **All voters are eligible to vote absentee, but still must request a ballot to do so**
 - **29 states (+ DC)**
- **Excuse-Only Absentee voting**
 - **Only voters meeting specific criteria may be eligible to request a ballot and vote absentee**
 - **16 states (Tennessee)**

reduce the likelihood that voters will qualify for and choose this method. Decreasing barriers to voting absentee increases the share of voters choosing this method.

Nationwide, voters with disabilities were more likely to vote by mail than persons without (Schur & Kruse 2018). In Tennessee, only 2% of voters used an absentee ballot to cast

In Tennessee, only 2% of voters used an absentee ballot to cast their vote in 2016, tied for 50th in the nation. Given that 1 in 3 Tennesseans has a disability, it is likely that the state's policies serve to limit the number of voters with disabilities who choose to vote absentee.

their vote in 2016, tied for 50th in the nation. Given that 1 in 3 Tennesseans has a disability, it is likely that the state's policies serve to limit the number of voters with disabilities who choose to vote absentee. Eliminating the excuse requirement would significantly benefit voters with disabilities.

Absentee voting also has numerous universal benefits. Mail-in voting has been associated with a modest increase in voter turnout (Thompson et al 2020). Using a cost-benefit model, Larocca and Kelemski (2011) found that implementation of no-excuse absentee voting would increase the probability that individuals would vote. Increased voter turnout enhances the legitimacy of elected officials and state governance and promotes the American virtues of civic responsibility and participation. This turnout boost is also non-partisan. The tendency for Democrats to disproportionately vote absentee is meaningfully offset by the increased access to senior citizens, who disproportionately vote Republican (Thompson et al 2020). Some argue that mail-in voting may be subject to increased fraud. These concerns are not borne out by the research on the subject (Dale et al 2020). Levitt (2007) found that the rate of voter fraud is somewhere between .0003% and .002%, and stable across states with high and low levels of mail-in voting. Absentee voting is also popular among voters. In July 2020, 65% of Americans said that they believe voters should be allowed to cast an absentee ballot without an excuse (Gomez & Jones 2020). When Tennessee eliminated the requirement for an excuse for the August 2020 primary, the number of voters who chose to use absentee ballots increased nearly tenfold from primary elections in years past (Ebert 2020).

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Increased use of absentee voting can also decrease election costs. A study of Colorado's vote-by-mail system found that the state cut election costs by approximately 40% (Pew 2016). Tennessee spends about \$9.72 per vote on an average election (Mohr et al 2018). In 2016, Tennessee had 2,508,027 votes cast, at an approximate cost of \$24.4 million. If the state saw a similar cost savings as Colorado did, the state would save \$9.75 million per election. Think Tennessee found that the state currently has up to \$55 million available from federal grants and appropriations for election administration. They estimated that the upfront cost of increasing access to absentee voting in 2020 would be approximately \$19.2 million. This leaves over \$35 million in the election fund for other election priorities, such as improving the accessibility of polling places and purchasing new accessible voting equipment. (Think Tennessee 2020).

Other Absentee Voting Considerations

Policy makers could also consider other accessible accommodations to the no-excuse absentee voting to ensure the greatest utility for voters with disabilities. First, the state should create more avenues to return a completed absentee ballot. Increasing flexible options in voting benefits voters with disabilities. Current state laws require that individuals voting absentee mail their ballot to their local county election commission office. Tennessee is one of only four states that explicitly require this means of return.

Another consideration is the use of ballot drop boxes. In states that permit ballot drop boxes for the return of absentee and mail-in ballots, their use is popular among voters. During the 2016 election, two thirds of voters in Colorado used drop boxes to return their ballots, and in Wisconsin, 75% of voters used them (Pew 2016; Hufford 2020). Currently, 16 states permit voters to return completed absentee ballots to drop boxes, but only 8 have laws regulating them

Tennessee could choose to permit and regulate ballot drop boxes. The laws of several states provide some best practices that Tennessee should adopt within the regulation. First and foremost, the state must ensure that ballot drop boxes and their locations are fully accessible to voters with disabilities. California is the only regulating state that legislates accessibility requirements, mandating that at least one ballot drop box at each location be accessible to voters with disabilities. For ease of implementation, Tennessee would be wise to design and roll out universally accessible ballot drop boxes that serve all voters effectively.

