

Mobile Voter Registration



People sign their names on electronic signature pads millions of times a day. It is a long-standing, secure technology that increases efficiency and saves money. If this technology were applied to allow voters to sign voter registration forms electronically, it could revolutionize voter registration. Archaic, mistake-ridden paper registrations could be reduced or eliminated. States would save money, registrations would be more accurately recorded, and voters would gain the ease of being able to register or update their registrations from anywhere, at any time of day. This is a reform made for the 21st Century and our Digital Age.

FAIR ELECTIONS LEGAL NETWORK

Introduction

In May, 2010, election officials in Santa Clara County, California became the first in the country to accept voter registration forms that were signed by hand and submitted electronically using mobile, touchscreen technology.¹ This development has the potential to revolutionize voter registration in the United States, where reliance on paper registration processes is costly, error-prone, and time-consuming.

Currently, eight states – Arizona, Colorado, Indiana, Kansas, Louisiana, Oregon, Utah, and Washington – allow voters to register through an online system, with more states poised to do so in the near future.² However, each state limits this option to applicants who already have a signature on file with the state. By restricting electronic registration to a subset of eligible voters – those with in-state driver's licenses or government ID cards – states exclude thousands of otherwise eligible voters from the convenience and reduced error rate of registering online. These restrictions disproportionately affect already underrepresented segments of the populace, including poor, minority, and youth voters.

By making the *entire* process electronic – including the handwritten signature – we can bring voter registration into the Digital Age. Using any mobile device with a touchscreen, voters could type their information into the voter registration form, sign it by hand, and submit it with a click.

This technology would benefit both election officials and voters. For election officials, the benefits are similar to those afforded by online registration systems. The data within voter registration applications can be uploaded automatically to state voter files, thereby eliminating the costs and errors that occur when paper voter registration forms need to be keyed in by clerical staff.

Voters would benefit by having voter registration at their fingertips, whenever they are motivated, and wherever they have a touchscreen device and mobile internet access. Those without a touchscreen device could *borrow* one for the few minutes it takes to register. A single mobile phone could register a family, or a neighborhood. Voter registration organizations could also use touchscreen devices instead of paper registration forms, reaching even more eligible voters, including those in communities without high touchscreen usage.



It is time to expand this innovation throughout the United States. As a society, we can ill afford to continue relying on systems that yield low registration rates and disenfranchise alarming numbers of voters. Integrating mobile voter registration technology into our election systems should be a high priority.

What is Mobile Voter Registration?

Mobile voter registration (MVR) is a type of electronic voter registration in which the voter types his or her information into an electronic voter registration form, signs it on a touchscreen device that captures and embeds their handwritten signature electronically into the form, and submits it via e-mail to state election officials.

In Santa Clara County, California, the system worked as follows: Eight test applicants filled out the National Mail Voter Registration Form³ and signed their names on a touchscreen using various mobile internet devices.⁴ Each applicant's information and electronic signature were integrated into a secure pdf (portable document format) file⁵ and returned to them via email.⁶ The applicants then emailed their voter registration forms – now secure electronic pdf files – to the county elections office, where they were accepted by the county registrar.⁷

State Election Officials Would Benefit

Mobile voter registration offers the same type of benefits that online voter registration provides, while covering additional voters with easier implementation

Mobile voter registration would offer tremendous benefits to state election officials. The electronic forms provide the same types of benefits that online voter registration offers to a state, with the added benefits of being available to register additional voters, and with quicker and easier implementation. In the initial test run in Santa Clara County, the applications were simply printed out by election officials and treated like regular paper applications. As pdf files, this option would always be available. However, these pdf files contain data that can be uploaded automatically into state election databases, thereby eliminating the costs and mistakes associated with manual data entry.⁸

❖ MVR is less expensive to process than paper registration

Cost savings can be significant. In Arizona, an online registration form costs just \$.03 to process, versus \$.83 to process a paper registration form.⁹ In Washington State, the cost of an online voter registration application is estimated at \$.45 as opposed to \$1.55 for a paper registration.¹⁰ Before Oregon adopted online registration, it was estimated that state and county election officials spent \$8.8 million dollars on voter registration activities in 2008, or \$7.67 per transaction for new and updated registrations.¹¹ Costs under an online registration system are projected to drop significantly.¹²

Mobile voter registration would offer similar cost savings because the application can be directly transferred into state voter databases. Indeed, accepting electronic registrations via e-mail will be less costly than setting up an online voter registration system because less programming and maintenance is required. A state only needs the software necessary to transfer data from secure pdf files.¹³

