

**Senate Bill No. 535**

(By Senators Palumbo, Wells, McCabe and Fitzsimmons)

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[Introduced March 14, 2013; referred to the Committee on the  
Judiciary.]

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

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

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

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10 be repealed; that §3-1-3 of said code be amended and reenacted; and  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

14 **ARTICLE 2. REGISTRATION OF VOTERS.**

15 **§3-1-3. Persons entitled to vote.**

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

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

8 **ARTICLE 2. REGISTRATION OF VOTERS.**

9 **§3-2-2. Eligibility to register to vote.**

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

23 (3) ~~Under the computerized list,~~ In the statewide database,

1 the Secretary of State shall assign a unique identifier to each  
2 legally registered voter in the state.

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

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

23 (6) The clerk of the county commission shall electronically

1 enter voter registration information into the ~~computerized list~~  
2 statewide database on an expedited basis at the time the  
3 information is provided to the clerk.

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

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

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

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

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

1 ~~each calendar year, certify that the removal of individuals who are~~  
2 ~~not qualified to vote because of a felony conviction as provided in~~  
3 ~~section two of this article or death is completed at least thirty~~  
4 ~~days preceding the date of any primary election.~~

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

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

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

13 (3) Duplicate names are eliminated from the ~~computerized list~~  
14 statewide database;

15 (4) Deceased individuals names are eliminated from the  
16 ~~computerized list~~ statewide database.

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

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

11           (2) Safeguards to ensure that eligible voters are not removed  
12 in error from the official list of eligible voters.

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

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

19           (A) In the case of an applicant who has been issued a current  
20 and valid driver's license, the applicant's driver's license  
21 number;

22           (B) In the case of an applicant who has been issued an  
23 identification card by the Division of Motor Vehicles, the



1 applicant's identification number; or

2 (C) In the case of any other applicant, the last four digits  
3 of the applicant's social security number; and

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

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

21 (h) The Commissioner of the Division of Motor Vehicles shall  
22 enter into an agreement with the Commissioner of Social Security  
23 under 42 ~~U.S.C. §301~~ §405, et seq., the Social Security Act. All

1 fees associated with this agreement shall be paid for from moneys  
2 in the fund created under section twelve, article two of this  
3 chapter.

4 **§3-2-18. Registration records; active, inactive, canceled, pending**  
5 **and rejected registration files; procedure; voting**  
6 **records.**

7 (a) For the purposes of this article:

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

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

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

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

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

1 ~~registrations included on the active voter registration files shall~~  
2 ~~be counted and voter registrations included on the inactive voter~~  
3 ~~registration files, as defined in this subdivision, shall not be~~  
4 ~~counted.~~

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),

23 (b) For the purposes of this chapter or of any other

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

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

20       ~~(c)~~ (d) The effective date of any action affecting any voter's  
21 registration status shall be entered on the voter record ~~in the~~  
22 ~~appropriate file~~, including the effective date of registration,  
23 change of name, address or party affiliation or correction of the

1 record, effective date of transfer to inactive status, return to  
2 active status or cancellation. When any registration is designated  
3 inactive or is canceled, the reason for the designation or  
4 cancellation and any reference notation necessary to locate the  
5 original documentation related to the change shall be entered on  
6 the voter record.

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

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

21 ~~(a) Each county shall continue to maintain a record of each~~  
22 ~~active and inactive voter registration in precinct registration~~  
23 ~~books until the statewide voter registration system is adopted~~

