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# WHEN VOTERS MOVE

Myrna Pérez

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This is one in a series of white papers on Voter Registration Modernization. The first, Voter Registration Modernization, sets forth more detailed policy arguments in favor of modernizing America's voter registration system. The second, Expanding Democracy: Voter Registration Around the World, examines international methods of voter registration. All the white papers are available on the Brennan Center's website, at [www.brennancenter.org](http://www.brennancenter.org).

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## ACKNOWLEDGMENTS

The author would like to thank Jennifer Bindel and Craig Davis for their research and editorial contributions, and Roshni Chaudhari, Danielle Friedman, Dina Hardy, Elliot Tarloff, and Ashley Allison for their research assistance. A special thanks to the Brennan Center's Wendy Weiser, Margaret Chen, Susan Liss, Maggie Barron, Adam Skaggs, Renée Paradis, Justin Levitt, Jonathan Blitzer, and Jafreen Uddin for their insight and suggestions. Finally, the author thanks Eric Marshall of the Lawyers Committee for Civil Rights for technical assistance in accessing the Election Protection database. The Brennan Center for Justice sincerely appreciates the assistance and cooperation of the election officials who allowed themselves to be interviewed for this report, and gratefully extends our thanks.

Generous grants from Carnegie Corporation of New York; the Educational Foundation of America; the Ford Foundation; the Irving Harris Foundation; the Joyce Foundation; the Mitchell Kapur Foundation; the Open Society Institute; the Charles H. Revson Foundation; the Rockefeller Family Fund; the Tides Foundation; Wallace Global Fund; and an anonymous donor supported the development and publication of this report. The statements made and the views expressed in this paper are solely the responsibility of the Brennan Center.

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## EXECUTIVE SUMMARY

In the United States, 90 million eligible voters — 45 percent of the population — move every five years.<sup>1</sup> When Americans register to vote, their voter registrations are linked to their residential address. This connection between a voter's registration and residence is intended to ensure reliable and accurate voter lists and that voters only vote for races and ballot questions that affect the communities in which they live. However, in America's increasingly mobile society — a society when an estimated 29 million voting-age Americans move each year — a fixed link between voter registration and a voter's residential address can prove to be complicated and confusing — and for many, ultimately disenfranchising.<sup>2</sup> Evidence suggests that voters who move have a harder time staying on registration rolls and, more saliently, casting votes which will count.

If voters fail to update their registration record to reflect their moves in advance of state voter registration deadlines, they are at risk of being shut out of upcoming elections. While the exact number of voters prevented from voting because of a move is unknown, we do know that registration problems are widespread. Election Protection, the nation's largest non-partisan voter protection effort, reported that 34% of all calls to its toll-free hotline reporting problems during the 2008 general election were categorized as “registration problems.”<sup>3</sup> We also know that the “most obvious and observable problems” with maintaining accurate registration lists — a task which can swallow up to a third of the budget of local election offices — have been attributed to the mobility of our society.<sup>4</sup> Indeed, the relationship between mobility and re-registration requirements has led some scholars to conclude that “[t]he requirement that citizens must register anew after each change in residence constitutes the key stumbling block in the trip to the polls.”<sup>5</sup>

There are a number of state and federal laws to protect voters who move, including voters who have not notified election officials of their address changes before Election Day. But not all movers enjoy the same protections because not all movers are similarly situated. States differ in their policies regarding movers. Some states offer no more protections than those provided by federal law, but others have established systems of portable or “permanent” registration under which registered voters who move within the state can cast a ballot that counts on Election Day — even if they did not submit a new registration at their new address before the voter registration deadline.<sup>6</sup> Movers also differ in where and how they move. Some movers move across state lines, some move within the same state, some move within the same county, and some move just across the street or to another apartment in the same building. Federal and state laws often treat these movers differently. And while state and federal laws protect some voters, they do not protect all voters who move, leaving some movers at risk of being disenfranchised. The existing voter protections for each state are described in the attached Voter Guide.

The diverse patchwork of laws governing voters who move means such voters are treated differently depending on where they live. Differing treatment also results from inconsistent enforcement: election officials and poll workers do not always properly implement legal protections for voters who move. The complex regime governing the rights and responsibilities of voters who move ultimately creates confusion for voters and election workers alike.

This report catalogues state rules and practices for dealing with voters who move and describes several ways in which otherwise registered, eligible voters can be disenfranchised because they moved without updating their registration records. The report finds that current federal and state law protections are too limited, are applied inconsistently, and cause confusion among voters and election officials. Additionally, this report provides a guide to voters which explains the procedures for voting upon moving within the state.

## INTRODUCTION

On Election Day, November 4, 2008, a voter in Chesapeake, Virginia called an Election Protection hotline to report being turned away at the polls. The voter was registered to vote at his previous address, where he had lived before moving in April. By the time he called the hotline, he had already spent five hours waiting in lines at three separate polling places. At each polling place, he was told he could not vote there and was instructed to go to a different polling place. Over the course of the day, he spoke to two senior election officials, both of whom told him that the problem could not be corrected. For most voters, this would not be true: in Virginia, a registered voter who moves is permitted to vote at his old polling place at least through the November general election following his move.<sup>7</sup> Ultimately, the voter, who had only moved a half mile down the road, was not able to cast a ballot in one of the pivotal battleground states in the 2008 presidential election.<sup>8</sup>

Voter registration lists are the gateway to voting. All but one state<sup>9</sup> require voters to register to vote at their current residential address before being permitted to cast a ballot which will be counted.<sup>10</sup> While the current system of voter registration is credited for promoting electoral integrity,<sup>11</sup> the disenfranchisement of the Chesapeake voter illustrates the limitations of existing registration systems in the face of an increasingly mobile society. Indeed, 29 million voting-age Americans move each year.<sup>12</sup> The burden placed on voters to re-register at their new address every time they move presents numerous opportunities for disenfranchisement.

This report describes the voting difficulties Americans may face if they move without updating their registration records. Section I describes the federal legal protections for voters who move. Section II evaluates the implementation of this framework at the state level. A survey of the states reveals that many of the current protections are too limited, not uniformly implemented, and have created confusion for both voters and election officials. Too often, the brunt of poor implementation or confusion in administering voter registration systems falls on the voter. Even in states that are fully compliant with federal law, voters who move can still be disenfranchised. Indeed, based on the information provided to the Election Protection hotline, it is unclear whether the Chesapeake voter who moved a half mile down the road would have been entitled to vote under the protections afforded under current federal laws.<sup>13</sup>

Laws protecting voters who move were intended to recognize that people should not be blocked from voting simply because they did not re-register after moving.<sup>14</sup> These protections, however, are often outdated, unsuccessful, or are apply only in certain circumstances. Section III draws on successful elements of states' voter registration systems and offers several recommendations for improving the state and federal laws that protect movers.

## I. FEDERAL PROTECTIONS FOR MOVERS

A series of three laws, the 1970 Amendments to the Voting Rights Act,<sup>15</sup> the National Voter Registration Act of 1993,<sup>16</sup> and the Help America Vote Act of 2002,<sup>17</sup> lay out the basic federal framework of protections for voters who move. Although the protections in these laws apply only to federal elections,<sup>18</sup> most, if not all, states have implemented them in some form for state elections as well.<sup>19</sup> Accordingly, this section of the report describes the federal floor of protections for voters who move in states not exempted from these laws.<sup>20</sup> The development of the federal protections reflects the balance struck by Congress between preventing voter fraud and enfranchising the maximum number of voters.

### *A. Voting Rights Act Amendments of 1970*

An important early federal protection for voters who move was established in Section 202 of the Voting Rights Act Amendments of 1970.<sup>21</sup> Before Congress enacted this amendment, voters who moved from one state to another could be effectively disenfranchised by durational residency statutes that required voters to live in a state for a specified amount of time before voting. These voters would be in registration limbo — they would be unable to vote in their previous state because they were no longer residents but would sometimes have to wait as long as a year before being permitted to vote in their new state of residence.<sup>22</sup> Congress found that lengthy durational residency requirements and the lack of opportunities for absentee balloting in some instances denied citizens the right to vote and equal protection under the law.<sup>23</sup> In response, Congress wrote uniform rules for absentee ballots and required states to allow a voter to register for presidential elections up to 30 days before the election.<sup>24</sup>

After the 1970 Amendments, voters who move to a new state more than 30 days before a presidential election may register and vote for President and Vice-President in their new state, provided they are otherwise eligible.<sup>25</sup> Voters who move within 30 days of a presidential election must be allowed to vote for President and Vice-President in their former state, either in-person or by absentee ballot.<sup>26</sup>

The 1970 Amendments to the Voting Rights Act were an important step in protecting voters who move. However, the Amendments' protections are limited. They only apply to presidential elections, only protect those voters who moved from one state to another close to Election Day, and offer a sometimes impractical solution: taking advantage of the protection requires either advance application for an absentee ballot or physically traveling to the state of former residence.

## *B. National Voter Registration Act of 1993*

The National Voter Registration Act of 1993 (“NVRA”) was the next major federal legislation granting protections to voters who move. The NVRA protections are derived in large part from the first goal of the NVRA, which is to increase the number of registered voters on the registration rolls.<sup>27</sup> These protections are briefly described below.

### **1. Increasing Opportunities for Voters to Register**

The NVRA requires state departments of motor vehicles to allow voters to simultaneously apply for a drivers’ license and register to vote.<sup>28</sup> The NVRA also requires states to designate public assistance offices and agencies serving persons with disabilities as voter registration agencies which must provide services for citizens to register to vote.<sup>29</sup> Increasing the opportunities for voters to register makes it more convenient for voters to update their registration record in the jurisdiction or to re-register in a new jurisdiction after moving.

### **2. Requiring Address Updates**

The NVRA requires that any address updates with the state department of motor vehicles be treated as a request from the voter to change her address for voter registration for federal elections, unless the voter indicates that the address change is not for voter registration purposes, and further that this request be transmitted to the appropriate state election official.<sup>30</sup> This protection has not been implemented in most jurisdictions.

### **3. Eliminating Requirements That an Eligible Voter Re-register After Moving Within the Jurisdiction and Congressional District**

Three provisions of the NVRA operate together to create a system of continuous, portable, or “permanent” registration within the “registrar’s jurisdiction” — the jurisdiction of the local registrar, which is usually a county, but sometimes a city or town.<sup>31</sup> Pursuant to those provisions:

- Registrars are authorized to update the registration records upon information from the Post Office of a move within the jurisdiction<sup>32</sup> as a way of satisfying their obligations to purge outdated registrations from the rolls.<sup>33</sup>
- Each voter must be given notice and an opportunity to correct before a registrar may remove that voter from the registration rolls on account of a belief that the voter has moved out of the jurisdiction.
- Voters who move within a jurisdiction must be given the opportunity to vote even if they never notified the registrar of their move.

The last provision operates as follows: voters who move to a new address covered by the same polling place as their last address are allowed to vote at that polling place after affirming the change of address before an election official at the polling place.<sup>34</sup> Voters who move within the registrar’s jurisdiction and congressional district to an address covered by a new polling place may choose to update their address and vote at either their old polling place or at a central location, or, if state law permits, at their new polling place.<sup>35</sup> Finally, if the registration records indicate that if a voter has moved but the voter still resides at

the same address, the voter must be permitted to vote after affirming that he or she has not in fact moved.<sup>36</sup>

In addition, another provision may be interpreted as imposing an obligation on registrars to update changes of address within a jurisdiction. That provision reads:

Change of voting address within a jurisdiction

In the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of a change of address except as provided in a subsection (d) [the notice and waiting period provisions] of this section.<sup>37</sup>

### *C. Help America Vote Act of 2002*

After widespread reports from the 2000 election of millions of eligible voters being disenfranchised due to errors in the voter registration lists,<sup>38</sup> Congress passed the Help America Vote Act of 2002 ("HAVA") which, among other things, mandates that voters be provided provisional ballots as a fail-safe protection for being wrongfully removed from the voter rolls. HAVA also requires each state to maintain a statewide, centralized, interactive computerized registration database.

#### **1. Providing Voters a Fail-Safe Voting Protection**

HAVA requires the states subject to the NVRA — the District of Columbia and all states except for Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming — to provide provisional ballots to voters who do not appear on the registration lists but claim to be eligible, registered voters in the jurisdiction.<sup>39</sup> Those provisional ballots are set aside from regular ballots and only counted after the voter's eligibility is confirmed by state election officials.<sup>40</sup>

Provisional ballots were intended to be the ultimate fail-safe protection for registered voters who did not appear on the registration lists.<sup>41</sup> Provisional ballots offer some protections to movers because they afford voters who move some opportunity to cast a ballot that could be counted, notwithstanding the voter's absence from the registration rolls on account of a failure to re-register or update their address, if their eligibility is established. However, individual states have different rules regarding how provisional ballots are counted;<sup>42</sup> many of those procedures do not allow for the counting of ballots cast by those who have moved. The next section of this report details how states' implementation of provisional balloting provisions has been inconsistent and still does not fully prevent disenfranchisement of eligible registered voters.<sup>43</sup>

#### **2. Requiring a Statewide Computerized Voter Registration Database**

HAVA also required states to establish and maintain an interactive, statewide computerized voter registration database to serve as the single system for storing and managing the official list of voters.<sup>44</sup> Before HAVA, voter registration lists were maintained at the local, usually county, level. The retention of data in that way limited the ability of local election officials to keep track of movers and their history. The electronic and statewide databases required under HAVA must contain the name of every legally registered voter in the state

and must be coordinated with other agency databases within the state.<sup>45</sup> Now, every election official in the state, including local election officials, must be able to obtain immediate electronic access to the list.<sup>46</sup> Furthermore, all voter registration information obtained by any local election official must be entered into the database on an “expedited basis at the time the information is provided to the local official.”<sup>47</sup> This centralized database helps movers by storing a voter’s registration record and history in a manner that facilitates sharing and transferring the record across the state, and allows election officials to track and retain a voter’s history.

## II. EXISTING STATE AND FEDERAL LAWS DO NOT FULLY PROTECT MOVERS

Consider the case of a hypothetical mover. She moves from one county to a different county in the state a month before a federal election. In a number of states, her registration will not follow her, and so she will not be able to vote unless she re-registers before the registration deadline, which in a number of states is thirty days before the election. If she has any time to register before the deadline, it will be at a time when she is in the throes of moving. If she is able to fit in a trip to her local department of motor vehicles during this time, there is some chance that the change to her drivers’ license will not make its way to election officials in time. Even though she knew in advance that she was moving, she may not be able to register in time because some states require the voter to affirm that she will have been a resident of the county, and sometimes even a smaller political subunit like town or precinct, before the registration deadline. If she is lucky enough to live in a state that has protection for voters who move counties, she may not know which polling location to go to on Election Day — her old or new one. And, the poll worker she asks for help might not know either. If she goes to her new polling location, her name is unlikely to be on the registration rolls if she did not re-register or the update she completed at the motor vehicles department did not get processed. The provisional ballot she would receive for not being on the rolls would not in most states count unless she re-registered.

This mover, while fictitious, provides an example of the difficulties that stand between a voter and the ballot box if the voter did not update her registration records after a move. Obviously, most voters will not be unlucky enough in their timing to move on the last day to register before the pollbooks are closed. But, a voter does not have to move on the last day of registration to experience problems when voting — such problems could arise because the voter might not understand the required procedures, move to a location or during a time period for which they do not qualify for protections, or encounter state laws, practices, or election officials which limit their ability to effectively register and/or vote. These difficulties represent failings in the existing system of voter registration, and are more thoroughly examined below.

## *A. State and Federal Laws Offer Insufficient Legal Protections for Voters Who Have Moved*

### **1. State and Federal Laws Offer Limited Voting Rights Protections for Voters Who Move Outside of Their Registrar's Jurisdiction And/Or Congressional District and Do Not Notify Election Officials of Their Move**

Federal law leaves largely unprotected the voting rights of voters who move outside of their jurisdiction — usually, their county. Although the Voting Rights Act protects voters who move to a new state close to an election, the Act only lets voters cast ballots for Presidential and Vice-Presidential candidates. And voters who move within the same state but to a different county are largely out of luck. The NVRA safeguards the right of a voter who moves *within* the voter's registrar's jurisdiction to participate in federal elections,<sup>48</sup> even if the voter has not notified election officials of his or her change of address before Election Day. But the NVRA's protections do not extend to voters who have moved *outside* of their registrars' jurisdictions or their congressional district.

This has the effect of disenfranchising voters who presume that once they are registered in the state, they do not have to re-register when they move to a different address. For example, a New Jersey voter called the Election Protection call center seeking advice because the voter had moved from one county to another and did not register to vote in the voter's new county before the voter registration deadline. Voters in that circumstance are only eligible to vote if they move before the 29<sup>th</sup> day before the election.<sup>49</sup> Similarly, a voter from Marceline, Missouri reported that after her home burned down, she moved to a new residence in another county. Unaware she needed to re-register, she failed to do so.<sup>50</sup>

Some states exceed the requirements of the NVRA and protect the voting rights of those who move outside of their registrars' jurisdictions. Of those states, some protect voters who move to a new registrar's jurisdiction within the state, regardless of when they move. As indicated in Figure 1 below, many of the states that provide greater protections to movers than those protections conferred by federal law limit protections to voters who move close to Election Day. In some instances, the extra protections offered by states fail to extend to all races and instead utilize partial ballots. Finally, the extra state protections, while better than federal law, are often limited in practicality, as they frequently require voters to return to their old polling places, which may not be feasible for voters who have moved significant distances within a state.

Figure 1. States That Provide More Protections than Federal Law for People Who Have Moved Outside of Their Registrar’s Jurisdiction Close to Election Day and Have Not Updated Their Registrations<sup>51</sup>

State	Period of Time Before Election Day Within Which Voters Must Have Moved to Claim Protection	Place Voters Can Vote	Statutory Limit on Type of Ballot Voters Can Cast
Arizona <sup>52</sup>	29 days	Polling place for old address	
California <sup>53</sup>	14 days	Polling place for old address	
Georgia <sup>54</sup>	After fifth Monday before election	Polling place for old address	
Illinois <sup>55</sup>	30 days	Polling place for old address	
Indiana <sup>56</sup>	30 days	Polling place for old address	Voter cannot vote in municipal primary election, municipal election or special election only within the municipality at voter’s old polling place
Kansas <sup>57</sup>	30 days	Polling place for old address	
Kentucky <sup>58</sup>	After fourth Tuesday before election	Polling place for old address	
Louisiana <sup>59</sup>	3 months	Polling place for old address	Voter can vote for all issues on which the voter was entitled to vote before moving
Massachusetts <sup>60</sup>	6 months	Polling place for old address	Voter can vote for national or state officers
Michigan <sup>61</sup>	60 days	Polling place for old address	
Missouri <sup>62</sup>	Fourth Wednesday before election	Voters must apply for absentee ballots in person at the office of the county clerk for their new county by 7:00 PM on the day of the election.	Limited absentee ballot for presidential and vice presidential electors, United States senators and Congressional representatives, and statewide candidates and issues
Montana <sup>63</sup>	30 days	In person or by absentee ballot at polling place for old address	
New Jersey <sup>64</sup>	29 days	Polling place for old address	

North Carolina <sup>65</sup>	30 days	Polling place for old address	
Rhode Island <sup>66</sup>	29 days	Polling place for old address	
	6 months minus one day	Apply for special paper ballot from board of canvassers of former city or town and receive ballot from secretary of state	Special paper ballot for federal and statewide elected officials only
South Carolina <sup>67</sup>	30 days	Main office of the county board of registration in new county	
		Polling place for old address	Provisional ballot for federal, statewide, countywide, and municipal wide offices
Tennessee <sup>68</sup>	90 days	Polling place for old address	
Vermont <sup>69</sup>	17 days	Polling place for old address	

## 2. Other Federal and State Requirements set Limits on the NVRA’s Protections for Voters who Move Within a Registrar’s Jurisdiction

While the NVRA requires that a registered voter who moves within the registrar’s jurisdiction be able to cast a ballot that counts, even if the voter did not notify local election officials of the address change, this protection is limited by other federal and state requirements.

### a. *The NVRA’s List Maintenance Procedures Set an Effective Time Limit on the NVRA’s Voting Rights Protections for Voters Who Move Within a Registrar’s Jurisdiction*

The NVRA’s list maintenance provisions function as a limitation on the amount of time that voters can benefit from the NVRA’s voting rights protections.<sup>70</sup> The NVRA requires states to “conduct a general program . . . to remove the names of ineligible voters . . . by reason of . . . a change in the residence of the registrant.”<sup>71</sup>

Practically speaking, under the NVRA, states can remove voters whom they suspect have moved from the state’s list of eligible voters if the voters do not respond to an address confirmation notice and also fail to present themselves to vote at the subsequent two general federal elections. This means that many voters who move will find themselves removed from their registrar’s rolls within a period of close to four years.

Once a voter is not on the list of eligible voters, she may no longer be able to take advantage of the NVRA’s voting rights protections for voters who have moved. Voters who have been removed from the list of eligible

voters cannot simply affirm their changes of address orally or in writing — they will not appear on the list of voters at any polling place. Even if voters who have moved are given provisional ballots, if these voters have been removed from the state’s list of eligible voters pursuant to the NVRA’s list maintenance provisions, their provisional ballots are unlikely to be counted.

**Illustrations of State List Maintenance Programs  
That Limit the Duration of the NVRA’s Voting Rights Protections.**

A caller to the Election Protection hotline from Lakeland, Florida registered to vote in 1992 but had not voted since. The caller moved and submitted change of address information to election officials three weeks in advance of the November 2008 election. When she went to the polls to try to vote on November 4, however, she was told that she was no longer in the voter registration database. She asked for a provisional ballot, but was advised by a poll worker not to bother casting even a provisional ballot because the ballot would not be counted.<sup>72</sup>

This is an example of when a state’s NVRA list maintenance practices typically operate as a four year time limit on in-state move protections. To see why, look at the following examples:

Texas: If a registrar has reason to believe a voter’s current address is different than the address on the voter’s registration record, the registrar sends the voter a forwardable written confirmation notice to the voter’s last known address.<sup>73</sup> If voters do not respond to the notice, they are placed on a “suspense list.”<sup>74</sup> If voters on the suspense list do not vote in the next two general elections and make any needed address corrections after receiving the notice, their registrations are cancelled on November 30 following the second general election.<sup>75</sup>

Vermont: If the board of civil authority questions whether a voter still lives at the address on the voter’s registration, the board sends a written notice to the voter at the voter’s most recent known address.<sup>76</sup> If the voter does not respond to the notice, appear to vote, or otherwise demonstrate his or her eligibility to remain on the voter list by the second general election following the date of the notice, the board of civil authority removes the voter on the day after that election.<sup>77</sup>

Unfortunately it is difficult to say with certainty when voters who have moved may lose the voting rights protections of the NVRA, because states’ list maintenance procedures vary and many states do not publicize when they actually remove voters from the list of eligible voters for failing to return a confirmation notice or vote in two federal general elections.<sup>78</sup> This uncertainty further undermines the value of the NVRA’s voting rights protections for voters who move within their registrars’ jurisdictions.

