

According to Commissioner Dozier, 31 DDS customer service centers will offer appointments for those who need an ID for voting purposes beginning in September 2005. Appointments will be reserved for groups, such as senior centers, church groups, and others. It will be the department's intention to schedule individuals and small groups together to ensure that the allocated appointment times are maximized. There will be a minimum of 3,960 slots per month available for appointments, which would provide the opportunity for 47,520 appointments on an annual basis.

According to the DDS website, first-time applicants for a Georgia driver's license, learner's permit, or state identification card must show an acceptable form of identification that indicates the applicant's full name and date of birth. Acceptable items include: original or certified copy of birth certificate issued by an office of vital records; certified copy of birth registration; certified copy of court records (adoption, name change, or sex change); certified naturalization records; immigration ID card; and valid United States passport. Anyone applying for a Georgia driver's license or identification card must provide a Social Security number at the time of issuance. It is not required for an applicant to have his original Social Security card. United States citizens must provide proof of citizenship, in the form of a birth certificate, United States passport, or certificate of citizenship. Non-United States citizens must present proper INS documentation in English or translated into English by an approved translator.

To obtain a certified copy of one's birth certificate in Georgia, a citizen must provide the following information: full name as shown on birth certificate, date of birth, place of birth, current age, sex, full name of mother (including maiden name), and full name of father to the State Vital Records Office. The requester must also provide a photocopy of a valid photo identification card, such as a driver's license, state issued photo ID card, or employer issued photo identification. If a person is requesting a birth certificate in order to obtain a photo ID card, and does not already possess the ID required for the request, he or she may present a signed Social Security card as ID based upon the comparison of the signatures from the card and the application.²⁷ If the requestor has no ID at all, the State Vital Records Office will mail out the certified copy of the birth certificate under the assumption that it will not be delivered by the post office to a location where a person of that name does not live.

According to the Georgia Division of Public Health's Vital Records website, applicants should allow 10 to 12 weeks to process routine requests for certified copies received by regular mail that do not involve any changes or directions and do not require filing of a new certificate. Requests made by overnight delivery are usually processed within three to five business days of receipt.

Georgia law requires non-refundable pre-payment before a record such as a birth

²⁷ Some county offices (e.g. Fulton County) will only accept a photo ID and will refer people who lack ID to the State Office in Atlanta. Dunn told us that vital records offices are independently run in each county so we have been unable to ascertain what the practices are in every county within the state.

certificate can be provided. A \$10 search fee is required in order to receive one certified copy. Additional certifications of the same record ordered at the same time may be acquired for a \$5 fee. A multi-year search requires an additional \$10 fee. Records are sent by overnight for an additional fee of \$16.81. An additional fee of \$9.95 is also charged for credit card payments made through VitalChek.^{8/} There is no additional charge for payment by certified check or money order. All credit card payments must be made through VitalChek.

Some state residents were born outside of hospitals and were never issued birth certificates. According to the United States Department of Health and Human Services, Centers for Disease Control and Prevention, and the National Center for Health Statistics, over 40 percent of live births in the United States occurred outside of a hospital as late as 1940. Midwifery was not certified in Georgia until the late 1940s. The Lay Midwifery Act of 1955 empowered the Georgia Department of Human Resources (DHR) to set educational requirements and certify lay midwives. As a result, some Georgia citizens were delivered at home before this time and were never issued birth certificates because they not were delivered by a certified medical professional. We have been unable to obtain an estimate of the number of persons without birth certificates. According to the 2000 Census, there were 616,935 whites aged 65 and over, and 273,486 whites aged 75 and over; and 154,469 blacks aged 65 and over, and 67,051 aged 75 and over.

Individuals may use expired and suspended driver's licenses as acceptable photo ID for voting. Licenses can be suspended for criminal misconduct such as failure to pay child support. Suspension of a driver's license cannot occur for non-payment of parking tickets. The court is responsible for the collection of a driver's license upon conviction of a crime for which suspension is a punishment. If the court fails to do so, DDS sends the person a letter to collect it. Deputy Attorney General Dunn stated that if the voter has not yet surrendered his license, he could use it as photo ID for voting, even if it is suspended.

Any person old enough to sign his name or make a mark indicating his legal signature can apply for a Georgia photo identification card. A suspended or revoked licence does not prohibit a resident from applying for an identification card. A Georgia ID cardholder is not required to surrender his ID card when a driver's licence is secured or reinstated. In order to secure a Georgia ID card an applicant must furnish proof of residency in the State of Georgia. The following items showing a valid Georgia address are accepted: utility bill; bank statement; rental contracts and/or receipts; employer verification; or Georgia license issued to parent, guardian, or spouse. The applicant must surrender all previous driver's licences, identification cards, and permits. A certified Motor Vehicle Report or status letter from a previous state can be used if an applicant had a previous license or ID card, but does not have in his possession a license or identification to surrender.