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reasonable accommodation for voters with disabilities, given the lack of physical accessibility and other structural barriers presented to them by the state of Tennessee.

In concert with multiple return options, the state should consider regulating who may be permitted to collect and/or return completed absentee ballots. Twenty-seven states permit a designated agent, such as an attorney, family member or care provider, to return completed absentee ballots on behalf of a voter, while nine permit only family members to do so (Hufford 2020). Easing Tennessee's requirement that absentee ballots be mailed in increases access for voters with disabilities, and should include provisions for designated agents to return completed ballots. By allowing these surrogates, the state accommodates voters with mobility barriers, voters with intellectual or developmental disabilities and voters with disabilities who face transportation obstacles.

It is not recommended that the state adopt universal mail-in voting as policy, such as those practiced in Washington, Oregon, Colorado, Utah and Hawaii. In order to close the state's disability voter turnout gap, voters must be presented with a suite of flexible voting options that account for the unique needs of all voters. This includes the abundant availability of physical polling places. States that have universal mail-in voting have reduced the number of in-person polling places available to voters (Garrison 2020).

Together, flexible no-excuse absentee voting and in-person voting accommodations serve to support the greatest number of voters with disabilities.

Some voters with disabilities need accommodations that are only available at physical in-person polling places, such as poll worker assistance, sip and puff accessible features or audio support, in order to cast their ballot. Together, flexible no-excuse absentee voting and in-person voting accommodations serve to support the greatest number of voters with disabilities.

Enhanced Convenience Voting

Convenience voting policies, such as early in-person voting, vote centers and curbside voting, benefits all voters, but especially helps voters with disabilities. In 2012, 40% of voters with disabilities did not vote because they expected difficulty in doing so (Schur, Adya & Kruse 2013). Convenience voting policies, in their numerous forms, decrease the number of perceived

and concrete difficulties facing voters with disabilities by increasing flexibility and expanding options.

Early Voting

Early voting refers to policies that permit voters to cast their ballot in person in advance of election day. There are a variety of ways this is done. Some states permit the early voting process to begin up to 50 days in advance of the election while some states begin 7 days prior to the election. Some states end early voting up to 7 days before the election whereas others end

- Early Voting**
- **Casting a vote before election day**
- **TN early voting begins 20 days before election, ends 5 days before election**
- **County election commission offices & satellite locations**

early voting at 3 pm on the day before the election. There are states that permit absentee early voting, where voters are allowed to drop off completed absentee ballots at early polling sites. In other states, early voting closely resembles election day voting procedures. Policies about locations and operating days and hours of temporary and permanent early voting locations vary greatly.

Currently, Tennessee begins early voting for non-primary elections 20 days before election day and ends 5 days before the election. State law requires that early voting locations, which can be either county election commission offices or designated satellite locations, remain open for only three consecutive hours on weekdays and longer hours on Saturdays (TCA 2-6-103). The state has no regulations about the number of early voting sites that must be available to voters. Tennessee has one of the highest rates of early in-person voting in the country. Nationwide, voters with disabilities use early in-person voting at a higher rate than those without (Igielnik 2016).

This makes Tennessee's already generous early voting standards all the more important for people with disabilities. Tennessee, already doing well, can do even more to increase the availability and flexibility for early voting to help close the state's disability voter turnout gap.

Tennessee has one of the highest rates of early voting in the country, and nationwide, voters with disabilities use early in-person at a higher rate than those without

Tennessee should first consider expanded hours in early-voting sites to better reflect nationwide trends. Of the 27 states that regulate early polling place hours, 24 require that polling

places be open generally during business hours (8 or more hours between 7 am and 8 pm) (NCSL 2020). As noted above, voters with disabilities are more likely to have inflexible work hours and less likely to have consistent and reliable access to transportation. Increasing the number of available early voting hours increases predictability of availability and increase flexibility in voting, which greatly benefits voters with disabilities.