*b. Documentation Requirements Undermine Protection*

The identification voters must present on Election Day, if any identification at all is required, varies from state to state. While only a few states require photo identification, and it is rare for states as a matter of policy to reject identification that does not have a current address, voters may experience identification-related difficulties at the polls because poll workers may make more stringent identification demands than that which

is required pursuant to state law, for example, requiring that the address on the identification matches the address in the pollbook.<sup>79</sup> Voters who move, especially those who move close to an election, are especially vulnerable to identification-related problems because they may either not be registered at the address corresponding to newly-issued identification or they may not have identification that shows their new address by Election Day, running afoul of poll workers who demand identification that matches the information in the pollbook, or state laws requiring documentation of the current address respectively. Arizona provides an example of how state documentation requirements undermine the NVRA's protections for movers. In AZ, voters who move within their county and have not notified election officials of their move before Election Day are allowed to vote a provisional ballot at the polling place for their new address.<sup>80</sup> Voters can only take advantage of this protection, however, if they show identification that includes the voter's complete address located within the precinct.<sup>81</sup> Arizona voters who have not notified election officials of their move outside their precinct but within their county and lack identification showing their current address are therefore potentially disenfranchised under Arizona law.

### **3. Fail-Safe Voting Protections Are Undermined by State Procedures for Counting Provisional Ballots**

HAVA requires that provisional ballots be provided to any voter who claims to be a registered eligible voter. This fail-safe protection is supposed to protect eligible, registered voters from being disenfranchised. However, HAVA defers to state law to determine if the voter is indeed "eligible."<sup>82</sup> This broad discretion afforded to states for determining the eligibility of voters who cast provisional ballots has led to widely disparate applications of the HAVA protections.<sup>83</sup> Much has been written about the problems surrounding the implementation of HAVA.<sup>84</sup> Two shortcomings are of particular importance to voters who move.

a. *Some procedures for counting provisional ballots can undermine fail-safe protection by replicating election officials' original administrative errors in the counting process*

There are a number of possible reasons why a voter may not show up on the voter registration rolls. A voter can be wrongfully excluded from the voter registration rolls because the DMV failed to notify the registrar of the voter's change of address,<sup>85</sup> the voter could have been wrongfully purged due to incorrect data from another agency, bad "matching" criteria was used to cull duplicates from the list, or simple error was committed by a registrar's office.<sup>86</sup>

Provisional ballots are intended to be a fail-safe procedure for these voters who have been wrongfully removed from the voter registration lists.<sup>87</sup> However, if an election official later relies on the same voter registration list used at the polling place to determine the eligibility of the voter, this merely duplicates the original administrative error. An Election Assistance Commission Survey reported that the most commonly cited reason that provisional ballots were not counted in 2004 was that voters were not registered.<sup>88</sup> There is no way to confirm whether many of these voters should have been registered to vote, but based on our examination of state purge practices, it is likely that a significant number of these voters had been wrongfully purged.

This practice of overreliance on registration lists for counting provisional ballots undermines the objectives of both the NVRA and HAVA. It undermines the NVRA's protections for voters who have been removed from the registration list but have not in fact moved.<sup>89</sup> If election officials are purging registration rolls and then relying on that same purged list to determine eligibility, then the registration list will never "indicate that a

registrant has moved from an address in the area covered by a polling place.”<sup>90</sup> It will merely indicate that the voter never registered. It undermines the fail-safe provisions of HAVA by making provisional ballots function as placebos. If election officials do not keep archives of previous registrations or use other independent means to try to confirm a voter’s registration, then voters will not be given a meaningful opportunity to establish their eligibility or correct the error by the election officials.

b. *Voters are disenfranchised when they vote in the wrong precinct, even when it is due to poll worker error*

A second way in which provisional ballots cast by eligible, registered voters may be rejected is if the voter cast the ballot in the wrong precinct. The majority of states require that voters cast their provisional ballots in the correct precinct for their current address. Figure 2 below shows the counting rules adopted in each of the 50 states and the District of Columbia. In 26 of these states and the District of Columbia, a voter’s entire ballot will be rejected if it is cast in the wrong precinct. This might be true, even if the poll workers directed the voter to the wrong precinct.<sup>91</sup> In states that have adopted this rule, voters are disenfranchised even for those ballot issues and races that are open for participation to any voter in the state, like races for U.S. Senator.

A variation on the correct precinct issue is what is sometimes referred to as the “right church, wrong pew” problem. This problem occurs when one polling location houses two different election districts and the voter casts her ballot from a line associated with the wrong district. This problem gained much attention in a tight race among contenders for a New York State Senate seat in 2004 in Westchester, New York, and the related court cases over which affidavit ballots, New York’s name for provisional ballots, were to be counted. Ultimately, the voters whose affidavit ballots were cast in the right polling location (church), but wrong election district (pew) were counted because the court found that such ballots were likely attributable to poll workers who failed to direct the voter to the correct table or verify the voter’s eligibility to vote in the election district.<sup>92</sup>

In fourteen states, a full or partial ballot will be counted if it is cast in the correct registrar’s jurisdiction, regardless of where it was cast. The use of partial ballots allows states to limit those voting in local elections to those who live in the locality while minimizing the disenfranchisement that results from casting a ballot in the wrong precinct.

Figure 2. *State Rules on Counting Provisional Ballots*<sup>93</sup>

Provisional Ballot Not Counted Unless Cast in Correct Precinct <sup>94</sup>		
Alabama	Indiana	New York
Arizona	Kentucky	Ohio
Arkansas	Maryland	Oklahoma
Connecticut	Massachusetts	South Carolina
Delaware	Michigan	South Dakota
District of Columbia	Mississippi	Tennessee
Florida	Missouri	Texas
Hawaii	Montana	Virginia
Illinois	Nebraska	West Virginia

Partial Ballot Counted If Registered in the Registrar's Jurisdiction <sup>95</sup>		
California	Nevada <sup>96</sup>	Pennsylvania
Colorado	New Jersey	Rhode Island
Georgia	New Mexico	Utah <sup>97</sup>
Kansas	North Carolina	Vermont
Louisiana	Oregon	

Partial Ballot Counted If Registered Anywhere in the State <sup>98</sup>	
Alaska	Washington

Election Day Registration States With Provisional Balloting <sup>99</sup>	
Iowa	Maine

Exempt From NVRA And HAVA Provisional Balloting <sup>100</sup>	
Idaho	New Hampshire
Minnesota	North Dakota

Exempt From NVRA, But Offer Provisional Balloting <sup>101</sup> (must vote in correct precinct)	
Wisconsin	Wyoming

#### 4. Durational and Registration Residency Requirements Can Create Confusion for Voters Who Move Close to an Election to a New State

Voters who move to a new state close to an election are protected by the 1970 Amendments to the Voting Rights Act as discussed above in the first section of this report. But the Act only protects the right to vote in Presidential and Vice-Presidential races and requires that voters make arrangements to receive an absentee ballot in advance or return to their old state to vote in person.

Some states have durational residency laws that require citizens to have lived within the state for a certain amount of time before they are eligible to vote in the state.<sup>102</sup> Some of those states further specify that the voter must also live within a smaller geographic unit — like a county, city, or precinct — before being eligible to register, but little, if any, evidence was found suggesting that such laws are being enforced. Also, some states require voters to swear to the duration of their residency when they register to vote in advance of an election. The durational residency requirements, while often linked to book closing deadlines, vary from state to state. In a handful of states, including Colorado<sup>103</sup>, Idaho<sup>104</sup>, Indiana<sup>105</sup>, Nevada<sup>106</sup>, New Jersey<sup>107</sup>, and North Carolina<sup>108</sup>, the deadline to meet the durational residency requirement is earlier than the voter registration deadline, meaning that a voter who moved into the state on the book closing deadline could satisfy the registration deadline, but not the residency requirement. Voters who move to a different state too close to an election to satisfy the durational residency requirements may find themselves ineligible to vote for races other than President or Vice-President. The voter registration deadline similarly serves to block those who move after that deadline from voting in all but one race.

Figure 3 below describes when non-military voters must move to their new address in order to be able to satisfy both the registration deadline and residency requirement so that they can vote in all races.

*Figure 3. Time Voter Must Live in Jurisdiction before Election to Cast a Full Regular Ballot*

<b>State</b>	<b>Geographic Area In Which Voter Must Live</b>	<b>Time Voter Must Live in Geographic Area Before Voting</b>
Alabama <sup>109</sup>	State	10 days
Alaska <sup>110</sup>	State and house district	30 days
Arizona <sup>111</sup>	State	29 days
Arkansas <sup>112</sup>	State	30 days
California <sup>113</sup>	State	15 days
Colorado <sup>114</sup>	State and precinct	30 days
Connecticut <sup>115</sup>	State and town	7 days
Delaware <sup>116</sup>	State	Fourth Saturday before election
District of Columbia <sup>117</sup>	District of Columbia	30 days
Florida <sup>118</sup>	State and county	29 days
Georgia <sup>119</sup>	State and county/municipality	Fifth Monday before election
Hawai'i <sup>120</sup>	State and precinct	30 days
Idaho <sup>121</sup>	State and county	30 days
Illinois <sup>122</sup>	State and election district	30 days
Indiana <sup>123</sup>	State and precinct	30 days
Iowa <sup>124</sup>	State	10 days
Kansas <sup>125</sup>	State and voting area	15 days
Kentucky <sup>126</sup>	State and precinct	28 days
Louisiana <sup>127</sup>	State, parish, municipality, and, if any, precinct	30 days
Maine <sup>128</sup>	State and municipality	Election Day Registration
Maryland <sup>129</sup>	State	21 days
Massachusetts <sup>130</sup>	State and city or town	20 days
Michigan <sup>131</sup>	State and township, city or village	30 days
Minnesota <sup>132</sup>	State	20 days

Mississippi <sup>133</sup>	State, county, and municipality	30 days
Missouri <sup>134</sup>	State	Fourth Wednesday before election
Montana <sup>135</sup>	State	30 days
Nebraska <sup>136</sup>	State	Second Friday before election
Nevada <sup>137</sup>	State and county	30 days
	Precinct	10 days
New Hampshire <sup>138</sup>	State and town, ward or unincorporated place	Election Day Registration
New Jersey <sup>139</sup>	State and county	30 days
New Mexico <sup>140</sup>	State	28 days
New York <sup>141</sup>	State and county, city or village	30 days
North Carolina <sup>142</sup>	State and precinct, ward or other election district	30 days
North Dakota <sup>143</sup>	State and precinct	30 days
Ohio <sup>144</sup>	State, county and precinct	30 days
Oklahoma <sup>145</sup>	State	24 days
Oregon <sup>146</sup>	State	21 days
Pennsylvania <sup>147</sup>	State and election district	30 days
Rhode Island <sup>148</sup>	State, and town, city or voting district	30 days
South Carolina <sup>149</sup>	County and polling precinct	30 days
South Dakota <sup>150</sup>	State	15 days
Tennessee <sup>151</sup>	State	30 days
Texas <sup>152</sup>	State and county	30 days
Utah <sup>153</sup>	State	30 days
Vermont <sup>154</sup>	State and town	Wednesday before election
Virginia <sup>155</sup>	State and precinct	29 days
Washington <sup>156</sup>	State, county and precinct	30 days
West Virginia <sup>157</sup>	State and County	21 days
Wisconsin <sup>158</sup>	State and election district or ward	10 days
Wyoming <sup>159</sup>	State	30 days

## *B. Flawed Implementation of Laws Governing Voters who Move*

Even movers protected by law may be unable to vote if the law is improperly implemented. Movers can be harmed by the improper implementation of laws passed to protect them as well as flawed implementation of generally applicable laws in ways that uniquely disadvantage movers.

### **1. Sometimes States Fail to Update Voters' Registrations to Reflect Change of Address Information Submitted By Voters**

As discussed above, the NVRA requires that state drivers' license applications and change of address forms offer voters the opportunity to register to vote in federal elections or change their addresses for voting for federal office.<sup>160</sup> But election officials do not always change voters' registrations to reflect information that the voters have provided to motor vehicle agencies. A few examples of this phenomenon that were reported to Election Protection include:

- A Philadelphia, Pennsylvania voter moved and updated her voter registration when she updated her drivers' license information. When she went to vote in the 2008 primary at the polling place for her new address, she was told she was not on the rolls. She was eventually told that she would have to return to the polling place for her old address to vote. The voter said she could not vote at her old polling place because she was caring for her small children and lacked the transportation required to make that trip.<sup>161</sup>
- A Birmingham, Alabama resident who recently moved from Georgia reported that he registered to vote when he registered his vehicle at the Alabama department of motor vehicles. But when he went to the polls for the November 2008 general election his name was not on the list of registered voters and he was unable to vote.<sup>162</sup>
- A voter in Los Banos, California moved and changed his address at the department of motor vehicles' office, but when he went to vote in the November 2008 general election there was no record of his registration and he was unable to vote.<sup>163</sup>
- An Aurora, Colorado voter moved and re-registered at her new address, but as polls were closing the voter was told that the address change was never made. The voter was told to return to the voter's old polling place, but the voter did not have time to travel there before the polls closed.<sup>164</sup>

States can fail with respect to the automatic update requirements of the NVRA in two ways: (1) states do not have the formal rules or practices implementing these requirements,<sup>165</sup> or (2) the state implementation efforts are inadequate. In either instance, however, the voter loses out.

At least two states have procedures in place to protect voters whose information is not transmitted to their election officials from drivers' license offices. Indiana, for example, permits a voter not on the poll list to vote if the voter shows a precinct poll worker a receipt indicating the voter submitted a timely registration form at a drivers' license branch or voter registration agency such as a public assistance agency.<sup>166</sup> Michigan also lets people vote if they present a validated voter registration application receipt from a drivers' license official.<sup>167</sup> In 2007, Virginia adopted a similar protection for voters.<sup>168</sup> If a voter who registered at a Virginia voter registration agency<sup>169</sup> is forced to vote a provisional ballot because the voter's registration was not processed by election officials, the voter can present proof to the electoral board, which determines, after the day of the election, whether the voter is eligible, that he or she registered prior to the close of registration and that his or her provisional ballot should be counted.<sup>170</sup> These procedures are an implicit acknowledgement that voter

registration applications and updates may not be transmitted to election officials in a timely or reliable manner.

Some failures to update voters' registrations may occur because motor vehicle offices rely on paper forms to notify election officials of address changes. In Tennessee, for example, certain voter registration agencies are required to mail completed voter registration forms to the relevant election officials.<sup>171</sup> If a paper form is misdirected or lost, election officials may not have any record of the voter's address change or desire to register to vote. Voters may not realize errors have occurred until Election Day when it may be too late to remedy mistakes. Kansas recently adopted a system of electronically transferring changes of address for voting purposes from local division of motor vehicles' offices to local election officials in part to reduce the problem of voters' paper registration forms getting misplaced.<sup>172</sup>

The NVRA also requires that state public assistance and disability offices distribute voter registration applications with every application for services or assistance and with every recertification, renewal or change of address form for such services and assistance.<sup>173</sup> These agencies must make assistance available to people in completing their voter registration applications.<sup>174</sup> They also must distribute the National Mail Voter Registration form that can be used to change the address on a voter's registration or an equivalent state form.<sup>175</sup> Research and litigation in several states suggest that public assistance agencies are not reliably facilitating voter registration, re-registration, or updating of registration records.<sup>176</sup> When public assistance agencies neglect their duties under the NVRA, election officials miss opportunities to update the registrations of voters who have moved. This failure has a disproportionate impact on the low-income voters served by social service agencies.<sup>177</sup>

Communication breakdowns can also happen between state public assistance agencies and election officials. Similar to the procedures in Indiana and Virginia described above, Colorado protects voters who registered at state agencies including public assistance agencies, offices of state-funded programs for persons with disabilities, and armed forces recruiting offices. If such voters are not listed on registration records, they can go in person to their county clerk and recorder's office and affirm the name, location of and approximate date of registration or provide a receipt from the agency, complete an emergency registration form, and vote a regular ballot.<sup>178</sup> Connecticut also lets voters vote even if their names are not on the voter checklist, if they can present an application receipt from a voter registration agency such as a public assistance or disability services office.<sup>179</sup>

## **2. Improper Implementation of Voter Identification Requirements Can Disenfranchise Voters Who Have Moved**

Even when voter identification laws do not require a voter to show identification with the voter's current address, poll workers in many states often deny ballots to voters whose identification does not match the address in the pollbook, improperly disenfranchising them.

Ohio's voter identification law, for example, permits a voter to present acceptable photo identification like a drivers' license or state ID card with an old address on it.<sup>180</sup> Nevertheless, Ohio voters have reported election officials misinterpreting the identification law to the disadvantage of voters who have moved. A voter in Franklin County, Ohio reported to Election Protection that when she presented her drivers' license that did not contain her current address, the poll worker required her to present another form of identification such as a utility bill before she could vote in the November 2008 general election.<sup>181</sup> Similarly, a voter in Ross

County, Ohio reported to Election Protection that when he presented his drivers' license, which showed a different address than his current address, the poll worker required him to produce additional identification based on instructions poll workers had received from the county board of elections.<sup>182</sup> A voter in Warren, Ohio told Election Protection that he was turned away from the polls in the November 2008 election because the voter only had an Ohio state identification card with the voter's old address.<sup>183</sup> This confusion happened in spite of the statute clearly permitting a voter to cast a ballot notwithstanding her failure to present a photo id with a current address on it.

Indiana is another state in which the voter's identification is not required to have the voter's current address.<sup>184</sup> In the November 2008 general election, however, a voter in Indianapolis, Indiana reported to Election Protection that he was required to show additional identification because his address on his drivers' license did not match the address on his voter registration. He was only allowed to vote after a 45 minute delay while election officials considered whether they would accept his additional identification.<sup>185</sup>

Likewise, Colorado voters must show one form of approved identification which includes a valid Colorado drivers' license, a valid United States passport, or a current utility bill in order to vote a regular ballot in person. Identification that includes the voter's address is sufficient so long as the address is within the state of Colorado.<sup>186</sup> In the November 2008 general election, however, a voter in Denver, Colorado reported to Election Protection that he was turned away because his identification did not show the same address as his registration record.<sup>187</sup>

### *C. Election Officials Are Confused About Where Movers Should Vote*

As the previous sections show, many states' protections for movers and list maintenance procedures are complicated. There is often confusion among voters and poll workers about whether a voter is registered, where a voter should vote, or what type of ballot a voter should cast. Unfortunately, the voter almost always bears the brunt of this confusion.

There are a number of aspects of state voter registration requirements that may be confusing to voters. For example, voters may not understand what the state requires them to do after a move, whether their move is one which permits updating their registration on Election Day, or whether they have to re-register before the close of the registration period. Indeed, state election officials' announcements encouraging voter registration do not always remind voters of the need to update their registration or re-register after a move.<sup>188</sup>

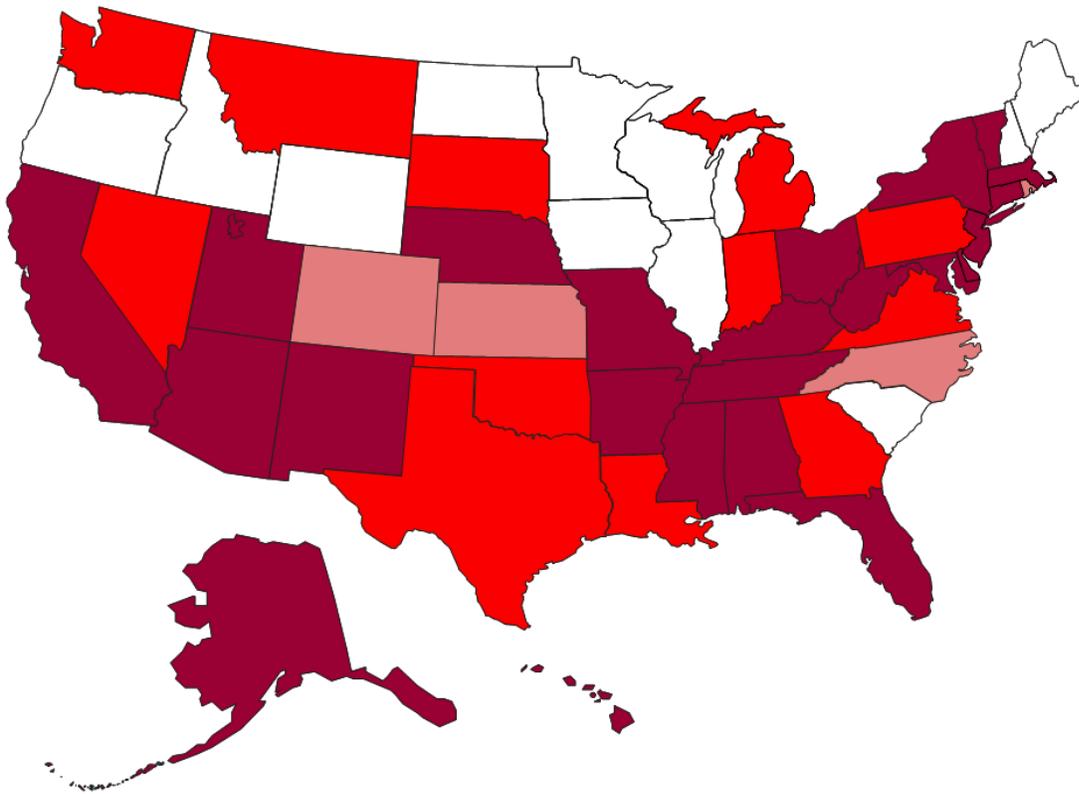
#### **1. Voters Who Have Moved Do Not Know Where to Go Vote**

Movers who have not updated their voter registration record may not know whether they should go to the polling place for their old or new address to vote on Election Day. As illustrated in Figure 4 and Figure 1, some states direct voters who have moved to the polling place for their new address, and some send voters to their old polling place. Sometimes, a voter's proper polling place depends on how recently a voter moved.<sup>189</sup> Unfortunately, there is no general principle explaining these differences and so voters must look up the specific technical rules that apply in their particular state.