The cost for an license or identification card is \$20 for 5 years or \$35 for 10 years. For those eligible, licences can be renewed via the internet, mail, or telephone. According to the

^{8/} The VitalChek Network is a private entity that is not affiliated with the State of Georgia.

Governor's July 1, 2005, press release, almost 1.4 million citizens have renewed a license by one of these means.

2. Driver's License/DDS Card Ownership

Prior to signing HB 244 into law, Governor Perdue estimated that 300,000 Georgians do not have a driver's license or other acceptable photo identification that could be used at the polls, but that 50,000 are incarcerated persons. See Jim Tharpe, Nancy Badertscher, "Voter ID Bill Likely to be Law," *Atlanta Journal-Constitution*, April 2, 2005. The United States Department of Transportation released data that in 2003, the latest available date, Georgia had 5,757,953 licensed drivers and a driving-age population of 6,632,373. This would constitute 86.8% of the voting age population who had driver's licenses.

The Georgia Department of Driver Services has provided data in response to our request. The DDS data contains counts of persons 18 and over with driver's licenses and state ID cards.^{2/} According to the DDS database, Georgia currently reports that 6,108,560 voting age persons have unexpired driver's licenses, which include commercial licenses, DUI permits,^{10/} suspended and revoked licenses. Georgia also reports that 690,538 voting age persons have unexpired ID cards, and 288,883 voting age persons have both a driver's license and ID card. This totals 7,087,981 persons of voting age with a photo ID from DDS. Of this group, 1,260,780 are black (17.7%), 2,687,706 (37.9%) are white, and 2,870,984 (40%) are of "unknown" race. The remaining 268,511 are comprised of Asian/Pacific Islander, Hispanic/Latino, Indian, multi-racial, other, and "refused to state."

Of the 4,216,997 voting age persons in the database who are of known racial background or refused to state, 29.8% are black and 65.1 % are white. Discussion of the reliability of this data is contained in Part II. D, *infra*.

3. Access to Vehicles

Data regarding access to vehicles is often used as a reasonable proxy for driver's license ownership, as persons who do not have a vehicle are less likely to have a driver's license. According to the Census Bureau data tabulations (SF-3), a total of 390,414 Georgia voting-age individuals lack access to a vehicle. When examined at the household level, this constitutes 242,929 households without access to a vehicle. The racial breakdown of these households reflects that there are 142,171 black non-Hispanic households without access to a vehicle, and 89,232 white non-Hispanic households without access to a vehicle. This constitutes 17.7 percent

^{2/} Individuals may have both a Georgia driver's license and a Georgia ID card, or one or the other. For convenience, we sometimes refer to a person who holds either type as having a "DDS card" because for voting purposes, it is access to the card, rather than the type of card, that is significant.

^{10/} DUI permits are driving permits issued to persons whose regular license are revoked for DUI convictions so they can drive to and from work.

of black households and 4.4 percent of white households.

Ms. Meyers provided a 2004 report conducted by Georgians for Better Transportation containing vehicle access data that are consistent with the census numbers. The report, "Blueprint 2030: Affordable Mobility and Access for All of Atlanta and Georgia," notes that 250,000 households in Georgia lack access to a vehicle, and that 140,000 of those are headed by an African-American householder. *Id.* at 22. It also finds that nine counties contain half of the vehicle-less households in the state: Fulton, DeKalb, Chatham, Richmond, Cobb, Muscogee, Gwinnett, Bibb, and Dougherty, and that each of these nine counties have more than 5,000 households with no vehicle. *Id.* at 23. The report also finds that six of these nine counties would be on the list of counties with more than 5,000 African-American households without vehicles. *Id.*

Table 1: No vehicle households in counties with more than 5,000 total population

	All households with no vehicle	Households with no vehicle headed by African-Americans	Percentage of households with no vehicle headed by African-American
Fulton	48,859	36,221	74.1%
DeKalb	22,763	14,458	63.5%
Chatham	10,678	7,309	68.4%
Richmond	8,969	6,207	69.2%
Cobb	8,675	N/A	N/A
Muscogee	8,154	5,715	70%
Gwinnett	6,294	N/A	N/A
Bibb	7,423	5,541	74.6%
Dougherty	4,597	N/A	N/A

The report further notes that Georgia does not have large disparities in shares of households without vehicles between urban and rural areas. *Id.* at 24. It states that across Georgia, levels of African-American households without vehicles are higher in the smaller urbanized areas of the state than Atlanta, often at levels of 20 percent, yielding an overall statewide rate of 18 percent in no vehicles available for African-American households. *Ibid.* In contrast, the statewide rate for white households with no vehicles available is 4.41 percent.