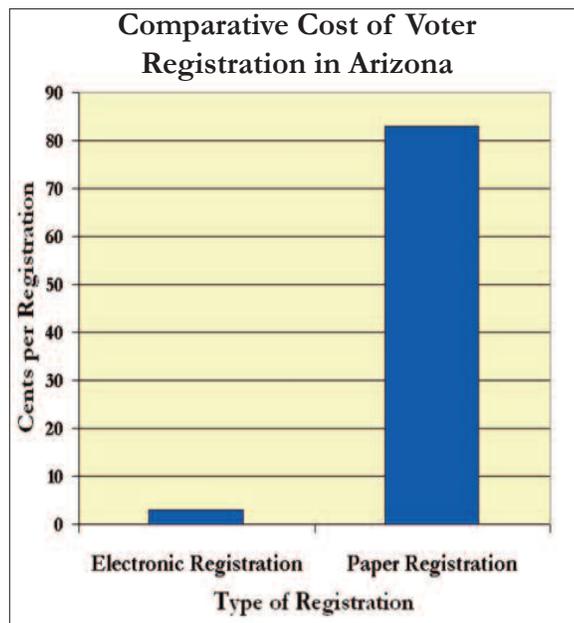
❖ MVR would eliminate errors that occur when processing paper registrations

Eliminating errors is just as important.¹⁴ A recent study found that in some counties in Florida and California, as many as 5% of registration applications were considered “incomplete” but were nonetheless entered into the state’s system.¹⁵ Officials in Maricopa County, Arizona found that paper-based forms were five times more likely to introduce errors into the registration process as compared to paperless registrations.¹⁶ With paper applications, even if an applicant delivers a perfectly legible and complete registration application, typographical and transposition errors can occur at the time of data-entry into the state’s voter database.¹⁷

Mobile voter registration could address these issues. Problems associated with illegibility, completeness, and data-entry errors by the registrar would disappear. Applicants would be able to key their information into the mobile device, producing easily readable, digital information fields. Prompts to provide missing information would ensure that applicants do not submit incomplete applications. Automatic data transfers from the application to the state’s voter database would eliminate manual data-entry errors at the registrar’s office.

❖ MVR can be processed much faster than paper registrations

Mobile voter registration forms could be processed much more rapidly than paper forms, with fewer personnel, again because data upload is essentially instantaneous. One of the reasons states set voter registration deadlines 30 days in advance of Election Day is that it takes so long for them to process paper registrations, which are often submitted in large numbers close to the deadline. Election officials would benefit greatly if this data-entry crunch were relieved.



Voters Would Benefit

Mobile voter registration is the only type of paperless registration that would be widely available

Voters would also benefit from mobile voter registration. It could be made available in all states more rapidly than online voter registration. Just as important, within each of those states, it would be available to *all* voters, not just those who already have an in-state driver’s license or signature on file with the state. Voter registration could happen at any time, and in any location, and voters would receive instant feedback letting them know their applications have been received. Eliminating errors also helps voters, as mistakes in paper-based systems often cost people the right to vote.¹⁸

❖ MVR would help voters in virtually all states

The only thing a state has to provide to begin accepting mobile voter registrations is an e-mail address where the electronic forms can be sent. The technology to be able to upload the data within these applications is readily available and easily implemented.¹⁹ Thus, instead of the eight states that currently offer online registration, almost every state could make this available to its citizens quickly – certainly before the 2012 election.²⁰

❖ MVR would help all voters in each state

Mobile voter registration would also benefit voters because it would allow *all* voters to take advantage of electronic registration, not just those with current in-state driver's licenses or accessible signatures on file. That limitation, which is applied in all online registration states, leaves out thousands of voters in each state,²¹ a disproportionate number of whom are youths, seniors, or minorities.²²

The U.S. Department of Transportation has found that 8-10% of all Americans over the age of 18 do not have a driver's license.²³ But this estimate undercounts the problem in important ways. First, the percentage is not spread evenly across the electorate. A Wisconsin study found that 23% of those over 65, and more than half of African Americans and Hispanics, did not have a driver's license.²⁴ Second, it does not account for the requirement that the driver's license must be in-state. About 25% of college students go to school out-of-state,²⁵ to pick just one mobile segment of the population, and many of them have not switched their driver's license by the time they need to register to vote for November elections.

Mobile voter registration avoids these limitations by allowing voters to provide a handwritten electronic signature on their application, just as they would on any paper form. It could therefore be available to all voters.

❖ Voters could access MVR anywhere, at any time

Mobile voter registration also would allow voters to complete a voter registration application at any time, and in virtually any place. They could register while watching the news, or attending a political rally, or checking their social networking sites, or while taking a civics class – anywhere that reminds and motivates them to register to vote.

Through the internet, voters would be able to access the federal form, read any state requirements, fill out the form properly, sign it, and submit it. This is a significant benefit, as voter registration varies from state-to-state, and can be a very confusing process, especially for first-time voters. Software could be developed to help voters navigate the process from beginning to end.

