

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 535**

4 (By Senators Palumbo, Wells, McCabe and Fitzsimmons)

5 \_\_\_\_\_  
6 [Originating in the Committee on the Judiciary;

7 reported March 21, 2013.]  
8 \_\_\_\_\_

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10  
11 A BILL to repeal §3-2-24 of the Code of West Virginia, 1931, as  
12 amended; to amend and reenact §3-1-3 of said code; and to  
13 amend and reenact §3-2-2, §3-2-4a, §3-2-18, §3-2-19, §3-2-21,  
14 §3-2-23, §3-2-25 and §3-2-29 of said code, all relating to the  
15 maintenance of voter registration lists and related records;  
16 making technical corrections and deleting obsolete references;  
17 updating and clarifying the persons entitled to vote;  
18 clarifying when a person under the age of eighteen may vote in  
19 a primary election; updating the processes and  
20 responsibilities for statewide voter registration and  
21 clarifying county and state roles in the voter registration  
22 process; updating the processes of maintaining voter  
23 registration records; clarifying county roles in maintaining  
24 voter registration files for municipal elections; updating

1 processes for the maintenance of records in the statewide  
2 voter registration database; permitting registration records  
3 to be shared across state lines pursuant to certain programs;  
4 updating processes for cancellation of deceased or ineligible  
5 voters' registrations; clarifying county and state roles in  
6 the systematic purging program for removal of ineligible  
7 voters from active voter registration records; and clarifying  
8 custody of paper and electronic voter registration records.

9 *Be it enacted by the Legislature of West Virginia:*

10 That §3-2-24 of the Code of West Virginia, 1931, as amended,  
11 be repealed; that §3-1-3 of said code be amended and reenacted; and  
12 that §3-2-2, §3-2-4a, §3-2-18, §3-2-19, §3-2-21, §3-2-23, §3-2-25  
13 and §3-2-29 of said code be amended and reenacted, all to read as  
14 follows:

15 **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

16 **§3-1-3. Persons entitled to vote.**

17 Citizens of the state shall be entitled to vote at all  
18 elections held within the precincts of the counties and  
19 municipalities in which they respectively reside. But no person  
20 who has not been registered as a voter as required by law, or who  
21 is a minor, or ~~of unsound mind~~ who has been adjudicated mentally  
22 incompetent by a court of competent jurisdiction, or who is under  
23 conviction of treason, felony or election bribery, ~~in an election,~~  
24 or who is not a bona fide resident of the state, county or

1 municipality in which he or she offers to vote, shall be permitted  
2 to vote at such election while such disability continues, unless  
3 otherwise specifically provided by federal or state code. Subject  
4 to the qualifications otherwise prescribed in this section,  
5 however, a minor shall be permitted to vote only in a primary  
6 election if he or she will have reached the age of eighteen years  
7 on the date of the general election next to be held after such  
8 primary election.

9 **ARTICLE 2. REGISTRATION OF VOTERS.**

10 **§3-2-2. Eligibility to register to vote.**

11 (a) Any person who possesses the constitutional qualifications  
12 for voting may register to vote. To be qualified, a person must be  
13 a citizen of the United States and a legal resident of West  
14 Virginia and of the county where he or she is applying to register,  
15 shall be at least eighteen years of age, except that a person who  
16 is at least seventeen years of age and who will be eighteen years  
17 of age by the time of the next ensuing general election may also be  
18 permitted to register, and shall not be otherwise legally  
19 disqualified: *Provided,* That a registered voter who has not  
20 reached eighteen years of age may vote both partisan and  
21 nonpartisan ballots in a federal, state, or county, municipal or  
22 special primary election ~~but may only vote in a municipal primary~~  
23 ~~election~~ if he or she will be eighteen years of age by the time of  
24 the ~~next municipal~~ corresponding general election. ~~but is not~~

1 ~~eligible to vote in a special election.~~

2 (b) Any person who has been convicted of a felony, treason or  
3 election bribery, ~~in an election,~~ under either state or federal  
4 law, is disqualified and is not eligible to register or to continue  
5 to be registered to vote while serving his or her sentence,  
6 including any period of incarceration, probation or parole related  
7 thereto. Any person who has been determined to be mentally  
8 incompetent by a court of competent jurisdiction is disqualified  
9 and shall not be eligible to register or to continue to be  
10 registered to vote for as long as that determination remains in  
11 effect.

12 **§3-2-4a. Statewide voter registration database.**

13 (a) The Secretary of State shall implement and maintain a  
14 single, official, statewide, centralized, interactive computerized  
15 voter registration ~~list~~ database of every legally registered voter  
16 in the state, ~~which shall include the following as follows:~~

17 (1) The ~~computerized list~~ statewide voter registration  
18 database shall serve as the single system for storing and managing  
19 the official list of registered voters throughout the state.

20 (2) The ~~computerized list~~ statewide voter registration  
21 database shall contain the name, registration information and voter  
22 history of every legally registered voter in the state.

23 (3) ~~Under the computerized list,~~ In the statewide voter  
24 registration database, the Secretary of State shall assign a unique

1 identifier to each legally registered voter in the state.