The state could also adopt regulations about the number of early polling places required. New York mandates one early in-person polling place for every 50,000 residents. Illinois law requires early in-person polling places at most county-level clerks offices, as well as at each



Figure 9 - Williams 2019

public university (NCSL 2020). Tennessee can increase access to and flexibility of early voting by adopting colleges and universities, county clerk's offices and other government offices as permanent early voting locations. Further, the state could incentivize private organizations, such as churches, civic organizations and businesses to volunteer to serve as temporary early polling places, further benefitting voters with disabilities.

The availability and convenience of early voting serves to spread out voting and reduces long lines and wait times (Fortier, et al. 2018). As noted previously, voters with disabilities are disproportionately burdened by long lines. In 2016, 8% of Tennesseans waited over 30 minutes to vote, while 24% waited between 10 and 30 minutes to vote.

Only 15 other states forced voters to wait more than 30 minutes at a higher rate than Tennessee (Stewart III 2017). The state of Georgia found that a typical polling place, in which a ballot was scanned every 25 seconds, could process 1,725 voters in a 12-hour voting period (Fowler 2020). Lines lengthen when voters

arrive at a rate that outpaces this end number. By increasing available voting times and locations for early in-person voting, it is likely that lines can be reduced by spreading out voters. The benefit of reduced wait times and shorter lines improves the voting experience for individuals with disabilities who may have difficulty standing for long periods of time.

The availability and convenience of early voting serves to spread out voting and reduces long lines and wait times

Vote Centers

In 2019, the Tennessee legislature passed a bill that created a vote center pilot program in Rutherford County. Vote centers are traditionally large facilities or locations that serve voters over the early voting period, as well as election day, with many services related to voting. This may include things such as registration, absentee drop off, early-in person voting and resolving voter problems. There are several benefits of vote centers for people with disabilities. Vote

Vote Centers

- **Election one-stop-shops**
- **Large, accessible locations for making registration, voting and problem-solving easy**
- **TN – Rutherford County pilot project**

center locations are often large, new facilities that are more likely to be fully accessible. For example, Dallas, Texas designated the American Airlines Center, with an 840,000 square foot floor space for voting, as one of several available vote centers in Dallas County (Visit Dallas 2020; NBCDFW 2020). Orange County, California constructs vote centers as outdoor drive through service stations in large parking lots (Ludwig 2020). These locations can easily be chosen for the

access to public transportation, central location and ease of navigation, which is beneficial to all voters, but even more so for people with disabilities.

Vote centers also offer the convenience of one-stop service delivery, which reduces the transportation demands for people with disabilities. For example, a voter may register and vote in one trip, or drop off an absentee ballot without leaving their car, or cast a provisional ballot and confirm identification. Likewise, the enhanced flexibility of vote centers as early in-person voting locations benefits people with disabilities. Given the numerous benefits to voters with and without disabilities, the state of Tennessee should pursue the use of vote centers.

Colorado's vote center legislation could serve as a model for Tennessee to replicate. The law mandates that locations be chosen for their proximity to public transportation, availability of parking, features fostering voter convenience, equitable distribution by population, the availability of traditional polling places in the precinct and accessibility for voters with disabilities. The law also requires, for primary elections, at least one vote center per 30,000 registered voters in counties of over 25,000, and at least one center per 15,000 voters for general elections. Vote center per capita considerations decrease as the population size of counties decrease (NCSL 2020).

During the process of testing and rolling-out vote centers, Tennessee should not transition too abruptly. It is recommended that the state continue to monitor the Rutherford County pilot program, being careful to measure effects on voter turnout rates, rates for marginalized populations (such as voters with disabilities) and survey vote center users about their experiences. Using lessons learned from Rutherford County, the state could support other counties in enacting the vote center model, while also maintaining an appropriate number of traditional polling places, early in-person voting places, absentee ballot drop boxes and accessibility of government offices for election administration.