Inaccurate and limited technology to help voters find their polling places may also contribute to the confusion experienced by voters who have moved. Some voters who have moved but have not notified election officials

of their address changes before Election Day are allowed to vote at the polling places for their new addresses.<sup>190</sup> However, even if voters know this rule, they still need to know where the polling place for their new address is located to be able to vote. To help voters locate their polling places, most states have poll finders on their state websites. Unfortunately, only about one third of these poll finders provide a polling place for any address in the state. The rest are of limited use to movers because they only show the polling place information corresponding to the address on the voter's registration.<sup>191</sup> Movers who are allowed to vote at their new polling places need polling place locators that show the polling place covering any valid address in the state.<sup>192</sup> This is especially true in light of the fact that voters who must rely on reaching an election official to learn their polling place may face some difficulties getting through the high volume of calls on Election Day.<sup>193</sup>

Figure 4. State Methods of Compliance with Voting Rights Protections for Voters Who Move Outside of Their Precinct but Within Their County



- Allows voters who have moved within their registrar’s jurisdiction to correct their addresses and vote at the polling places for their new addresses
- Allows voters who have moved within their registrar’s jurisdiction to correct their addresses and vote at the polling places for their old addresses
- Allows voters who have moved within their registrar’s jurisdiction within 30 days of an election to correct their addresses and vote at the polling places for their old addresses. Voters who have moved within their registrar’s jurisdiction more than 30 days before an election can correct their addresses and vote at the polling places for their new addresses.

**Illinois:** Voters who move more than 30 days before an election can vote for federal offices at the polling places for their old addresses. Voters who move within 30 days of an election can vote a full ballot at the polling places for their old addresses.

**South Carolina:** Voters can vote a full ballot at the board of elections for the new county they moved to, or vote a limited federal ballot at the polling places for their old addresses.

## 2. Poll Workers May Incorrectly Direct Voters

Poll workers are frequently not full-time employees of the local election office. Instead, they receive training to help administer the election. Sometimes, confusion on the part of election officials or poll workers can lead to the disenfranchisement of voters who move.

Calls into the Election Protection hotline reveal examples of disenfranchisement due to poll worker confusion on Election Day. In Georgia, for example, a voter moved to a new county after the state's voter registration deadline. The voter was told by election officials in his new county that he should return to his old county to vote in the 2008 general election, consistent with Georgia law.<sup>194</sup> When, however, the voter arrived at his old polling place and completed a registration form with his new address, the election officials told the voter that voting at his old polling place would be equivalent to issuing a false statement, which is a felony. The voter did not cast a ballot.<sup>195</sup> In another example, a voter in Warrensville Heights, Ohio reported to Election Protection that she moved and registered her new address with election officials. When she went to the polls in the 2008 general election, however, she was told she had to vote a provisional ballot because she changed her address, even though she had received confirmation of her address change and was on the list of voters at the polling place.<sup>196</sup>

In the example previously cited in Section I.A.3.b involving the “right church, wrong pew” issue in Westchester, New York, the court found that at least some of the ballots being incorrectly cast were attributable to poll workers failing to direct voters to the correct table for the election district. The voters at issue eventually had their affidavit ballots counted, but it required a court order to do so.<sup>197</sup>

Poll workers' confusion can be compounded by a lack of access to technology to locate voters' proper polling places on Election Day. If voters who have moved mistakenly go to vote at their old polling place when state law requires them to vote at their new polling place, poll workers may lack the technology to send voters to the right polling place. One election judge in Saint Paul, Minnesota expressed frustration at having to rely on the very low-technology “precinct finders” — hard copy listings of the ward and precinct number corresponding to a voter's house number — to direct voters. He referred to the books as “extremely difficult to read” and “a virtual catalyst for human error.”<sup>198</sup>

At least one state statute attempts to protect voters from potential disenfranchisement in the event of poll worker error. Missouri allows a voter to cast a provisional ballot if the poll worker cannot determine the eligibility of the voter and thus cannot confirm if the voter is in the correct precinct.<sup>199</sup> This protection is of limited value, however, because Missouri statutes dictate that any provisional ballot cast in the wrong precinct will not be counted, without exception.<sup>200</sup> So although Missouri recognizes the potential for disenfranchisement due to poll worker error, the statutes fall short in actually preventing it. Indeed, a representative of the Missouri Secretary of State's office is reported to have stated that election officials would not be able to know when determining whether to count the ballot if the voter cast the ballot in the wrong precinct due to the failure of the poll worker,<sup>201</sup> making this protection somewhat hollow.

### III. STATE AND FEDERAL GOVERNMENTS SHOULD STRENGTHEN PROTECTIONS FOR VOTERS WHO MOVE

At the time of the passage of the NVRA, the House Committee Report noted that:

Enactment of the Voting Rights Act of 1965 eliminated the more obvious impediments to registration, but left a complicated maze of local laws and procedures, in some cases as restrictive as the outlawed practices, through which eligible citizens had to navigate in order to exercise their right to vote. The unfinished business of registration reform is to reduce these obstacles to voting to the absolute minimum while maintaining the integrity of the electoral process.<sup>202</sup>

Sixteen years later, much of the business of registration reform remains unfinished.

Section II of this report showed that under the current system of voter protections in many states, voters are often disenfranchised because of limited protections, inconsistent implementation, and confusion on the parts of voters and election officials. Some states have taken steps to implement statutes and best practices that correct some of these shortcomings. It is time to take the next step in registration reform to further minimize the barriers to registration.

#### *A. State Law Reforms*

##### **1. States should adopt a system of portable or permanent registration**

The NVRA voting rights protections for voters who have moved but not notified election officials are aimed at voters who move within the same registrar's jurisdiction.<sup>203</sup> This limited protection made sense when the NVRA was passed in 1993. At the time, almost all registration lists were maintained by city and county election officials — not by the state. Therefore, limiting voting rights protections to voters who moved within their registrar's jurisdiction made sense because another registrar would not have access to records to determine whether a voter was in fact registered at a previous address or whether a voter attempted to vote in two locations on Election Day.

In 2002, the Help America Vote Act required states to create integrated statewide lists for managing voter registration files, but did not expand the NVRA protections for movers beyond the registrar's jurisdiction.<sup>204</sup> Indeed, HAVA does not even define its use of the word “jurisdiction” in places where it offers new protections such as provisional ballots requirements.<sup>205</sup> Almost all states currently use statewide voter databases, and the handful of states that have not finalized their databases are on track to do so shortly.<sup>206</sup> With these computerized statewide lists, all registrars should have access to records confirming the voter who moved was previously registered at another address and that the voter didn't attempt to vote in two locations. Requiring voters to re-register even when registrars have notice of the voters' previous registration in the state through the statewide database weakens the underlying principle in the NVRA that voters should not have the burden of re-registration when the registrar has notice of the change of address. This needlessly places a burden of re-registration on the voter. The implementation of statewide registration lists means voters who move outside of their registrar's jurisdiction can be protected equally with voters who move within the same registrar's jurisdiction.

A better policy, one adopted by a few states already, is one which permits a voter who has registered in the state to move to a new address within the state or change her name and vote a ballot that counts in a subsequent election — without having to re-register each time she moves or take affirmative steps to change her registration information. Under this system, a person's registration is permanent or portable — the voter retains a valid registration in spite of subsequent moves unless she moves out of state or otherwise becomes ineligible. Several states have already adopted this reform. Florida is one example: if a Florida voter completes a change-of-address form at the poll and election officials verify that the voter is registered to vote in the state, then the voter is given a regular ballot.<sup>207</sup> Delaware also permits voters who move within the state to cast regular ballots at the polling place for their new address after completing eligibility affidavits.<sup>208</sup> In Maryland, voters who move within the state can vote by provisional ballot at the polling places for their new address.<sup>209</sup> These states have effectively extended NVRA's protections for intra-jurisdiction moves to all moves state-wide; other states should do the same.

## **2. States should enhance coordination between election officials and DMVs**

States should enhance the compatibility of their voter registration and drivers' license databases so that address changes submitted to the state's drivers' license bureau are transmitted electronically to the voter registration system. Requiring timely electronic transmission of change of address information minimizes the risk that voters will be disenfranchised by delayed or misplaced forms. In Utah, drivers' license divisions electronically send the name, address, birth date and drivers' license number of all persons who indicate on their drivers' license applications that they also wish to register to vote to the lieutenant governor's office.<sup>210</sup> Although the actual voter registration forms are sent in hardcopy to county election officials, the electronic record nevertheless helps guard against errors.<sup>211</sup> In Michigan, the computer platform used by the bureau of motor vehicles is the same one as that used by the state bureau of elections, easing electronic communication transfers.

## **3. States should enhance coordination between election officials and voter registration agencies and public assistance agencies**

States should enhance the compatibility of their voter registration and public assistance databases so that address changes that are submitted to public assistance agencies are transmitted electronically to the voter registration system. Updates made in this way will make the voter registration database more accurate, and will save the voter from having to make address updates at two different places with the government. Again, increasing interoperability, such as the sharing of computer platforms would greatly enhance such recommended coordination. Data-sharing arrangements between government agencies are common in other nations and allow the election rolls to be updated automatically after a voter moves, without the voter having to file additional paperwork.<sup>212</sup>

## **4. States should allow voters to correct or update their addresses online**

Voters should be allowed to complete and submit registration forms online, and further to update their registration records online in the event that the voter has moved or changed address. Certain protections need to be in place to ensure that voters are not the victim of fraud or misuse, including protocols to maintain an image of the signature, confirm that the activity has taken place, and ensure that the correct record is being

updated. To this end, voters will need to be notified when a transaction such as submitting a registration application or updating an address takes place.

**5. States should give voters proof of their attempt to register and/or update at state agencies and accept that proof on Election Day if the transaction has not been processed**

Voter registration applications and address updates from drivers' license offices and state public agencies should be transmitted to election officials in a prompt and reliable manner. Voters, however, should not be penalized in the event that they are not. Accordingly, states should enact procedures like those existing in Indiana, Michigan, Colorado, and others to give voters proof that they attempted to register at state agencies and allow voters to cast a ballot that will count upon presentation of that proof, even if the transaction has not been processed in the case of the drivers' license office or transmitted in the case of a public assistance agency.

**6. States should better inform voters about state requirements and protections for voters who move**

States should clearly publicize re-registration requirements for voters who move in advance of the state's registration deadline. If voters who have moved update their registrations to reflect their new addresses before Election Day, they would not need to take advantage of fail-safe voting protections and would be less likely to suffer from confusion or poll worker error on Election Day.

States can also create online poll finders that identify the polling place that corresponds to any valid address in the state, as opposed to being fixed to the address where the voter may have last registered, so that voters who have moved and are required to vote at the polling place for their new address can easily find the polling location.

Not all voters who move will have internet access. Therefore, states should also expand their capacity to respond to questions from voters trying to locate their proper polling place. This should include having technology available at the polling places whereby election officials could look up the correct polling place and direct voters to that location.

**7. States should better train poll workers to respond to the issues facing movers**

Poll workers should receive training that prepares them to perform their duties effectively, which includes providing correct information to voters and implementing accurately state and federal law. Training sessions should devote sufficient time to those issues affecting movers, which would include covering how to direct voters to the appropriate polling place, the rules for provisional balloting, and the circumstances in which ID is needed and what kinds of ID are acceptable.

**8. States should maintain a record of voters who have been removed from the state's list of eligible voters on the basis of a change of address**

States should require that all voter registration records that are removed through a state's list maintenance procedures be maintained on a list that is readily accessible to election officials, and most importantly, poll workers on Election Day. If such a list were available at the polls, it would facilitate the correction of mistakes — before the voter had cast a provisional ballot. In addition, the cancelled list should indicate the reason for

removal, whether it is on account of a move, a belief that the voter is deceased or is disenfranchised on account of a criminal conviction, or any other reason under state law. States may have to consider limiting the size of list to those voters purged in the previous four years to in response to costs or other administrative issues.

## **9. States should permit Election Day corrections**

Election Day registration offers people the opportunity to register to vote and cast a ballot on the same day. This is an important protection for many citizens because it allows for a correction of many registration failures before it is too late for the voter to cast an effective ballot, but also offers an additional safety net for voters who move. For example, voters who move and update their registration at the department of motor vehicles sometimes discover on Election Day that the election officials did not update their registration records.<sup>213</sup> Election Day registration would allow them to correct this problem at their new polling place. Even voters in states that offer statewide permanent registration regimes are susceptible to disenfranchisement — voters who discover on Election Day that they have been removed from their state’s list of eligible voters might be offered a provisional ballot that will not be counted due to poor list maintenance.<sup>214</sup> Election Day registration offers an important final backstop protection to these voters who move.

At least two studies have shown Election Day registration has a significant benefit for voters who have recently moved.<sup>215</sup> One of the studies found that one-quarter of the increased voter turn out in states with Election Day registration is attributable to voters who have moved.<sup>216</sup>

## **10. States should consider allowing the counting of provisional ballots that include partial ballots**

States should consider allowing for the “partial counting” of any ballot cast in the wrong precinct — in other words, counting votes for those offices or issues for which a voter would have been eligible in his or her home district. Such a policy would prevent voters from facing complete disenfranchisement simply because they were confused about their correct polling place or were directed to the wrong precinct by an election official.

Several states already allow for partial counting of provisional ballots cast in the wrong precinct.<sup>217</sup> California even instructs election workers to allow voters to vote a provisional ballot if the voter arrives at the incorrect polling place too late in the day to make it to their correct polling place.<sup>218</sup>

In considering such laws, states may want to clarify their position on voters intentionally voting in the wrong polling place because the lines are shorter, or it is more convenient for those providing transportation to the voters, or for other reasons like it is closer to work.

## *B. Federal Law Reforms*

### **1. Pass Voter Registration Modernization<sup>219</sup>**

Given the multitudes of eligible citizens who are not registered to vote, and those who do not have an effective registration on account of a move, it should be a national requirement that states take responsibility for registering all eligible citizens, with some flexibility for states to innovate, and that federal financial support be provided to enable states to achieve the goal of modernized registration. Congress should enact a federal bill that phases in voter registration modernization. The bill should have four main components: (1) a mandate for states to enact systems of automatic or affirmative voter registration designed to capture all eligible citizens; (2) a requirement that registration be permanent or portable as long as a voter remains a resident within the same state and does not become otherwise ineligible; (3) fail-safe mechanisms for eligible citizens whose names are missing from the voter rolls or whose registration information is inaccurate or out of date to correct these errors or omissions before and on Election Day and to vote; and (4) sufficient funding to enable states to transition effectively to voter registration modernization.

## **CONCLUSION**

Even those who have moved and have not updated their registration may be able to cast a ballot that will count. The Voter Guide attached as an appendix demonstrates this. Nevertheless, these limited protections on such a fundamental right are not acceptable. Given the mobility of our society, our advances in technology, and our national commitment to voting, we as a country can and should do better. Many of the limitations on the rights and protections afforded to voters who move are unnecessary and preventable. States should reform their policies to exceed current federal protections for movers.

## ENDNOTES

- <sup>1</sup> *Voter Registration: Assessing Current Problems: Hearing Before the S. Comm. on Rules and Admin.*, 111th Cong. 13 (2009) (statement of Nathaniel Persily, Professor, Columbia Law School).
- <sup>2</sup> Lawrence Norden et al., *BETTER BALLOTS 10* (Brennan Center for Justice ed. 2008), available at <http://www.brennancenter.org/page/-/Democracy/Better%20Ballots.pdf> (reporting an average of the number of voting-age persons who moved between 2000 and 2006 based on data from the U.S. Census Bureau).
- <sup>3</sup> Election Protection, *Election Protection 2008: Helping Voters Today, Modernizing the System for Tomorrow 2* (2009), available at <http://www.866ourvote.org/tools/documents/files/0077.pdf>.
- <sup>4</sup> See Professor Stephen Ansolabehere, Testimony Before the U.S. Senate Rules Committee 9-10, Mar. 11, 2009, available at <http://tinyurl.com/pnpkay>.
- <sup>5</sup> See Michael P. McDonald, *Portable Voter Registration*, 30 POL. BEHAV. 491, 499 (2008), available at <http://www.springerlink.com/content/f2276m7786p2l2t0/fulltext.pdf> (quoting Pervill Squire, Raymond E. Wolfinger & David P. Glass, *Residential Mobility and Voter Turnout*, 81 AM. POL. SCI. REV. 45 (1987)).
- <sup>6</sup> J. Adam Skaggs & Jonathan Blitzer, *MODERNIZING VOTER REGISTRATION: PERMANENT OR PORTABLE REGISTRATION* (Brennan Center for Justice ed., forthcoming June 2009).
- <sup>7</sup> VA. CODE ANN. § 24.2-401 (2008). If the voter moved within the same jurisdiction, he is permitted to vote at his former polling place for two November general elections if he did not change congressional districts. *Id.*
- <sup>8</sup> Election Protection, *Our Vote Live: Hotline Report # 84263* (2008), <http://www.ourvotelive.org/responses.php?op=show&id=84263>.
- <sup>9</sup> North Dakota is the only state without voter registration. North Dakota Secretary of State, *North Dakota . . . The Only State Without Voter Registration*, available at <http://www.nd.gov/sos/forms/pdf/votereg.pdf>.
- <sup>10</sup> Some states allow voters to register on Election Day for the first time. See, e.g., IOWA CODE ANN. § 48A.7A (2008). Others allow voters to update their registration on Election Day and then vote, as long as the voter was previously registered. See, e.g., FLA. STAT. ANN. § 101.045(2)(a) (2008).
- <sup>11</sup> 148 Cong. Rec. S10492 (daily ed. Oct. 16, 2002) (statement of Sen. McConnell) (describing changes in voter registration process for Federal elections mandated in 2002 Help America Vote Act as “designed to clean up our Nation’s voter registration lists and reduce fraudulent registrations and voting” and arguing that the Act furthers Congress’s “compelling interest in protecting the integrity of the Federal election process” by “helping to ensure accurate voter rolls, which is the first step in ensuring fair elections”).
- <sup>12</sup> Lawrence Norden et al., *supra* note 2, at 10.
- <sup>13</sup> The NVRA only protects voters who move within their registrar’s jurisdiction. 42 U.S.C. § 1973gg-6(e), (j) (2006). In Virginia, the registrar’s jurisdiction can be either a city or a county, depending on where in the state the voter lives. Virginia Election and Registration Information System (VERIS), Local Voter Registration Office, Contact Info, <https://www.voterinfo.sbe.virginia.gov/PublicSite/Public/FT2/PublicContactLookup.aspx> (listing the city and county registration offices).
- <sup>14</sup> Both the House and the Senate committees were explicit in their intent to prohibit the imposition of re-registration requirements upon voters who move within the registrar’s jurisdiction. H.R. Rep. No. 103-9, at 18 (1993); S. Rep. No. 103-6, at 34–35 (1993) (each stating that “[t]he intent of this requirement is that it is the responsibility of a registrar, upon notification of a change of residence by a voter to another residence within the registrar’s jurisdiction, to make the necessary correction of the records. A registrar may not impose requirements, such as re-registration, upon such a voter.”).
- <sup>15</sup> 42 U.S.C. § 1973aa-1 (2006) (amending the Voting Rights Act of 1965, Pub. L. No. 91-285, § 6, 84 Stat. 314, 316–317).
- <sup>16</sup> National Voter Registration Act of 1993, 42 U.S.C. §§ 1973gg–gg-10 (2006).
- <sup>17</sup> Help America Vote Act of 2002, 42 U.S.C. §§ 15301–15545 (2006).
- <sup>18</sup> The Voting Rights Act Amendments of 1970 provides procedures only for presidential and vice presidential ballots. 42 U.S.C. § 1973aa-1(e), (f) (2008). The NVRA only applies to elections for Federal office. See *id.* § 1973gg (stating that the purpose is “to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office.”) HAVA provisional ballot requirements, for example, apply only if the voter declares that the individual is “eligible to vote in an election for Federal office.” *Id.* § 15482(a). Additionally, while HAVA mandates

the creation of a statewide computerized database that “shall serve as the single system for storing and managing the official list of registered voters throughout the State,” the computerized list need only “serve as the official voter registration list for the conduct of all elections for Federal office in the State.” *Id.* § 15483(a)(1)(A)(i), (viii).

<sup>19</sup> It is important to note that Congress has not always taken the lead on establishing protections for voters who move. For example, before the Voting Rights Act Amendments of 1970, at least six states offered some form of presidential ballot for voters who moved from another state close enough to the presidential election that they did not satisfy the durational residency requirements in their new state. See *Uniform Act for Voting by New Residents in Presidential Elections*, 77 HARV. L. REV. 574 & nn.4–5 (1964). Before the passage of the NVRA in 1993, over half the states offered some form of motor-voter registration. S. Rep. No. 103-6, at 7 (1993). See discussion *infra* Section II for a discussion of states with practices that exceed current federal protections.

<sup>20</sup> Some states with Election Day registration are not required to comply with either the National Voter Registration Act or the provisional balloting sections of the Help America Vote Act. 42 U.S.C. §§ 1973gg-2(b), 15482(a).

<sup>21</sup> *Id.* § 1973aa-1.

<sup>22</sup> See, e.g., *Dunn v. Blumstein*, 405 U.S. 330, 331 (1972) (describing Tennessee law which required a voter to be a resident of the State for a year and the county for three months before being allowed to register to vote).

<sup>23</sup> 42 U.S.C. § 1973aa-1(a)(4), (5).

<sup>24</sup> *Id.* § 1973aa-1(b), (d).

<sup>25</sup> *Id.* § 1973aa-1(d).

<sup>26</sup> *Id.* § 1973aa-1(e).

<sup>27</sup> *Id.* § 1973gg(b)(1).

<sup>28</sup> *Id.* § 1973gg-2(a)(1).

<sup>29</sup> *Id.* §§ 1973gg-2(a)(3)(B), 1973gg-5.

<sup>30</sup> *Id.* §§ 1973gg-3(d)-(e).

<sup>31</sup> Registrar’s jurisdiction is defined in the NVRA at 42 U.S.C. § 1973gg-6(j).