2       (4) The ~~computerized list~~ statewide voter registration  
3 database shall be coordinated with other agency databases within  
4 the state and elsewhere, as appropriate, including, but not limited  
5 to, the vital statistics database maintained by the ~~Department of~~  
6 ~~Health and Human Resources~~ Office of Technology. The ~~Department of~~  
7 ~~Health and Human Resources~~ by ~~January 31st of each calendar year~~  
8 Office of Technology shall provide by the last day of each month to  
9 ~~each county clerk~~ the Secretary of State a list from ~~this~~ their  
10 database, separated by county, of all decedents in ~~that county in~~  
11 ~~the preceding year and shall provide to the Secretary of State the~~  
12 ~~list of all decedents in the state in the preceding year.~~ the state  
13 since the date of the last reporting period. The Secretary of  
14 State shall make this information available to each county clerk  
15 through the statewide voter registration database for processing by  
16 the clerk or the clerk's designee.

17       (5) The Secretary of State, ~~and~~ any clerk of the county  
18 commission or any authorized designee of the Secretary of State or  
19 clerk of the county commission may obtain immediate electronic  
20 access to the information contained in the ~~computerized list~~  
21 statewide voter registration database.

22       (6) The clerk of the county commission shall electronically  
23 enter voter registration information into the ~~computerized list~~  
24 statewide voter registration database on an expedited basis at the

1 time the information is provided to the clerk.

2 (7) The Secretary of State shall provide necessary support to  
3 enable every clerk of the county commission in the state to enter  
4 information as described in subdivision (6) of this subsection.

5 (8) The ~~computerized list~~ statewide voter registration  
6 database shall serve as the official voter registration list for  
7 conducting all elections in the state.

8 (b) The Secretary of State or any clerk of a county commission  
9 shall perform maintenance with respect to the ~~computerized list~~  
10 statewide voter registration database on a regular basis as  
11 follows:

12 (1) If an individual is to be removed from the ~~computerized~~  
13 ~~list~~ statewide voter registration database, he or she shall be  
14 removed in accordance with the provisions of 42 U. S. C. §1973gg,  
15 *et seq.*, the National Voter Registration Act of 1993.

16 (2) The Secretary of State shall coordinate the ~~computerized~~  
17 ~~list~~ statewide voter registration database with state agency  
18 records and ~~remove the~~ shall establish procedures for the removal  
19 of names of individuals who are not qualified to vote because of  
20 felony status or death. ~~Provided, That~~ No state agency may withhold  
21 information regarding a voter's status as deceased or as a felon  
22 unless ordered by a court of law. ~~Provided, however, the~~  
23 ~~Secretary of State shall, in each calendar year, certify that the~~  
24 ~~removal of individuals who are not qualified to vote because of a~~

1 ~~felony conviction as provided in section two of this article or~~  
2 ~~death is completed at least thirty days preceding the date of any~~  
3 ~~primary election.~~

4 (c) The list maintenance performed under subsection (b) of  
5 this section shall be conducted in a manner that ensures that:

6 (1) The name of each registered voter appears in the  
7 ~~computerized list~~ statewide voter registration database;

8 (2) Only voters who are not registered, who have requested in  
9 writing that their voter registration be canceled or who are not  
10 eligible to vote are removed from the ~~computerized list~~ statewide  
11 voter registration database;

12 (3) Duplicate names are eliminated from the ~~computerized list~~  
13 statewide voter registration database; and

14 (4) Deceased individuals' names are eliminated from the  
15 ~~computerized list~~ statewide voter registration database.

16 (d) The Secretary of State and the clerks of all county  
17 commissions shall provide adequate technological security measures  
18 to prevent the unauthorized access to the ~~computerized list~~  
19 statewide voter registration database established under this  
20 section.

21 (e) The Secretary of State shall ensure that voter  
22 registration records in the state are accurate and updated  
23 regularly, including the following:

24 (1) A system of file maintenance that makes a reasonable

1 effort to remove registrants who are ineligible to vote from the  
2 official list of eligible voters. Under the system, consistent  
3 with 42 U. S. C. §1973gg, et seq., registrants who have not  
4 responded to a notice sent pursuant to section twenty six, article  
5 two of this chapter, who have not otherwise updated their voter  
6 registration address and who have not voted in two consecutive  
7 general elections for federal office shall be removed from the  
8 official list of eligible voters, except that no registrant may be  
9 removed solely by reason of a failure to vote; ~~and~~

10 (2) By participation in programs across state lines to share  
11 data specifically for voter registration to ensure that voters who  
12 have moved across state lines or become deceased in another state  
13 are removed in accordance with state law and 42 U. S. C. §1973gg,  
14 et seq.; and

15 ~~(2)~~ (3) Through safeguards to ensure that eligible voters are  
16 not removed in error from the official list of eligible voters.