Guides to voter registration are available online now, but most voters cannot complete the process online. They need to print out the form, sign it, and mail it in. With mobile voter registration, voters would not need access to a printer or a stamp. They would only need brief access to a touchscreen mobile device.²⁶

❖ Underrepresented segments of the electorate could more easily be served

Mobile voter registration would not be limited to the affluent. Lower-income individuals are increasingly represented in the consumer base for touchscreen devices.²⁷ Indeed, African Americans and Hispanics are more likely than their white counterparts to own a cell phone and use its data functions.²⁸ Moreover, an individual would not have to *own* a touchscreen device to take advantage of mobile voter registration. Anyone with the ability to borrow one for a few minutes could complete the process quickly and painlessly. This technology would be especially valuable to youths, who have low registration and voting rates,²⁹ in part because they are the most mobile segment of the population,³⁰ but are leaders in mobile internet usage.³¹

States could also make touchscreen devices available at public libraries, and third-party voter registration organizations could use them instead of paper forms to register voters.³² Third-party groups are already using iPads to register voters, but so far have been limited to the few states offering online voter registration, and can only register voters with an in-state driver's license. With mobile voter registration, voter groups could go anywhere and register any citizen, at far less cost than it takes to collect and process paper registrations.³³

❖ Voters could also receive instant feedback when they submit their registration

Mobile voter registration would also enable voters to receive instant feedback that their registration was received, as state officials could automate responses to registration e-mails. Under paper-based systems, voters need to wait days or weeks before they know whether their registration form was received. If it is not, and the voter registration deadline passes in the interim, they are unable to register and vote in that election. These delays can be eliminated.

Mobile voter registration can also be set so that a registration cannot be submitted if any required fields are not completed. This would give voters greater confidence that if their application was received, it was successful in putting them on the rolls.³⁴

Officials in Maricopa County, Arizona found that paper-based forms were five times more likely to introduce errors into the registration process as compared to paperless registrations.

Handwritten Electronic Signatures Are Secure

The key to mobile voter registration is the ability to embed a handwritten electronic signature into an electronic voter registration form. This is a process recognized and used widely in the commercial world for more than a decade.³⁵ There would be no difficulty incorporating it into the voter registration field.

The commercial world sets criteria for such signatures to establish their security. For example, a “handwritten electronic signature” could be defined as a signature in the handwriting of the applicant that is recorded electronically, and that meets the following criteria: it is (1) unique to the signatory and the form being signed, (2) capable of identifying the signatory, and (3) linked to the form in such a manner that any subsequent change of the data is detectable.³⁶ These criteria are well-recognized ways of expressing how electronic signature capture can be made secure and verifiable.

From a security and verification standpoint, handwritten electronic signatures offer benefits that even inked signatures do not. Touchscreen technology makes it possible to collect data points throughout the signing process – like a mini-video – and encode this data in the electronic file sent to election officials.³⁷ If officials need to, they can examine this data for verification purposes. The signature can also be rendered tamper-proof, such that any effort to alter the signature would immediately corrupt the data file.³⁸

Handwritten Electronic Signatures Are Already Accepted

At least three states – Delaware, Kansas and Rhode Island – already ask voters registering to vote or updating their registrations at motor vehicle agencies to sign their names on electronic signature pads rather than paper.³⁹ Other states, like North Carolina, accept that “[a]n electronically captured image of the signature of a voter on an electronic voter registration form offered by a State agency shall be considered a valid signature for all purposes for which a signature on a paper voter registration form is used,” even if they have not yet developed a system for accepting these electronic signatures on voter registration forms.⁴⁰ Several more states, including Florida,⁴¹ Indiana,⁴² Iowa,⁴³ and Texas⁴⁴ have similar statutes.⁴⁵ Moreover, at some point in the process, many states digitize the voter registration signatures they receive, rendering what was once a signature on a piece of paper into an electronic file.⁴⁶ Thus, there is nothing radical in the idea of electronic voter registration forms signed with handwritten electronic signatures.

Election officials in Santa Clara County, when comparing new voter registration applications containing electronic signatures with previous paper applications, said the new versions were “really clear and better than what we have on file.”

Handwritten Electronic Signatures Will Compare With Paper Signatures

One concern that is often raised is how a handwritten electronic signature will compare with a handwritten inked signature when states match signed mail-in ballots with signatures on file. The comparison should work as well as current systems, for at least three reasons.

First, voters will control their handwritten electronic signature. If they do not like the appearance of a signature on the voter registration form, they can erase it and start over before they submit it to election officials.

Second, handwritten signatures on new voter registration forms will be more current than the signature captured by online registration systems from driver’s licenses, which may be years old.⁴⁷ Signatures can evolve over time, so it is better to have a more recent signature on file.