<sup>32</sup> *Id.* § 1973gg-6(c)(1)(b)(i). The registrar gives the voter the opportunity to correct or verify the address change by sending the voter a notice of the change by a forwardable mailing which includes a postage prepaid and preaddressed return form. See also, e.g., VA. CODE ANN. § 24.2-428(B) (2008) (requiring that, upon receipt of reliable information that a voter has moved to an address in the same county or city, the state election board or registrar send a prepaid, pre-addressed return card by which the voter may verify or correct the address information).

<sup>33</sup> 42 U.S.C. § 1973gg-6(a)(4)(B).

<sup>34</sup> 42 U.S.C. § 1973gg-6(e)(1).

<sup>35</sup> *Id.* § 1973gg-6(e)(2). NVRA requires that a voter be allowed to update his address at the new polling place, but voting is only permitted at the new polling place if allowed by state law. *Id.*

<sup>36</sup> 42 U.S.C. § 1973gg-6(e)(3).

<sup>37</sup> *Id.* § 1973gg-6(f). See also, e.g., Va. Code Ann. § 24.2-428(B) (2008) (requiring that, upon receipt of reliable information that a voter has moved to an address in the same county or city, the state election board or registrar send a prepaid, pre-addressed return card by which the voter may verify or correct the address information.)

<sup>38</sup> See, e.g., National Commission on Federal Election Reform, *To Assure Pride and Confidence in the Electoral Process* 34 (2001), available at [http://www.tcf.org/Publications/ElectionReform/99\\_full\\_report.pdf](http://www.tcf.org/Publications/ElectionReform/99_full_report.pdf); Caltech/MIT Voting Technology Project, *Voting: What Is, Could Be* 8-9 (2001), available at [http://vote.caltech.edu/drupal/files/report/voting\\_what\\_is\\_what\\_could\\_be.pdf](http://vote.caltech.edu/drupal/files/report/voting_what_is_what_could_be.pdf).

<sup>39</sup> 42 U.S.C. § 15482(a).

<sup>40</sup> *Id.* § 15482(a)(4).

<sup>41</sup> 148 Cong. Rec. H7837 (daily ed. Oct. 10, 2002) (statement of Rep. Ney) (explaining that under HAVA, “no voter will be disenfranchised, just because their name does not appear on a registration list.”) Representative Ney was the House sponsor of HAVA.

<sup>42</sup> See 42 U.S.C. § 15482(a)(4) (providing that state or local officials determine whether an individual is eligible under state law to vote, and therefore have their provisional ballot counted, but without any further guidance regarding this determination).

<sup>43</sup> See *infra* Section II.

<sup>44</sup> 42 U.S.C. § 15483(a)(1).

<sup>45</sup> *Id.* § 15483(a)(1)(A)(ii), (iv).

<sup>46</sup> *Id.* § 15483(a)(1)(A)(v).

<sup>47</sup> *Id.* § 15483(a)(1)(A)(vi).

<sup>48</sup> Although the NVRA only mandates that voters be allowed to vote in federal elections, states generally adopt the same rules for participating in their local and statewide elections.

<sup>49</sup> Election Protection, Our Vote Live: Hotline Report # 89771 (2008),

<http://www.ourvotelive.org/responses.php?op=show&id=89771>. See also N.J. STAT. ANN. § 19:53C-3(d) (stating that if a voter has moved into the county from another county or state and has not registered to vote in the new county by the 29<sup>th</sup> day before the election, the voter is not eligible to vote in the new county at that election).

<sup>50</sup> Election Protection, Our Vote Live: Hotline Report # 84360 (2008),

<http://www.ourvotelive.org/responses.php?op=show&id=84360>.

<sup>51</sup> Note that some states, like Virginia, *supra* note 7, and Alaska, ALASKA STAT. § 15.20.015 (2008), also provide greater protections to out of jurisdiction movants than required by federal law, but as those protections are not confined by any time frame, they have not been included in this table.

<sup>52</sup> ARIZ. REV. STAT. ANN. § 16-125 (2008).

<sup>53</sup> CAL. ELEC. CODE § 2035 (2008).

<sup>54</sup> GA. CODE ANN. § 21-2-218(e) (2008).

<sup>55</sup> See Illinois State Board of Elections, *Ballot Entitlement for the General Election* (2008), available at <http://www.elections.state.il.us/Downloads/ElectionInformation/PDF/BallotEntNov08.pdf>.

<sup>56</sup> IND. CODE ANN. §§ 3-10-11-2, -4 (2008).

<sup>57</sup> KAN. STAT. ANN. § 25-3701 (2008).

<sup>58</sup> KY. REV. STAT. ANN. §§ 116.025(5), 116.045(2) (2008).

<sup>59</sup> LA. REV. STAT. ANN. § 18:110(C) (2008).

<sup>60</sup> MASS. GEN. LAWS ANN. ch. 51, § 3 (2008).

<sup>61</sup> MICH. COMP. LAWS ANN. §§ 168.507a (2008).

<sup>62</sup> MO. ANN. STAT. §§ 115.135(1), 115.275(3), 115.277(4), 115.279(8) (2008).

<sup>63</sup> MONT. CODE ANN. § 13-2-514(2)(a) (2007). A Montana voter who moves to a new county within 30 days of an election can also use the state's late registration procedure to register and vote at the polling places for his or her new address. See *id.* § 13-2-304.

<sup>64</sup> Letter from New Jersey Assistant Attorney General Donna Kelly to County Board of Elections (October 27, 2005).

<sup>65</sup> N.C. CONST. art. VI, § 2(1); N.C. Gen. Stat. Ann. § 163-55(a) (2008).

<sup>66</sup> R.I. GEN. LAWS § 17-9.1-16(a)(1), (b)(1)–(2) (2008). See also Rhode Island Board of Elections, *Guide to Address Affirmation on Election Day* (2008), available at [http://www.elections.state.ri.us/documents/voter\\_affirmation\\_chart\\_11\\_2008.pdf](http://www.elections.state.ri.us/documents/voter_affirmation_chart_11_2008.pdf).

<sup>67</sup> S.C. CODE ANN. § 7-5-440(B) (2008).

<sup>68</sup> TENN. CODE ANN. § 2-7-115 (2008).

<sup>69</sup> VT. STAT. ANN. tit. 17, § 2122(b) (2008).

<sup>70</sup> Legislative history for the NVRA suggests the limitation of the Act's voting rights protections by the Act's list maintenance provisions was intentional, but is somewhat inconclusive. See 42 U.S.C. § 1973gg-6(e) (detailing voting rights protections without explicit time limit on the protections). Although not included in the text of the Act, there is some evidence in the Senate Report for the NVRA that Congress only intended to offer voting rights protections for two federal general elections after a voter failed to return an address confirmation notice. See S. Rep. No. 103-6, at 19-20 (1993) (stating that, in accordance with the guiding principles of the legislation, "when a registrant fails to return a card to the voting registrar, the voter must be permitted to vote if he or she appears at the polls within two general Federal elections after the date of the notice.")

<sup>71</sup> 42 U.S.C. § 1973gg-6(a)(4). HAVA repeated the requirement that states make a “reasonable effort” to remove registrations of voters who have not responded to a notice and who have not voted in two consecutive general elections for federal office. *Id.* § 15483(a)(4)(A).

<sup>72</sup> Election Protection, Our Vote Live: Hotline Report # 70028 (2008), <http://www.ourvotelive.org/responses.php?op=show&id=70028>.

<sup>73</sup> TEX. ELEC. CODE ANN. § 15.051 (Vernon 2009).

<sup>74</sup> *Id.* § 15.081(a)(1).

<sup>75</sup> *Id.* § 16.032; *see also id.* § 15.052(a)(2) (providing that the notice sent to voters must include a warning that the voter’s registration is subject to cancellation if the voter fails to confirm his current residence either by written notification or by voting no later than November 30 following the second general election after the date the notice is mailed).

<sup>76</sup> VT. STAT. ANN. tit. 17, §§ 2150(c), 2150(d)(3) (2008).

<sup>77</sup> *Id.* § 2150(d)(5).

<sup>78</sup> *See* Myrna Pérez, VOTER PURGES 21 (2008), *available at* <http://www.brennancenter.org/page/-/publications/Voter.Purges.f.pdf>

<sup>79</sup> *See*, Evan Perez, Provisional Ballots Get Uneven Treatment, Wall St. J., Oct. 28, 2008, at A4 (noting that sometimes “minor differences between a voter’s identification and data on the rolls” results in some voters getting provisional ballots.) Calls into the non-partisan Election Protection hotline also reported numerous instances of poll workers requiring that the voter’s identification match the address listed in the pollbook. *See e.g.*, Election Protection, Our Vote Live: Hotline Report # 95479 (2008) <http://2008.ourvotelive.org/responses.php?op=show&id=95479>; Election Protection, Our Vote Live: Hotline Report # 95468 (2008), <http://2008.ourvotelive.org/responses.php?op=show&id=95468>; Election Protection, Our Vote Live: Hotline Report # 95436, (2008) <http://2008.ourvotelive.org/responses.php?op=show&id=95436>

<sup>80</sup> ARIZ. REV. STAT. ANN. § 16-135(B) (2008).

<sup>81</sup> *Id.* §§ 16-135(B), -584. Arizona does accept a utility bill of the elector as identification if dated within ninety days of the election, but the bill must be in the voter’s name and address. Some otherwise eligible voters may not have utility bills in their name that have been sent to their new address. *Id.* § 16-579(A).

<sup>82</sup> 42 U.S.C. § 15482(a)(4).

<sup>83</sup> *See, e.g.*, Advancement Project, *Provisional Voting: Fail-Safe Voting or Trapdoor to Disenfranchisement?* 1 (2008), *available at* <http://www.advancementproject.org/pdfs/Provisional-Ballot-Report-Final-9-16-08.pdf> (finding that rejection rates of provisional ballots varied greatly across the country); electionline.org, *Briefing: Solution or Problem? Provisional Ballots in 2004* 1-2 (2005), *available at* <http://www.pewcenteronthestates.org/uploadedFiles/ERIP10Apr05.pdf> (highlighting the provisional ballot regulations in numerous states).

<sup>84</sup> *See generally, e.g.*, Wendy R. Weiser, Brennan Center for Justice at NYU School of Law, *Are HAVA’s Provisional Ballots Working?* (2006), *available at* [http://www.brennancenter.org/page/-/d/download\\_file\\_39043.pdf](http://www.brennancenter.org/page/-/d/download_file_39043.pdf); Scott Novakowski, *A Fallible ‘Fail-Safe’: An Analysis of Provisional Balloting Problems in the 2006 Election* (2007), *available at* <http://archive.demos.org/pubs/failsafereport.pdf>.

<sup>85</sup> *See infra* Section III.A.2.

<sup>86</sup> *See* Myrna Pérez, *supra* note 78 at 20-25; *see also* Advancement Project, *supra* note 83, at 15 n.30. Also, Professor Candice Hoke, Director of the Center for Election Integrity at Cleveland State University, reports that a Cuyahoga County election official who handles voter registrations stated that “a major, if not exclusive reason for the lost voter records lies in the ‘merge records’ function of the DIMS registration software.” Candice Hoke, Monitor Report: Possible Legal Noncompliance in the November 2006 Election, 2 (Jan. 8, 2007), *available at* [http://urban.csuohio.edu/cei/public\\_monitor/Monitor-CCBOELegalCompliance1-8-07-MEMO-FINAL.pdf](http://urban.csuohio.edu/cei/public_monitor/Monitor-CCBOELegalCompliance1-8-07-MEMO-FINAL.pdf) (a lost voter registration record “not only means that the voter is not permitted to vote but also that the recorded voting history is deleted and unrecoverable”).

<sup>87</sup> The House sponsor of HAVA, Representative Bob Ney, explained that under HAVA, “no voter will be disenfranchised, just because their name does not appear on a registration list.” 148 Cong. Rec. H7837 (daily ed. Oct. 10, 2002) (statement of Rep. Ney). *See supra* text accompanying note 41.

<sup>88</sup> Election Data Services, *Final Report of the 2004 Election Day Survey Submitted to the U.S. Election Assistance Commission* 6-5 (2005), available at [http://www.eac.gov/program-areas/research-resources-and-reports/copy\\_of\\_docs/eds2004/2004-election-day-survey-1/](http://www.eac.gov/program-areas/research-resources-and-reports/copy_of_docs/eds2004/2004-election-day-survey-1/).

<sup>89</sup> 42 U.S.C. § 1973gg-6(e)(3).

<sup>90</sup> *Id.*

<sup>91</sup> One study found that voters who cast provisional ballots in the wrong precinct were directed there by poll workers. Advancement Project, *supra* note 83, at 27.

<sup>92</sup> *Panio v. Sunderland*, 824 N.E.2d 488, 490 (N.Y. 2005).

<sup>93</sup> Note that this table does not predict or describe what would happen to a voter who experienced a “right church wrong pew” problem.

<sup>94</sup> ALA. CODE § 17-10-2(f) (2007); ARIZ. REV. STAT. ANN. §§ 16-584(C)-(D) (2008); ARK. CODE ANN. § 7-5-308(a)(2) (2008); CONN. GEN. STAT. ANN. §§ 9-232(a)-(c) (2008); DEL. CODE ANN. tit. 15, § 4948(h)(8) (2008); D.C. CODE §§ 1-1001.07(i)(2)-(3) (2008); FLA. STAT. ANN. §§ 101.048(2)(a)-(b)(2) (2008); HAW. REV. STAT. ANN. §§ 11-21(c)-(e) (2008); 10 ILL. COMP. STAT. 5/18A-15(b)(1) (2008); IND. CODE ANN. § 3-7-13-1 (2008); 31 KY. ADMIN. REGS. 6:020 §§ 4(5), (13), (14) (2008); MD. CODE ANN., ELEC. LAW § 11-303(e)(1) (2008); MASS. GEN. LAWS ANN. ch. 54, § 76C(b), (d) (2008); Michigan Secretary of State, *Procedure for Handling “Envelope” Ballots Returned to Clerk’s Office* 1 (Mar. 2009), available at [http://www.michigan.gov/documents/Procedure\\_Handling\\_Env2\\_95243\\_7.pdf](http://www.michigan.gov/documents/Procedure_Handling_Env2_95243_7.pdf); Mississippi Secretary of State, *County Election Handbook* 42 (June 2005), available at [http://www.sos.state.ms.us/elections/2005/HandBook/2005\\_County\\_Election\\_Handbook.pdf](http://www.sos.state.ms.us/elections/2005/HandBook/2005_County_Election_Handbook.pdf); MO. ANN. STAT. § 115.430(2)(1) (2008); MONT. CODE ANN. §§ 13-2-512, 13-15-107, -108 (2007); NEB. REV. STAT. ANN. § 32-1002(4)(d)(i) (2008); N.Y. ELEC. LAW § 5-403 (McKinney 2008); OHIO REV. CODE ANN. § 3505.183(B)(4)(a)(ii) (2008); OKLA. STAT. ANN. tit. 26, § 7-116.1(C) (2008); S.C. CODE ANN. § 7-13-820, -830 (2008); S.D. CODIFIED LAWS § 12-20-5.1 (2008); TENN. CODE ANN. § 2-7-112(a)(3)(B)(v) (2008); TEX. ELEC. CODE ANN. §§ 63.011(a)-(a-1), 65.054(a) (Vernon 2007); VA. CODE ANN. § 24.2-653(B) (2008); W. VA. CODE ANN. § 3-1-41(b) to (d) (2008).

<sup>95</sup> CAL. ELEC. CODE § 14310(a)(3)-(c)(3) (2008); COLO. REV. STAT. ANN. § 1-8.5-109 (2008); GA. CODE ANN. § 21-2-419(c)(2) (2008); KAN. STAT. ANN. § 25-3002(b)(3) (2008); Louisiana Secretary of State, *Provisional Voting*, <http://www.sos.louisiana.gov/tabid/176/Default.aspx> (last visited May 28, 2009); NEV. REV. STAT. ANN. § 293.3085 (2008); NEV. ADMIN. CODE § 293.270(3)(d), (j), (k) (2008); N.M. STAT. ANN. § 1-12-25.4(F) (2008); N.C. GEN. STAT. ANN. § 163-182.2(a)(4) (2008); Or. Rev. Stat. Ann. §§ 254.408(5)-(6) (2008) (setting forth that “a vote shall be counted only if the elector is qualified to vote for the particular office or on the measure” with respect to counting provisional ballot when there is no evidence of registration); 25 PA. STAT. ANN. § 3050(a.4)(7) (2008); Rhode Island Board of Elections, *Amended Rules & Regulations for Provisional Voting* 9 (Jul. 2006), available at <http://www2.sec.state.ri.us/dar/regdocs/released/pdf/BOE/R&R%20provisional%20voting%20amendments%20adopted%207-24-06.pdf>; UTAH CODE ANN. §§ 20A-4-107(1)(a)(ii), (2)(b) (2008); VT. STAT. ANN. tit. 17, §§ 2555-2557 (2008). States vary on how to partially count provisional ballots. For example Rhode Island will only count a full provisional ballot or they will only count the vote for federal offices on provisional ballots, while California will count any votes the voters could have voted for in their correct precinct.

<sup>96</sup> Nev. Rev. Stat. § 293.3085 (2008); Nev. Admin. Code § 293.270 (2008). While the statute indicates that a provisional ballot may not be counted if the voter cast the “wrong” ballot for the address at which she resides, the code clarifies that a ballot should be counted if the voter is registered in the county and voted in the correct congressional district, among other requirements.

<sup>97</sup> Utah will only allow voting in the wrong precinct if the ballot cast is identical to the ballot in the correct precinct. UTAH CODE ANN. § 20A-4-107(1)(b) (2008).

<sup>98</sup> ALASKA STAT. § 15.20.211(a) (2008); WASH. ADMIN. CODE ANN. §§ 434-253-047(4) -(5) (2008).

<sup>99</sup> IOWA CODE ANN. § 49.81; ME. REV. STAT. ANN. tit. 21-A § 696 (2008).

<sup>100</sup> Some states with Election Day registration are not required to comply with either the National Voter Registration Act or the provisional balloting provisions of the Help America Vote Act. 42 U.S.C. §§ 15482(a), 1973gg-2(b) (2006).

- <sup>101</sup> Elections Division of the Wisconsin Government Accountability Board, *Election Day Manual for Wisconsin Election Officials* 38 (Jan. 2008), available at <http://elections.state.wi.us/docview.asp?docid=872&locid=47>; WYO. STAT. ANN. §§ 22-3-104(g) to (h) (2008).
- <sup>102</sup> See, e.g., *Blumstein*, 405 U.S. at 331 (describing Tennessee law which required a voter to be a resident of the State for a year and the county for three months before being allowed to register to vote).
- <sup>103</sup> Compare the 30-day residency requirement, Colo. Rev. Stat. Ann. § 1-2-101(b), with the registration deadline of 29 days in advance of the election, Colo. Rev. Stat. Ann. § 1-2-202(7).
- <sup>104</sup> Compare the 30-day residency requirement, Idaho Code § 34-402, with the registration deadline of 25 days in advance of the election, Idaho Code Ann. § 34-408 or the Election Day registration provisions, Idaho Code Ann. § 34-408(A).
- <sup>105</sup> Compare the 30-day residency requirement, Ind. Code Ann. § 3-7-13-1, with the registration deadline of 29 days in advance of the election, Ind. Code Ann. § 3-7-13-10.
- <sup>106</sup> Compare the 30-day state residency requirement, Nev. Rev. Stat. Ann. § 293.485 (2008), with the registration deadline of 21 days in advance of the election, Nev. Rev. Stat. Ann. § 293.560.
- <sup>107</sup> Compare the 30-day state residency requirement, N.J. Stat. Ann. § 19:31-5, with the registration deadline of 21 days in advance of the election, N.J. Stat. Ann. § 19:31-6.
- <sup>108</sup> Compare the 30-day state residency requirement, N.C. Gen. Stat. § 163-55(a), with the registration deadline of 25 days in advance of the election, N.C. Gen. Stat. § 163-82.6(c).
- <sup>109</sup> ALA. CODE § 17-3-50 (2007) (registration deadline). See also Office of the Secretary of State, Elections Division, *Alabama Voter Guide 2008*, (2008), <http://www.sos.state.al.us/downloads/election/2008/2008vg.pdf>.
- <sup>110</sup> ALASKA STAT. § 15.05.010(3) (2008) (residency requirement).
- <sup>111</sup> ARIZ. REV. STAT. ANN. § 16-101(A)(3), (B) (2008) (residency requirement).
- <sup>112</sup> Ark. Code Ann. § 7-5-201(a) (2008) (Arkansas has a registration deadline thirty days before the election); Ark. Const. amend. LI, § 9(b), available at [www.arkleg.state.ar.us/assembly/Summary/ArkansasConstitution1874.pdf](http://www.arkleg.state.ar.us/assembly/Summary/ArkansasConstitution1874.pdf). But see Arkansas Secretary of State, *Vote Naturally*, <http://www.votenaturally.org/registration.html> (last visited June 16, 2009) (stating that one registration requirement is that the voter “[b]e an Arkansas resident (residing in Arkansas at least 31 days prior to the first election in which you will vote”).
- <sup>113</sup> CAL. CONST. art. II § 2; CAL. ELEC. CODE ANN. § 2107 (2008) (registration deadline). But see CAL. ELEC. CODE ANN. § 3400 (new residents who establish residency within fifteen days of an election can register until seven days before the election).
- <sup>114</sup> COLO. REV. STAT. ANN. § 1-2-101(b) (2008) (residency requirement).
- <sup>115</sup> CONN. GEN. STAT. ANN. § 9-12 (2008); See Connecticut Secretary of State, *Connecticut Mail-In Voter Registration Form* (Sept. 2005), <http://www.ct.gov/sots/LIB/sots/ElectionServices/ElectForms/electforms/ed671.pdf> (registration deadline) (postmarked registration is accepted if it is postmarked or received fourteen days prior to the election).
- <sup>116</sup> DEL. CODE ANN. tit. 15, § 2036 (2009) (registration deadline).
- <sup>117</sup> D.C. CODE § 1-1001.02(2)(A) (2009) (residency requirement).
- <sup>118</sup> FLA. STAT. ANN. §§ 97.041(1)(a)(3), (4), 97.055(1)(a) (2009) (registration deadline).
- <sup>119</sup> GA. CODE ANN. §§ 21-2-216(a), -224(a) (2008) (registration deadline).
- <sup>120</sup> HAW. REV. STAT. ANN. §§ 11-12(a), -24(a) (2008) (registration deadline).
- <sup>121</sup> IDAHO CODE ANN. § 34-402 (2008) (residency requirement). Idaho allows for Election Day registration through special procedures. *Id.* § 34-408(A).
- <sup>122</sup> 10 ILL. COMP. STAT. ANN. 5/3-1 (2008) (residency requirement).
- <sup>123</sup> IND. CODE ANN. § 3-7-13-1 (2008) (residency requirement).
- <sup>124</sup> IOWA CODE ANN. §§ 48A.9(1), (2009) (registration deadline). Iowa allows for Election Day registration through special procedures. *Id.* § 48A.7A(1)(a).
- <sup>125</sup> KAN. STAT. ANN. § 25-2311(e) (2008) (registration deadline).

