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Federal Role in Voter Registration: The National Voter Registration Act of 1993 and Subsequent Developments

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Summary

Historically, most aspects of election administration have been left to state and local governments, resulting in a variety of practices across jurisdictions with respect to voter registration. States can vary on a number of elements of the voter registration process, including whether or not to require voter registration; where or when voter registration occurs; and how voters may be removed from registration lists. The right of citizens to vote, however, is presented in the U.S. Constitution in the 15th, 19th, and 26th Amendments. Beginning with the Voting Rights Act (VRA) in 1965, Congress has sometimes passed legislation requiring certain uniform practices for federal elections, intended to prevent any state policies that may result in the disenfranchisement of eligible voters. The National Voter Registration Act (NVRA) was enacted in 1993 and set forth a number of voter registration requirements for states to follow regarding voter registration processes for federal elections.

NVRA is commonly referred to as the motor-voter bill, as it required states to provide voter registration opportunities alongside services provided by departments of motor vehicles (DMVs), although NVRA required other state and local offices providing public services to provide voter registration opportunities as well. NVRA also created a federal mail-based voter registration form that all states are required to accept and created criteria for state voter registration forms. Certain procedures states must follow for performing voter registration list maintenance or removing voters from registration lists are also set forth in NVRA. The Federal Election Commission (FEC) provided guidance to state election officials and issued biennial reports to Congress on NVRA implementation and voter registration in each state until these roles were transferred to the Election Assistance Commission (EAC) in 2002.

NVRA remains a fundamental component of federal voter registration policy and has not undergone many significant revisions since its enactment, though voter registration remains a subject of interest to Congress. The Help America Vote Act (HAVA) of 2002 enacted a number of election administration measures, several of which were based on recommendations from the FEC's biennial NVRA reports, and affected federal voter registration. These included the computerization of state voter lists; grants to states for election technology upgrades; changes to the federal mail-based voter registration form; and the transfer of the FEC's role in administering NVRA to the newly created EAC. More comprehensive information on HAVA can be found in CRS Report RS20898, *The Help America Vote Act and Election Administration: Overview and Selected Issues for the 2016 Election*.

In the first session of the 115th Congress, 38 bills were introduced related to federal voter registration or NVRA. Some of these measures are narrow in scope, whereas others are more comprehensive electoral reforms. Many of these bills seek to expand the ways in which states must allow individuals to register to vote. This can include adding other public service agencies to the list of NVRA voter registration agencies, or requiring online voter registration, same-day voter registration, preregistration of teenagers not yet eligible to vote, or automatic voter registration. A number of other bills reflect ongoing concerns about the technology used to maintain voter registration data and about balancing the efficiency technology provides for citizens and election officials with sufficient cybersecurity protections.

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Introduction

The National Voter Registration Act of 1993 (NVRA)[1] requires that states follow certain voter registration requirements for federal elections. NVRA does not set requirements for state or local elections. The stated purposes of NVRA are to establish procedures to increase the number of eligible citizens registered to vote in federal elections; enable enhanced voter participation in federal elections; protect the integrity of the electoral process; and ensure accurate voter registration records.[2]

NVRA was not the first piece of federal legislation addressing state electoral activities, but it did create a more significant federal presence in voter registration activities. NVRA may be viewed as an extension of the Voting Rights Act of 1965 (VRA) and other federal legislation that sought to create uniformity across state electoral processes in order to expand voter enfranchisement and ensure constitutionally protected voter rights.

NVRA is sometimes referred to as the motor-voter bill, since one of its provisions requires that eligible citizens must be able to simultaneously apply for voter registration when they apply within a state for a motor vehicle driver's license or other personal identification document issued by a state department of motor vehicles. In addition to these motor-voter registration opportunities, NVRA requires that states establish mail-based voter registration processes and accept a federal mail-in registration form.[3] States must also provide in-person voter registration opportunities at the designated, residence-based voter registration sites, in accordance with state law, and at designated federal, state, or nongovernmental offices, including state agencies providing public assistance or services to persons with disabilities.[4]

In addition to voter registration methods, NVRA included procedural requirements for states to follow when performing voter registration list maintenance or when adding, removing, or modifying records for registered voters. NVRA further required that the Federal Election Commission (FEC) provide guidance to the states for implementing NVRA. NVRA also directed the FEC to publish a biennial election report assessing the impact of the act on federal election administration and offering recommendations for improvements to federal and state procedures, forms, and other matters affected by NVRA. These FEC responsibilities were transferred to the U.S. Election Assistance Commission (EAC) following enactment of the Help America Vote Act (HAVA) in 2002.

