



A SUMMARY OF THE NATIONAL VOTER REGISTRATION ACT

The National Voter Registration Act (NVRA) of 1993 dramatically increased the opportunities for eligible Americans to become registered to vote in Federal elections. The Act required states to offer voter registration opportunities by mail application, driver's license offices, at state public assistance agencies and at other designated state offices. It also establishes some safeguards to prevent officials from purging voters without sufficient cause and creates failsafe voting for registered voters who move within a jurisdiction but fail to update their registration records. The NVRA begins with a few short findings of fact, including a finding that "discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation."¹

Below is a short summary of relevant sections, followed by a closer examination of some of the Act's requirements.

Summary

- **Section 4** exempts states that do not have voter registration requirements on and after August 1, 1994² or that offer election day registration.³ These six states are Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming.
- **Section 5** requires states to offer voter registration simultaneously with driver's license application or renewal.⁴
- **Section 6** requires states to use and accept the Federal Mail Voter Registration Application.⁵ It also requires states to distribute the form to public and private entities, with an emphasis on making the form available for organized voter registration programs.⁶

¹ 42 U.S.C. § 1973gg (a)(3)

² 42 U.S.C. 1973gg-2 (b)(1)

³ 42 U.S.C. 1973gg-2 (b)(2)

⁴ 42 U.S.C. § 1973gg-3 (a)(1) (referred to in § 1973gg-2 and § 1973gg-6)

⁵ 42 U.S.C. § 1973gg-4 (a)(1)

⁶ 42 U.S.C. § 1973gg-4 (b)

- **Section 7** requires public assistance offices⁷ and offices providing state services to people with disabilities⁸ to offer voter registration services at application, recertification or renewal, and change of address.⁹ States must also designate additional state offices as voter registration agencies.¹⁰
- **Section 8** specifies the circumstances under which a voter's name may be removed from the registration list,¹¹ establishes requirements for list maintenance activities¹² and suggests procedures,¹³ and institutes failsafe voting for registered voters who have changed addresses.¹⁴
- **Section 9** creates the Federal Mail Voter Registration Application,¹⁵ assigns to the Election Assistance Commission¹⁶ the responsibility of designing the federal form in consultation with the states' chief election officials,¹⁷ and for reporting to Congress on the implementation of the NVRA in odd-numbered years.¹⁸
- **Section 10** requires states to designate a state officer or employee as chief state election official who is "responsible for coordination of State responsibilities under this Act."¹⁹
- **Section 11** authorizes the U.S. Attorney General to enforce the NVRA²⁰ and creates a right of private action.²¹

General Procedures

States must establish procedures to register eligible citizens to vote in federal elections by mail application,²² by application made simultaneously with application for a motor vehicle driver's license,²³ and by application in person at public assistance agencies, offices providing state services to people with disabilities, and other designated state offices.²⁴

⁷ 42 U.S.C. § 1973gg-5 (a)(2)(A).

⁸ 42 U.S.C. § 1973gg-5 (a)(2)(B).

⁹ 42 U.S.C. 1973gg-5 (6)(A)

¹⁰ 42 U.S.C. 1973gg-5 (3)(A)

¹¹ 42 U.S.C. § 1973gg-6 (a)(3), (a)(4), (b)(2)

¹² 42 U.S.C. § 1973gg-6 (*in general*)

¹³ 42 U.S.C. § 1973gg-6 (c)

¹⁴ 42 U.S.C. § 1973gg-6, (e)

¹⁵ 42 U.S.C. § 1973gg-7 (a)(2)

¹⁶ The Help America Vote Act amended the NVRA to substitute Election Assistance Commission for Federal Election Commission.

¹⁷ 42 U.S.C. § 1973gg-7 (a)(1)

¹⁸ 42 U.S.C. § 1973gg-7 (a)(3)

¹⁹ 42 U.S.C. § 1973gg-8

²⁰ 42 U.S.C. § 1973gg-9 (a)

²¹ 42 U.S.C. § 1973gg-9 (b)

²² 42 U.S.C. § 1973gg-2 (a)(2)

²³ 42 U.S.C. § 1973gg-2 (a)(1)

²⁴ 42 U.S.C. § 1973gg-2 (a)(3)

“Motor Voter” Registration

States must offer voter registration simultaneously with application for, or renewal of, a driver’s license.²⁵ States are prohibited from requiring “any information that duplicates information required in the drivers license portion of the form” except that a second signature may be required for the voter registration portion of the form.²⁶ States may request only the minimum information necessary to (1) prevent duplicate registration²⁷ and (2) determine an applicant’s eligibility and administer the voter registration and other parts of the election process.²⁸

Motor vehicle authorities must transmit the voter registration application to appropriate election authorities “not later than 10 days after the date of acceptance”²⁹ except when the application is received within 5 days of the close of voter registration, in which case the application must be transmitted “not later than 5 days after the date of acceptance.”³⁰

Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver’s license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.³¹

Registration by Mail

States must accept and use the Federal mail voter registration application.³² Project Vote interprets this provision to prohibit states from restricting the use of the federal form by individuals and organizations. Further, it is our opinion that states must accept and process the federal form regardless of whether the applications were collected in a manner compliant with state law.³³

The contents of the federal form may require only the minimum information necessary “to assess the eligibility of the applicant and to administer the registration and other parts of the election process.”³⁴ States may develop and use their own mail voter registration applications as long as their forms “meet all the criteria” for the federal form.³⁵ The U.S. Election Assistance Commission has determined that states may not require applicants who applied to register to vote with the federal form to respond to additional questions

²⁵ 42 U.S.C. § 1973gg-3 (a)(1), (c)(1)

²⁶ 42 U.S.C. § 1973gg-3 (c)(2)(A)

²⁷ 42 U.S.C. § 1973gg-3 (c)(2)(B)(i)

²⁸ 42 U.S.C. § 1973gg-3 (c)(2)(B)(ii)

²⁹ 42 U.S.C. § 1973gg-3 (e)(1)

³⁰ 42 U.S.C. § 1973gg-3 (e)(2)

³¹ 42 U.S.C. § 1973gg-3(d)

³² 42 U.S.C. § 1973gg-4 (a)(1)

³³ See, for example, *Wesley Foundation v Cox*. (11th Cir. May 12, 2005)

³⁴ 42 U.S.C. § 1973gg-7 (b)(1)

³⁵ 42 U.S.C. § 1973gg-4 (a)(2)

regarding the applicants' eligibility.³⁶ Further, it is Project Vote's opinion that the federal form is controlling in terms of the information that an applicant must provide on a state form in order for the form to be accepted and processed. In other words, states may not require information on their state forms beyond the information applicants would have had to provide if they had used the federal form.

States must make the mail form available to government and private entities, "with particular emphasis on making them available for organized voter registration programs."³⁷ It is Project Vote's opinion that states may not limit the quantity of state voter registration applications that individuals or organizations sponsoring voter registration programs may obtain.

Requirements for Certain Voters Who Register by Mail

States may require individuals who register by mail and have not previously voted in the jurisdiction to vote in person.³⁸

Registration at Public Agencies³⁹

States must designate as voter registration agencies all offices that provide public assistance,⁴⁰ all offices that provide state services to people with disabilities,⁴¹ and must designate other state offices.⁴² Other state offices may include public libraries, public schools, unemployment compensation offices and offices of city and county clerks.⁴³ In general, each voter registration office shall distribute the mail voter registration application,⁴⁴ provide assistance to applicants in completing the form,⁴⁵ and accept and transmit the form to election officials.⁴⁶

Voter registration agencies that provide public services or benefits must provide each person applying for benefits, renewing or recertifying benefits, or making a change of address,⁴⁷ a voter registration application⁴⁸ and a form that includes the question: "If you

³⁶ See "Letter to Dawn Roberts, Director, Elections Division, Florida Department of State." U.S. Election Assistance Commission. July 26, 2005.

³⁷ 42 U.S.C. § 1973gg-4 (b)

³⁸ 42 U.S.C. § 1973gg-4 (c)(1)

³⁹ For a more detailed examination of the public agency requirement, see "Policy Brief 5: Public Agency Registration." Project Vote. February 2006.

⁴⁰ 42 U.S.C. § 1973gg-5 (a)(2)(A)

⁴¹ 42 U.S.C. § 1973gg-5 (a)(2)(B)

⁴² 42 U.S.C. § 1973gg-5 (a)(3)(A)

⁴³ 42 U.S.C. § 1973gg-5 (a)(3)(B)(i)

⁴⁴ 42 U.S.C. § 1973gg-5 (a)(4)(A)(i)

⁴⁵ 42 U.S.C. § 1973gg-5 (a)(4)(A)(ii)

⁴⁶ 42 U.S.C. § 1973gg-5 (a)(4)(A)(iii)

⁴⁷ 42 U.S.C. § 1973gg-5 (a)(6)(A)

⁴⁸ 42 U.S.C. § 1973gg-5 (a)(6)(A)(i)

are not registered to vote where you live now, would you like to apply to register to vote here today?”⁴⁹

If the agency provides services to a person with disabilities at the person’s home, the agency must offer voter registration service at the person’s home.⁵⁰

Voter registration agencies must transmit the voter registration application to appropriate election authorities “not later than 10 days after the date of acceptance”⁵¹ except when the application is received within 5 days of the close of voter registration, in which case the application must be transmitted “not later than 5 days after the date of acceptance.”⁵²

Voter Registration Deadline

States must register eligible applicants who submit valid voter registration forms 30 days before the election, or the close of the state’s voter registration, whichever is lesser.⁵³ In the case of registration by mail, the submission date is the date of the postmark.⁵⁴