17 (f) Applications for voter registration may only be accepted  
18 when the following information is provided:

19 (1) Except as provided in subdivision (2) of this subsection  
20 and notwithstanding any other provision of law to the contrary, an  
21 application for voter registration may not be accepted or processed  
22 unless the application includes:

23 (A) In the case of an applicant who has been issued a current  
24 and valid driver's license, the applicant's driver's license



1 number;

2 (B) In the case of an applicant who has been issued an  
3 identification card by the Division of Motor Vehicles, the  
4 applicant's identification number; or

5 (C) In the case of any other applicant, the last four digits  
6 of the applicant's Social Security number; and

7 (2) If an applicant for voter registration has not been issued  
8 a current and valid driver's license, Division of Motor Vehicles  
9 identification card or a Social Security number, the Secretary of  
10 State shall assign the applicant a number which will serve to  
11 identify the applicant for voter registration purposes. ~~To the~~  
12 ~~extent that the state has a computerized list in effect under this~~  
13 ~~section and the list assigns unique identifying numbers to~~  
14 ~~registrants,~~ The number assigned under this ~~section~~ subdivision  
15 shall be the unique identifying number assigned under the ~~list~~  
16 statewide voter registration database.

17 (g) The Secretary of State and the Commissioner of the  
18 Division of Motor Vehicles shall enter into an agreement to match  
19 and transfer applicable information in ~~the database of the~~  
20 statewide voter registration ~~system~~ database with information in  
21 the database of the Division of Motor Vehicles to the extent  
22 required to enable each official to verify the accuracy of the  
23 information provided on applications for voter registration.

24 (h) The Commissioner of the Division of Motor Vehicles shall

1 enter into an agreement with the Commissioner of Social Security  
2 under 42 U. S. C. ~~§301~~ §401, et seq., the Social Security Act. All  
3 fees associated with this agreement shall be paid for from moneys  
4 in the fund created under section twelve of this article. ~~two of~~  
5 ~~this chapter.~~

6 **§3-2-18. Registration records; active, inactive, canceled, pending**  
7 **and rejected registration files; procedure; voting**  
8 **records.**

9 (a) For the purposes of this article:

10 (1) "Original voter registration record" means all records  
11 submitted or entered in writing or electronically, where permitted  
12 by law, for voter registration purposes, including:

13 (A) Any original application or notice submitted by any person  
14 for registration or reinstatement, change of address, change of  
15 name, change of party affiliation, correction of records,  
16 cancellation, confirmation of voter information or other request or  
17 notice for voter registration purposes; and

18 (B) Any original entry made on any voter's registration record  
19 at the polling place, or made or received by the clerk of the  
20 county commission relating to any voter's registration, such as  
21 records of voting, presentation of identification and proof of age,  
22 challenge of registration, notice of death or obituary notice,  
23 notice of disqualifying conviction or ruling of mental incompetence  
24 or other original document which may affect the status of any

1 person's voter registration.

2 (2) "Active voter registration ~~files~~ records" means the ~~files~~  
3 ~~of~~ registration records, whether ~~maintained~~ on paper ~~forms~~ or in  
4 ~~digitized data~~ electronic format, containing the names, addresses,  
5 birth dates and other required information for all persons within  
6 a county who are registered to vote and whose registration has not  
7 been designated as inactive or canceled pursuant to the provisions  
8 of this article.

9 (3) "Inactive voter registration ~~files~~ records" means the  
10 ~~files of~~ registration records, whether ~~maintained~~ on paper ~~forms~~ or  
11 in ~~digitized data~~ electronic format, containing the names,  
12 addresses, birth dates and other required information for all  
13 persons designated inactive pursuant to the provisions of section  
14 twenty-seven of this article following the return of the prescribed  
15 notices as undeliverable at the address provided by the United  
16 States Postal Service or entered on the voter registration, ~~For the~~  
17 ~~purposes of this chapter or of any other provisions of this code~~  
18 ~~relating to elections conducted under the provisions of this~~  
19 ~~chapter, whenever a requirement is based on the number of~~  
20 ~~registered voters, including, but not limited to, the number of~~  
21 ~~ballots to be printed, the limitations on the size of a precinct,~~  
22 ~~or the number of petition signatures required for election~~  
23 ~~purposes, only those registrations included on the active voter~~  
24 ~~registration files shall be counted and voter registrations~~

1 ~~included on the inactive voter registration files, as defined in~~  
2 ~~this subdivision, shall not be counted.~~ or for failure of the  
3 contacted voter to return a completed confirmation notice within  
4 thirty days of the mailing.

5 (4) "Canceled voter registration ~~files~~ records" means the  
6 ~~files~~ records containing all required information for all persons  
7 who have been removed from the active and inactive voter  
8 registration ~~files~~ records and who are no longer registered to vote  
9 within the county.

10 (5) "Pending application ~~files~~ records" means the temporary  
11 ~~files~~ records containing all information submitted on a voter  
12 registration application, pending the expiration of the  
13 verification period.

14 (6) "Rejected application ~~files~~ records" means the ~~files~~  
15 records containing all information submitted on a voter  
16 registration application which was rejected for reasons as  
17 described in this article.

18 (7) "Confirmation pending records" means the records  
19 containing all required information for persons who have been  
20 identified to be included in the next succeeding mailing of address  
21 confirmation notices as set forth by the National Voter  
22 Registration Act of 1993(42 U. S. C. §1973gg, et seq.).