NVRA, as amended by HAVA, provides much of the framework for federal voter registration policy. The first portion of this report provides a brief background on the federal role in voter registration and the passage of NVRA, followed by a discussion of the key components of NVRA. The implementation of NVRA, subsequent modifications to its provisions, and ongoing considerations related to federal voter registration are also discussed. The final sections of this report provide descriptions of types of common legislative proposals addressing voter

[1] P.L. 103-31, May 20, 1993, 107 Stat. 77; 52 U.S.C. ch. 205

[2] 52 U.S.C. §20501(b).

[3] 52 U.S.C. §20505(a)(1). NVRA directed the Federal Election Commission (FEC) to create and maintain the federal mail-based registration form, but updates since 2004 have been tasked to the Election Assistance Commission (EAC) following the passage of the Help America Vote Act (HAVA) in 2002. See U.S. Federal Election Commission, "The National Mail Voter Registration Form," at http://classic.fec.gov/votregis/vr.shtml.

[4] 52 U.S.C. §20506(a).

registration, with a full list of related bills introduced in the first session of the 115th Congress to date provided in the **Appendix**.

Background and Context for NVRA Passage

Many elements of election administration remain under the domain of state and local governments, but the federal government has become more involved in some election aspects since the 1960s. The Voting Rights Act of 1965 (VRA)[5] and several subsequent federal laws, including NVRA, reflect congressional initiatives to increase voter participation across the states. Various proposals were introduced in the 1970s and 1980s to create national standards for voter registration,[6] but the enactment of NVRA in 1993 marked the first comprehensive federal policy addressing voter registration.

The House and Senate considered measures during multiple Congresses in the 1970s, for example, that would have created a postcard-based national voter registration form administered by the Census Bureau.[7] In the 95th Congress (1977-1978), congressional attention turned toward creating national standards for same-day voter registration, but neither chamber passed related legislation. Congress considered other voter registration measures between 1983 and 1988, but no proposals appear to have reached the floor in either the House or Senate. Previous versions of NVRA were introduced in the 101st Congress (1989-1990)[8] and 102nd Congress (1991-1992)[9] before similar legislation was ultimately signed into law on May 20, 1993.[10]

Two laws enacted prior to NVRA, the Voting Accessibility for the Elderly and Handicapped Act of 1984 (VAEHA) and the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA), may be viewed as legislative predecessors to NVRA. Primarily, these laws focused on voting access, but they also contained provisions that addressed voter registration. VAEHA and UOCAVA represented extensions of the federal government's role in some electoral activities that had traditionally been the domain of state and local governments.

VAEHA required that states make polling places more accessible for persons who are elderly or disabled; provide absentee ballots for handicapped voters with no notarization or medical certification required; and offer voting aids for elderly or disabled individuals to use in federal elections.[11] With regards to voter registration, VAEHA also required that states establish "a

[5] See CRS Report R43626, *The Voting Rights Act of 1965: Background and Overview*.

[6] U.S. Federal Election Commission, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 1993-1994*, report to the 104th Congress, Washington, DC, June 30, 1995, p. 5 (hereinafter, *1993-1994 NVRA Report*).

[7] In the 92nd Congress (1971-1972), the House and Senate both held hearings to consider a postcard registration form. The proposal came to the Senate floor for a vote, but was tabled. The Senate passed a similar measure during the 93rd Congress (1973-1974), which would have created a National Voter Registration Administration within the Census Bureau, but the House did not take up the bill (see S. 352, S. Rept. 93-91; H.R. 6278, H. Rept. 93-778). The House passed a modified version of the postcard voter registration system in the 94th Congress (1975-1976), but the measure stalled in the Senate (see H.R. 11552, H. Rept. 95-318).

[8] H.R. 2190 passed the House; the Senate took no action on H.R. 2190 or S. 874.

[9] S. 250 passed the House and Senate but was vetoed by the President.

[10] P.L. 103-31, May 20, 1993, 107 Stat. 77; 52 U.S.C. ch. 205.