Third, there is no evidence that the states already accepting handwritten electronic signatures at motor vehicle agencies, or that digitize voter signatures, have had trouble comparing them with signatures on absentee ballots. Touchscreens used on mobile devices are better and more sensitive than the typical signature pad found in grocery stores and other commercial settings, and thus will capture a clear signature.⁴⁸ Indeed, election officials in Santa Clara County, when comparing new voter registration applications containing electronic signatures with previous paper applications, said the new versions were “really clear and better than what we have on file.”⁴⁹

Handwritten Electronic Signatures Are Consistent With Federal Law

The National Voter Registration Act of 1993 (NVRA) requires states to accept and use the federal voter registration form.⁵⁰ Moreover, the federal form “may require only such identifying information (including the signature of the applicant) ... as is necessary to enable the appropriate State election official to assess the eligibility of the applicant”⁵¹ The federal form also “requires the signature of the applicant, under penalty of perjury.”⁵² Thus, there are two and only two elements that a signature on a voter registration form is needed to satisfy: (1) identity, and (2) affirmation of the truth of the application under penalty of perjury.

A handwritten electronic signature meets both of these elements just as well as a signature inked on a piece of paper. It provides “identifying information” in that it is in the hand of the signer. Indeed, one of the criteria that can be required of a “handwritten electronic signature” is that it be “capable of identifying the signatory.”⁵³ It also supplies the necessary requirements to bind the applicant under penalty of perjury.⁵⁴

How to Implement Mobile Voter Registration

There are a number of ways that mobile voter registration could be implemented nationwide.

The Election Assistance Commission could adopt regulations to advance mobile voter registration

One direct and simple way to advance mobile voter registration would be for the federal Election Assistance Commission (EAC) to revise its regulations for the National Mail Voter Registration Form to expressly allow handwritten electronic signatures to be submitted on an electronic version of the form. FELN’s Legal Director recently testified before the EAC to propose this solution.⁵⁵ FELN has also submitted official comments to EAC’s proposed regulations to urge this approach.⁵⁶ A regulation specifying that a handwritten electronic signature integrated into an electronic copy of the federal form would satisfy the signature requirements on the form would be sufficient. A definition of “handwritten electronic signature” could also be provided.⁵⁷

One direct and simple way to advance mobile voter registration would be for the EAC to revise its regulations for the National Mail Voter Registration Form to expressly allow handwritten electronic signatures to be submitted on an electronic version of the form.

If the EAC were to draft such regulations, companies with technical expertise could then step forward to create the software that would make these forms available electronically on all the different mobile touchscreen devices. Software designers would also likely set up the form so it could not be sent until all relevant fields were populated with data. This would eliminate submission of incomplete forms.

The EAC does not need to establish its own electronic signature version of the form to move this forward. Nor does it need to resolve all the technical interface issues that might arise between voters submitting the form and state election officials. It will be enough to begin the process if state officials provide an e-mail address where voters can submit the form. If states do not have the technical capability to upload the data within the forms when they are first

submitted, they can print the forms and treat the registration like a paper submission. States will have enough of an incentive to modernize their systems to be able to upload the data once significant numbers of electronic applications are submitted. FELN’s comments address other specific amendments to EAC’s regulations that would help implement mobile voter registration.⁵⁸

❖ **Congress could advance mobile voter registration**

The Voter Registration Modernization Act of 2009 (H.R. 1719) offers another vehicle for national implementation.⁵⁹ This bill has gone through several iterations while it awaits markup by the House Committee on Administration. It could very easily incorporate a provision requiring states to accept handwritten electronic signatures on an electronic version of the federal voter registration form.

❖ **States could begin accepting electronic voter registration forms with handwritten electronic signatures**

State laws in most states give discretion to state officials to accept electronic signatures on official documents.⁶⁰ This would enable them to create electronic versions of state voter registration forms that would incorporate and accept handwritten electronic signatures.

❖ Federal law may already require states to accept handwritten electronic signatures on the National Voter Registration Form

Although FELN has urged the EAC to revise its regulations to explicitly accept handwritten electronic signatures on the National Mail Voter Registration Form, a strong argument can be made that this step is not necessary before such forms can be submitted to states. As noted above, states must “accept and use” the federal form.⁶¹ In addition, a handwritten electronic signature meets the two federal criteria for a signature on the form – identity and affirmation of truth.⁶² To the extent there are other requirements in current EAC regulations regarding the federal form – e.g., format requirements – arguably these are “not material [under the Voting Rights Act] in determining whether [the signing] individual is qualified under State law to vote.”⁶³ Therefore, they should not negate the application of a qualified voter who provides a handwritten electronic signature on an electronic voter registration form.

Conclusion

Mobile voter registration is an innovation whose time has come. There are multiple ways to implement it. The Election Assistance Commission could expressly permit the federal voter registration form to allow a handwritten electronic signature; Congress could mandate it; states could begin accepting it; or courts could recognize that it meets all the criteria required of voter registrations under the NVRA and the Voting Rights Act.