23 (b) For the purposes of this chapter or of any other  
24 provisions of this code relating to elections conducted under the

1 provisions of this chapter, whenever a requirement is based on the  
2 number of registered voters, including, but not limited to, the  
3 number of ballots to be printed, the limitations on the size of a  
4 precinct, or the number of petition signatures required for  
5 election purposes, only those registrations included on the active  
6 voter registration files shall be counted and voter registrations  
7 included on the inactive voter registration files, as defined in  
8 this subdivision, shall not be counted.

9       ~~(b)~~ (c) Active voter registration ~~files~~ records, confirmation  
10 pending records and inactive voter registration ~~files~~ records may  
11 be maintained in the same physical location ~~or database~~, providing  
12 the records are coded, marked or arranged in such a way as to make  
13 the status of the registration immediately obvious. Canceled voter  
14 registration ~~files~~ records, pending application ~~files~~ records and  
15 rejected application ~~files~~ records ~~shall each~~ may be maintained in  
16 separate physical locations. ~~or databases.~~ However, all such  
17 records shall be maintained in the statewide voter registration  
18 database, subject to this article.

19       ~~(c)~~ (d) The effective date of any action affecting any voter's  
20 registration status shall be entered on the voter record ~~in the~~  
21 ~~appropriate file~~, including the effective date of registration,  
22 change of name, address or party affiliation or correction of the  
23 record, effective date of transfer to inactive status, return to  
24 active status or cancellation. When any registration is designated

1 inactive or is canceled, the reason for the designation or  
2 cancellation and any reference notation necessary to locate the  
3 original documentation related to the change shall be entered on  
4 the voter record.

5 ~~(d)~~ (e) Within one hundred twenty days after each primary,  
6 general, municipal or special election, the clerk of the county  
7 commission shall ~~as evidenced by the presence or absence of~~  
8 ~~signatures on the pollbooks for such election, correct any errors~~  
9 ~~or omissions on the voter registration records resulting from the~~  
10 ~~poll clerks erroneously checking or failing to check the~~  
11 ~~registration records as required by the provisions of section~~  
12 ~~thirty-four, article one of this chapter, or shall enter the voting~~  
13 ~~records into the state uniform data system if the precinct books~~  
14 ~~have been replaced with printed registration books as provided in~~  
15 ~~section twenty-one of this article.~~ statewide voter registration  
16 database.

17 **§3-2-19. Maintenance of active and inactive registration files for**  
18 **municipal elections.**

19 ~~(a) Each county shall continue to maintain a record of each~~  
20 ~~active and inactive voter registration in precinct registration~~  
21 ~~books until the statewide voter registration system is adopted~~  
22 ~~pursuant to the provisions of section four-a of this article, fully~~  
23 ~~implemented and given final approval by the Secretary of State.~~  
24 ~~The precinct registration books shall be maintained as follows:~~

1       ~~(1) Each active voter registration shall be entered in the~~  
2 ~~precinct book or books for the county precinct in which the voter's~~  
3 ~~residence is located and shall be filed alphabetically by name,~~  
4 ~~alphabetically within categories, or by numerical street address,~~  
5 ~~as determined by the clerk of the county commission for the~~  
6 ~~effective administration of registration and elections. No active~~  
7 ~~voter registration record shall be removed from the precinct~~  
8 ~~registration books unless the registration is lawfully transferred~~  
9 ~~or canceled pursuant to the provisions of this article.~~

10       ~~(2) Each voter registration which is designated "inactive"~~  
11 ~~pursuant to the procedures prescribed in section twenty seven of~~  
12 ~~this article shall be retained in the precinct book for the county~~  
13 ~~precinct in which the voter's last recorded residence address is~~  
14 ~~located until the time period expires for which a record must~~  
15 ~~remain on the inactive files. Every inactive registration shall be~~  
16 ~~clearly identified by a prominent tag or notation or arranged in a~~  
17 ~~separate section in the precinct book clearly denoting the~~  
18 ~~registration status. No inactive voter registration record shall~~  
19 ~~be removed from the precinct registration books unless the~~  
20 ~~registration is lawfully transferred or canceled pursuant to the~~  
21 ~~provisions of this article.~~

22       ~~(b)~~ (a) For municipal elections, the registration records of  
23 active and inactive voters shall be maintained as follows:

24       (1) County precinct books shall Clerks of the county

1 commissions shall prepare pollbooks or voter lists to be used in  
2 municipal elections when the county precinct boundaries and the  
3 municipal precinct boundaries are the same and all registrants of  
4 the precinct are entitled to vote in state, county and municipal  
5 elections within the precinct or when the registration records of  
6 municipal voters within a county precinct are separated and  
7 maintained in a separate municipal section or book for that county  
8 precinct and can be used either alone or in combination with other  
9 ~~precinct books~~ pollbooks or voter lists to make up a complete set  
10 of registration records for the municipal election precinct.

11 (2) Upon request of the municipality, and if the clerk of the  
12 county commission does not object, separate municipal precinct  
13 books shall be maintained in cases where municipal or ward  
14 boundaries divide county precincts and it is impractical to use  
15 county ~~precinct books~~ pollbooks or voter lists or separate  
16 municipal sections of those ~~precinct books~~ pollbooks or voter  
17 lists. If the clerk of the county commission objects to the  
18 request of a municipality for separate municipal precinct books,  
19 the State Election Commission must determine whether the separate  
20 municipal precinct books should be maintained.