We also compared access to vehicles by race in counties with DDS offices versus counties without DDS offices. Census data show that five times more black households in counties without DDS offices lack access to a motor vehicle compared to white households. This data can be expressed as follows:

Table 2: Households in counties with no DDS offices with no vehicle, by race

Race of household	Households in counties without DDS offices	Households with no vehicle	Percent
White non-Hispanic	554,971	25,843	4.7%
Black non-Hispanic	140,148	28,085	20.0%
Hispanic households	11,882	1,329	11.2%

4. Other currently acceptable forms of voter identification

United States passport: According to the United States Department of State website, there are approximately 210 passport acceptance facilities in the State of Georgia. The basic fee for obtaining a passport is \$97. To obtain a passport, proof of United States citizenship must be presented with any of the following: previous United States passport, certified birth certificate, consular report of birth abroad, naturalization certificate, or certificate of citizenship. If an applicant does not have a previous United States passport or a certified birth certificate, he must provide a letter of no record issued by the State Vital Statistics office, and as many of the following as possible: baptismal certificate, hospital birth certificate, census record, early school record, family bible record, and doctor's record of post-natal care. Routine passport service takes approximately six weeks.

Fewer than 20 percent of all United States citizens hold a valid passport. We were unable to obtain the total number of Georgia citizens with passports. The United States Passport application, Form DS-11, does not contain a field for self-identification of a racial category, and we were unable to obtain information regarding access to United States passports by race.

Government checks/paychecks/documents: With 620,620 black persons in poverty compared to 564,970 white persons, black persons in Georgia are more likely to fall below the poverty line than are white persons. These census statistics indicate 26 percent of the black population and 11 percent of the white population fall below the poverty line. Median household income in 1999 was \$30,998 for blacks and \$48,002 for whites. Per capita income in 1999 was \$12,576 for blacks and \$25,133 for whites.

Among individuals who lack access to a vehicle in the state, a greater number of blacks are below the poverty line and receive public assistance as compared to whites. The Public Use

Microdata Sample [PUMS]^{11/} of the 2000 Census reflects that among individuals who lack access to a vehicle in the state, 101,522 (46.3%) blacks were beneath the poverty line, compared to 35,605 (28.3%) whites. In addition, approximately 74,912 voting-age blacks without access to a vehicle in the state receive either Social Security, Supplemental Security Income or public assistance, compared to 56,750 whites.

According to the Georgia Department of Human Resources, the total number of persons receiving Temporary Aid to Needy Families ("TANF") subsidies as of February 2000 was 129,822 (99,817 children, 30,005 adults). The racial/ethnic breakdown of TANF recipients was 80.9 percent black, 17 percent white, 1.3 percent Hispanic, and 0.3 percent Asian.

Firearms permit/hunting or fishing license/pilot's license: We were unable to obtain any data regarding the number of persons, by race, who hold permits or licenses for hunting, fishing, piloting aircraft, or carrying firearms.

College and university issued identification: We were unable to obtain data regarding the number of persons, by race, who attend private colleges and universities, and who would therefore hold photo identification from such institutions. According to the Regents of the University of Georgia, there were 56,831 black students enrolled in all state colleges and universities in Georgia, and 154,924 white students, in Spring 2005. This constitutes 3.16 percent of black voting age population and 3.76 percent of white voting age population based on estimated 2005 voting age population. According to the National Center for Education Statistics there were 13,476 students enrolled in degree-granting historically black private colleges and universities in Georgia in 2000.

Employer-issued identification: According to the Bureau of Labor Statistics survey of employment, in 2004, the average unemployment rate for blacks in Georgia was 7.7 percent, for whites 3.5 percent, and for Hispanics 4.6 percent. The most recent workforce numbers are based on the 2000 Census, which indicates that 36.6 percent of blacks, aged 16 and over, were not in the labor force, compared to 33.1 percent of non-Hispanics whites in the same age group.

According to the 2000 Census, 14.3 percent of white and 19.4 percent of black Georgians work for local, state, or federal government, while 78.6 percent of white and 76.9 percent of black Georgians work for private employers. These figures do not include those who are self-employed in unincorporated businesses or are unpaid family workers.

The submitting authority did not provide, and we were unable to obtain, information about the prevalence of photo identification issued by private or public employers. Deputy

^{11/} The Public Use Microdata Samples are a sample (usually 5%) of the individual household or individual records used in the census data. These files contain records for a sample of housing units with information on the characteristics of each unit and each person in it. While preserving confidentiality (by removing identifiers), these microdata files permit users with special data needs to prepare virtually any tabulation.

