

## Lawsuit Summary

This suit is a request to have those provisions of the Tennessee Election Code that permit paperless voting to be declared unconstitutional under the Tennessee Constitution.

Briefly, The Tennessee Constitution requires that all elections be “free and equal.” It also states that the General Assembly shall have the power to secure the “purity of the ballot box.” Many other states have very similar language in their Constitutions. Copycat suits are encouraged.

In Tennessee, depending upon where you live, some voters still get to vote using paper ballots, but most Tennessee voters are now required to vote on paperless electronic systems.

This lawsuit argues that paperless voting and voting with paper ballot are not “equal” voting systems, and that those who must vote on paperless systems have inferior rights to those who are still permitted to vote on paper. Voting on paper allows the voter at least four major advantages that the paperless voter does not have: (1) the ability of the voter to check to make sure his vote is properly recorded; (2) the ability to have statistical checks of the voting; (3) the ability to have legitimate recounts; and (4) the ability to have meaningful election contests. This suit argues that all four of these protections are lost with paperless voting.

This lawsuit also argues that the “purity of the ballot box” is destroyed when the system is privatized. De facto privatization occurs when all of the essential elements of voting are turned over to the private sector. When the government enters contracts with the private sector that have provisions which require that the software be kept a trade secret, the government abdicates the essential functions of elections to the private sector. Privatization creates at least two major problems: (1) highly partisan owners can make the system far more partisan than it should be, and (2) people who are not elected, not appointed, not deputized, not checked for criminal backgrounds, who may not be citizens and who may even be enemies now run the election process.

This suit seeks to have the Court declare that paperless voting is unconstitutional and that privatization is unconstitutional as well.