21 (3) No registration record may be removed from a municipal  
22 registration record unless the registration is lawfully transferred  
23 or canceled pursuant to the provisions of this article in both the  
24 county and the municipal registration records.



1        ~~(c)~~ (b) Within thirty days following the entry of any  
2 annexation order or change in street names or numbers, the  
3 governing body of an incorporated municipality shall file with the  
4 clerk of the county commission a certified current official  
5 municipal boundary map and a list of streets and ranges of street  
6 numbers within the municipality to assist the clerk in determining  
7 whether a voter's address is within the boundaries of the  
8 municipality.

9        ~~(d) Each county, so long as precinct registration books are~~  
10 ~~maintained, shall maintain a duplicate record of every active and~~  
11 ~~inactive voter registration in a county alphabetical file. The~~  
12 ~~alphabetical file may be maintained on individual paper forms or,~~  
13 ~~upon approval of the Secretary of State of a qualified data storage~~  
14 ~~program, may be maintained in digitized format. A qualified data~~  
15 ~~storage program shall be required to contain the same information~~  
16 ~~for each voter registration as the precinct books, shall be subject~~  
17 ~~to proper security from unauthorized alteration and shall be~~  
18 ~~regularly duplicated to backup data storage to prevent accidental~~  
19 ~~destruction of the information on file.~~

20 **§3-2-21. Maintenance of records in the statewide voter**  
21 **registration database in lieu of precinct record**  
22 **books.**

23        (a) The clerk of the county commission of each county ~~upon~~  
24 ~~installation of the state uniform voter data system,~~ shall prepare

1 maintain a voter registration data system record book into which  
2 all required records of appointments of authorized personnel,  
3 tests, repairs, program alterations or upgrades and any other  
4 action by the clerk of the county commission or by any other person  
5 under supervision of the clerk affecting the programming or records  
6 contained in the system, other than routine data entry, alteration,  
7 use, transfer or transmission of records shall be entered.

8 (b) The clerk of the county commission shall appoint all  
9 personnel authorized to add, change or transfer voter registration  
10 information within the ~~state uniform voter data system~~ statewide  
11 voter registration database and a record of each appointment and  
12 the date of authorization shall be entered as provided in  
13 subsection (a) of this section. The assignment and confidential  
14 record of assigned system identification or authorized user code  
15 for each person appointed shall be as prescribed by the Secretary  
16 of State.

17 (c) Voter registration records entered into and maintained in  
18 the ~~state uniform voter data system~~ statewide voter registration  
19 database shall include the information required for application for  
20 voter registration, for maintenance of registration and voting  
21 records, for conduct of elections and for statistical purposes, as  
22 prescribed by the Secretary of State.

23 (d) No person shall make any entry or alteration of any voter  
24 record which is not specifically authorized by law. Each entry or

1 action affecting the status of a voter registration shall be based  
2 on information in an original voter registration record, as defined  
3 in section eighteen of this article.

4 (e) The clerk of the county commission shall maintain, within  
5 the ~~data system~~ statewide voter registration database, active and  
6 inactive voter registration ~~files~~ records, confirmation pending  
7 records, canceled voter registration ~~files~~ records, pending  
8 application ~~files~~ records and rejected application ~~files~~ records,  
9 all as defined in section eighteen of this article.

10 (f) Upon receipt of a completed voter registration  
11 application, the clerk shall enter into the statewide voter  
12 registration database the information provided on the application,  
13 mark the records as pending and ~~into the pending application file~~  
14 ~~and~~ initiate the verification or notice of disposition procedure as  
15 provided in section sixteen of this article. Upon completion of  
16 the verification or notice of disposition, the status of the voter  
17 record shall be ~~transferred to the proper file~~ properly noted in  
18 the statewide voter registration database.

19 (g) Upon receipt of an application or written confirmation  
20 from the voter of a change of address within the county, change of  
21 name, change of party affiliation or other correction to ~~a~~ an  
22 active voter registration record, ~~in the active voter registration~~  
23 ~~file~~, the change shall be entered in the record and the required  
24 notice of disposition mailed.

1 (h) Upon receipt of an application or written confirmation  
2 from ~~the~~ an inactive voter of a change of address within the  
3 county, change of name, change of party affiliation or other  
4 correction to a registration record, ~~in the inactive voter~~  
5 ~~registration file,~~ the any necessary change shall be entered in the  
6 record, the required notice of disposition mailed and the record  
7 ~~transferred~~ updated to ~~the active registration file or returned to~~  
8 active status, and the date of the transaction shall be recorded.  
9 Receipt of an application or written confirmation from an inactive  
10 voter that confirms the voter's current address shall be treated in  
11 the same manner.