No matter how it is implemented, it is an innovation that would help election officials, voters, and third-party groups that register and seek to turn out voters. Moreover, it can be utilized to help register underrepresented portions of the electorate.

Endnotes

¹ Ken McLaughlin, *Santa Clara County Accepts Nation's First Electronic Voting Registrations*, SAN JOSE MERCURY NEWS, May 14, 2010.

² See National Conference of State Legislatures, *Electronic Voter Registration*, <http://www.ncsl.org/default.aspx?tabid=18421> (last visited Oct. 11, 2010); ServiceArizona.com, *EZ Voter Registration Online*, https://servicearizona.com/webapp/evoter/show_info.do (last visited Oct. 11, 2010); CAL. ELEC. CODE § 2196 (West 2010) (stating that online voter registration will begin when California has created a statewide voter database); COLO. REV. STAT. § 1-2-202.5 (West 2010); IND. CODE § 3-7-26.7-5 (West 2010); Kansas Department of Revenue, *Online Voter Registration*, <https://www.kdor.org/voterregistration/Default.aspx> (last visited Oct. 11, 2010); LA. REV. STAT. ANN. § 18:115.1 (West 2010); OR. REV. STAT. § 247.019 (West 2010); UTAH CODE ANN. § 20A-2-206 (West 2010); Utah Lt. Governor's Office, *Voter Registration Application*, <https://secure.utah.gov/voterreg/index.html> (last checked on Oct. 7, 2010); WASH. REV. CODE ANN. § 29A.08.123 (West 2010).

³ The National Mail-In Voter Registration Form was established pursuant to the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg-7. It must be accepted in nearly all states. 42 U.S.C. § 1973gg-4(a)(1). Idaho, Minnesota, New Hampshire, Wisconsin, and Wyoming are exempt because they have allowed voters to register and vote on Election Day since August 1, 1994. 42 U.S.C. § 1973gg-2(b)(2). North Dakota is exempt because it does not require voters to register. 42 U.S.C. § 1973gg-2(b)(1).

⁴ McLaughlin, *supra* note 1; Russell Nichols, *Will Touchscreen Devices Transform Voter Registration Systems?*, GOVERNMENT TECHNOLOGY, May 19, 2010, available at <http://www.govtech.com/e-government/Will-Touchscreen-Devices-Transform-Voter-Registration.html>.

⁵ “Pdf” stands for portable document format. It is an open standard for document exchange that has been continuously evolving since it was introduced by Adobe Systems in 1992. Adobe, *Adobe and PDF*, <http://www.adobe.com/products/acrobat/adobe.pdf.html> (last visited Oct. 11, 2010).

⁶ Nichols, *supra* note 4.

⁷ *Id.*

⁸ Election officials can purchase software that automatically extracts data from various types of electronic and paper documents with different fields for inputting data. However, FELN's proposal seeks only to require states to accept an electronic signature from the National Mail Voter Registration

Form, which would contain uniform data fields regardless of the applicant. As a result, the automated retrieval and upload of data from a PDF of the form would be a relatively inexpensive and simple process. Telephone Interview with Michael Nowaczyk, Sales Engineer, Kofax, in Washington, D.C. (October 12, 2010). Moreover, until an electronic system is in place, a state could accept the electronic forms, print them out, and process them as they do any other paper registration. Of course, given the cost savings and other benefits discussed above, states would have strong incentives to put the technology into place to be able to upload the data in registrations instantly.

⁹ MATT A. BARRETO, ET AL., *ONLINE VOTER REGISTRATION (OLVR) SYSTEMS IN ARIZONA AND WASHINGTON: EVALUATING USAGE, PUBLIC CONFIDENCE AND IMPLEMENTATION PROCESSES*, A JOINT RESEARCH PROJECT OF THE WASHINGTON INSTITUTE OF THE STUDY OF ETHNICITY AND RACE (WISER) UNIVERSITY OF WASHINGTON, SEATTLE AND THE ELECTION ADMINISTRATION RESEARCH CENTER (EARC) UNIVERSITY OF CALIFORNIA, BERKELEY 92 (Apr. 1, 2010), available at http://www.pewcenteronthestates.org/uploadedFiles/wwwpewcenteronthestatesorg/Initiatives/MVW/online_voter_reg.pdf?n=2908.

¹⁰ Bill Graves, *Oregon Offers Online Voter Registration*, Oregonlive.com, Mar. 1, 2010, http://www.oregonlive.com/politics/index.ssf/2010/02/oregon_offers_online_voter_reg.html.

¹¹ THE PEW CENTER ON THE STATES, *THE REAL COST OF VOTER REGISTRATION: AN OREGON CASE STUDY 5* (Revised March 2010), available at: [http://www.pewcenteronthestates.org/uploadedFiles/The_Real_Cost_of_Voter_Registration\(1\).pdf?n=4907](http://www.pewcenteronthestates.org/uploadedFiles/The_Real_Cost_of_Voter_Registration(1).pdf?n=4907) (last visited September 28, 2010).