- <sup>126</sup> Kentucky State Board of Elections, Voter Information Guide, <http://elect.ky.gov/registrationinfo/infoguide.htm> (last visited May 28, 2009). *See also* KY. REV. STAT. ANN. §§ 116.025(1), .045(2) (2008) (Kentucky also has a registration deadline on the fourth Tuesday before the election).
- <sup>127</sup> LA. REV. STAT. ANN. §§ 18:101(A)(1.), :135(A) (2008) (registration deadline).
- <sup>128</sup> ME. REV. STAT. ANN. tit. 21-A, §§ 111(3), 122(4) (2008).
- <sup>129</sup> MD. CODE ANN., ELEC. LAW §§ 3-102(a)(3), -302 (2008) (registration deadline).
- <sup>130</sup> MASS. GEN. LAWS ANN. ch. 51, §§ 1, 26 (2008) (registration deadline).
- <sup>131</sup> MICH. COMP. LAWS ANN. § 168.492 (2008) (residency requirement).
- <sup>132</sup> MINN. STAT. ANN. § 201.014(1)(c) (2008) (residency requirement). Minnesota has registration deadline twenty days before the election but also allows for Election Day Registration through special procedures. *See also id.* § 201.061.
- <sup>133</sup> MISS. CODE ANN. § 23-15-11 (2008) (residency requirement).
- <sup>134</sup> MO. ANN. STAT. §§ 115.133(1), .135(1) (2008) (registration deadline).
- <sup>135</sup> MONT. CODE ANN. § 13-1-111(1)(c) (2007) (residency requirement). Montana has a registration deadline thirty days before the election but allows for late registration procedures. *Id.* §§ 13-2-201, -204.
- <sup>136</sup> NEB. REV. STAT. ANN. §§ 32-110, -302 (2008) (registration deadline). *See also* Nebraska Secretary of State, Voter Information Frequently Asked Questions, [http://www.sos.ne.gov/elec/voter\\_info.html](http://www.sos.ne.gov/elec/voter_info.html) (last visited May 28, 2009).
- <sup>137</sup> NEV. REV. STAT. ANN. § 293.485 (2008) (residency requirement).
- <sup>138</sup> N.H. REV. STAT. ANN. §§ 654:1, :7-a(II) (2009).
- <sup>139</sup> N.J. STAT. ANN. § 19:31-5 (2009) (residency requirement).
- <sup>140</sup> N.M. STAT. ANN. § 1-4-5.1(F) (2008) (registration deadline).
- <sup>141</sup> N.Y. ELEC. LAW § 5-102 (McKinney 2008) (residency requirement).
- <sup>142</sup> N.C. GEN. STAT. ANN. § 163-55(a) (2008) (residency requirement).
- <sup>143</sup> N.D. CENT. CODE § 16.1-01-04(1) (2008) (residency requirement).
- <sup>144</sup> OHIO REV. CODE ANN. § 3503.01(A) (2008) (residency requirement) (requiring *both* thirty days of residence in the state, county and precinct *and* thirty days as a registered voter).
- <sup>145</sup> OKLA. STAT. ANN. tit. 26, § 4-110.1(a) (2008) (registration deadline) (postmarked registration is accepted if it is postmarked nineteen days before the election).
- <sup>146</sup> OR. REV. STAT. ANN. § 247.025(1) (2008) (registration deadline).
- <sup>147</sup> 25 PA. CONS. STAT. ANN. § 1301(a) (2008) (residency requirement).
- <sup>148</sup> R.I. GEN. LAWS ANN. § 17-1-3 (2008) (residency requirement) (requiring *both* thirty days of residence in the state and town, city or voting district *and* thirty days as a registered voter in the city, town or voting district prior to election day).
- <sup>149</sup> S.C. CODE ANN. §§ 7-5-120(A)(3), -150 (2008) (registration deadline). *See also* South Carolina State Election Commission, South Carolina Voter Registration Information, [http://www.scvotes.org/south\\_carolina\\_voter\\_registration\\_information](http://www.scvotes.org/south_carolina_voter_registration_information) (last visited May 28, 2009).
- <sup>150</sup> S.D. CODIFIED LAWS §§ 12-4-1, -5 (2008) (registration deadline) (postmarked registration is accepted if it is postmarked more than thirty days before the election).
- <sup>151</sup> TENN. CODE ANN. §§ 2-2-102, -109 (2008) (registration deadline).
- <sup>152</sup> TEX. ELEC. CODE ANN. §§ 11.001(a), .002(5), 13.001(a)(5), .143(e) (Vernon 2007) (registration deadline).
- <sup>153</sup> UTAH CODE ANN. § 20A-2-101(1)(b) (2008) (residency requirement).
- <sup>154</sup> VT. STAT. ANN. tit. 17, §§ 2121(2), (4), 2144(a) (2008) (registration deadline).
- <sup>155</sup> VA. CODE ANN. §§ 24.2-101, -416 (2009) (registration deadline) (beginning January 1, 2010, the registration deadline becomes 21 days).
- <sup>156</sup> WASH. CONST. art. VI, § 1 (residency requirement).
- <sup>157</sup> W. VA. CODE ANN. §§ 3-2-2, -6(a) (2008) (registration deadline).
- <sup>158</sup> WIS. STAT. ANN. § 6.02(1) (2008) (residency requirement). Wisconsin has a registration deadline on the third Wednesday before the election but allows for Election Day Registration through special procedures. *Id.* §§ 6.28(1), .29, .55.

<sup>159</sup> WYO. STAT. ANN. § 22-3-102(a)(3) (registration deadline). Wyoming has a pre-election registration deadline, but allows for Election Day registration through special procedures.

<sup>160</sup> 42 U.S.C. § 1973gg-3 (2006).

<sup>161</sup> Election Protection Our Vote Live, *Election Protection 2008 Primary Report* 831 (2008), <http://www.866ourvote.org/tools/documents/files/0036.xls>.

<sup>162</sup> Election Protection, Our Vote Live: Hotline Report # 95264 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=95264>.

<sup>163</sup> Election Protection, Our Vote Live: Hotline Report # 93856 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=93856>.

<sup>164</sup> Election Protection, Our Vote Live: Hotline Report # 92690 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=92690>.

<sup>165</sup> For example, not all states' change of address forms are compliant with the NVRA's requirement that a voter be given the opportunity to indicate that an address change for the purpose of a drivers' license is not for voter registration purposes. *See, e.g., State of Alaska, Division of Motor Vehicles Notice of Change of Address, available at* <http://www.state.ak.us/dmv/forms/pdfs/401.pdf>; Montana Motor Vehicle Division, Change of Drivers' License Address, *available at* <http://www.doj.mt.gov/driving/forms/34-0300.pdf>; Rhode Island Division of Motor Vehicles Change of Address Notice, *available at* [http://www.dmv.ri.gov/documents/forms/Address\\_Cng.pdf](http://www.dmv.ri.gov/documents/forms/Address_Cng.pdf)

<sup>166</sup> IND. CODE ANN. § 3-7-48-7 (2008). Before the voter can vote, the county registration office must also tell the precinct election board that the county office either approved the voter's registration application or has no record of approving or rejecting the voter's application. *Id.*

<sup>167</sup> MICH. COMP. LAWS ANN. § 168.500d (2008). The statute refers to voter registration receipts issued by the "secretary of state or his agent." This would cover drivers' license officials who operate within Michigan's Secretary of State's office. *See* Michigan Secretary of State, Frequently Asked Questions: What are the duties of the Department of State?, <http://www.michigan.gov/sos/0,1607,7-127-29808-88275--F,00.html>. A clerk must also determine a voter is qualified before he or she is allowed to vote under this section. MICH. COMP. LAWS ANN. § 168.500d.

<sup>168</sup> 2007 Va. Legis. Serv. ch. 692 (West).

<sup>169</sup> *See* VA. CODE ANN. § 24.2-411.2 (2008) (defining state-designated voter registration agencies).

<sup>170</sup> *Id.* § 24.2-653(B).

<sup>171</sup> Tenn. Code. Ann. § 2-2-201(6) (2008); Telephone Interview with Tennessee Elections official on file with the author. (April 28, 2009).

<sup>172</sup> Telephone Interview with Brad Bryant, Kansas Deputy Assistant Secretary of State, Elections and Legislative Matters Division (Apr. 20, 2009) (on file with the Brennan Center for Justice).

<sup>173</sup> 42 U.S.C. § 1973gg-5(a)(6) (2006).

<sup>174</sup> *Id.* § 1973gg-5(a)(4)(A)(ii).

<sup>175</sup> *Id.* § 1973gg-5(a)(6)(A)(i)-(ii). A sample of the National Mail Voter Registration form is available at [http://www.eac.gov/files/voter/nvra\\_update.pdf](http://www.eac.gov/files/voter/nvra_update.pdf).

<sup>176</sup> Senator Charles Schumer recently urged Attorney General Eric Holder to sue states failing to provide voting assistance at public assistance agencies and disability offices, noting in part that 18 states were under investigation for failing to implement parts of the NVRA. Press Release, Senator Charles E. Schumer, Schumer Urges DOJ: Sue States That Flout Registration Law (Apr. 7, 2009), *available at* [http://schumer.senate.gov/new\\_website/record.cfm?id=311271](http://schumer.senate.gov/new_website/record.cfm?id=311271). Similarly, a recent study concluded that many state public assistance agencies were neglecting their duties under the NVRA. Douglas R. Hess & Scott Novakowski, *Unequal Access: Neglecting the National Voter Registration Act, 1995-2007* (Feb. 2008), *available at* <http://www.demos.org/pubs/UnequalAccessReport-web.pdf>. Litigation is currently pending in federal court against Ohio election officials for widespread non-compliance with the NVRA requirements for the state's public assistance agencies. *Harkless v. Brunner*, 545 F.3d 445 (6th Cir. 2008) (reversing dismissal and remanding case to district court). Federal litigation is also pending alleging Missouri's Department of Social Services fails to comply with its obligations under the NVRA. *Ass'n of Cmty. Org. for Rerform Now v. Scott*, No. 08-CV-4084-NKL, 2008 WL 2787931 (W.D. Mo. July 15, 2008) (granting plaintiffs' motion for preliminary injunction in part). Recently, advocates have also alleged that the Indiana Family and Social Services Administration fails to comply with the NVRA's

requirements for public assistance agencies. Letter from Nicole C. Kovite, Director, NVRA Implementation Project, Project Vote, to Todd Rokita, Indiana Secretary of State (Jan. 7, 2009), *available at* [http://projectvotefileadmin/ProjectVote/State\\_Documents/IN\\_NVRA\\_Notice\\_Letter\\_1.5.09.pdf](http://projectvotefileadmin/ProjectVote/State_Documents/IN_NVRA_Notice_Letter_1.5.09.pdf).

<sup>177</sup> See S. Rep. No. 103-6, at 14 (1993) (noting that agency registration “enables more low income and minority citizens to become registered”); Hess & Novakowski, *supra* note 176, at 7–9 (explaining the role of public assistance agencies in registering low-income citizens).

<sup>178</sup> 8 COLO. CODE REGS. § 1505-1 R. 26.2.2 (2008); COLO. REV. STAT. ANN. § 1-2-504 (2008). Voters must provide required identification in order to vote a regular ballot. 8 COLO. CODE REGS. § 1505-1 R.26.2.2. Voters unable to provide identification must vote a provisional ballot. *Id.* at R. 26.2.2.1.

<sup>179</sup> CONN. GEN. STAT. ANN. §§ 9-23g(d)(4), -23n (2008). Before a voter can vote based on an application receipt, the voter’s original application must be found or the voter must complete a new application at the polling place and show required identification. *Id.* § 9-23g(d)(4).

<sup>180</sup> The poll worker is required to indicate on the poll list or signature poll book that the voter showed identification with his or her former address, record the last four digits of the voter’s license or card number, and let the voter vote. *Id.*

<sup>181</sup> Election Protection, Our Vote Live: Hotline Report # 92143 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=92143>.

<sup>182</sup> Election Protection, Our Vote Live: Hotline Report # 91065 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=91065>. Additional information available to Election Protection operators indicates that ultimately, Election Protection was able to contact the relevant board of elections who then provided the correct instructions to the poll workers and the voter cast a ballot.

<sup>183</sup> Election Protection, Our Vote Live: Hotline Report # 52919 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=52919>.

<sup>184</sup> See IND. CODE ANN. §§ 3-5-2-40.5, 3-11-8-25.1(a)-(b) (2008). The Indiana voter identification requirement is restrictive in other respects. For example, identification must be issued by the United States government or the state of Indiana and to include a photo of the voter. *Id.* § 3-5-2-40.5.

<sup>185</sup> Election Protection, Our Vote Live: Hotline Report # 52278 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=52278>.

<sup>186</sup> COLO. REV. STAT. ANN. §§ 1-1-104(19.5), 1-7-110(1).

<sup>187</sup> Election Protection, Our Vote Live: Hotline Report # 65523 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=65523>.

<sup>188</sup> *Compare* Press Release, Texas Secretary of State, Secretary Andrade Reminds Texans to Register to Vote (Sept. 30, 2008), *available at* <http://www.sos.state.tx.us/about/newsreleases/2008/093008.shtml> (providing no mention of movers), *and* Press Release, Indiana Secretary of State, Today is the Last Day to Register to Vote in Upcoming Election (Oct. 6, 2003), *available at* <http://www.in.gov/sos/press/old/10062003.html> (providing no mention of movers), *with* Press Release, Rhode Island Government, Mollis Offers Help Registering to Vote Before Saturday’s Deadline (Oct. 3, 2008), *available at* <http://www.ri.gov/press/view.php?id=7247> (noting that movers are required by law to update registration), *and* Press Release, Kentucky Secretary of State, Kentuckians Face Deadline to Register to Vote in General Election (Sept. 29, 2008), *available at* <http://www.sos.ky.gov/secdesk/mediacenter/pressreleases/article191.htm> (reminding voters about registration requirements after moving).

<sup>189</sup> See, e.g., KAN. STAT. ANN. §§ 25-2353, -3701 (2008) (allowing voters who have moved within the same county but have not updated their registrations to vote by provisional ballot at the new polling place for their new address or a centralized voting location, and allowing voters who moved within 30 days of an election but did not update their registration to vote at their old polling place.); R.I. GEN. LAWS § 17-9.1-16(a)(2)(i)-(ii) (2008) (requiring voters who moved within the same city or town and failed to notify election officials to vote at their new polling place or local board of canvassers if the move was 30 days or more before an election, but requiring voters to vote at their old polling place or local board of canvassers for moves less than 30 days before an election).

<sup>190</sup> See, e.g., ALA. CODE §§ 17-9-10, 17-10-3 (2007); ALASKA STAT. § 15.07.090(d) (2008); ARIZ. REV. STAT. ANN. § 16-135(B) (2008).

- <sup>191</sup> The Pew Center on the States, *Being Online is Not Enough: State Elections Web Sites* 8-9 (Oct. 2008), available at [http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Election\\_reform/VIP\\_FINAL\\_101408\\_WEB.pdf](http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Election_reform/VIP_FINAL_101408_WEB.pdf).
- <sup>192</sup> Voters who have moved may be able to get polling place information from non-profit groups' websites or hotlines. Two such resources include Election Protection, at <http://www.866ourvote.org/>, and League of Women Voters' Education Fund, at <http://www.vote411.org/pollfinder.php>.
- <sup>193</sup> Some voters may not have Internet access on Election Day when they are trying to locate the polling place for their new address and must instead call their local election office. The calls into the local election office may be overwhelming. The registrar in Colquitt County, Georgia, for example, was reported to be so overwhelmed with calls on November 4, 2008 that even poll workers in the county were instructed to stop calling the registrar to resolve questions about voters' eligibility. Election Protection, Our Vote Live: Hotline Report # 56019 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=56019>. At least one voter also reported that an automated telephone system implemented in Texas to direct voters to their polling places malfunctioned on November 4, 2008 by automatically hanging up on callers before they were able to enter their information to find their polling place. Election Protection, Our Vote Live: Hotline Report # 60465 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=60465>.
- <sup>194</sup> GA. CODE ANN. § 21-2-218(e) (2008).
- <sup>195</sup> Election Protection, Our Vote Live: Hotline Report # 62130 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=62130>.
- <sup>196</sup> Election Protection, Our Vote Live: Hotline Report # 55390 (2008), <http://www.ourvoteline.org/responses.php?op=show&id=55390>.
- <sup>197</sup> *Panio*, 824 N.E.2d at 490.
- <sup>198</sup> saintpaulitan, What I Learned From Being an Election Judge, <http://saintpaulitan.wordpress.com/2008/11/11/what-i-learned-from-being-an-election-judge/> (Nov. 11, 2008, 12:37 CST).
- <sup>199</sup> MO. ANN. STAT. § 115.430(2)(2)(b) (2008).
- <sup>200</sup> *Id.* § 115.430(5) (stating a provisional voter ballot shall not be counted until an election authority has determined that the individual was registered at the place the ballot was cast).
- <sup>201</sup> Election Law at Moritz, Key Questions for Key States: Missouri: Provisional Ballot, <http://moritzlaw.osu.edu/electionlaw/maps/info.php?ID=91&state=49>.
- <sup>202</sup> H.R. Rep. No. 103-9, at 3 (1993).
- <sup>203</sup> 42 U.S.C. § 1973gg-6(f) (2008).
- <sup>204</sup> *Id.* § 15483 (2006).
- <sup>205</sup> The Sixth Circuit concluded that the NVRA definition of registrar's jurisdiction does not apply to HAVA's use of the word "jurisdiction." *Sandusky County Democratic Party v. Blackwell*, 387 F.3d 565, 575-76 (6th Cir. 2004).
- <sup>206</sup> electionline.org, *Statewide Voter Registration Database Status* (Jan. 2008), <http://www.pewcenteronthestates.org/uploadedFiles/voter%20reg%20db%20status.pdf>.
- <sup>207</sup> Voters may choose to complete a change-of-address affirmation or a voter registration form that indicates the change of address. FLA. STAT. ANN. § 101.045(2) (2008).
- <sup>208</sup> DEL. CODE ANN. tit. 15, § 2047 (2008).
- <sup>209</sup> MD. CODE ANN., ELEC. LAW §§ 9-404(b), 11-303(e)(1) (2008).
- <sup>210</sup> UTAH CODE ANN. § 20A-2-204(3)(e) (2008).
- <sup>211</sup> *Id.* § 20A-2-204(3)(c)-(d) (requiring transmission of hard copies).
- <sup>212</sup> See Jennifer S. Rosenberg, *Expanding Democracy: Voter Registration Around the World* 16 (2009) available at [http://www.brennancenter.org/content/resource/expanding\\_democracy\\_voter\\_registration\\_around\\_the\\_world/](http://www.brennancenter.org/content/resource/expanding_democracy_voter_registration_around_the_world/).
- <sup>213</sup> See *supra* Section II.B.1.
- <sup>214</sup> See *supra* Section II.A.3.
- <sup>215</sup> Stephen Knack & James White, *Election-Day Registration and Turnout Inequality*, 22 POL. BEHAV. 29, 36, 41 (2000), available at <http://www.springerlink.com/content/u18j471u702884nm/fulltext.pdf>; McDonald, *supra* note 5, at 496.
- <sup>216</sup> McDonald, *supra* note 5, at 496.
- <sup>217</sup> Figure 2.

<sup>218</sup> Bruce McPherson, Cal. Sec'y of State, Poll Worker Training Guidelines 2006 20 (2006) available at [http://www.sos.ca.gov/elections/poll\\_worker\\_training\\_guidelines\\_final\\_draft1.pdf](http://www.sos.ca.gov/elections/poll_worker_training_guidelines_final_draft1.pdf)

<sup>219</sup> For more information, see Wendy R. Weiser, Michael Waldman & Renée Paradis, VOTER REGISTRATION MODERNIZATION (Brennan Center for Justice ed. 2008), *available at* <http://www.brennancenter.org/page/-/publications/VRM.Proposal.2008.pdf>.

## VOTER GUIDE: PROTECTING VOTERS WHO MOVE

This is a guide describing some of the state rules that will affect voters who have moved. All voters should follow state procedures for updating their registration records after a move. To learn how to contact your local election officials, or to obtain more information, you can also visit:

<http://www.eac.gov/voter/Register%20to%20Vote>

<http://www.canivote.org/>

<http://www.866ourvote.org/>

The *Voter Guide* is provided for informational purposes only and does not contain legal advice or services. Although the Voter Guide offers information concerning potential legal issues, it is not a substitute for legal advice from qualified counsel.

Nothing contained in the Voter Guide is intended to be or should be relied upon as tax advice. In accordance with IRS Circular 230, the information contained in the Voter Guide cannot be used or considered a “covered opinion” or other written tax advice and cannot be relied upon for the purpose of avoiding tax-related penalties under the Internal Revenue Code, or any applicable state or local tax law.

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## ALABAMA

### Alabama Voters Who Have Moved Have Legally Protected Rights

Alabama voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place in the county. Election officials may have changed the voter's registration to his or her new address in the county even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Alabama voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>1</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place within the same county can vote a provisional ballot after updating their registration information at their new polling place.<sup>2</sup>

A voter's provisional ballot will be counted if the board of registrars verifies that the voter is registered to vote in the county and lives at an address covered by the polling place where the ballot was cast.<sup>3</sup>

#### *Scenario Three: New Address and New Polling Place in New County or New Congressional District*

Voters who move to a new address that is in a different county must register to vote at their new address.<sup>4</sup>

The voter registration deadline is 10 days before an election.<sup>5</sup>

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<sup>1</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>2</sup> See ALA. CODE §§ 17-9-10, -10-2(a) (2008).