12 (i) Upon receipt of a notice of death, a notice of conviction  
13 or a notice of a determination of mental incompetence, as provided  
14 ~~for~~ in section twenty-three of this article, the date and reason  
15 for cancellation shall be entered on the voter's record and the  
16 record status shall be ~~transferred~~ changed to ~~the canceled. voter~~  
17 ~~registration file.~~

18 (j) Upon receipt from the voter of a request for cancellation  
19 or notice of change of address to an address outside the county  
20 pursuant to the provisions of section twenty-two of this article,  
21 or as a result of a determination of ineligibility through a  
22 general program of removing ineligible voters as authorized by the  
23 provisions of this article, the date and reason for cancellation  
24 shall be entered on the voter's record and the record status shall

1 be transferred changed to the canceled. voter registration file.

2       ~~(k) At least once each month during a period prescribed by the~~  
3 ~~Secretary of State, the clerk of the county commission of each~~  
4 ~~county utilizing the state uniform voter data system shall transmit~~  
5 ~~to the Secretary of State, by electronic transmission or by the~~  
6 ~~mailing of one or more data disks or other approved means, a copy~~  
7 ~~of the active, inactive and pending application files as of the~~  
8 ~~date of transmission, for the purpose of comparison of those~~  
9 ~~records to the voter registration records of other counties in the~~  
10 ~~state and for any other list maintenance procedures authorized by~~  
11 ~~the provisions of this article.~~

12       ~~(l) The Secretary of State shall promulgate legislative rules~~  
13 ~~pursuant to the provisions of chapter twenty-nine-a of this code~~  
14 ~~establishing procedures for the elimination of separate precinct~~  
15 ~~registration books as the official active and inactive voter~~  
16 ~~registration files and for the use of the state uniform voter data~~  
17 ~~system to maintain all files, to produce voter lists for public~~  
18 ~~inspection and to produce precinct voter records for election day~~  
19 ~~use. Separate precinct registration books shall be maintained~~  
20 ~~pursuant to the provisions of section nineteen of this article~~  
21 ~~until all necessary provisions required for the conduct of~~  
22 ~~elections at the polling place and for the implementation of the~~  
23 ~~provisions of this chapter have been made. When a county is~~  
24 ~~authorized to use the state uniform voter data system exclusively~~

1 ~~for all prescribed files, the clerk of the county commission shall~~  
2 ~~transfer the original voter records contained in the precinct~~  
3 ~~registration books to alphabetical record storage files which shall~~  
4 ~~be retained in accordance with the provisions of section twenty-~~  
5 ~~nine of this article, and any rules issued pursuant thereto.~~

6 **§3-2-23. Cancellation of registration of deceased or ineligible**  
7 **voters.**

8 The clerk of the county commission shall cancel the  
9 registration of a voter:

10 (a) Upon the voter's death as verified by:

11 (1) A death certificate from the Registrar of Vital Statistics  
12 or a notice from the Secretary of State that a comparison of the  
13 records of the registrar with the county voter registration records  
14 show the person to be deceased;

15 (2) The publication of an obituary or other writing clearly  
16 identifying the deceased person by name, residence and age  
17 corresponding to the voter record; or

18 (3) An affidavit signed by the parent, legal guardian, child,  
19 sibling or spouse of the voter giving the name and birth date of  
20 the voter, and date and place of death;

21 (b) Upon receipt of an official notice from a state or federal  
22 court that the person has been convicted of a felony, of treason or  
23 election bribery; ~~in an election, in which event, the clerk shall~~  
24 ~~enter a notation on the voter record of the date upon which the~~

1 ~~term of any sentence for such conviction will cease, unless sooner~~  
2 ~~vacated by court action or pardon;~~

3 (c) Upon receipt of a notice from the appropriate court of  
4 competent jurisdiction of a determination of a voter's mental  
5 incompetence;

6 (d) Upon receipt from the voter ~~registration~~ of a written  
7 request to cancel the voter's registration, upon confirmation by  
8 the voter of a change of address to an address outside the county,  
9 upon notice from a voter registrar of another jurisdiction outside  
10 the county or state of the receipt of an application for voter  
11 registration in that jurisdiction, or upon notice from the  
12 Secretary of State that a voter registration application accepted  
13 in another county of the state subsequent to the last registration  
14 date in the first county, as determined from a comparison of voter  
15 records; or

16 (e) Upon failure to respond and produce evidence of continued  
17 eligibility to register following the challenge of the voter's  
18 registration pursuant to the provisions of section twenty-eight of  
19 this article. ~~or~~

20 ~~(f) As required under the provisions of section twenty-seven~~  
21 ~~of this article.~~

22 **§3-2-25. Systematic purging program for removal of ineligible**  
23 **voters from active voter registration records.**

24 (a) ~~In any county maintaining active voter registration files~~

1 ~~in the state uniform voter data system, as defined in section~~  
2 ~~twenty of this article,~~ The systematic purging program provided for  
3 in this section shall begin no earlier than October 1 of each odd-  
4 numbered year and shall be completed no later than February 1 of  
5 the following year. The clerk of the county commission shall  
6 transmit or mail ~~on data disk to the Secretary of State a copy of~~  
7 ~~the digitized records contained in the active voter registration~~  
8 ~~file as of October 1, to be received by the Secretary of State no~~  
9 ~~later than October 15,~~ to the Secretary of State a certification  
10 that the systematic purging program has been completed and all  
11 voters identified as no longer eligible to vote have been canceled  
12 in the statewide voter registration database in accordance with the  
13 law no later than February 15 in the year in which the purging  
14 program is completed.