¹² *Id.* at 6.

¹³ We are not suggesting that states adopt mobile voter registration instead of working to establish an online voter registration system. We would urge them to do both, because there are advantages offered by each system. Our point here is that accepting mobile voter registrations can be done immediately, even if it takes states a brief period to establish the electronic interface between electronic forms and their state voter database.

¹⁴ See NATIONAL RESEARCH COUNCIL, *COMMITTEE ON STATE VOTER REGISTRATION DATABASES, STATE VOTER REGISTRATION DATABASES: IMMEDIATE ACTIONS AND FUTURE IMPROVEMENTS* 79-86 (The National Academies Press 2008) (describing the various stages of the existing voter registration process in which mistakes can easily occur).

¹⁵ STEPHEN ANSOLABEHRE, ALAN GERBER, ET AL., VOTER REGISTRATION LIST QUALITY PILOT STUDIES: REPORT ON DETAILED RESULTS 8 (June 8, 2010), available at http://www.pewcenteronthestates.org/uploadedFiles/voter_registration_list_results.pdf?n=7473.

¹⁶ CHRISTOPHER PONOROFF, BRENNAN CENTER FOR JUSTICE, VOTER REGISTRATION IN A DIGITAL AGE 1 (Wendy Weiser ed., July 13, 2010), available at http://brennan.3cdn.net/806ab5ea23fde7c261_n1m6b1s4z.pdf.

¹⁷ National Research Council, *supra* note 14. See also *id.* at 81 (“Transposition errors transpose two letters in a field, or even two fields. Even with carefully handwritten registration forms, it is possible that transcription/keying error may approach 5 percent or more in fields such as first name, last name, and date of birth if the data entry clerks lack adequate training and monitoring.” (citing Joseph J. Pollock and Antonio Zamora, “Automatic Spelling Correction in Scientific and Scholarly Text,” *Communications of the ACM* 27(4):358-368, April 1984)).

¹⁸ Ansolabehere, *supra* note 15, at 2 (explaining finding that 12% of Florida and 9.6% of Los Angeles County survey respondents identified a discrepancy in their registration records). See also R. MICHAEL ALVAREZ, ET AL., 2008 SURVEY OF THE PERFORMANCE OF AMERICAN ELECTIONS FINAL REPORT (2009) (estimating that registration problems prevented 2.2 million voters from voting in 2008), available at <http://www.vote.caltech.edu/drupal/node/231>.

¹⁹ Interview with Michael Nowaczyk *supra*, note 8.

²⁰ North Dakota would be a lone exception, as it does not require citizens to register to vote. The states that are not required to accept the National Mail Voter Registration Form could accept handwritten electronic signatures on electronic versions of their state forms.

²¹ See, e.g., *In-Person Voter Fraud: Myth and Trigger for Disenfranchisement?: Hearing Before the S. Rules and Administration Comm.*, 110th Cong. 12 (March 12, 2008) (statement of Robin Carnahan, Secretary of State, State of Missouri) (estimating that 240,000 Missouri residents do not have government-issued photo ID), available at http://rules.senate.gov/public/?a=Files.Serve&File_id=4e170bbb-6438-4b7d-91bd-55bc201d074b.

²² See JOHN PAWASARAT, EMPLOYMENT AND TRAINING INSTITUTE, UNIVERSITY OF WISCONSIN-MILWAUKEE, THE DRIVER LICENSE STATUS OF THE VOTING (June 2005) (demonstrating that high percentages of Wisconsin residents do not have valid in-state driver’s licenses), available at <http://www4.uwm.edu/eti/barriers/DriversLicense.pdf>.

²³ U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, LICENSED TOTAL DRIVERS, BY AGE, 2003, TABLE DL-22 (Oct. 2004), available at www.fhwa.dot.gov/policy/ohim/hs03/hdm/dl22.htm; U.S. CENSUS BUREAU, ANNUAL ESTIMATES OF THE POPULATION BY SELECTED AGES GROUPS AND SEX FOR THE UNITED STATES: APRIL 1, 2000 TO JULY 1, 2004 (June 2005), available at www.census.gov/popest/national/asrh/NC-EST2004-sa.html.

²⁴ Pawasarat, *supra* note 22, at 1-2.

²⁵ HUSSAR M. PLANTY, ET AL., NATIONAL CENTER FOR EDUCATION SCIENCES, U.S. DEPARTMENT OF EDUCATION, THE CONDITION OF EDUCATION 2008, at 15 (2008), available at http://nces.ed.gov/programs/coe/2008/pdf/10_2008.pdf.

²⁶ According to Michael Marubio, co-founder of the company that pioneered the project in Santa Clara, technology could also allow applicants to fill out voter registration forms on a regular computer and then use a touchscreen device to provide an electronic signature that can be incorporated into the application file, before it is emailed to election officials.