<sup>3</sup> *Id.* § 17-10-2(e)–(f).

<sup>4</sup> *Id.* § 17-3-56.

<sup>5</sup> *Id.* § 17-3-50(a) (2008); Alabama Secretary of State, Elections, Voter Registration, <http://www.sos.state.al.us/Elections/VoterRegistrationInfo.aspx> (last visited May 28, 2009).

## ALASKA

### Alaska Voters Who Have Moved Have Legally Protected Rights

Many registered Alaska voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote a regular ballot at that polling place on Election Day.<sup>6</sup>

#### *Scenario Two: New Address in New Polling Place, but Same State House District*

Voters who move to a new address in a different polling place within the same state house district can vote a questioned ballot at their new polling place.<sup>7</sup>

#### *Scenario Three: New Address and New Polling Place in New State House District*

Voters who move to a new address in a different state house district can vote by absentee ballot in their old house district as long as they resided in the previous house district at least thirty days.<sup>8</sup> Voters in this circumstance may only vote on certain issues, such as statewide ballot measures and questions, candidates for federal or statewide offices, and in some circumstances, other races.<sup>9</sup>

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<sup>6</sup> ALASKA STAT. ANN. § 15.07.010 (2008).

<sup>7</sup> *Id.* § 15.07.090(d).

<sup>8</sup> *Id.* § 15.20.015.

<sup>9</sup> *Id.*

## ARIZONA

### Arizona Voters Who Have Moved Have Legally Protected Rights

Arizona voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place in the county. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Arizona voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>10</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place within the same county can vote a provisional ballot at their new polling place.<sup>11</sup> Voters need to show identification with their name and their current address within the precinct.<sup>12</sup> Voters also need to confirm their new address in writing.<sup>13</sup>

Voters' provisional ballots will be counted if they are registered, eligible to vote at the polling place, and did not previously vote in the election.<sup>14</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move within the 29 days before a primary, general, or runoff election can vote at the polling place for their old address.<sup>15</sup>

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<sup>10</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>11</sup> ARIZ. REV. STAT. ANN. § 16-135(B) (2008).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* §§ 16-135(D), -583, -584(C).

<sup>15</sup> *Id.* § 16-125.

## ARKANSAS

### Arkansas Voters Who Have Moved Have Legally Protected Rights

Arkansas voters who have moved to a new address in the same county and congressional district since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Arkansas voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>16</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County and Congressional District*

Voters who move to a new address in a different polling place within the same county and congressional district can vote at the polling place for their new address after confirmation from the county clerk that the voter is registered in the county and congressional district.<sup>17</sup> Voters must confirm their current address, fill out a new voter registration application form and sign the voter registration list.<sup>18</sup>

#### *Scenario Three: New Address and New Polling Place in New County or New Congressional District*

Voters who move to a new address that is in a different county or a different congressional district need to register to vote at their new address at least 30 days before an election.<sup>19</sup>

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<sup>16</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>17</sup> ARK. CODE ANN. §§ 7-5-305(a)(5)(C), -306(a)(1) (2008).

<sup>18</sup> *Id.* § 7-5-306(a)(2)–(4).

<sup>19</sup> *Id.* § 7-5-201(a).

## CALIFORNIA

### California Voters Who Have Moved Have Legally Protected Rights

California voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered California voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote a regular ballot at that polling place.<sup>20</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move within 14 days before the election can vote at the polling place for their old address.<sup>21</sup>

Voters who move to a new address that is in a different polling place within the same county can vote a provisional ballot at their new polling place or at the office of their county elections official.<sup>22</sup> Voters need to fill out a written confirmation that they are eligible to vote and registered in the county in which they are voting.<sup>23</sup>

Voters' provisional ballots will be counted if their signatures on their provisional ballots match the signature on their affidavits of registration and if election officials establish their rights to vote.<sup>24</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move within 14 days before the election can vote at the polling place for their old address.<sup>25</sup>

Voters who move to a new address in a different county more than 14 days before an election need to register to vote at their new address in order to vote in the election.<sup>26</sup>

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<sup>20</sup> CAL. ELEC. CODE § 2204 (2008).

<sup>21</sup> *Id.* § 2035.

<sup>22</sup> *Id.* § 14311.

<sup>23</sup> *Id.* § 14310(a)(3).

<sup>24</sup> *Id.* §§ 14310(c)(1)–(2).

<sup>25</sup> *Id.* § 2035.

<sup>26</sup> *Id.* §§ 2116, 2225(c).

## COLORADO

### Colorado Voters Who Have Moved Have Legally Protected Rights

Many registered Colorado voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place.<sup>27</sup> Voters need to fill out a request to change their registration record.<sup>28</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place, but in the same county, 30 days or more before an election can:

- During the early voting period, change their address and vote at the office of the county clerk and recorder.<sup>29</sup>
- On Election Day, change their address at the office of the county clerk and recorder and vote at the discretion of the clerk. If voters are not allowed to vote at the office of the county clerk and recorder, they are given a certification of registration and allowed to vote at their new polling place.<sup>30</sup>
- On Election Day, cast a provisional ballot at their new polling place, if they have not yet changed their address at the office of the county clerk and recorder. The provisional ballot is counted if election officials confirm the voter is eligible to vote at his or her new polling place.<sup>31</sup>

Voters who move to a new address in a different polling place within the same county during the 29 days before an election can vote at the polling place associated with their old address on Election Day, or by early voting.<sup>32</sup> Voters need to sign a change of address form.<sup>33</sup> Alternatively, they may vote by provisional ballot at their new residence.<sup>34</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move within the state to a new address in a different county more than 30 days before an election but failed to register during the registration period can apply for emergency registration at the office of the county clerk and recorder or at another authorized office. Voters must confirm that they were registered to vote in a different county in the state and that they will not vote in the polling place associated with their old address.<sup>35</sup> Voters whose qualifications cannot be immediately confirmed must vote by provisional ballot.<sup>36</sup> The provisional ballot will be counted if election officials confirm the voter's eligibility to vote in the county.<sup>37</sup> Voters moving to a different county within the state during the 29 days before an election may vote at the polling place associated with their old address, by early voting, by mail-in ballot, or by a provisional ballot and affidavit at polling place associated with their new residence.<sup>38</sup>

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<sup>27</sup> COLO. REV. STAT. ANN. § 1-2-216(5) (2008).

<sup>28</sup> *Id.* § 1-2-216(1).

<sup>29</sup> *Id.* §§ 1-2-216(4)(a)–(c).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* § 1-8.5-107(3).

<sup>32</sup> *Id.* § 1-2-217.

<sup>33</sup> *Id.* § 1-2-217.

<sup>34</sup> *Id.* § 1-8.5-108(3).

<sup>35</sup> *Id.* § 1-2-217.5(1)–(4).

<sup>36</sup> *Id.* § 1-2-217.5(5).

<sup>37</sup> *Id.* § 1-8.5-107(2).

<sup>38</sup> *Id.* §§ 1-2-217(1), -8.5-108(2).

## CONNECTICUT

### Connecticut Voters Who Have Moved Have Legally Protected Rights

Connecticut voters who have moved to a new address in the same municipality since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify election officials about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Connecticut voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>39</sup>

#### *Scenario Two: New Address in New Polling Place, but Same Municipality*

Voters who move to a new address that is in a different polling place within the same municipality (city, borough, or town) can vote a regular ballot if they transfer registration with municipal election officials, called registrars of voters. If voters attempt to transfer registration on Election Day, both registrars must approve the request.<sup>40</sup>

If the registrars cannot confirm that the voter is registered in the municipality, or if both registrars do not agree to transfer the voter registration, then the voter can vote by provisional ballot.<sup>41</sup> The provisional ballot will be counted if the voter is registered in the municipality.<sup>42</sup>

#### *Scenario Three: New Address and New Polling Place in New Municipality*

Voters who move to a new address that is in a different municipality must register to vote at the new address to be eligible to vote.<sup>43</sup>

Voters must postmark their voter registration forms or submit them to a voter registration agency by the 14th day before an election, or submit their registration forms in person to their new municipality's registrar by the 7th day before an election.<sup>44</sup>

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<sup>39</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>40</sup> CONN. GEN. STAT. ANN. §§ 9-35(e) (2008).

<sup>41</sup> *Id.* § 9-232l(a).

<sup>42</sup> *Id.* § 9-232n.

<sup>43</sup> State of Connecticut Mail-In Voter Registration, <http://www.ct.gov/sots/LIB/sots/ElectionServices/ElectForms/electforms/ed671.pdf> [hereinafter CT Mail-In Registration]; *see also* CONN. GEN. STAT. ANN. § 9-232l(a).

<sup>44</sup> CT Mail-In Registration, *supra* note 43.

## DELAWARE

### Delaware Voters Who Have Moved Have Legally Protected Rights

Many registered Delaware voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>45</sup>

#### *Scenario Two: New Address in New Polling Place, but Within Delaware*

If voters who have moved to a new address in a different polling place go to the polling place associated with their old address on Election Day, they will get a form saying they are eligible to vote. If they take that form to their new polling place and present identification and proof of address, they can vote without authorization from the Department of Elections.<sup>46</sup>

If voters go directly to their new polling place without getting the form from the polling place associated with their old address, the elections officers at the new polling place must get authorization from the Department of Elections confirming that the voter may vote.<sup>47</sup>

If the election officers at their new polling place cannot get authorization from the Department of Elections, the voter can vote a provisional ballot.<sup>48</sup>

For the provisional ballot to be counted, the voter must vote in the correct polling place for his or her new address<sup>49</sup> and present proof of identification and address.<sup>50</sup>

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<sup>45</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>46</sup> DEL. CODE ANN. tit. 15 § 2047(1)–(2) (2008).

<sup>47</sup> *Id.* § 2047(3).

<sup>48</sup> *Id.* § 4948(b).

<sup>49</sup> *Id.* § 4948(h)(8).

<sup>50</sup> *Id.* § 4948(c).

## DISTRICT OF COLUMBIA

### District of Columbia Voters Who Have Moved Have Legally Protected Rights

Many registered District of Columbia voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>51</sup>

#### *Scenario Two: New Address in New Polling Place, but within District of Columbia*

Voters who move to a new address that is within the District of Columbia but covered by a different polling place can vote a “special” ballot at the polling place for their new residence. Voters will have to sign a notification of their change of address and affirm their identity and that they currently reside in the precinct.<sup>52</sup>

Voters’ “special” ballots are counted if the voters are registered to vote and file an Election Day change of address form.<sup>53</sup>

If the D.C. Board of Elections and Ethics makes a preliminary decision that a voter’s “special” ballot will not be counted, the voter can contest this decision at a hearing.<sup>54</sup>

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<sup>51</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>52</sup> D.C. CODE § 1-1001.07(i)(4) (2008).

<sup>53</sup> *Id.* § 1-1001.09(e)(1).

<sup>54</sup> *Id.* § 1-1001.09(e)(4).

## FLORIDA

### Florida Voters Who Have Moved Have Legally Protected Rights

Many registered Florida voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>55</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County and Congressional District*

Voters who move to a new address that is in a different polling place within the same county and congressional district can vote at their new polling place after affirming their new address in writing or filling out a voter registration application for the new address, and after their existing registration is verified.<sup>56</sup>

Voters whose registration cannot be confirmed can vote provisional ballots.<sup>57</sup> A voter's provisional ballot will be counted if the voter was registered and entitled to vote at the polling place, the voter has not already voted elsewhere, and the voter's signature on the provisional ballot matches the signature on the voter's registration.<sup>58</sup>

#### *Scenario Three: New Address and New Polling Place in New County or New Congressional District*

Voters who move to a new address that is in a different county or a different congressional district can vote at their new polling place after confirming their new address.<sup>59</sup> Voters can vote a regular ballot if their existing registration is confirmed by election workers at the polling place on Election Day, or a provisional ballot if their registration is not confirmed.<sup>60</sup>

A voter's provisional ballot will be counted if the voter was registered and entitled to vote at the polling place, the voter has not already voted elsewhere, and the voter's signature on the provisional ballot matches the signature on the voter's registration.<sup>61</sup>

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<sup>55</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>56</sup> FLA. STAT. ANN. § 101.045(2)(a), (c), (d) (2008).

<sup>57</sup> *Id.* §§ 101.045(2)(c), .048(1).

<sup>58</sup> *Id.* § 101.048(2)(a)–(b).

<sup>59</sup> *Id.* § 101.045(2)(a), (c), (d).

<sup>60</sup> *Id.* §§ 101.045(2)(c), .048(1).

<sup>61</sup> *Id.* § 101.048(2)(a)–(b).

## GEORGIA

### Georgia Voters Who Have Moved Have Legally Protected Rights

Georgia voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Georgia voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote a regular ballot and fill out a change of address form.<sup>62</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address that is in a different polling place within the same county can vote a regular ballot at the polling place associated with their old address after filling out a change of address form.<sup>63</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address that is in a different county can vote at the polling place associated with their old address if they moved after the fifth Monday prior to the election.<sup>64</sup>

Voters who move before the fifth Monday prior to an election must register to vote in their new county of residence. Registration applications must be made by the close of business on the fifth Monday before the election.<sup>65</sup>

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<sup>62</sup> GA. CODE ANN. § 21-2-218(d) (2008).

<sup>63</sup> *Id.* § 21-2-218(d).

<sup>64</sup> *Id.* § 21-2-218(e).

<sup>65</sup> *See id.* §§ 21-2-224(a); Georgia Secretary of State Elections Division, Voter Registration (2008), [http://sos.georgia.gov/elections/how\\_to\\_register.htm](http://sos.georgia.gov/elections/how_to_register.htm).

## HAWAII

### Hawai'i Voters Who Have Moved Have Legally Protected Rights

Hawai'i voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Hawai'i voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote a regular ballot at that polling place after filling out a change of address form.<sup>66</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address that is in a different polling place within the same county can apply for a transfer of registration at the new polling place and vote by regular ballot.<sup>67</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address in a different county may apply for a transfer of registration at the new polling place at the time of voting on Election Day if they had not already notified a clerk of their address change by the registration deadline.<sup>68</sup>

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<sup>66</sup> HAW. REV. STAT. ANN. § 11-21(c) (2008).

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

## IDAHO

### Idaho Voters Who Have Moved Have Legally Protected Rights

Many registered Idaho voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: Voters Who Have Moved Within Idaho and Have Lived in Their Current County for 30 Days*

Voters need to re-register to vote when they change their address.<sup>69</sup>

Idaho allows voters to register on Election Day.<sup>70</sup> To qualify, voters must have lived in Idaho and in their county for 30 days prior to the election.<sup>71</sup>

Voters registering on Election Day must show proof of residence along with a photo ID. Only the following documents showing the registrant's current address in the precinct are authorized:

- A valid Idaho driver's license or Idaho identification card issued through the department of transportation
- Any document which contains a valid address in the precinct together with a picture identification card
- Students may also use a current valid student identification card from a post secondary educational institution in Idaho accompanied with a current student fee statement that contains the student's valid address in the precinct together with a picture identification card.<sup>72</sup>

Voters can register at the polling place for their new address or at an “absent electors’ polling place” set up by the county clerk.<sup>73</sup>

#### *Scenario Two: Voters Who Have Moved Within Idaho and Have Lived in Their Current County for Less Than 30 Days*

Voters need to re-register to vote when they change their address.<sup>74</sup>

Voters who move to a different county within Idaho within 30 days prior to any election can vote by absentee ballot in their old county.<sup>75</sup>

Voters can apply for a mail-in absentee ballot until 5:00 PM on the sixth day before the election. Voters can apply for in-person absentee voting at the “absent electors’ polling place” until 5:00 PM on the day before the election.<sup>76</sup>

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<sup>69</sup> Idaho Votes, Frequently Asked Questions Regarding Voter Registration, [http://www.idahovotes.gov/VoterReg/REG\\_FAQ.HTM](http://www.idahovotes.gov/VoterReg/REG_FAQ.HTM) [hereinafter Idaho Registration FAQ].

<sup>70</sup> IDAHO CODE ANN. § 34-408(A) (2008).

<sup>71</sup> *Id.* § 34-402.

<sup>72</sup> *Id.* § 34-408A.

<sup>73</sup> *Id.*

<sup>74</sup> Idaho Registration FAQ, *supra* note 69.

<sup>75</sup> IDAHO CODE ANN. § 34-413.

<sup>76</sup> *Id.* § 34-1002.

## ILLINOIS

### Illinois Voters Who Have Moved Have Legally Protected Rights

Many registered Illinois voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>77</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County/City and Congressional District*

Voters who move to a new address in a different polling place within the same county (or city, in cities where the city maintains the registration records) more than 30 days before an election can vote only for federal offices at the polling place associated with their old address after filling out an address correction form.<sup>78</sup>

Voters who move to a new address in a different polling place within 30 days before an election can vote a full ballot at the polling place associated with their old address after filling out an address confirmation.<sup>79</sup>

#### *Scenario Three: New Address and New Polling Place in New County/City or Congressional District*

Voters who move to a new address in a different county or congressional district (or different city, if the city board of election commissioners maintains the permanent registration records) in Illinois more than 30 days before the election must register to vote for their new address.<sup>80</sup>

Voters who move to a new address in a different county (or different city, if their old city board of election commissioners maintained the registration records) in Illinois within 30 days before the election can vote a regular ballot at the polling place associated with their old address after filling out an address confirmation.<sup>81</sup>

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<sup>77</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>78</sup> Illinois State Board of Elections, *Ballot Entitlement for the General Election – November 4, 2008*, <http://www.elections.state.il.us/Downloads/ElectionInformation/PDF/BallotEntNov08.pdf>.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

## INDIANA

### Indiana Voters Who Have Moved Have Legally Protected Rights

Many registered Indiana voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming their new address orally or in writing.<sup>82</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address that is in a different polling place within the same county can vote at the polling place associated with their old address after confirming their new address orally or in writing.<sup>83</sup> However, a voter who moves outside of a municipality may not return to vote in a municipal election.<sup>84</sup>

#### *Scenario Three: New Address and New Polling Place in New County or New Congressional District*

Voters who move to a new address that is in a different county or a different congressional district in Indiana within 30 days of the election can vote at the polling place associated with their old address after signing an affidavit.<sup>85</sup>

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<sup>82</sup> IND. CODE ANN. § 3-7-39-7 (2008).

<sup>83</sup> *Id.* §§ 3-7-39-8, -10-12-3.4.

<sup>84</sup> *Id.* § 3-10-12-3.4(c).

<sup>85</sup> *Id.* §§ 3-10-11-2, -4(a).

## IOWA

### Iowa Voters Who Have Moved Have Legally Protected Rights

Iowa allows voters to register on Election Day.<sup>86</sup>

Iowa voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Iowa voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after filling out a voter registration form.<sup>87</sup>

#### *Scenario Two: New Address in New Polling Place, but within Iowa*

Iowa residents may register and vote at the polls on Election Day. All persons wishing to register and vote on Election Day must do all of the following before being allowed to vote a regular ballot:

- Show proof of identity
- Prove residency in the precinct
- Complete a voter registration application
- Sign an “Oath of Election Day Registrant.”<sup>88</sup>

A list of the various acceptable forms of identity is available on the Secretary of State's website.<sup>89</sup>

If the voter does not provide proof of identity or residency, a registered voter in the precinct may attest to the fact that the voter is who the voter says he or she is and that the voter lives in the precinct.<sup>90</sup>

If the voter does not provide proof of identity or residency and has no one to attest for him or her, the voter may cast a provisional ballot. A special board will meet after Election Day to review the provisional voter's registration record and the information provided, and will decide if the ballot can be counted. Before leaving the polls on Election Day, voters will be given a written notice explaining their voting rights and listing the date on which the special ballot board will meet so that voters may be present to observe and present more information to the board.<sup>91</sup>

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<sup>86</sup> IOWA CODE ANN. § 48A.7A (2008).

<sup>87</sup> *Id.* § 48A.27(1)–(2); Iowa Secretary of State, *Iowa Precinct Election Official Guidebook* 19 (July 2008), available at <http://www.sos.state.ia.us/PDFs/publications/Guide.pdf>.

<sup>88</sup> IOWA CODE ANN. § 48A.7A.

<sup>89</sup> The list is available at <http://www.sos.state.ia.us/pdfs/elections/EDRbrochure.pdf>. See also IOWA CODE ANN. § 48A.7A(b).

<sup>90</sup> *Id.* § 48A.7A(c).

<sup>91</sup> Iowa Secretary of State, *Voting on Election Day: Provisional Ballots*, <http://www.sos.state.ia.us/elections/VoterInformation/VotingElectionDay.html> (last visited June 1, 2009).

## KANSAS

### Kansas Voters Who Have Moved Have Legally Protected Rights

Kansas voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Kansas voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>92</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address that is in a different polling place, but within the same county, can vote a provisional ballot at the new polling place or at a central voting location.<sup>93</sup>

If the voter casts a provisional ballot in the wrong precinct, the ballot will be partially counted: all offices and issues on the ballot that are identical to the voter's correct precinct will be counted.<sup>94</sup>

Voters who move to a new address that is in a different polling place within the same county, within 30 days before an election, can vote in that election at the polling place associated with their old address after signing a sworn affidavit including their old address, the date of their move, and their new address.<sup>95</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address in a different county within 30 days before an election can vote in that election at the polling place associated with their old address after signing a sworn affidavit including their old address, the date of their move, and their new address.<sup>96</sup>

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<sup>92</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>93</sup> KAN. STAT. ANN. § 25-2353 (2008).

<sup>94</sup> *Id.* 25-3002(b).

<sup>95</sup> *Id.* §§ 25-3701, -3702.

<sup>96</sup> *Id.*

## KENTUCKY

### Kentucky Voters Who Have Moved Have Legally Protected Rights

Kentucky voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Kentucky voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address at the polling place. This protection does not depend on how close to the election the voter moved.<sup>97</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address that is in a different polling place within the same county can vote at their new polling place after updating the voting records, showing proof of identity, and signing a written affidavit.<sup>98</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address that is in a different county more than 28 days before the election must register to vote at their new address. Voters who do not register at their new address are not eligible to vote in either their old or new county.<sup>99</sup>

Voters who move to a new address that is in a different county within 28 days of the election can vote at the polling place associated with their old address.<sup>100</sup>

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<sup>97</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>98</sup> KY. REV. STAT. ANN. §§ 116.025(4), .085(2) (2008).