1 ~~pursuant to the provisions of section four-a of this article, fully~~  
2 ~~implemented and given final approval by the Secretary of State.~~  
3 ~~The precinct registration books shall be maintained as follows:~~  
4 ~~—— (1) Each active voter registration shall be entered in the~~  
5 ~~precinct book or books for the county precinct in which the voter's~~  
6 ~~residence is located and shall be filed alphabetically by name,~~  
7 ~~alphabetically within categories, or by numerical street address,~~  
8 ~~as determined by the clerk of the county commission for the~~  
9 ~~effective administration of registration and elections. No active~~  
10 ~~voter registration record shall be removed from the precinct~~  
11 ~~registration books unless the registration is lawfully transferred~~  
12 ~~or canceled pursuant to the provisions of this article.~~  
13 ~~—— (2) Each voter registration which is designated "inactive"~~  
14 ~~pursuant to the procedures prescribed in section twenty seven of~~  
15 ~~this article shall be retained in the precinct book for the county~~  
16 ~~precinct in which the voter's last recorded residence address is~~  
17 ~~located until the time period expires for which a record must~~  
18 ~~remain on the inactive files. Every inactive registration shall be~~  
19 ~~clearly identified by a prominent tag or notation or arranged in a~~  
20 ~~separate section in the precinct book clearly denoting the~~  
21 ~~registration status. No inactive voter registration record shall~~  
22 ~~be removed from the precinct registration books unless the~~  
23 ~~registration is lawfully transferred or canceled pursuant to the~~

1 ~~provisions of this article.~~

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

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

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



1 municipal precinct books should be maintained.

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

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

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

1 ~~destruction of the information on file.~~

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

5 (a) The clerk of the county commission of each county ~~upon~~  
6 ~~installation of the state uniform voter data system,~~ shall prepare  
7 maintain a "Voter Registration Data System Record" book into which  
8 all required records of appointments of authorized personnel,  
9 tests, repairs, program alterations or upgrades and any other  
10 action by the clerk of the county commission or by any other person  
11 under supervision of the clerk affecting the programming or records  
12 contained in the system, other than routine data entry, alteration,  
13 use, transfer or transmission of records shall be entered.

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

22 (c) Voter registration records entered into and maintained in  
23 the statewide ~~uniform~~ voter registration database ~~system~~ shall

1 include the information required for application for voter  
2 registration, for maintenance of registration and voting records,  
3 for conduct of elections and for statistical purposes, as  
4 prescribed by the Secretary of State.

5 (d) No person shall make any entry or alteration of any voter  
6 record which is not specifically authorized by law. Each entry or  
7 action affecting the status of a voter registration shall be based  
8 on information in an original voter registration record, as defined  
9 in section eighteen of this article.

10 (e) The clerk of the county commission shall maintain, within  
11 the statewide database, ~~system,~~ active and inactive voter  
12 registration ~~files~~ records, confirmation pending records, canceled  
13 voter registration ~~files~~ records, pending application ~~files~~  
14 records, and rejected application ~~files~~ records, all as defined in  
15 section eighteen of this article.

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

1 the statewide database.

2 (g) Upon receipt of an application or written confirmation  
3 from the voter of a change of address within the county, change of  
4 name, change of party affiliation or other correction to ~~a~~ an  
5 active voter registration record, ~~in the active voter registration~~  
6 ~~file,~~ the change shall be entered in the record and the required  
7 notice of disposition mailed.

8 (h) Upon receipt of an application or written confirmation  
9 from ~~the~~ an inactive voter of a change of address within the  
10 county, change of name, change of party affiliation or other  
11 correction to a registration record, in the inactive voter  
12 registration file, the change shall be entered in the record, the  
13 required notice of disposition mailed and the record ~~transferred~~  
14 updated to ~~the active registration file or returned to~~ active  
15 status, and the date of the transaction shall be recorded. Receipt  
16 of an application or written confirmation from an inactive voter  
17 that confirms the voter's current address shall be treated in the  
18 same manner.

