

Changes in Election Laws since November 2014

Since the last midterm election state legislatures have passed a mixed bag of election legislation. It is encouraging to see so many states modernizing elections with common sense changes like automatic and online voter registration that save resources and expand access to voter registration.

At the same time legislation that erects barriers to registration and voting are still an issue many voters face. Voter ID laws and proof of citizenship requirements can disenfranchise voters and cause confusion as these laws are challenged in court.

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The following document highlights the changes made in states across the country, many of which will impact elections this year. Regardless of whether the changes are positive or negative, it is critical that voters are aware of the new opportunities or challenges they will encounter when registering or casting a ballot.

The Good

Online Voter Registration

Alabama

- Alabama launched its online voter registration system in 2016.

Alaska

- Alaska launched its online voter registration system in 2015.

District of Columbia

- The District of Columbia launched its online voter registration system in 2015.

Florida

- Florida passed an online registration system into law in 2015, and it is scheduled to take effect in 2017.

Hawaii

- Hawaii launched its online voter registration system in 2015.

Illinois

- After enactment in 2013, online voter registration was fully implemented in June 2014.

Iowa

- Iowa launched its online voter registration system in 2016.

Massachusetts

- Massachusetts launched its online voter registration system in 2015.

Nebraska

- Nebraska launched its online voter registration system in 2015.

New Mexico

- New Mexico will launch an online voter registration system in 2017.

Oklahoma

- Though online voter registration system was officially supposed to go into effect in 2015, as of March 25, 2016 the online system is not yet available to the public.

Pennsylvania

- Pennsylvania launched an online voter registration system in August 2015. The system was developed without specific enabling legislation.

Rhode Island

- Online voter registration was passed in April 2016 and may be in place for the presidential general election.

Vermont

- The secretary of state launched an online voter registration system in October 2015. The system was developed without specific enabling legislation.

West Virginia

- West Virginia launched its online voter registration system in 2015.

Election Day / Same Day Voter Registration**California**

- The statewide voter database, VoteCal, is expected to be certified this year and will trigger same-day voter registration to take effect in January 2017.

Hawaii

- Same-day voter registration will be in effect at early voting sites beginning in 2016, and at Election Day voting sites by 2018.

Illinois

- Same-day voter registration switched from a pilot program to a permanent state-wide process in 2015.

Maryland

- Same-day voter registration during early voting days only, goes into effect for the April 2016 primary.

North Carolina

- Same day voter registration during early voting was eliminated for the 2014 General Elections. However, it is currently back in effect for the 2016 Primary Election due to a preliminary injunction blocking the change granted by the U.S. Court of Appeals for the Fourth Circuit. Same day voter registration remains the subject of ongoing litigation in federal court.

Utah

- Effective 2015, a same-day voter registration pilot has been implemented in large parts of the state, including in the largest population center of Salt Lake City.

Vermont

- Election Day voter registration was passed in 2015 and will take effect in 2017.

Preregistration for 16- and 17-year-olds

California

- Expanding pre-registration to 16-year-olds should go into effect in January 2017 following the certification of the statewide voter database, VoteCal.

Louisiana

- Ability for 16- and 17-year-olds to preregister to vote began in 2015.

Massachusetts

- Ability for 16- and 17-year-olds to preregister to vote began in 2016.

Utah

- Ability for 16- and 17-year-olds to preregister to vote began in 2015.

Automatic Voter Registration

California

- In 2015, California passed a bill allowing eligible citizens to be automatically registered to vote when receiving driver's license or state-issued ID card services from the DMV, unless they choose to opt out of registration. Implementation is pending, but the system should take effect in January 2017 following verification of the state database, VoteCal.

Connecticut

- In May 2016, the Secretary of State and DMV Commissioner announced an administrative policy change allowing eligible citizens to be automatically registered to vote when receiving driver's license or state-issued ID card services from the DMV, unless they choose to opt out of registration. The system is expected to be ready sometime in 2018.

Oregon

- Oregon's automatic voter registration system has been implemented. All current and future state citizens eligible to vote with Oregon driver's licenses automatically become registered to vote, unless they reply to mail sent to them giving the option to opt out of registration.

Vermont

- In April 2016, Vermont passed a bill allowing eligible citizens to be automatically registered to vote when receiving driver's license or state-issued ID card services from the DMV, unless they choose to opt out of registration. The system takes effect in January 2017.

West Virginia

- In April 2016, a bill containing both a voter ID requirement and automatic voter registration passed into law. The registration system automates voter registration by automatically registering eligible citizens when receiving driver's license or state-issued identification card services from the DMV, unless they choose to opt out of registration. The system takes effect on July 1, 2017.

Early Voting

Massachusetts

- Early voting will be implemented for the first time in 2016.

Ohio

- Early voting was curtailed significantly for the 2014 Election, including the elimination of "Golden Week" (one week where early voting and voter registration overlapped). In 2015, state officials and voting rights advocates settled a lawsuit over early voting hours, restoring one day of Sunday voting and adding early voting hours on weekday evenings from what was allowed in the 2014 Election. However, Golden Week was not restored.

Felon Voting Rights Restoration

Maryland

- As of March 10, 2016, anyone convicted of a felony who has completed serving a court-ordered sentence of imprisonment is eligible to register to vote. The former system required felons to complete probation and parole before the ability to register to vote.