General Counsel of the Association of County Commissioners Ken Kimbro stated that most counties probably issued photo identification to their employees, but that some of the smaller and more rural counties might not. He provided a list of county managers and administrators. We contacted 30 of the individuals listed in a range of counties of varying size and location. We found that six of the seven largest counties we contacted (pop. 59,000 and over) provide photo identification to their employees, none of the nine smallest counties contacted (pop. 15,000 and under) provide photo identification to their employees, and ten out of sixteen of the mid-size counties (pop. 15,500 to 49,000) provide photo identification to some employees, based on the employee's position (e.g., building inspector) or location of employment (e.g., courthouse).

We were also unable to obtain information about the issuance of photo identification by private employers. We know anecdotally that some Georgia employers such as Delta Airlines and Home Depot issue photo identification, but there is no central source for this type of data.

Certified naturalization documents: According to the 2000 Census, there were 169,232 naturalized citizens residing in the State of Georgia; of whom 29,490 (17.4%) were non-Hispanic black persons and 45,760 (27%) were non-Hispanic white persons. All naturalized citizens are issued an official certificate by Citizenship and Immigration Services at the time of naturalization. Those applying for naturalization are required to provide two photographs that adhere to passport photo standards. Since 1929, all naturalization certificates issued include a photograph of the new citizen. Copies of certified naturalization documents can be obtained from the Bureau of Citizenship and Immigration Services and requires payment of a fee of \$210.

Although naturalization certificates were specifically repealed by Section 59 of HB 244 as acceptable voter ID, the statute allows a voter to show any valid identification card issued by a branch, department, agency or entity of the United States provided that the card contains the elector's picture. Deputy Attorney General Dunn was unsure whether naturalization certificates contained a photograph of the elector, but stated that if they did, they would be considered acceptable photo ID for voting.^{12/}

Tribal Identification: The 2000 Census reports that 21,737 persons in Georgia who identified themselves as American Indian or Alaska Native. Of these, 16,104 persons, or 0.3 percent of the total population, were voting age. Of the 8,036 households headed by an American Indian/Alaska Native, 671 (8.3%) had no vehicle available.

There are no federally recognized Native American tribes in Georgia. The state code does recognize the following tribes as legitimate American Indian tribes pursuant to Ga. Code Ann. § 44-12-300: Georgia Tribe of Eastern Cherokee, the Lower Muscogee Creek Tribe, and the

^{12/} Because specific reference to naturalization certificates as valid voter ID is removed under the proposed statute and as such documents are valid indefinitely, we anticipate that, in certain circumstances, such as a citizen who naturalized as a child, election officials may require additional confirmation of the voter's identity with a current photo.

Cherokee of Georgia Tribal Council. Only the Lower Muscogee Creek Tribe has a reservation in the state. The census reports that this reservation, the Tama Reservation, had a population of 57 persons (45 persons of voting age) in 2000. The Lower Muscogee Creek Tribe does not issue tribal photo identification to its members according to Principal Chief Vonnie McCormick. Additionally, the Bureau of Indian Affairs does not issue identification to non-federally recognized tribes.

To the best of our knowledge, each tribe has its own practice with respect to issuance of identification, including whether ID is issued and whether it contains a photograph of the member. Anecdotal evidence suggests that most tribal IDs do not contain photographs.

Affidavit alternative: Under the benchmark statute, voters who are unable to produce any of the 17 forms of identification may sign a statement swearing or affirming to their identity. For the purpose of determining the number of people who lack appropriate identification, an analysis of the number of affidavits used in recent elections by county would be informative. In addition, because voter registration records are kept by race, the proportion of black and white persons who lack identification could have been tabulated and analyzed. The submitting authority did not provide any analysis of these records, which remain in the custody of county officials after an election.

D. Factual analysis

Georgia's voter ID law was enacted in 1997 with the following forms of acceptable identification for voting: valid driver's license or state ID card, U.S. Passport; U.S. military ID; photo identification from any employer; student photo identification from any private or public college, university, or technical school; valid pilot's license; Social Security card; certified naturalization documents; certified copy of birth certificate; certified copy of specified court records; valid hunting or fishing license; or valid permit to carry a pistol or revolver. Any voter who was unable to produce one of these forms was allowed to sign a statement under oath, swearing or affirming that he is the person identified on the voter's certificate under penalty of law. The voter was then permitted to vote a regular ballot without delay.

We precleared the benchmark procedure based on two main factors: (1) the fail-safe procedure ensured that voters were not turned away for lack of authorized identification, and (2) minority contacts did not urge an objection, primarily because no voters would be turned away if they did not have proper identification.

The current voter identification requirement was modified in 2003 when the legislature added the acceptable forms of identification specified in the Help America Vote Act. Added forms of identification included: utility bills, bank statements, government checks or paychecks, and government documents that show the name and address of the elector. We precleared this change because it added, rather than subtracted, acceptable forms of ID for voting.