15 (b) ~~Upon receipt of the voter records in data format,~~ The  
16 Secretary of State shall provide for the comparison of data records  
17 of all ~~participating~~ counties. The Secretary of State shall, based  
18 on the comparison, prepare a ~~data file or printed~~ list for each  
19 county which shall include the voter registration record for each  
20 voter shown on that county's list who appears to have registered or  
21 to have updated a voter registration in another county at a  
22 subsequent date. The resulting ~~files and/or~~ lists shall be  
23 returned to the appropriate county and the clerk of the county  
24 commission shall proceed with the confirmation procedure for those



1 voters as prescribed in section twenty-six of this article.

2 (c) The Secretary of State may provide for the comparison of  
3 data records of ~~participating~~ counties with the data records of the  
4 Division of Motor Vehicles, the registrar of vital statistics and  
5 with the data records of any other state agency which maintains  
6 records of residents of the state, if the procedure is practical  
7 and the agency agrees to participate. Any resulting information  
8 regarding potentially ineligible voters shall be returned to the  
9 appropriate county and the clerk of the county commission shall  
10 proceed with the confirmation procedure as prescribed in section  
11 twenty-six of this article.

12 (d) The records of all ~~of the voters of all participating~~  
13 ~~counties~~ not identified pursuant to the procedures set forth in  
14 subsections (b) and (c) of this section shall be combined for  
15 comparison with United States Postal Service change of address  
16 information, as described in section 8(c) (A) of the National Voter  
17 Registration Act of 1993 (42 U. S. C. §1973gg, et seq.). The  
18 Secretary of State shall contract with an authorized vendor of the  
19 United States Postal Service to perform the comparison. ~~Not less~~  
20 ~~than thirty percent nor more than fifty percent of~~ The cost of the  
21 change of address comparison procedure shall be paid for from the  
22 combined voter registration and licensing fund established in  
23 section twelve of this article and ~~participating counties shall~~  
24 ~~reimburse the fund for the balance of the cost prorated on a per~~

1 ~~voter basis~~ the cost of the confirmation notices, labels and  
2 postage shall be paid for by the counties.

3 (e) The Secretary of State shall return to each county the  
4 identified matches of the county voter registration records and the  
5 postal service change of address records.

6 (1) When the change of address information indicates the voter  
7 has moved to a new address within the county, the clerk of the  
8 county commission shall enter the new address on the voter record  
9 ~~in the active registration file~~ and assign the proper precinct.

10 (2) The clerk of the county commission shall then mail to each  
11 voter who appears to have moved from the residence address shown on  
12 the registration records a confirmation notice pursuant to section  
13 twenty-six of this article and of section 8(d)(2) of the National  
14 Voter Registration Act of 1993 (42 U. S. C. §1973gg, et seq.). The  
15 notice shall be mailed, no later than December 31, to the new  
16 address provided by the postal service records or to the old  
17 address if a new address is not available.

18 (f) The clerk of the county commission shall ~~prepare a list~~  
19 ~~containing~~ indicate in the statewide voter registration database  
20 the name and address of each voter to whom a confirmation notice  
21 was mailed and the date on which the notice was mailed. ~~The list~~  
22 ~~shall be titled "Systematic Purging Program Notices" and shall~~  
23 ~~include the name of the county and the date of the preparation of~~  
24 ~~the list and shall be arranged in alphabetical order within~~

1 ~~precincts or for the entire county.~~

2 (g) Upon receipt of any response or returned mailing sent  
3 pursuant to the provisions of subsection (e) of this section, the  
4 clerk shall immediately enter the date and type of response  
5 received ~~on~~ in the ~~list of voters prepared pursuant to the~~  
6 ~~provisions of this section~~ statewide voter registration database  
7 and shall then proceed in accordance with the provisions of section  
8 twenty-six of this article.

9 (h) For purposes of complying with the record keeping and  
10 public inspection requirements of the National Voter Registration  
11 Act of 1993 (42 U. S. C. §1973gg, et seq.), and with the provisions  
12 of section twenty-seven of this article, the public inspection  
13 lists shall be maintained either in printed form kept in a binder  
14 prepared for such purpose and available for public inspection  
15 during regular business hours at the office of the clerk of the  
16 county commission or in read-only data format available for public  
17 inspection on computer terminals set aside and available for  
18 regular use by the general public. Information concerning whether  
19 or not each person has responded to the notice shall be entered  
20 ~~onto the list~~ into the statewide voter registration database upon  
21 receipt and shall be available for public inspection as of the date  
22 the information is received.

23 (i) Any voter to whom a confirmation notice was mailed  
24 pursuant to the provisions of subsection (e) of this section who

1 fails to respond to the notice or to update his or her voter  
2 registration address by February 1 immediately following the  
3 completion of the program, shall be designated inactive ~~and placed~~  
4 ~~within the inactive voter registration file, as defined in section~~  
5 ~~nineteen of this article.~~ in the statewide voter registration  
6 database. Any voter designated inactive shall be required to  
7 affirm his or her current residence address, on a form prescribed  
8 by the Secretary of State, upon appearing at the polls to vote.