[11] P.L. 98-435, October 31, 1985, 99 Stat. 563; 52 U.S.C. ch. 201.

reasonable number of accessible permanent registration facilities," and offer registration aids for elderly or handicapped individuals to use in federal elections.[12]

UOCAVA required each state to permit uniformed servicemembers, their spouses and dependents, and overseas citizens who do not maintain a residence in the United States to vote absentee in federal elections using a federal write-in absentee ballot or a state absentee ballot approved by the presidential designee and made available at least 60 days before an election.[13] UOCAVA also required states to accept and process any valid voter registration applications received at least 30 days prior to a federal election from military or overseas voters and created an official postcard form states would accept for these individuals containing both a voter registration application and an absentee ballot application.[14]

Major Provisions of NVRA

NVRA's shorthand name, the motor-voter bill, refers to one of its more well-known provisions—the requirement that states establish procedures for eligible individuals to register to vote in federal elections, or to update their voter registration records, simultaneously with their applications for motor vehicle driver's licenses or for any other form of personal identification provided by the state's department of motor vehicles (DMVs).[15] Under NVRA, states must also establish other in-person voter registration locations, including at federal, state, or nongovernmental offices that primarily provide public assistance or services to persons with disabilities, and at other locations as described in Section 7 of NVRA. In addition to specifying locations for voter registration opportunities, NVRA also contains criteria for states' voter registration forms and requires states to accept a national mail-based registration form created by the FEC.[16] States must also meet certain procedural requirements when adding, removing, or modifying records in their voter registration lists. Today, the EAC provides states with guidance for implementing NVRA and publishes a biennial election report assessing the impact of NVRA on federal election administration and providing recommendations, if necessary, for improvements to federal and state procedures, forms, and other matters affected by NVRA.[17]

Voter Registration at Departments of Motor Vehicles (DMVs)

Section 5 of NVRA provides that "Each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application."[18] An applicant submitting a change of address to a state DMV can also designate that the change should be

[12] 52 U.S.C. §§20103-20104.

[13] P.L. 99-410, August 28, 1986, 100 Stat. 924; 52 U.S.C. ch. 203.

[14] See CRS Report RS20764, *The Uniformed and Overseas Citizens Absentee Voting Act: Overview and Issues* for additional information on UOCAVA and subsequent revisions to its voter registration provisions.

[15] As defined in 52 U.S.C. §20502, "the term 'motor vehicle driver's license' includes any personal identification document issued by a State motor vehicle authority."

[16] Under the Help America Vote Act of 2002 (HAVA), development and maintenance of the national mail-based voter registration form was transferred to the newly created Election Assistance Commission (EAC). See P.L. 107-252 §§201, 202, 209, 802-804.

[17] Ibid. The FEC was originally responsible for these functions, but they were transferred to the EAC when it was created under the Help America Vote Act of 2002 (HAVA).

[18] 52 U.S.C. §20504(a)(1).

relayed to election officials as an update to his or her voter registration. Voter registration information collected by DMVs must be relayed to election officials no later than 10 days after it is received. If the DMV receives voter registration information within five days of the state's voter registration deadline, it must be relayed to election officials no later than five days after its receipt.[19] This is the same timeline for application turnaround that NVRA requires for the other voter registration agencies it covers, as discussed in the following section, "Other Voter Registration Agencies."

Proponents of NVRA expected that most voter registration would eventually occur through this type of application.[20] In the years since NVRA was enacted, DMVs have become a popular source for voter registrations. Among the voter registration methods denoted in NVRA and tracked in the biennial NVRA reports, DMVs are consistently the most common source of voter registration applications. The EAC reports that between 2014 and 2016, departments of motor vehicles accounted for a higher proportion of voter registration applications received than any other source of voter registrations designated under NVRA.[21] **Table 1** provides information on DMV-based registration and other sources for selected years.

Table 1. Sources of Registration Applications in NVRA States for Selected Years

	1995-1996	2005-2006	2015-2016
Motor Vehicle Offices	33.10%	45.74%	34.43%
By Mail	29.74%	22.75%	18.01%[a]
Public Assistance Offices	6.28%	1.46%	2.77%
Disability Services	0.43%	0.13%	0.22%
Armed Forces Offices	0.18%	0.14%	0.14%
State Designated Sites	4.18%	6.44%	2.23%

Source: CRS calculations based on data for NVRA covered states reported in U.S. Federal Election Commission, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 1993-1994*, report to the 104th Congress, Washington, DC, June 30, 1995; U.S. Election Assistance Commission, *The Impact of the National Voter Registration Act on the Administration of Elections for Federal Office, 2005-2006*, a report to the 110th Congress, June 30, 2007; U.S. Election Assistance Commission, *The Election Administration and Voting Survey 2016 Comprehensive Report*, a report to the 115th Congress, June 29, 2017.