Notice of Disposition

States must send notices of disposition to registration applicants.⁵⁵

List Maintenance

States may remove names from the voter registration list only in the following circumstances: (1) at the voter’s request,⁵⁶ (2) when the voter has been convicted of a felony or judged mentally incompetent as provided for by state law,⁵⁷ and, (3) through a program to remove voters who are ineligible because of death or change of residence.⁵⁸ The NVRA requires states to conduct a general list maintenance program to remove voters who are ineligible because of death or change of address.⁵⁹

Any list maintenance program must be uniform, nondiscriminatory and comply with the Voting Rights Act⁶⁰ and may not result in the removal of a voter due to failure to vote, except for the reasons covered under the following section on removal as a consequence of change of address.⁶¹

⁴⁹ 42 U.S.C. § 1973gg-5 (a)(6)(B)(i)

⁵⁰ 42 U.S.C. § 1973gg-5 (a)(4)(B)

⁵¹ 42 U.S.C. § 1973gg-5 (d)(1)

⁵² 42 U.S.C. § 1973gg-5 (d)(2)

⁵³ 42 U.S.C. 1973gg-6 (a)(1)

⁵⁴ 42 U.S.C. 1973gg-6 (a)(1)(B)

⁵⁵ 42 U.S.C. 1973gg-6 (a)(2)

⁵⁶ 42 U.S.C. 1973gg-6 (a)(3)(A)

⁵⁷ 42 U.S.C. 1973gg-6 (a)(3)(B)

⁵⁸ 42 U.S.C. 1973gg-6 (a)(3)(C)

⁵⁹ 42 U.S.C. 1973gg-6 (a)(4)

⁶⁰ 42 U.S.C. 1973gg-6 (b)(1)

⁶¹ 42 U.S.C. 1973gg-6 (b)(2)

States must complete any systematic list maintenance program “not later than 90 days prior to the date of a primary or general election for Federal office.”⁶² States may remove voters at their request or who become ineligible because of death, felony conviction or a judgment of mental incompetence within 90 days of a primary or general election for Federal office.⁶³

Removal as a Consequence of Change of Address

States may not remove a voter from the registration list as a consequence of moving unless (1) the voter confirms in writing that the voter has moved outside the registrar’s jurisdiction⁶⁴ or (2) the voter has failed to respond⁶⁵ to “a postage prepaid, pre-addressed return card sent by forwardable mail”⁶⁶ AND has not voted in two consecutive Federal elections following the date of the notice.⁶⁷

“Failsafe” Voting Following a Change of Address

If a voter moves from one address within the area covered by a polling place to another address within the area covered by the same polling place and does not notify the registrar, the voter must be permitted to vote upon making an oral or written affirmation of a change of address before polling place officials.⁶⁸

If a voter moves from an address in an area covered by one polling place to an address in an area covered by another polling place within the same registrar’s jurisdiction and within the same congressional district but fails to notify the registrar, a voter has the option of voting at a central location,⁶⁹ at the polling place for the new address,⁷⁰ or at the polling place for the former address.⁷¹ If state law permits such registrants to vote in the *current* election upon their oral or written affirmation of their new address at either the former polling place or the new polling place, the state does not also have to provide the option of voting at a central location.⁷²

Public Records

States must retain for 2 years, and make available for public inspection “all records “concerning the implementation of programs and activities conducted for the purpose of

⁶² 42 U.S.C. 1973gg-6 (c)(2)(A)

⁶³ 42 U.S.C. 1973gg-6 (c)(2)(B)(i)

⁶⁴ 42 U.S.C. 1973gg-6 (d)(1)(A)

⁶⁵ 42 U.S.C. 1973gg-6 (d)(1)(B)(i)

⁶⁶ 42 U.S.C. 1973gg-6 (d)(2)

⁶⁷ 42 U.S.C. 1973gg-6 (d)(1)(B)(ii)

⁶⁸ 42 U.S.C. 1973gg-6 (e)(1)

⁶⁹ 42 U.S.C. 1973gg-6 (e)(2)(A)(ii)(I)

⁷⁰ 42 U.S.C. 1973gg-6 (e)(2)(A)(ii)(II)

⁷¹ 42 U.S.C. 1973gg-6 (e)(2)(A)(i)

⁷² 42 U.S.C. 1973gg-6 (e)(2)(B)

ensuring the accuracy and currency of official lists of eligible voters.”⁷³ Records must include “lists of names and addresses of all persons to whom notices were sent”⁷⁴ and information regarding their responses, if any. Records related to an individual’s “declination to register to vote or to the identity of a voter registration agency through which any particular voter’s registered” must remain confidential.⁷⁵

⁷³ 42 U.S.C. 1973gg-6 (i)(1)

⁷⁴ 42 U.S.C. 1973gg-6 (i)(2)

⁷⁵ 42 U.S.C. 1973gg-6 (i)(1)