Curbside Voting

Several states allow for curbside voting, in which poll workers bring voting materials outside a polling place to a person waiting in a car (NCSL 2020). Curbside voting provides counties with flexibility and ensures access for voters with disabilities while polling places address accessibility issues. Because

only 13% of polling places in Tennessee are completely free of physical impediments to voters with disabilities, Tennessee should permit and prepare a curbside voting option.

Because only 13% of polling places in Tennessee are completely free of physical impediments to voters with disabilities, Tennessee should permit and prepare a curbside voting option

Modify Voter ID Law

Following nationwide trends, Tennessee requires voters to present a state- or federally-issued photo ID in order to cast a ballot. As noted earlier, people with disabilities are less likely have an appropriate ID and are challenged to obtain a free, state-issued ID. The General Accounting Office (GAO) found that strict voter ID laws reduce overall voter turnout by 2-3%, and widens the turnout gap for vulnerable voter groups (GAO 2014; Visram 2020). This makes the photo ID law especially burdensome to voters with disabilities.

There are several ways that the state could accommodate more voters, increase voter flexibility and ease concerns over voter fraud. Several states with strict voter ID laws permit accommodations for persons without an eligible photo ID to cast an in-person ballot. Tennessee currently has an exemption that allows voters without an acceptable photo ID to cast a

provisional ballot, but requires the voter to present a valid photo ID at the county election commission office within two days of the election (TCA 2-7-112). This does not help voters with disabilities who are unable to obtain an ID.

Rhode Island permits voters without a valid ID attempting to vote in-person to cast a provisional ballot. The signature on the provisional ballot is then compared to the voter's registration signature on file for verification and, should county election officials find a match, the ballot is counted. New Hampshire permits voters to cast a provisional ballot that is assumed valid. The county election commissioner then mails a non-forwardable notice to the voter's stated home address informing the resident that somebody voted with those credentials. Notices returned "undeliverable" or with notice that the residence claimed by the voter was incorrect will result in the pursuit of voter fraud cases by the state (Brennan Center 2011). Tennessee should consider these more flexible provisional ballot reforms to accommodate voters without appropriate photo ID.