²⁷ PEW RESEARCH CENTER, MOBILE ACCESS 2010, at 8 (July 7, 2010), available at http://www.pewinternet.org/-/media/Files/Reports/2010/PIP_Mobile_Access_2010.pdf.

²⁸ *Id.* at 3, 16.; See also, Cecilia Kang, *Going Wireless All the Way to the Web*, WASHINGTON POST, July 10, 2010, at A9.

²⁹ *Chris Kennedy, Voter Turnout by Age in U.S. Presidential Elections, 1996-2008*, CK37.COM (June 28, 2010), <http://ck37.com/voter-registration-and-turnout-1996-2008>; KARLO BARRIOS MARCELO, THE CENTER FOR INFORMATION & RESEARCH ON CIVIC LEARNING & ENGAGEMENT (CIRCLE), VOTER REGIS-

TRATION AMONG YOUNG PEOPLE 2 (June 2008), available at http://www.civicyouth.org/PopUps/FactSheets/FS07_Registration.pdf. In the 2006 midterms, 25.5 percent of the younger age group of Americans voted, compared to 53.7 percent of the older set. That pattern has held, with some variation, back to 1974, when 29.4 percent of young people voted compared to 54 percent of the over-30 crowd. In comparison, in the 2008 presidential election the youth turnout rate was 51 percent. See The Center for Information & Research on Civic Learning & Engagement (CIRCLE), *Youth Voting*, <http://www.civicyouth.org/quick-facts/youth-voting/> (last visited Oct. 6, 2010).

³⁰ As a whole, 34% of millennials have moved since 2008, with the next highest segment - African American voters - having moved only 24%. Morley Winograd and Michael D. Hais, *The American Electorate of the 21st Century, Presentation of Data from Millennial Makeover* 44 (Mar. 3, 2010) (citing Frank M. Magid Associates, Feb. 2010), available at <http://ndn.org/sites/default/files/paper/21st%20Century%20America%20Project%20March%202010%20PPT%20Presentation.pdf>.

³¹ Pew Research Center, *supra* note 27, at 5, 14.

³² Nick Judd, *Mobile Voter Registration Apps May Be Ready for Midterms*, PERSONAL DEMOCRACY FORUM (Apr. 13, 2010), <http://techpresident.com/blog-entry/mobile-voter-registration-apps-may-be-ready-midterms>.

³³ Voter registration groups like to keep a copy of who they have registered to vote so they can follow-up with them during get-out-the-vote (GOTV) activities. The technology firm helping Project Vote with its electronic registration project developed software that retained a copy of voter information as the voter registered online. This data can then be transferred electronically – with no data entry cost – into files from which GOTV notices and call-backs can be issued.

³⁴ Voters should be confident if they have timely submitted a complete and accurate application that they will be registered to vote. Unfortunately, this is not always the case. Some states have sought to place additional barriers between a voter submitting a voter registration form and placing them on the rolls. For example, Florida attempts to match an application’s data with existing databases, and does not enroll voters for whom there is no match, even if there is a problem with the underlying database and not the application. FLA. STAT. § 97.053(6) (West 2010); *Florida State Conference of the NAACP v. Browning*, 569 F. Supp. 2d 1237, 1242-1246 (N.D. Fla. 2008).

³⁵ The National Conference of Commissioners of Uniform State Laws drafted the Uniform Electronic Transactions Act (UETA) in 1999 to facilitate the use and enforceability of electronic signatures in government and business. See UNIF. ELECTRONIC TRANSACTIONS ACT §§ 6-7 (1999). According to the National Conference of State Legislatures, 47 states, the District of Columbia, Puerto Rico, and the Virgin Islands have adopted UETA. National Conference of State Legislatures, Uniform Electronic Transactions Act, <http://www.ncsl.org/IssuesResearch/TelecommunicationsInformationTechnology/UniformElectronicTransactionsActs/tabid/13484/Default.aspx> (last visited Oct. 4, 2010). Congress passed the Electronic Signatures in Global and National Commerce Act on June 30, 2000. Pub. L. No. 106-229, 114 Stat. 464 (2000). The European Parliament passed a Community framework in 1999 to facilitate the use of electronic signatures. Directive number 93 of 1999, Official Journal of 19 January, 2000 L13, page 14.

³⁶ FELN has proposed to the EAC that it adopt this definition. See Fair Elections Legal Network, Official Comments to the EAC 5 (Oct. 18, 2010), available at http://www.fairelectionsnetwork.com/_data/global/images/Comments%20to%20EAC%20on%20NVRA%20regulations%20-%202010-15-2010.pdf.

³⁷ McLaughlin, *supra* note 1.

³⁸ Nichols, *supra* note 4.