Notes: Data are provided on voter registration applications received and reported by NVRA-covered states; this excludes voter registration application data for Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, Wyoming, American Samoa, Guam, Puerto Rico, and the Virgin Islands. See "Initial NVRA Implementation" section for discussion of why some states are excluded from NVRA. The percentages for each year do not total 100% due to other sources of voter registration application that are not affected by NVRA. The categories of voter registration applications tracked by the Election Administration Voting Survey and reported in the biennial NVRA reports can vary across years and may not be directly comparable.

a. The 2017 report identifies this category as "Mail, Email, Fax." A separate category for "Internet" registration was also included in 2017, which accounted for 17.82% of voter registration applications.

[19] 52 U.S.C. §20504(e).

[20] U.S. Congress, Senate, Committee on Rules and Administration, *National Voter Registration Act of 1993*, report to accompany S. 460, 103rd Cong., 1st sess., S. Rept. 103-6 (Washington: GPO, 1993), p. 7.

[21] U.S. Election Assistance Commission, *The Election Administration and Voting Survey 2016 Comprehensive Report*, a report to the 115th Congress, Washington, DC, June 29, 2017, p. 41, https://www.eac.gov/assets/1/6/2016_EAVS_Comprehensive_Report.pdf (hereinafter, *2016 EAVS Comprehensive Report*).

Other Voter Registration Agencies

In addition to DMVs, under NVRA, states are required to provide opportunities for individuals to register to vote in-person at other locations. These include "the appropriate registration site designated with respect to the residence of the applicant in accordance with state law," as well as at certain federal, state, or nongovernmental offices.[22] Section 7 of NVRA identifies these additional locations as "voter registration agencies." Any office in a state that provides public assistance or administers state-funded programs primarily designed to provide services to persons with disabilities must be designated as voter registration agencies.[23] Recruitment offices for the U.S. armed services are also designated as voter registration agencies.[24] Beyond these required designations, states are also directed to designate other locations, such as public libraries, schools, city or county government offices, unemployment compensation offices, and fishing and hunting license bureaus.[25] The Higher Education Amendments of 1998 further required that colleges and universities in states exempt from NVRA "make a good faith effort" to request and distribute mail-based voter registration forms to enrolled students.[26]

Each designated voter registration agency must distribute mail-based voter registration forms; provide assistance to applicants completing the form, unless such assistance is refused by the applicant; and transmit completed applications to the appropriate state election official[27] no later than 10 days after they are received or within 5 days of their receipt if received within 5 days of the state's voter registration deadline.[28] This timeline is the same as NVRA requires for state DMVs that receive voter registration forms. Individuals assisting with registration applications cannot seek to influence the applicant's political preference or party registration; display a political preference or party allegiance; or make any statement or take any action that has the intent or effect of discouraging an applicant from registering to vote or leading the applicant to believe that the availability of other services provided by the agencies is dependent upon the decision to register or not register.[29]

Mail-In Voter Registration

Section 6 of NVRA further directs states to make available mail-based voter registration applications for federal elections. These mail-based applications can also be used for voters to update a change of address.[30] Section 6 requires states to accept and make available a mail-based application created by the federal government, but also permits states to use a mail-based form of their own creation. NVRA directed the FEC to develop and maintain the mail-based federal voter

[22] 52 U.S.C. §20503(a).

[23] 52 U.S.C. §20506(a)(1-2). An agency providing home-based services to an individual with disabilities must provide the voter registration services specified under 52 U.S.C. §20506(a)(4)(A) at the person's home (see 52 U.S.C. §20506(4)(B)).

[24] 52 U.S.C. §20506(c).

[25] These and other examples of agencies that may be included are found in 52 U.S.C. §20506(a)(3).

[26] See §489(b) in P.L. 105-244, October 7, 1998, 112 Stat. 1581. See "Initial NVRA Implementation" section for discussion of why some states are excluded from NVRA.

[27] 52 U.S.C. §20506(d). Additional details pertaining to how voter registration agencies should distribute applications, options for registration forms, and language to be used in conjunction with registration opportunities are provided in 52 U.S.C. §20506(a)(6)(B).

[28] 52 U.S.C. §20506(d).

[29] 52 U.S.C. §20506(a)(5).