19 (i) Upon receipt of a notice of death, a notice of conviction  
20 or a notice of a determination of mental incompetence, as provided  
21 ~~for~~ in section twenty-three of this article, the date and reason  
22 for cancellation shall be entered on the voter's record and the  
23 record status shall be ~~transferred~~ changed to ~~the~~ canceled. ~~voter~~

1 ~~registration file.~~

2 (j) Upon receipt from the voter of a request for cancellation  
3 or notice of change of address to an address outside the county  
4 pursuant to the provisions of section twenty-two of this article,  
5 or as a result of a determination of ineligibility through a  
6 general program of removing ineligible voters as authorized by the  
7 provisions of this article, the date and reason for cancellation  
8 shall be entered on the voter's record and the record status shall  
9 be ~~transferred~~ changed to the canceled. ~~voter registration file.~~

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

20 ~~— (l) The Secretary of State shall promulgate legislative rules~~  
21 ~~pursuant to the provisions of chapter twenty-nine a of this code~~  
22 ~~establishing procedures for the elimination of separate precinct~~  
23 ~~registration books as the official active and inactive voter~~

~~1 registration files and for the use of the state uniform voter data  
2 system to maintain all files, to produce voter lists for public  
3 inspection and to produce precinct voter records for election day  
4 use. Separate precinct registration books shall be maintained  
5 pursuant to the provisions of section nineteen of this article  
6 until all necessary provisions required for the conduct of  
7 elections at the polling place and for the implementation of the  
8 provisions of this chapter have been made. When a county is  
9 authorized to use the state uniform voter data system exclusively  
10 for all prescribed files, the clerk of the county commission shall  
11 transfer the original voter records contained in the precinct  
12 registration books to alphabetical record storage files which shall  
13 be retained in accordance with the provisions of section twenty-  
14 nine of this article, and any rules issued pursuant thereto.~~

15 **§3-2-23. Cancellation of registration of deceased or ineligible**  
16 **voters.**

17 The clerk of the county commission shall cancel the  
18 registration of a voter:

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

20 (1) A death certificate from the Registrar of Vital Statistics  
21 or a notice from the Secretary of State that a comparison of the  
22 records of the registrar with the county voter registration records  
23 show the person to be deceased;

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

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

7           (b) Upon receipt of an official notice from a state or federal  
8 court that the person has been convicted of a felony, of treason or  
9 election bribery; ~~in an election, in which event, the clerk shall~~  
10 ~~enter a notation on the voter record of the date upon which the~~  
11 ~~term of any sentence for such conviction will cease, unless sooner~~  
12 ~~vacated by court action or pardon;~~

13           (c) Upon receipt of a notice from the appropriate court of  
14 competent jurisdiction of a determination of a voter's mental  
15 incompetence;

16           (d) Upon receipt from the voter ~~registration~~ of a written  
17 request to cancel the voter's registration, upon confirmation by  
18 the voter of a change of address to an address outside the county,  
19 upon notice from a voter registrar of another jurisdiction outside  
20 the county or state of the receipt of an application for voter  
21 registration in that jurisdiction, or upon notice from the  
22 Secretary of State that a voter registration application accepted  
23 in another county of the state subsequent to the last registration

1 date in the first county, as determined from a comparison of voter  
2 records; or

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

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

9 **§3-2-25. Systematic purging program for removal of ineligible**  
10 **voters from active voter registration records.**

11 (a) ~~In any county maintaining active voter registration files~~  
12 ~~in the state uniform voter data system, as defined in section~~  
13 ~~twenty of this article,~~ The systematic purging program provided for  
14 in this section shall begin no earlier than October 1, of each odd-  
15 numbered year and shall be completed no later than February 1 of  
16 the following year. The clerk of the county commission shall  
17 transmit or mail to the Secretary of State a certification that the  
18 systematic purging program has been completed and all voters  
19 identified as no longer eligible to vote have been canceled in the  
20 statewide voter registration database in accordance with the law no  
21 later than February 15 in the year in which the purging program is  
22 completed. ~~on data disk to the Secretary of State a copy of the~~  
23 ~~digitized records contained in the active voter registration file~~



1 ~~as of October 1, to be received by the Secretary of State no later~~  
2 ~~than October 15, .~~

3       (b) ~~Upon receipt of the voter records in data format,~~ The  
4 Secretary of State shall provide for the comparison of data records  
5 of all ~~participating~~ counties. The Secretary of State shall, based  
6 on the comparison, prepare a ~~data file or printed~~ list for each  
7 county which shall include the voter registration record for each  
8 voter shown on that county's list who appears to have registered or  
9 to have updated a voter registration in another county at a  
10 subsequent date. The resulting ~~files and/or~~ lists shall be  
11 returned to the appropriate county and the clerk of the county  
12 commission shall proceed with the confirmation procedure for those  
13 voters as prescribed in section twenty-six of this article.