<sup>99</sup> *Id.* §§ 116.025(6), .045(2).

<sup>100</sup> *Id.* §§ 116.025(5), .045(2).

## LOUISIANA

### Louisiana Voters Who Have Moved Have Legally Protected Rights

Many registered Louisiana voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming their new address.<sup>101</sup>

#### *Scenario Two: New Address in New Polling Place, but Same Parish*

Voters who move to a new address in a different polling place within the same parish can continue to vote at the polling place associated with their old address on all issues on which they were previously entitled to vote by affirming their new address within the parish until they change their registration and have the right to vote at their new polling place.<sup>102</sup>

#### *Scenario Three: New Address and New Polling Place in New Parish*

Voters who move to a new address that is in a different parish can vote at the polling place associated with their old address if they have not registered at the new address, for up to three months after the move, after confirming their new address and that they moved within the past three months.<sup>103</sup>

Voters who move to a new address that is in a different parish more than three months before the election need to register to vote in their new address at least thirty days before an election to be eligible to vote in that election.<sup>104</sup>

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<sup>101</sup> LA. REV. STAT. ANN. §§ 18:193, :196(B)(2) (2008).

<sup>102</sup> *Id.* §§ 18:110(B)(3), :196(B)(3).

<sup>103</sup> *Id.* § 18:110(C).

<sup>104</sup> *Id.* § 18:135(A).

## MAINE

### Maine Voters Who Have Moved Have Legally Protected Rights

Maine voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Maine voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration because Maine has Election Day registration.<sup>105</sup>

#### *Scenario One: New Address in Same Polling Place and Same City, Town, or Plantation*

Voters who have moved within their city, town or plantation can change their addresses on their registration in person at the registrar's office during the hours that the polls are open on Election Day.<sup>106</sup> After changing a voter's address, the registrar will give the voter a certificate that the voter can take to the polling place for his or her new address and vote.<sup>107</sup>

#### *Scenario Two: New Address in a New City, Town, or Plantation*

Voters must be registered to vote in the city, town or plantation where they live and can only vote at the polling place for their current address.<sup>108</sup>

Voters can register to vote in person on Election Day at the registrar's office for their new city, town or plantation during the hours the polls are open. Voters registering on Election Day receive a certificate they can take to their new polling place, be added to the list of voters, and vote.<sup>109</sup>

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<sup>105</sup> ME. REV. STAT. ANN. tit. 21-A, §§ 111(3), 122(4) (2008).

<sup>106</sup> *Id.* § 129(3).

<sup>107</sup> *Id.* §§ 129(3), 661(1)–(2).

<sup>108</sup> *Id.* §§ 111, 122(4).

<sup>109</sup> *Id.* §§ 122(4), 661(2).

## MARYLAND

### Maryland Voters Who Have Moved Have Legally Protected Rights

Maryland voters who have moved to a new address in the state since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Maryland voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote a regular ballot at that polling place.<sup>110</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County and Congressional District*

Voters who move to a new address in a different polling place within the same county can vote by provisional ballot and update their voter registration information at their new polling place.<sup>111</sup>

A voter's provisional ballot will be counted if the local board of elections determines that the voter is qualified to vote in the state, the voter signed the provisional ballot oath, and the voter only voted once in the election.<sup>112</sup>

#### *Scenario Three: New Address and New Polling Place in New County or New Congressional District*

Voters who move to a new address that is in a different county or a different congressional district can vote a provisional ballot in their new polling place.<sup>113</sup>

A voter's provisional ballot will be counted if the local board of elections determines that the voter is qualified to vote in the state, the voter signed the provisional ballot oath, and the voter only voted once in the election.<sup>114</sup>

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<sup>110</sup> MD. CONST. art. 1 § 1; *Maryland Green Party v. Maryland Bd. of Elections*, 832 A.2d 214, 222–223 (Md. Ct. App. 2003).

<sup>111</sup> MD. CODE ANN., ELEC. LAW §§ 3-304(a)(1), 9-404(b) (2008).

<sup>112</sup> *Id.* § 11-303(d).

<sup>113</sup> *Id.* § 9-404 (b).

<sup>114</sup> *Id.* § 11-303(d).

## MASSACHUSETTS

### Massachusetts Voters Who Have Moved Have Legally Protected Rights

Many registered Massachusetts voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote after the presiding officer at that polling place confirms with the city or town registrar that the voter is eligible to vote.<sup>115</sup>

#### *Scenario Two: New Address in New Polling Place, but Same City or Town*

Voters who move to a new address that is in a different polling place within the same city or town can vote in the polling place associated with their old address.<sup>116</sup>

#### *Scenario Three: New Address and New Polling Place in New City or Town*

Voters who move to a new address that is in a different city or town within Massachusetts can vote at the polling place associated with their old address for national and state officers for six months after the date on which they moved.<sup>117</sup>

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<sup>115</sup> MASS. REGS. CODE tit. 950, § 52.03(3), (5)(a) (2008).

<sup>116</sup> MASS. GEN. LAWS ANN. ch. 51 § 1 (2008).

<sup>117</sup> *Id.* ch. 51, § 1.

## MICHIGAN

### Michigan Voters Who Have Moved Have Legally Protected Rights

Many registered Michigan voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>118</sup>

#### *Scenario Two: New Address in Same City or Township*

Voters who move to a new address in a different polling place within the same city or township can vote at the polling place associated with their old address after filling out a written transfer of registration request which lists their new address.<sup>119</sup>

#### *Scenario Three: New Address in New City or Township*

Voters who move within 60 days of an election to a new address in a different city or township can vote at the polling place associated with their old address after confirming in writing that they have moved.<sup>120</sup>

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<sup>118</sup> 42 U.S.C § 1973gg-6(e)(1) (2006).

<sup>119</sup> MICH. COMP. LAWS ANN. § 168.507 (2008).

<sup>120</sup> *Id.* § 168.507a(2).

## MINNESOTA

### Minnesota Voters Who Have Moved Have Legally Protected Rights

Minnesota allows voters to register to vote on Election Day.<sup>121</sup> Voters who move need to update their voter registration information by filling out a voter registration application.<sup>122</sup>

Voters can update their registration and vote at their new polling place on Election Day by completing a registration application, making an oath, and providing proof of residence. The following methods can be used to prove residence:

- Show a valid Minnesota driver's license, learner's permit or identification card
- Show a current valid photo student identification card from a certified post secondary educational institution in Minnesota
- Show a current student fee statement with the student's valid address in the precinct and a picture identification card
- Show a tribal identification card with photo and signature
- Show a notice of late registration from a county auditor or city clerk
- Show a utility bill due within 30 days of Election Day and a photo identification such as a Minnesota driver's license, identification card, student identification card, or passport (can be expired)
- Have a registered voter in the same precinct confirm the voter's address with a signed oath
- Have an employee of the voter's residential facility confirm the voter's address with a signed oath.<sup>123</sup>

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<sup>121</sup> MINN. STAT. ANN. § 201.061(3) (2008).

<sup>122</sup> *See id.* § 201.016(1); Minnesota Secretary of State, Register to Vote, <http://www.sos.state.mn.us/home/index.asp?page=204>.

<sup>123</sup> MINN. STAT. ANN. § 201.061(3).

## MISSISSIPPI

### Mississippi Voters Who Have Moved Have Legally Protected Rights

Many registered Mississippi voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>124</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address that is in a different polling place within the same county can vote a provisional ballot at their new polling place. Voters need to sign an affidavit including their current address and that they believe they are registered to vote in the county in order to vote by provisional ballot.<sup>125</sup>

A voter's provisional ballot will be counted if the voter is registered in the county and voted in the precinct in which the voter currently resides.<sup>126</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address that is in a different county must register to vote at their new address in the county.

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<sup>124</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>125</sup> MISS. CODE ANN. §§ 23-15-13, -573 (2008); Sautermeister, 2003 Op. Att'y. Gen. No. 0497 (Sept. 26, 2003) WL 22348872.

<sup>126</sup> MISS. CODE ANN. § 23-15-573(3)(b); Shepard, 2003 Op. Att'y. Gen. No. 0345 (July 14, 2003) WL 21962292; Mississippi Secretary of State, *County Election Handbook* 42 (June 2005), available at [http://www.sos.state.ms.us/elections/2005/HandBook/2005\\_County\\_Election\\_Handbook.pdf](http://www.sos.state.ms.us/elections/2005/HandBook/2005_County_Election_Handbook.pdf).

## MISSOURI

### Missouri Voters Who Have Moved Have Legally Protected Rights

Many Missouri registered voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can change their address on their voter registration and vote at that polling place after confirming their new address orally or in writing.<sup>127</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address that is in a different polling place within the same county can change the address on their voter registration and vote a regular ballot at the polling place for their new address or at a central polling place after confirming their new address.<sup>128</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address in a different county after the fourth Wednesday prior to the next election can vote in that election by limited absentee ballot for presidential and vice presidential electors, United States senators and Congressional representatives, and statewide candidates and issues.<sup>129</sup> Voters need to apply for absentee ballots in person at the office of the election authority for their new county by 7:00 PM on the day of the election.<sup>130</sup>

Voters who move to a new address in a different county before the fourth Wednesday prior to the next election have to register to vote at their new address before the fourth Wednesday prior to the next election to be able to vote in that election.<sup>131</sup>

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<sup>127</sup> MO. ANN. STAT. § 115.165(2) (2008); 42 U.S.C § 1973gg-6(e)(1) (2006).

<sup>128</sup> MO. ANN. STAT. § 115.165(2).

<sup>129</sup> *Id.* §§ 115.135(1), .275(3), .277(4).

<sup>130</sup> *Id.* § 115.279(8); Missouri Secretary of State, Frequently Asked Questions, [http://www.sos.mo.gov/elections/faqs.asp#a1\\_3](http://www.sos.mo.gov/elections/faqs.asp#a1_3).

<sup>131</sup> MO. ANN. STAT. § 115.135(3); Missouri Secretary of State, Frequently Asked Questions, [http://www.sos.mo.gov/elections/faqs.asp#a1\\_3](http://www.sos.mo.gov/elections/faqs.asp#a1_3).

## MONTANA

Montana voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

### *Scenario One: New Address, Same Polling Place*

Voters who move to a new address in the same polling place can vote at that polling place after filling out a transfer or new registration form.<sup>132</sup>

### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a new polling place within the same county can vote at the polling place associated with their old address or a centralized location set up by the election administrator for the first election after their move.<sup>133</sup> Voters need to give their correct address and fill out a transfer or new registration form.<sup>134</sup>

Alternately, voters can update their registration and vote in person at their county election administrator's office on Election Day.<sup>135</sup>

### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address in a different county more than 30 days before an election need to register to vote at their new address in the county.<sup>136</sup>

Voters who move to a new address in a different county within 30 days of an election can:

- Vote in person or by absentee ballot at the polling place associated with their old address;<sup>137</sup> or
- Update their registration and vote in their new polling place.<sup>138</sup>

Alternately, voters can register to vote or update their registration and vote in person at their county election administrator's office on Election Day.<sup>139</sup>

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<sup>132</sup> MONT. CODE ANN. § 13-2-512(2)–(3) (2007); 42 U.S.C § 1973gg-6(e)(1) (2006).

<sup>133</sup> MONT. CODE ANN. § 13-2-512(1).

<sup>134</sup> *Id.* § 13-2-512 (3).

<sup>135</sup> *Id.* § 13-2-304; 2009 Mont. Laws chpt. 297.

<sup>136</sup> MONT. CODE ANN. § 13-2-514(1).

<sup>137</sup> *Id.* § 13-2-514(2)(a).

<sup>138</sup> *Id.* § 13-2-514(2)(b).

<sup>139</sup> *Id.* § 13-2-304.

## NEBRASKA

### Nebraska Voters Who Have Moved Have Legally Protected Rights

Many registered Nebraska voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can fill out a new registration application and vote at that polling place if they have continuously resided in the same county and precinct since they registered to vote.<sup>140</sup> This protection does not depend on how close to the election the voter moved.

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address that is in a different polling place within the same county can vote a provisional ballot in their new precinct if they have continuously resided in the county since registering to vote. Before voting, voters must complete and sign a registration application and confirm that they have moved outside their old precinct, have not registered to vote or voted in another county since registering to vote in their current county, are at the correct precinct for their new address, and have not voted in the current election.<sup>141</sup>

A voter's provisional ballot will be counted if the county clerk confirms that the voter was registered in the county before the registration deadline, filled out the registration application and affirmations, and voted in the correct precinct for the voter's new address.<sup>142</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address in a different county have to register or update their voter registration for their new address to be eligible to vote.<sup>143</sup> Voter registration applications must be postmarked on or before the third Friday before the election or sent by mail or messenger and received by the county clerk on or before the second Tuesday before the election. Voters can also update their registration records in person at the county clerk's office on or before 6:00 PM on the second Friday before the election.<sup>144</sup>

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<sup>140</sup> NEB. REV. STAT. § 32-914.02 (2008); 42 U.S.C § 1973gg-6(e)(1) (2006).

<sup>141</sup> NEB. REV. STAT. § 32-915.

<sup>142</sup> *Id.* § 32-1002(4).

<sup>143</sup> *Id.* § 32-314(2).

<sup>144</sup> *Id.* §§ 32-325, -302, -321.

## NEVADA

### Nevada Voters Who Have Moved Have Legally Protected Rights

Many registered Nevada voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming their new address.<sup>145</sup>

Voters who refuse to give an oral or written confirmation of their address can vote at a special polling place set up by each county clerk. The voter can only vote for President and Vice President, U.S. Senator, and statewide and countywide officers and questions.<sup>146</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address that is in a different polling place within the same county can vote at the polling place associated with their old address after giving oral or written confirmation of their new address at the polling place.<sup>147</sup>

Voters who refuse to give an oral or written confirmation of their address can vote at a special polling place set up by each county clerk. The voter can only vote for President and Vice President, U.S. Senator, and statewide and countywide officers and questions.<sup>148</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address that is in a different county within the state need to register to vote at their new address.<sup>149</sup> The registration deadline for primary and general elections is the third Tuesday before the election.<sup>150</sup>

Voters who move to a new address in a different county after the close of registration for any election may vote in the election at the polling place associated with their old address.<sup>151</sup>

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<sup>145</sup> NEV. REV. STAT. ANN. § 293.525(1)(b) (2008); 42 U.S.C § 1973gg-6(e)(1) (2006).

<sup>146</sup> NEV. REV. STAT. ANN. § 293.304.

<sup>147</sup> *Id.* § 293.525(1)(a).

<sup>148</sup> *Id.* § 293.304.

<sup>149</sup> *See id.* § 293.490 (providing that only voters who move to a new address in a new county after the close of registration for any election may vote in the election at the polling place associated with their old address).

<sup>150</sup> *Id.* § 293.560(1).

<sup>151</sup> *Id.* § 293.490.

## NEW HAMPSHIRE

### New Hampshire Voters Who Have Moved Have Legally Protected Rights

New Hampshire allows voters to register to vote on Election Day.<sup>152</sup>

New Hampshire voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can correct their address and vote at that polling place on Election Day.<sup>153</sup>

#### *Scenario Two: New Address and New Polling Place*

Voters can register to vote at their new polling place on Election Day and then vote.<sup>154</sup> Voters do not have to have lived at their new address for any minimum period of time to register to vote in their new polling place.<sup>155</sup>

To register to vote on Election Day, voters have to show proof of citizenship, age, and residence. Voters who are registered to vote elsewhere in New Hampshire and are registering to vote at their new polling place, however, do not have to show proof of citizenship.<sup>156</sup> The following forms of proof are acceptable:<sup>157</sup>

- *Citizenship:* applicant's birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, a citizenship affidavit, or any other reasonable documentation which indicates the applicant is a United States citizen.
- *Age:* Any reasonable documentation indicating the applicant is 18 years of age or older.
- *Residence:* Any reasonable documentation which indicates that the applicant lives and intends to continue living in the town, city or ward in which he or she desires to vote, or an affidavit confirming the applicant lives in the town, city or ward if the applicant does not have reasonable documentation in his or her possession at the polling place on Election Day.

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<sup>152</sup> N.H. REV. STAT. ANN. § 654:7-a (2008); 42 U.S.C § 1973gg-6(e)(1) (2006).

<sup>153</sup> N.H. REV. STAT. ANN. § 659:13.

<sup>154</sup> *Id.* § 654:7-a.

<sup>155</sup> *Id.* § 654:1. See also New Hampshire Secretary of State, How to Register to Vote in New Hampshire, <http://www.sos.nh.gov/vote.htm>.

<sup>156</sup> N.H. REV. STAT. ANN. § 654:12(IV).

<sup>157</sup> *Id.* § 654:12.

## NEW JERSEY

### New Jersey Voters Who Have Moved Have Legally Protected Rights

New Jersey voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered New Jersey voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address, but did not file an address change before the election, can vote at that polling place after confirming their change of address in writing.<sup>158</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place within the same county, and who did not file an address change before the election, can vote a provisional ballot in their new polling place after confirming their change of address in writing.<sup>159</sup> No identification is necessary to prove their new address.<sup>160</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address in a different county within New Jersey within 30 days of the election can vote at the polling place associated with their old address.<sup>161</sup>

Voters who move to a new address in a different county more than 30 days before an election must register to vote at their new address at least 21 days before the next election and vote at their new polling place.<sup>162</sup>

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<sup>158</sup> N.J. STAT. ANN. § 19:31-11(b) (2008); *accord id.* § 19:53C-3(a); 42 U.S.C § 1973gg-6(e)(1) (2006).

<sup>159</sup> N.J. STAT. ANN. §§ 19:31-11(a)-(b), :53C-3(b)-(c).

<sup>160</sup> *Id.* § 19:31-11(b).

<sup>161</sup> *Id.* § 19:53C-3(e).

<sup>162</sup> *Id.* §§ 19:31-6, :31-11(c), :53C-3(d).

## NEW MEXICO

### New Mexico Voters Who Have Moved Have Legally Protected Rights

Many registered New Mexico voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>163</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place within the same county can vote at their new polling place by provisional ballot after confirming they are qualified electors, currently registered and eligible to vote in the county, and have not already voted in the election.<sup>164</sup>

A voter's provisional ballot will be counted if the voter provided a valid signature and sufficient information on the provisional ballot envelope for the clerk to determine the voter is qualified.<sup>165</sup>

#### *Scenario Three: New Address in New Polling Place and New County*

Voters who move to a new address in a different polling place and different county must cancel their voter registration in their old county and file for voter registration in their new county.<sup>166</sup>

Voters must file for registration in their new address in the county at least 28 days before the next election.<sup>167</sup>

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<sup>163</sup> N.M. STAT. ANN. §§ 1-12-7.2(A), -8(A) (2008); 42 U.S.C § 1973gg-6(e)(1) (2006).

<sup>164</sup> N.M. STAT. ANN. §§ 1-12-7.2(A), -8(A).

<sup>165</sup> *Id.* § 1-12-25.3(B).

<sup>166</sup> *Id.* § 1-4-18.

<sup>167</sup> *Id.* § 1-4-8(A)(1).

## NEW YORK

### New York Voters Who Have Moved Have Legally Protected Rights

New York voters who have moved to a new address in the same county or city since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered New York voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote after updating their address at that polling place.<sup>168</sup>

#### *Scenario Two: New Address in New Polling Place, but same County or City*

Voters who move to a new address that is in a different polling place within the same county or city can vote at their new polling place by affidavit ballot.<sup>169</sup>

A voter's affidavit ballot will be counted if election workers confirm the voter was registered at his or her old address and voted at the correct polling place for his or her new address.<sup>170</sup>

#### *Scenario Three: New Address in New Polling Place and New County or City*

Voters who move to a new address in a different county or city have to register to vote at their new address.<sup>171</sup>

Voters must postmark their registration forms at least 25 days before the election, and the forms must be received by a county or the state board of elections at least 20 days before the election.<sup>172</sup>

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<sup>168</sup> N.Y. ELEC. LAW § 8-302(3)(b) (McKinney 2008).

<sup>169</sup> *Id.* § 8-302(3)(e)(ii).

<sup>170</sup> *Id.* § 9-209(2)(a); *Panio v. Sunderland*, 824 N.E.2d 488, 490 n.2 (N.Y. 2005).

<sup>171</sup> See New York State Board of Elections, Frequently Asked Questions (2008), <http://www.elections.state.ny.us/FAQ.html>.

<sup>172</sup> N.Y. ELEC. LAW § 5-210(3).

## NORTH CAROLINA

### North Carolina Voters Who Have Moved Have Legally Protected Rights

North Carolina voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered North Carolina voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming orally or in writing their change of address.<sup>173</sup> This protection does not depend on how close to the election the voter moved.

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place within the same county, within 30 days before the election, can vote in their old precinct.<sup>174</sup>

Voters who move to a new address in a different polling place within the same county, more than 30 days before the election, have the option of voting at their new polling place upon written affirmation of their new address, or at a centralized location in the county chosen by the county board of elections.<sup>175</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address in a different county within the state, within 30 days of an election, can vote at the polling place associated with their old address.<sup>176</sup>

Voters who move to a new address in a different county within the state, more than 30 days before an election, have to register to vote at their new address in their current county of residence.<sup>177</sup>

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<sup>173</sup> N.C. GEN. STAT. ANN. § 163-82.15(d) (2008).

<sup>174</sup> N.C. CONST. art. VI, § 2(1); *accord* N.C. GEN. STAT. ANN. § 163-55(a).

<sup>175</sup> N.C. GEN. STAT. ANN. § 163-82.15(e).

<sup>176</sup> N.C. CONST. art. VI, § 2(1); *accord* N.C. GEN. STAT. ANN. § 163-55(a).

<sup>177</sup> North Carolina State Board of Elections, Changing Your Voter Registration in North Carolina: What if I've Moved?, <http://www.sboe.state.nc.us/content.aspx?id=24>.

## NORTH DAKOTA

### North Dakota Voters Who Have Moved Have Legally Protected Rights

North Dakota is the only state without voter registration.<sup>178</sup>

Voters who move to a new address in a different polling place within 30 days of an election must vote at the polling place for their old address.<sup>179</sup>

Voters who have lived at their new address for more than 30 days must vote at the polling place of their new address.<sup>180</sup>

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<sup>178</sup> North Dakota Secretary of State, *North Dakota . . . The Only State Without Voter Registration 1*, available at <http://www.nd.gov/sos/forms/pdf/votereg.pdf>.