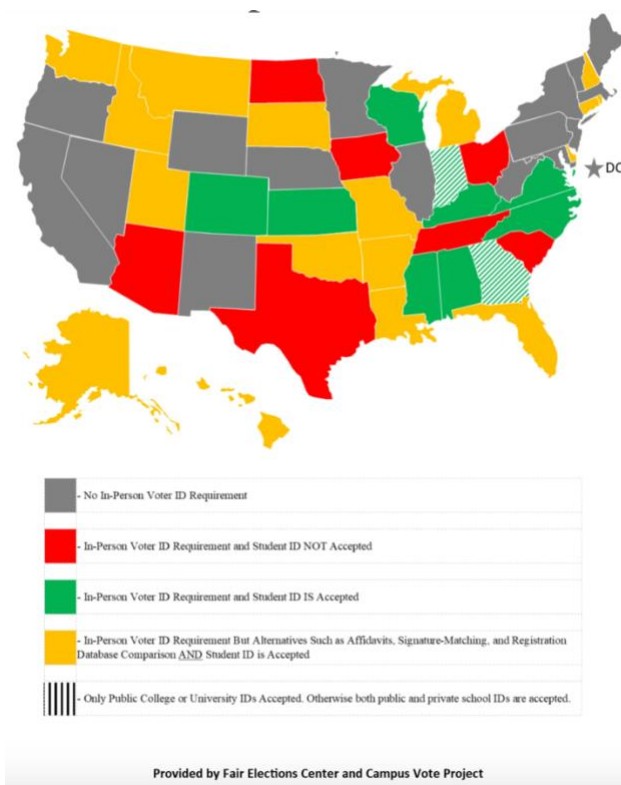


Figure 10 - Student ID as Voter ID

Kansas and Arkansas both permit voters to use government issued public assistance cards, such as a SNAP card or Medicaid insurance card. Voters who have disabilities that face barriers to getting an ID are very likely to interact with public assistance offices. As of 2010, 30% of adults who received income-based government assistance had a disability (Census Bureau 2013). Almost 5% of voting age adults in the US, over 10 million people, receive social security disability payments (SSA 2016). In 2013, 14.4 million US citizens with disabilities received SNAP benefits (Moses 2011). In obtaining government-based public assistance, individuals submit to rigorous reviews of their personal information to establish eligibility. In order to become eligible for many public assistance benefits, persons must submit documentation of citizenship, residency, and criminal history. The eligibility process for individuals face to

obtain government assistance is likely equal to or greater than that required for a photo ID . Tennessee should permit voters to use government issued public assistance cards in lieu of state- or federally-issued photo IDs.

Additional Considerations

The Help America Vote Act of 2002 also provides funds for improving polling place accessibility. Since the enactment of HAVA, the Secretary of State's office has worked with the disability community to improve accessibility, but there is still more the state can and should do. HAVA provides funding for training poll workers to use accessible features on voting machines and to better interact with voters with disabilities. Because HAVA funds are distributed by the state to counties on a grant basis, Tennessee can earmark funds specifically for poll worker accessibility training. One consideration is to use HAVA funds to establish an Accessible Elections Office. The state of California established such an office in 2005, tasked with advising the California Secretary of State of best practices and establishing, implementing and enforcing statewide accessibility standards for polling places (Cha & Kennedy ND). Tennessee has available resources earmarked for improving election processes, including improving accessibility. Tennessee should take full advantage of its HAVA funds in order to begin to close the disability voter turnout gap.

The state has made several accommodations available because of COVID that should remain. This includes allowing first-time voters who use the online voter registration system to vote using an absentee ballot, and no-excuse absentee voting. Making these policy changes permanent would reduce barriers to voting by eligible voters.

Conclusion

Two years after the passage of the ADA, the national disability turnout gap was 11% (Schur & Adya 2012). In 2018, 16 years later, that gap had been reduced to 4.7%. Since that time, our country has come a long way in ensuring that voters with disabilities have equal access to the vote. The effort to improve polling place accessibility, the adoption of new and plentiful forms of convenience voting and implementation of upgraded accessibility technology have

made their mark. Sadly, Tennessee lags behind. Building on the work that has been done to end discrimination against voters with disabilities, the state must strengthen its commitment to accessible voting.

In the time of Covid-19, we have seen the state of Tennessee adopt new, flexible and, most importantly, accessible means to cast a vote. Greater access to absentee voting, modified voter ID laws and online voter registration exemptions will reduce obstacles to voters with disabilities for years to come, if adopted permanently. These accommodations, made to ensure the right to vote is available to all people, have opened a window to a world committed to inclusion and equality at the ballot box. This is a world where Tennesseans with disabilities know that their ability to cast a vote is just as important and just as worthwhile as those without. It is a world where our growing population of people with disabilities, approximately 2.1 million Tennesseans by 2030, know that their right to vote will be secure. This is a world where Tennessee does not have the 5th worst voter turnout gap between persons with and without disabilities in the country.

In order to realize this world, Tennessee must continue to build on its successes. First, the state should eliminate the excuse requirements for an absentee ballot. It should then ensure that voters with disabilities have multiple and flexible options to return their absentee ballot. Tennessee could also enhance convenience voting options, standardize early voting hours and expand early voting locations. It should continue to explore the use of vote centers, in concert with maintenance of local precinct locations and increased absentee voting, as a flexible option for voters with disabilities. Finally, the state should modify its current voter ID laws to accommodate voters with disabilities facing undue burdens to meeting the requirements for a voting ID. While at the same time, Tennessee must continue to improve physical accessibility of in-person polling places, engaging in continued replacement of old voting machines and improving and proliferating accessibility training for poll workers.

When we first consider the most vulnerable among us, we ensure equality for all of us. As President Bush put it 30 years ago, “let the shameful wall of exclusion finally come tumbling down.”

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