14       (c) The Secretary of State may provide for the comparison of  
15 data records of ~~participating~~ counties with the data records of the  
16 Division of Motor Vehicles, the registrar of vital statistics and  
17 with the data records of any other state agency which maintains  
18 records of residents of the state, if the procedure is practical  
19 and the agency agrees to participate. Any resulting information  
20 regarding potentially ineligible voters shall be returned to the  
21 appropriate county and the clerk of the county commission shall  
22 proceed with the confirmation procedure as prescribed in section  
23 twenty-six of this article.

1           (d) The records of all ~~of the voters of all participating~~  
2 ~~counties~~ not identified pursuant to the procedures set forth in  
3 subsections (b) and (c) of this section shall be combined for  
4 comparison with United States Postal Service change of address  
5 information, as described in section 8 (c)(A) of the "National  
6 Voter Registration Act of 1993" (42 U.S.C. 1973gg). The Secretary  
7 of State shall contract with an authorized vendor of the United  
8 States Postal Service to perform the comparison. ~~Not less than~~  
9 ~~thirty percent nor more than fifty percent of~~ The cost of the  
10 change of address comparison procedure shall be paid for from the  
11 combined voter registration and licensing fund established in  
12 section twelve of this article and ~~participating counties shall~~  
13 ~~reimburse the fund for the balance of the cost prorated on a per~~  
14 ~~voter basis~~ the cost of the confirmation notices, labels and  
15 postage shall be paid for by the counties.

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

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

23           (2) The clerk of the county commission shall then mail to each

1 voter who appears to have moved from the residence address shown on  
2 the registration records a confirmation notice pursuant to section  
3 twenty-six of this article and of section 8(d)(2) of the "National  
4 Voter Registration Act of 1993" (42 U.S.C. 1973gg). The notice  
5 shall be mailed, no later than December 31, to the new address  
6 provided by the postal service records or to the old address if a  
7 new address is not available.

8 (f) The clerk of the county commission shall ~~prepare a list~~  
9 ~~containing~~ indicate in the statewide voter registration database  
10 the name and address of each voter to whom a confirmation notice  
11 was mailed and the date on which the notice was mailed. ~~The list~~  
12 ~~shall be titled "Systematic Purging Program Notices" and shall~~  
13 ~~include the name of the county and the date of the preparation of~~  
14 ~~the list and shall be arranged in alphabetical order within~~  
15 ~~precincts or for the entire county.~~

16 (g) Upon receipt of any response or returned mailing sent  
17 pursuant to the provisions of subsection (e) of this section, the  
18 clerk shall immediately enter the date and type of response  
19 received ~~on~~ in the ~~list of voters prepared pursuant to the~~  
20 ~~provisions of this section~~ statewide voter registration database  
21 and shall then proceed in accordance with the provisions of section  
22 twenty-six of this article.

23 (h) For purposes of complying with the record keeping and

1 public inspection requirements of the "National Voter Registration  
2 Act of 1993" (42 U.S.C. 1973gg), and with the provisions of section  
3 twenty-seven of this article, the public inspection lists shall be  
4 maintained either in printed form kept in a binder prepared for  
5 such purpose and available for public inspection during regular  
6 business hours at the office of the clerk of the county commission  
7 or in read-only data format available for public inspection on  
8 computer terminals set aside and available for regular use by the  
9 general public. Information concerning whether or not each person  
10 has responded to the notice shall be entered ~~onto the list~~ into the  
11 statewide database upon receipt and shall be available for public  
12 inspection as of the date the information is received.