<sup>179</sup> N.D. CENT. CODE ANN. § 16.1-01-04 (2008).

<sup>180</sup> *Id.* § 16.1-01-04.

## OHIO

### Ohio Voters Who Have Moved Have Legally Protected Rights

Many registered Ohio voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote a regular ballot at that polling place after signing a notice of change of residence and showing identification with the voter's name and current address.<sup>181</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address that is in a different polling place within the same county can vote a provisional ballot at their new polling place, the county board of elections office, or at a location designated by the county board of elections. Voters need to sign a change of address form and attest that they have moved, have voted a provisional ballot, and will not attempt to vote at another location.<sup>182</sup> Voters must cast their provisional ballots in the correct polling place for their new address for their votes to be counted.<sup>183</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address that is in a different county can vote a provisional ballot at the board of elections office for their new county, or at a site designated by the board of elections. Voters need to sign a change of address form and attest that they have moved, have voted a provisional ballot, and will not attempt to vote at another location.<sup>184</sup> Voters must cast their provisional ballots in the correct polling place for their new address for their votes to be counted.<sup>185</sup>

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<sup>181</sup> OHIO REV. CODE ANN. § 3503.16(B)(1)(a) (2008); 42 U.S.C § 1973gg-6(e)(1) (2006).

<sup>182</sup> OHIO REV. CODE ANN. § 3503.16(B)(2)(a)-(d).

<sup>183</sup> *Id.* § 3505.183(B)(3)(b).

<sup>184</sup> *Id.* § 3503.16(C)(1)-(4).

<sup>185</sup> *Id.* § 3505.183(B)(3)(b).

## OKLAHOMA

### Oklahoma Voters Who Have Moved Have Legally Protected Rights

Many registered Oklahoma voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>186</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place within the same county can vote at the polling place associated with their old address after filling out a new voter registration application form and presenting their voter identification card.<sup>187</sup>

#### *Scenario Three: New Address in New Polling Place and New County*

Voters who move to a new address in a different county have to register to vote at their new address in the county.<sup>188</sup> To be eligible to vote in the next election voters have to register at least 24 days before the next election.<sup>189</sup>

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<sup>186</sup> 42 U.S.C § 1973gg-6(e)(1) (2006).

<sup>187</sup> OKLA. STAT. ANN. tit. 26, § 4-117 (2008).

<sup>188</sup> *Id.* § 4-118.

<sup>189</sup> *Id.* § 4-103.

## OREGON

### Oregon Voters Who Have Moved Have Legally Protected Rights

Oregon is a vote by mail state. Active voters in Oregon will be mailed a ballot.<sup>190</sup> Active voters who move to a new address can notify their county clerk of their new address up until 8:00 PM on Election Day.<sup>191</sup> Voters who notify their county clerk of an address change less than 21 days before an election will get a replacement ballot if they have not already returned another ballot.<sup>192</sup>

Voters will get their replacement ballot by mail if they notify their county clerk of their new address by the fifth day before the election. Voters who notify their county clerk of their new address within five days before the election can pick up their replacement ballot in person from their county clerk until and including the date of the election.<sup>193</sup>

Election officials may update the voter registration information of Oregon voters who move within the same county. Voters whose registration information has been updated will get their mail-in ballot at their new address.

Many registered Oregon voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address within the County, Active Voter*

In Oregon, a voter who casts a mail-in ballot in a drop box associated with a locality in which she is not registered will have the ballot forwarded to the appropriate location where it will be counted in full.<sup>194</sup>

#### *Scenario Two: New Address within the State, Active Voter*

In Oregon, a voter who casts a mail-in ballot in any drop box in the state will have the ballot forwarded to the county in which she is registered where it will be counted in full.

Assuming the voter has not already voted, the voter can provide a change of address through the close of the election which will result in the issuance of a new ballot.<sup>195</sup>

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<sup>190</sup> OR. REV. STAT. ANN. § 254.470(2)(a) (2008).

<sup>191</sup> *Id.* § 247.303.

<sup>192</sup> *Id.* §§ 247.025, .303, .307(2), .307(3)(a)(A).

<sup>193</sup> *Id.* § 247.307(3)(a)(C), (4).

<sup>194</sup> Email Correspondence with Oregon Election official, on file with the author (June 16, 2009)

<sup>195</sup> *Id.*

## PENNSYLVANIA

### Pennsylvania Voters Who Have Moved Have Legally Protected Rights

Pennsylvania voters who have moved to a new address in the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Pennsylvania voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming their new address in writing at the polling place. This protection does not depend on how close to the election the voter moved.<sup>196</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address that is in a different polling place within the same county can vote at the polling place associated with their old address after confirming their new address in writing.<sup>197</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address that is in a different county can vote at the polling place associated with their old address after confirming their new address in writing.<sup>198</sup>

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<sup>196</sup> 25 PA. CONS. STAT. ANN. § 1902(a)(1) (2008); 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>197</sup> 25 PA. CONS. STAT. ANN. § 1902(a)(2).

<sup>198</sup> *Id.* § 1902(b).

## RHODE ISLAND

### Rhode Island Voters Who Have Moved Have Legally Protected Rights

Many registered Rhode Island voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place or at their local board of canvassers after filling out a written change of address form. This protection does not depend on how close to the election the voter moved.<sup>199</sup>

#### *Scenario Two: New Address in New Polling Place, but Same City or Town*

Voters who move to a new address in a different polling place within the same city or town, 30 days or more before an election, can vote a full ballot at the polling place for their new address or at the local board of canvassers after filling out a written change of address form.<sup>200</sup>

Voters who move to a new address in a different polling place within the same city or town, less than 30 days before an election, can vote a full ballot at the polling place associated with their old address or the local board of canvassers after filling out a written change of address form.<sup>201</sup>

#### *Scenario Three: New Address and New Polling Place in New City or Town*

Voters who move to a new address that is in a different city or town within the state less than 30 days before an election can vote in their old city or town.<sup>202</sup>

Voters who move to a new address that is in a different city or town within the state less than six months before the next election, but do not register in their new city or town, can vote a limited ballot from the board of canvassers of their former city or town.<sup>203</sup>

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<sup>199</sup> R.I. GEN. LAWS § 17-9.1-16(a)(1) (2008); 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>200</sup> R.I. GEN. LAWS § 17-9.1-16(a)(2)(i).

<sup>201</sup> *Id.* § 17-9.1-16(a)(2)(ii).

<sup>202</sup> *Id.* § 17-9.1-16(b)(1).

<sup>203</sup> *Id.* § 17-9.1-16(b)(2).

## SOUTH CAROLINA

### South Carolina Voters Who Have Moved Have Legally Protected Rights

Many registered South Carolina voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after affirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>204</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place within the same county have the option to:

- Vote at the main office of the county board of registration in their county after affirming their new address in writing;<sup>205</sup> or
- Vote a provisional ballot for only federal, statewide, countywide and municipal-wide offices at the polling place associated with their old address after affirming their change of address.<sup>206</sup> The provisional ballot will be counted if the board of voter registration determines the voter is a qualified elector in the precinct in which he or she voted.<sup>207</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address that is in a different county after the registration period closed (that is, within 30 days before the election) have the option to:

- Vote at the main office of the county board of registration in their new county after affirming their new address in writing;<sup>208</sup> or
- Vote a provisional ballot for only federal, statewide, countywide and municipal-wide offices at the polling place associated with their old address after affirming their change of address.<sup>209</sup> The provisional ballot will be counted if the board of voter registration determines the voter is a qualified elector in the precinct in which he or she voted.<sup>210</sup>

Voters who have moved to a new address in a different county more than 30 days before an election have to register to vote at their new address in the county.<sup>211</sup> The registration period closes on the thirtieth day before the election.<sup>212</sup>

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<sup>204</sup> S.C. CODE ANN. § 7-5-440(A) (2008); 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>205</sup> S.C. CODE ANN. § 7-5-440(B)(2).

<sup>206</sup> *Id.* § 7-5-440(B)(1).

<sup>207</sup> *Id.* § 7-13-830.

<sup>208</sup> *Id.* § 7-5-440(B)(2).

<sup>209</sup> *Id.* § 7-5-440(B)(1).

<sup>210</sup> *Id.* § 7-13-830.

<sup>211</sup> South Carolina State Election Commission, South Carolina Voter Registration Information: Update Your Registration Information, [http://www.scvotes.org/south\\_carolina\\_voter\\_registration\\_information](http://www.scvotes.org/south_carolina_voter_registration_information).

<sup>212</sup> S.C. CODE ANN. § 7-5-150 (2008).

## SOUTH DAKOTA

### South Dakota Voters Who Have Moved Have Legally Protected Rights

Many registered South Dakota voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address are allowed to vote at that polling place after confirming their change of address.<sup>213</sup> This protection does not depend on how close to the election the voter moved.

#### *Scenario Two: New Address in New Polling Place, but Same County and Congressional District*

Voters who move to a new address in a different polling place within the same county and congressional district can vote a regular ballot at the polling place associated with their old address. Voters can continue to vote at their old polling place until they update their registration, although voters may eventually not satisfy residency requirements to vote in local elections.<sup>214</sup>

#### *Scenario Three: New Address and New Polling Place in New County or New Congressional District*

Voters who move to a new address that is in a different county or congressional district can vote a regular ballot at the polling place associated with their old address. Voters can continue to vote at their old polling place until they update their registration, although voters may eventually not satisfy residency requirements to vote in local elections.<sup>215</sup>

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<sup>213</sup> 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>214</sup> 42 U.S.C. § 1973gg-6(e)(2)(A)(i) (2006); Telephone Inquiry made to South Dakota Secretary of State staff member, (Sept. 29, 2008); Telephone Interview with Kea Warne, Election Supervisor, South Dakota Board of Elections (Jan. 27, 2009).

<sup>215</sup> Interview with South Dakota Secretary of State staff member (Sept. 29, 2008); Telephone Interview with Kea Warne, Election Supervisor, South Dakota Board of Elections (Jan. 27, 2009).

## TENNESSEE

### Tennessee Voters Who Have Moved Have Legally Protected Rights

Tennessee voters who have moved to a new address within the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Tennessee voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming their new address in writing.<sup>216</sup> This protection does not depend on how close to the election the voter moved.

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place within the same county can:

- Vote a ballot for their new precinct at an early voting location after confirming their new address.<sup>217</sup> The early voting period is from the 20th day to the 5th day before the election.<sup>218</sup>
- Go to the polling place associated with their old address on Election Day, affirm their new address in writing, and have the election official confirm that they have not voted at their old polling place. Voters can then go to the polling place for their new address or a central location established by the county election commission, show the confirmation, and vote a regular ballot.<sup>219</sup>
- Vote at their new polling place after confirming their current address in writing.<sup>220</sup> The fact that the voter is registered must be confirmed by the county election commission before the vote is counted.<sup>221</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address that is in a different county in the state within 90 days of an election can vote at the polling place associated with their old address.<sup>222</sup>

Voters who move to a new address in a different county in the state more than 90 days before an election need to register to vote in at their new address in the county. Voters need to register at least 30 days before the election to be able to vote in the election.<sup>223</sup>

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<sup>216</sup> TENN. CODE ANN. § 2-7-140(b) (2008); 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>217</sup> TENN. CODE ANN. § 2-7-140(c)(1).

<sup>218</sup> Tennessee Department of State, Address, Name, and Voting Status Changes (2009), [http://www.state.tn.us/sos/election/address\\_change.htm](http://www.state.tn.us/sos/election/address_change.htm) [hereinafter Tennessee Address Changes].

<sup>219</sup> TENN. CODE ANN. § 2-7-140(c)(2)(A).

<sup>220</sup> *Id.* § 2-7-140(c)(3).

<sup>221</sup> *Id.*

<sup>222</sup> *Id.* § 2-7-115(a).

<sup>223</sup> *See id.* § 2-2-109; Tennessee Address Changes, *supra* note 218.

## TEXAS

### Texas Voters Who Have Moved Have Legally Protected Rights

Texas voters who have moved to a new address within the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Texas voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Under federal law, voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>224</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place within the same county can vote at the polling place associated with their old address after confirming their current address, birth date, and that they live in the same county in which they are registered to vote.<sup>225</sup>

#### *Scenario Three: New Address and New Polling Place in New County*

Voters who move to a new address in a different county can vote a limited ballot through in-person early voting or early voting by mail if the voter would have been eligible to vote at their old address outside of the county and if registration in the new county of residence would not be effective on or before Election Day.<sup>226</sup> Voters must confirm their current address, birth date, and that they would have been eligible to vote in the polling place associated with their old address.<sup>227</sup> Voters restricted to a limited ballot can only vote for statewide offices and measures, and those offices and measures on the ballot in both their old and new polling place.<sup>228</sup>

Any qualified voter is eligible for in-person early voting.<sup>229</sup> To qualify for early voting by mail, voters must expect to be absent from their county of residence on Election Day and during the regular hours for in-person early voting.<sup>230</sup> To request an application for a limited mail-in early ballot, voters should contact the voting clerk for their new polling place.<sup>231</sup>

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<sup>224</sup> 42 U.S.C § 1973gg-6(e)(1) (2006).

<sup>225</sup> TEX. ELEC. CODE ANN. §§ 11.004, 63.0011(b)-(c) (Vernon 2008).

<sup>226</sup> Id. § 112.002(a).

<sup>227</sup> Id. § 112.002(c).

<sup>228</sup> Id. §§ 112.002, .004.

<sup>229</sup> TEX. ELEC. CODE ANN. § 82.005.

<sup>230</sup> Id. § 82.001(a).

<sup>231</sup> Id. § 12.005; Texas Secretary of State, Special Procedures for Voters Who Recently Moved, <http://www.sos.state.tx.us/elections/pamphlets/specialearlyvoting.shtml> (last revised Jan. 31, 2008).

## UTAH

### Utah Voters Who Have Moved Have Legally Protected Rights

Utah voters who have moved to a new address within the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Utah voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote a regular ballot at that polling place after confirming their change of address at the polling place. This protection does not depend on how close to the election the voter moved.<sup>232</sup>

#### *Scenario Two: New Address in New Polling Place but Same County*

Voters who move to a new address in a different polling place within the same county can vote a provisional ballot at their new polling place.<sup>233</sup> The provisional ballot will be counted if the county clerk can determine that the voter is registered to vote in the state and resides in the area covered by that polling place.<sup>234</sup>

#### *Scenario Three: New Address in New Polling Place and County*

Voters who move to a new address in a different county in the state can vote a provisional ballot at the polling place for their new address.<sup>235</sup> The provisional ballot will be counted if the county clerk can determine that the voter is registered to vote in the state and resides in the area covered by that polling place.<sup>236</sup>

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<sup>232</sup> UTAH CODE ANN. § 20A-2-307(1) (2008); 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>233</sup> UTAH CODE ANN. § 20A-2-307(2)(a).

<sup>234</sup> *Id.* § 20A-4-107.

<sup>235</sup> *Id.* § 20A-2-307(2)(a).

<sup>236</sup> *Id.* § 20A-4-107.

## VERMONT

### Vermont Voters Who Have Moved Have Legally Protected Rights

Vermont voters who have moved to a new address within the same town since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Vermont voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming they still live in an area covered by the polling place.<sup>237</sup>

#### *Scenario Two: New Address in New Polling Place, but Same Town*

Voters who move to a new address in a different polling place within the same town can vote at their new polling place after confirming their new address.<sup>238</sup>

#### *Scenario Three: New Address and New Polling Place in New Town*

Voters who move to a new address in a different town less than 17 days before an election can vote at the polling place associated with their old address.<sup>239</sup>

Voters who move to a new address in a different town more than 17 days before an election need to register to vote at their new address in the town.<sup>240</sup> The registration period closes at 5:00 PM on the Wednesday before the election.<sup>241</sup>

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<sup>237</sup> VT. STAT. ANN. tit. 17, § 2149(b)(1) (2008); 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>238</sup> VT. STAT. ANN. tit. 17 § 2149(b)(2).

<sup>239</sup> *Id.* § 2122(b).

<sup>240</sup> *Id.*

<sup>241</sup> *Id.* § 2144(a).

## VIRGINIA

### Virginia Voters Who Have Moved Have Legally Protected Rights

Virginia voters who have moved to a new address in the same county or city since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Virginia voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address must fill out a change of address form to vote at that polling place on Election Day.<sup>242</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County and Congressional District*

Voters who move to a new address in a different polling place within the same county and congressional district can vote at the polling place associated with their old address through the second November general election following their move.<sup>243</sup>

#### *Scenario Three: New Address and New Polling Place in New County and Congressional District*

Voters who move to a new address in a different county in the state can vote at the polling place associated with their old address through the November general election following their move.<sup>244</sup>

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<sup>242</sup> VA. CODE ANN. § 24.2-643(C) (2008); 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>243</sup> VA. CODE ANN. § 24.2-401.

<sup>244</sup> *Id.*

## WASHINGTON

### Washington Voters Who Have Moved Have Legally Protected Rights

Washington voters who have moved to a new address within the state since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered Washington voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after confirming their change of address. This protection does not depend on how close to the election the voter moved.<sup>245</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place within the same county can vote at the polling place associated with their old address after filling out a voter registration form.<sup>246</sup>

#### *Scenario Three: New Address in New Polling Place and New County*

Voters who move to a new address in a different county can vote at the polling place associated with their old address after filling out a voter registration form.<sup>247</sup>

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<sup>245</sup> 2009 Wash. Legis. Serv. 369 (amending WASH. REV. CODE § 29A.08.430 (2008)); 42 U.S.C. § 1973gg-6(e)(1) (2006).

<sup>246</sup> 2009 Wash. Legis. Serv. 369 (amending WASH. REV. CODE § 29A.08.430 (2008)).

<sup>247</sup> *Id.*

## WEST VIRGINIA

### West Virginia Voters Who Have Moved Have Legally Protected Rights

West Virginia voters who have moved to a new address within the same county since they last voted should contact their local election official to confirm their current polling place. Election officials may have changed the voter's registration to his or her new address even if the voter did not notify the election official about the move. Voters whose registration information has been changed should go to their current polling place to vote.

Many registered West Virginia voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about their move before Election Day and the election official has not changed their registration.

#### *Scenario One: New Address, but Same Polling Place*

Voters who move to a new address that is covered by the same polling place as their old address can vote at that polling place after updating their registration.<sup>248</sup>

#### *Scenario Two: New Address in New Polling Place, but Same County*

Voters who move to a new address in a different polling place within the same county can update their registration address at their new polling place and vote a challenged or provisional ballot.<sup>249</sup> The voter will be required to sign an affidavit of change of address at that polling place.<sup>250</sup>

The voter's provisional ballot will be counted if the voter was registered within the county and no other challenge was made to the voter's eligibility.<sup>251</sup>

#### *Scenario Three: New Address in New Polling Place and New County*

Voters who move to a new address in a different county need to register to vote at their new address in the county.<sup>252</sup> The registration deadline is 21 days before the next election.<sup>253</sup>

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<sup>248</sup> W. VA. CODE ANN. § 3-2-31(b) (2008).

<sup>249</sup> *Id.* § 3-2-31(c).

<sup>250</sup> *Id.* § 3-2-22(a)(6).

<sup>251</sup> *Id.* § 3-2-31(c).

<sup>252</sup> See West Virginia Secretary of State, Q&A: Voter Registration in West Virginia (2005),

<http://www.wvsos.com/elections/voters/voterbasics.htm>.

<sup>253</sup> W. VA. CODE ANN. § 3-2-6.

## WISCONSIN

### Wisconsin Voters Who Have Moved Have Legally Protected Rights

Wisconsin permits voters who have not previously registered or who were registered at a prior address to register or re-register to vote and vote at their current polling place on Election Day.<sup>254</sup>

To register to vote at the polling place on Election Day, voters need to fill out a registration application and provide identification and proof of residence.<sup>255</sup>

Voters who move within the state in the 10 days before an election can vote at the polling place associated with their old address.<sup>256</sup>

Voters who move within the state more than 10 days before an election can register to vote and vote at their new polling place or an alternative polling place designated by the board of election commissioners on Election Day.<sup>257</sup>

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<sup>254</sup> WIS. STAT. ANN. § 6.40 (1) (2008).

<sup>255</sup> *Id.* §§ 6.55, 6.34. Proof of residence includes a number of documents such as drivers license, government issued identification, or utility bill that contains the voters current and complete name and address. *Id.* § 6.34; *see also* Wisconsin Government Accountability Board, Voter Information: How to Register and Vote on Election Day, [http://elections.state.wi.us/faq\\_detail.asp?faqid=121&fid=27&locid=47](http://elections.state.wi.us/faq_detail.asp?faqid=121&fid=27&locid=47).

<sup>256</sup> WIS. STAT. ANN. § 6.02(2).

<sup>257</sup> *Id.* §§ 6.02(2), 6.55.

## WYOMING

### Wyoming Voters Who Have Moved Have Legally Protected Rights

Wyoming permits voters who have not previously registered or who were registered at a prior address to register or re-register to vote and vote at their current polling place on Election Day.

Registered Wyoming voters who move are still entitled to cast a ballot that will be counted — even if they did not notify the appropriate election official about the move before Election Day.

#### *Scenario One: New Address and New Polling Place in Same County*

Voters who move to a new address in a different polling place within the same county can vote at their new polling place. If a voter is challenged because his or her name is not on the poll list at his or her new polling place, the voter can vote if an election official gets confirmation from the county clerk that the voter is entitled to vote in that election within that county.<sup>258</sup>

#### *Scenario Two: New Address and New Polling Place in New County*

Voters who move to a new address in a different county can register and vote in person at their new polling place on Election Day.<sup>259</sup> To register on Election Day voters must provide an acceptable form of identification such as a driver's license or passport.<sup>260</sup>

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<sup>258</sup> WYO. STAT. ANN. § 22-15-106 (2008).

<sup>259</sup> WYO. STAT. ANN. § 22-3-104; *see also* Wyoming Secretary of State, Elections, Voter Registration (2009), <http://soswy.state.wy.us/Elections/RegisteringToVote.aspx> [hereinafter Wyoming Voter Registration].

<sup>260</sup> Wyoming Voter Registration, *supra* note 259.