³⁹ STEVEN ROSENFELD, PROJECT VOTE, PAPERLESS VOTER REGISTRATION: INNOVATIONS IN THREE STATES 4, 6-7 (2010), available at <http://projectvote.org/images/publications/2010%20Issues%20in%20Elec>

tion%20Administration/Paperless%20Registration%20Case%20Study%20FINAL.pdf. CHRISTOPHER PONOROFF, BRENNAN CENTER FOR JUSTICE, VOTER REGISTRATION IN A DIGITAL AGE, Rhode Island appendix at 2 (July 13, 2010), available at http://www.brennancenter.org/page/-/Democracy/Paperless%20Report%20Appendix_Final%20%28Rhode%20Island%29.pdf.

⁴⁰ N.C. GEN. STAT. ANN. § 163-82.6(b) (West 2010).

⁴¹ FLA. STAT. ANN. § 97.057(2)(b)(1)(c) (West 2010) (requiring that an individual registering to vote or updating registration at the Department of Highway Safety and Motor Vehicles must affirm the accuracy of their recorded information with an electronic signature).

⁴² IND. CODE ANN. § 3-7-32-2(2) (West 2010) (stating that an electronic signature is an acceptable method for signing a voter registration form).

⁴³ IOWA CODE ANN. § 48A.13 (West 2010) (mandating acceptance of electronic signatures on voter registration forms after the state voter registration commission prescribes rules guaranteeing the security and integrity of the signatures).

⁴⁴ TEX. ELEC. CODE ANN. § 20.066 (Vernon 2009) (stating that an electronic signature will be taken from a person who registers to vote at the Department of Public Safety).

⁴⁵ This is not an exhaustive list of states that allow for the use of electronic signatures in the voter registration process.

⁴⁶ According to the Brennan Center for Justice, election officials in Arizona, Delaware, Florida, Kansas, Michigan, North Carolina, Pennsylvania, Rhode Island, South Dakota, and Washington digitize signatures taken for voter registration purposes. CHRISTOPHER PONOROFF, BRENNAN CENTER FOR JUSTICE, VOTER REGISTRATION IN A DIGITAL AGE, online appendices (July 13, 2010), available at http://www.brennancenter.org/content/resource/voter_registration_in_a_digital_age/.

⁴⁷ In Arizona, for example, a driver's license does not expire until the driver turns 65, even if the license was issued at age 16. ARIZ. REV. STAT. § 28-3171(A) (West 2010).

⁴⁸ Testimony of J. Barry, Verafirma, before EAC (October 14, 2010), available at <http://mediasite.yorkcast.com/webcast/Viewer/?peid=9282c77ed12340f5b>

99b794f8d4a77f6.

⁴⁹ GOVERNMENT TECHNOLOGY, *supra* note 4.

⁵⁰ 42 U.S.C. § 1973gg-4(a)(1) (2006).

⁵¹ *Id.* § 1973gg-7(b)(1).

⁵² *Id.* § 1973gg-7(b)(2)(C).

⁵³ Official Comments, *supra* note 36.

⁵⁴ In the United States, electronic signatures are given the same legal effect, validity, and enforceability as traditional signatures in interstate and foreign commerce. Electronic Signatures in Global and National Commerce Act § 101(a), 15 U.S.C. § 7001 (2006).

⁵⁵ Testimony of Brian J. Siebel, Legal Director of the Fair Elections Legal Network, before the EAC (September 21, 2010), available at <http://www.eac.gov/assets/1/Events/Testimony%20before%20EAC%20on%20NVRA%20regulations%20-%20209-21-2010.pdf>.

⁵⁶ Official Comments, *supra* note 36.

⁵⁷ *Id.*

⁵⁸ *Id.* at 4-5.

⁵⁹ Voter Registration Modernization Act of 2009, H.R. 1719, 111th Cong. (2009).

⁶⁰ The Uniform Electronic Transactions Act (UETA) contains optional provisions that states may adopt to give government agencies discretion to determine the extent to which those agencies will accept digital signatures. UNIFORM ELECTRONIC TRANSACTIONS ACT §§ 17-19 (1999). Almost every state has adopted UETA. National Conference of State Legislatures, *supra* note 35.

⁶¹ 42 U.S.C. § 1973gg-4(a)(1).

⁶² *Id.* § 1973gg-7(b)(1)-(2).

⁶³ Voting Rights Act, 42 U.S.C. § 1971(a)(2)(B).

Acknowledgements

The **Fair Elections Legal Network (FELN)** is a national, nonpartisan advocacy organization based in Washington, D.C. whose overall mission is to remove barriers to registration and voting for traditionally underrepresented constituencies and improve overall election administration through administrative, legal, and legislative reform. In addition to our in-house staff, we have access to a network of experienced election lawyers in key states that we mobilize to remove impediments to voting well in advance of Election Day. FELN lawyers include private practitioners, nonpartisan advocates, and labor or other organizational counsel.

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