13 (i) Any voter to whom a confirmation notice was mailed  
14 pursuant to the provisions of subsection (e) of this section who  
15 fails to respond to the notice or to update his or her voter  
16 registration address by February 1 immediately following the  
17 completion of the program, shall be designated inactive in the  
18 statewide database. ~~and placed within the inactive voter~~  
19 ~~registration file, as defined in section nineteen of this article.~~  
20 Any voter designated inactive shall be required to affirm his or  
21 her current residence address upon appearing at the polls to vote  
22 on a form prescribed by the Secretary of State.

23 ~~(j) A county which uses a digitized data system for voter~~

1 ~~registration other than the state uniform voter data system shall~~  
2 ~~conduct the systematic purging program for removal of ineligible~~  
3 ~~voters from active voter registration files by contracting directly~~  
4 ~~with an authorized vendor of the United States postal service for~~  
5 ~~change of address information, at county expense, for the~~  
6 ~~identification of potentially ineligible voters, and upon receipt~~  
7 ~~of the list of matches, shall perform the steps required by the~~  
8 ~~provisions of subsections (e) through (i) of this section within~~  
9 ~~the same time limits and procedures required for those counties~~  
10 ~~participating in the state approved system.~~

11       ~~(k)~~ (j) In addition to the preceding purging procedures, all  
12 counties using the change of address information of the United  
13 States Postal Service shall also, once each four years during the  
14 period established for systematic purging in the year following a  
15 presidential election year, conduct the same procedure by mailing  
16 a confirmation notice to those persons not identified as  
17 potentially ineligible through the change of address comparison  
18 procedure but who have not updated their voter registration records  
19 and have not voted in any election during the preceding four  
20 calendar years. The purpose of this additional systematic  
21 confirmation procedure shall be to identify those voters who may  
22 have moved without filing a forwarding address, moved with a  
23 forwarding address under another name, died in a another county or

1 state so that the certificate of death was not returned to the  
2 clerk of the county commission, or who otherwise have become  
3 ineligible.

4 **§3-2-29. Custody of original registration records.**

5 (a) All original registration records ~~and voter registration~~  
6 ~~data files~~ in paper format shall remain in the custody of the  
7 county commission, by its clerk, or, electronically, in the  
8 statewide voter registration database and shall not be removed  
9 except for use in an election or by the order of a court of record  
10 or in compliance with a subpoena duces tecum issued by the  
11 Secretary of State pursuant to the provisions of section six,  
12 article one-a of this chapter.

13 (b) All original voter registration records shall be retained  
14 for a minimum of five years following the last recorded activity  
15 relating to the record, except that any application which  
16 duplicates and does not alter an existing registration shall be  
17 retained for a minimum of two years following its receipt. The  
18 Secretary of State shall promulgate rules pursuant to the  
19 provisions of chapter twenty-nine-a of this code for the specific  
20 retention times and procedures required for original voter  
21 registration records.

22 (c) Prior to the destruction of original voter registration  
23 applications or registration cards of voters whose registration has

1 been canceled at least five years previously, the clerk of the  
2 county commission shall notify the Secretary of State of the  
3 intention to destroy those records. If the Secretary of State  
4 determines, within ninety days of the receipt of the notice, that  
5 those records are of sufficient historical value that microfilm or  
6 other permanent data storage is desirable, the Secretary of State  
7 may require that the records be delivered to a specified location  
8 for processing at state expense.

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

13 (1) Individual canceled registration records shall be  
14 maintained in ~~a regularly accessible data file~~ the statewide voter  
15 registration database for a period of at least ~~three~~ five years  
16 following cancellation. Upon the expiration of ~~three~~ five years,  
17 those individual records may be removed from the ~~regularly~~  
18 ~~accessible canceled registration file and stored on tape or disk~~  
19 statewide voter registration database and disposed of in accordance  
20 with the appropriate documentent retention policy. ~~The records~~  
21 ~~removed may be added to a single file containing previously~~  
22 ~~canceled registration records for permanent storage, and the tape~~  
23 ~~or disk shall be clearly labeled.~~

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

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

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.