Wyoming

- The law granting automatic voting rights restoration upon release from prison for some non-violent offenders has been implemented.

Miscellaneous

Indiana

- In effect beginning in 2015, Indiana law now allows electronic voter registration at agencies administering SNAP and TANF benefits, following the same process that was already in use at DMVs.

Montana

- Law taking effect in 2015 makes it easier for voters with disabilities to receive assistance in voting from their assisting agents.
- Voters with disabilities are able to apply for an electronic ballot that can be marked on a personal computer, printed, and returned to the election office.

Virginia

- Effective 2016, the state's photo ID law added student IDs issued by private schools to the list of acceptable IDs, which already allowed public school student photo IDs.

The Bad

Voter ID

New Hampshire

- Beginning in 2016, the law requires voters without acceptable ID proving their identity to get photographed at the polls and affix an affidavit to the photograph.

North Carolina

- Voters will be required to present photo ID in the 2016 Primary Election for the first time since the state enacted its photo ID law. Last year, state lawmakers added an exemption to the law called "reasonable impediment." The exemption allows a voter who cannot get an acceptable photo ID to sign a declaration explaining why (e.g. a lack of proper documents, family obligations, transportation problems, work schedule, illness or disability). A trial is forthcoming attempting to halt the photo ID requirement before the 2016 General Election, but it will not be in time to affect the 2016 Primary Election.

North Dakota

- The state's voter ID law became more restrictive beginning in 2015. It now only allows a restrictive list of types of identifications to vote in person. To vote in person, voters must present an ID with the voters' current address and date of birth that is one of the following type of ID: a current North Dakota driver's license or non-driver photo ID, a tribal ID, or a long-term care certificate. There is no affidavit alternative or provisional ballot option for in-person voters without ID. To vote by absentee or mail voting, a voter must present one of the forms of IDs needed for in person voting or one of the following: a passport, a military ID, or have a witness. A lawsuit is currently pending by Native American plaintiffs claiming that some tribal IDs do not list a residential address, and as a result are not considered acceptable ID for voting purposes.

Texas

- Though lawsuits prevented earlier implementation, Texas' voter ID law has gone into full effect in 2016. Despite now being in effect, the law is still being challenged through litigation. In late 2015, a panel of the U.S. Fifth Circuit ruled that the law, as currently written, violates the Voting Rights Act. However, instead of striking down the law the Court remanded the case back to a lower court to determine if there is a better remedy than simply halting any voter ID requirement. The panel decision has been appealed by the Texas Attorney General to the full Fifth Circuit for *en banc* review. The lawsuit hangs in limbo pending the *en banc* review and ultimately if the district court will find a different remedy to the Voting Rights Act violation it found.

West Virginia

- In April 2016, the governor signed into law a bill containing both a voter ID requirement and an automatic voter registration system. In addition to a variety of photo ID options, the list of acceptable ID includes non-photo ID options such as any local, county, or state-issued government cards, bank or debit cards, health insurance cards, utility bills, bank statements, and cards issued for SNAP or TANF programs.

Wisconsin

- A law requiring photo ID to vote went into effect in 2015 after several court stays were lifted.

Proof of Citizenship and the Use of the Federal Voter Registration Form

Laws in Kansas, Georgia, Alabama, and Arizona requiring voters to provide documentary proof of citizenship when registering to vote for federal elections when using the federal mail-in voter registration form were blocked by the U.S. Election Assistance Commission (EAC) from taking effect several years ago. That EAC decision was later upheld by federal courts. However, on January 29, 2016, the new acting Executive Director of the EAC sent a letter informing Kansas, Georgia, and Alabama changing the EAC's position and allowing a proof of citizenship requirement as part of their federal mail-in voter registration form. Voting rights groups immediately filed suit arguing that the acting Executive Director violated the Administrative Procedure Act in taking this action. The U.S. District Court for the District of Columbia denied a temporary halt to the new requirement, allowing it to at least temporarily go into effect in these states. The District Court held a hearing on issuing the preliminary injunction blocking the decision on March 9, but has yet to make a final ruling. Until the Court rules otherwise, proof of citizenship requirements for voter registration in Kansas, Georgia, and Alabama are now fully in effect. They are required for anyone using state forms from those states.¹

Miscellaneous

Michigan

- Straight party ticket voting was eliminated beginning in 2016, which will likely increase the time it takes to vote leading to longer voting lines. Straight party ticket voting allowed a voter who wanted to choose the candidate in each contest on the ballot that is a member of a preferred political party (such as the Republican Party or the Democrat Party) to make one mark next to that party instead of having to mark a candidate preference in each contest on the ballot.

Wisconsin

- On March 15, 2016, Governor Walker signed a bill that will create an online voter registration system. However, once the online voter registration system becomes operational (which could be before the 2016 election), the same law will require the elimination of the position of Special Registration Deputies (SRDs). Election clerks currently deputize SRDs to aid civic groups in conducting registration drives at senior centers, college campuses and public events. The presence of SRDs at voter registration drives is the only practical way to hold a voter registration drive with paper registration forms in the state. SRDs have the authority to check proof of residency documentation, which is required by law to be checked with paper voter registration forms.

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¹ There is uncertainty as to Arizona's previously invalidated proof of citizenship requirement for federal election registration given the recent decision by the EAC to allow proof of citizenship requirements to be added to the national voter registration forms in Alabama, Georgia, and Kansas.