9 ~~(j) A county which uses a digitized data system for voter~~  
10 ~~registration other than the state uniform voter data system shall~~  
11 ~~conduct the systematic purging program for removal of ineligible~~  
12 ~~voters from active voter registration files by contracting directly~~  
13 ~~with an authorized vendor of the United States postal service for~~  
14 ~~change of address information, at county expense, for the~~  
15 ~~identification of potentially ineligible voters, and upon receipt~~  
16 ~~of the list of matches, shall perform the steps required by the~~  
17 ~~provisions of subsections (e) through (i) of this section within~~  
18 ~~the same time limits and procedures required for those counties~~  
19 ~~participating in the state approved system.~~

20 ~~(k)~~ (j) In addition to the preceding purging procedures, all  
21 counties using the change of address information of the United  
22 States Postal Service shall also, once each four years during the  
23 period established for systematic purging in the year following a  
24 presidential election year, conduct the same procedure by mailing

1 a confirmation notice to those persons not identified as  
2 potentially ineligible through the change of address comparison  
3 procedure but who have not updated their voter registration records  
4 and have not voted in any election during the preceding four  
5 calendar years. The purpose of this additional systematic  
6 confirmation procedure shall be to identify those voters who may  
7 have moved without filing a forwarding address, moved with a  
8 forwarding address under another name, died in a another county or  
9 state so that the certificate of death was not returned to the  
10 clerk of the county commission, or who otherwise have become  
11 ineligible.

12 **§3-2-29. Custody of original registration records.**

13 (a) All original registration records ~~and voter registration~~  
14 ~~data files~~ in paper format shall remain in the custody of the  
15 county commission, by its clerk, or, electronically, in the  
16 statewide voter registration database and shall not be removed  
17 except for use in an election or by the order of a court of record  
18 or in compliance with a subpoena duces tecum issued by the  
19 Secretary of State pursuant to the provisions of section six,  
20 article one-a of this chapter.

21 (b) All original voter registration records shall be retained  
22 for a minimum of five years following the last recorded activity  
23 relating to the record, except that any application which  
24 duplicates and does not alter an existing registration shall be

1 retained for a minimum of two years following its receipt. The  
2 Secretary of State shall promulgate rules pursuant to the  
3 provisions of chapter twenty-nine-a of this code for the specific  
4 retention times and procedures required for original voter  
5 registration records.

6 (c) Prior to the destruction of original voter registration  
7 applications or registration cards of voters whose registration has  
8 been canceled at least five years previously, the clerk of the  
9 county commission shall notify the Secretary of State of the  
10 intention to destroy those records. If the Secretary of State  
11 determines, within ninety days of the receipt of the notice, that  
12 those records are of sufficient historical value that microfilm or  
13 other permanent data storage is desirable, the Secretary of State  
14 may require that the records be delivered to a specified location  
15 for processing at state expense.

16 (d) ~~When a county maintains in digitized data format the~~  
17 ~~Active, inactive, pending, rejected and canceled registration~~  
18 ~~files, a data format copy of each of the files~~ records shall be  
19 maintained as a permanent record, as follows:

20 (1) Individual canceled registration records shall be  
21 maintained in ~~a regularly accessible data file~~ the statewide voter  
22 registration database for a period of at least ~~three~~ five years  
23 following cancellation. Upon the expiration of ~~three~~ five years,  
24 those individual records may be removed from the ~~regularly~~

1 ~~accessible canceled registration file and stored on tape or disk~~  
2 ~~The records removed may be added to a single file containing~~  
3 ~~previously canceled registration records for permanent storage, and~~  
4 ~~the tape or disk shall be clearly labeled. statewide voter~~  
5 ~~registration database and disposed of in accordance with the~~  
6 ~~appropriate documentent retention policy.~~

7 (2) Rejected registration ~~record files~~ records shall be  
8 maintained in the same manner as provided for canceled registration  
9 ~~files~~ records.

10 (3) ~~At least once each calendar year, during the month of~~  
11 ~~February, a data format copy of the active registration file,~~  
12 ~~inactive registration file and pending application file shall be~~  
13 ~~made containing all records maintained in those files as of the~~  
14 ~~date of the copy. The copy shall be stored on tape or disk and~~  
15 ~~shall be clearly labeled with the types of files and the date the~~  
~~copy was made.~~

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(NOTE: The purpose of this bill is to update and clarify the process for the maintenance of voter registration lists and related records; to making technical corrections and delete obsolete references related to that process; to updating and clarify the persons entitled to vote; to clarify when a person under the age of eighteen may vote in a primary election; to update the processes and responsibilities for statewide voter registration and to clarify county and state roles in the voter registration process; to update the processes of maintaining voter registration records; to clarify county roles in maintaining voter registration files for municipal elections; to update processes for the maintenance of

records in the statewide voter registration database; to update processes for cancellation of deceased or ineligible voters' registrations; to clarify county and state roles in the systematic purging program for removal of ineligible voters from active voter registration records; and to clarify custody of paper and electronic voter registration records.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)