[30] 52 U.S.C. §20505(a)(3).

registration application,[31] but this function was transferred to the EAC following the passage of HAVA, effective in 2004.[32] Mail-based voter registration applications created by the states were required to meet all the criteria specified by Section 9 of NVRA, which are described in the subsequent section, "Voter Registration Form Requirements."[33]

States were required to make mail registration forms available to governmental and private entities for distribution, with an emphasis on making forms available for organized voter registration programs.[34] Under NVRA, state laws could require that voters new to a jurisdiction who registered by mail vote in-person for their first election.[35] If a registrar sends a notice to an individual regarding the disposition of a mail-based voter registration application via nonforwardable postal mail and the notice is returned as undeliverable, the registrar may begin the process of removing the individual from the state's voter list, as detailed in Section 8(d).[36]

Voter Registration Form Requirements

In addition to how and where states are required to provide voter registration opportunities, NVRA contains requirements for the information presented on and collected by voter registration forms for federal elections.[37] These requirements are presented in Section 9(b) of NVRA, and also serve as the criteria used for the federal, mail-based voter registration application created under NVRA.[38] States are also required to make the FEC mail-based registration form available at governmental and private entities for distribution, with a particular focus on distributing forms to nongovernmental voter registration programs.[39]

Instead of listing a number of information fields that must be included on voter registration forms, NVRA minimizes the amount of information an applicant needs to provide by utilizing personal information the applicant provides elsewhere. At state DMVs, for example, the application for registering to vote must be incorporated into the application form for a driver's license and cannot require the applicant to duplicate any information already provided on the driver's license portion of the form. For voter registration on driver's license applications and for state mail-in applications, a form may only request the minimum amount of information necessary to prevent duplicate registrations and enable state election officials to determine the eligibility of the applicant and administer voter registration laws.[40]

Voter registration applications under NVRA must include statements listing federal voting eligibility requirements (including citizenship) and require a signature from the applicant,

[31] 52 U.S.C. §20505(a)(1) directs states to use the FEC-created form; requirements for the FEC form are found in 52 U.S.C. §20508(a)(2). First-time voters may be required under state law to vote in person, if the individual has not previously voted in the same jurisdiction (52 U.S.C. §20505(c)).

[32] P.L. 107-252, §§201, 202, 209, 802-804, October 29, 2002.

[33] 52 U.S.C. §20505(a)(2).

[34] 52 U.S.C. §20505(b).

[35] 52 U.S.C. §20505(c). Persons eligible to vote through mail under the Uniformed and Overseas Citizens Absentee Voting Act or the Voting Accessibility for the Elderly and Handicapped Act are excepted from any state requirement to vote in-person, as stated in 52 U.S.C. §20505(c)(2).

[36] 52 U.S.C. §20505(d).

[37] 52 U.S.C. §20505(a)(2).

[38] 52 U.S.C. §20505(a)(1).

[39] 52 U.S.C. §20505(b).

[40] 52 U.S.C. §20504(c)(2); 52 U.S.C. §20508(b).

attesting that he or she meets the eligibility criteria.[41] Voter registration forms may not include "any requirement for notarization or other formal authentication."[42] In recent years, the EAC and U.S. Supreme Court have interpreted this to preclude states from requiring proof of U.S. citizenship in order to submit an application for federal voter registration.[43] The forms also include a statement about penalties for submitting a false voter registration application, and a statement asserting that information about declining to register or the office where a citizen registered would be kept confidential.

Maintenance and Updates to State Voter Lists

As noted above, agencies providing voter registration forms, including DMVs, are required by NVRA to accept completed forms from applicants and transmit the forms to the appropriate state election official within 10 days of receipt. If the completed form is collected by an agency within five days of the state's voter registration deadline, the form must be transmitted to state election officials within five days of receipt.[44] Under NVRA, once state election officials have received and approved or denied an application, they are required to send each applicant a notice regarding the disposition of his or her application.[45] State election officials are also directed to ensure that any eligible applicant is registered to vote in time for a federal election, as long as the applicant's information was submitted to a voter registration agency or postmarked no later than 30 days before a federal election (or the state's registration deadline, if that is less than 30 days before Election Day).[46]

Once a voter is registered, his or her name is not to be removed from the list or roster of eligible voters unless the voter requests removal; has died; has moved out of the jurisdiction; or, as provided by state law, has received a disqualifying criminal conviction or is found to be mentally incapacitated.[47] Voters may not be removed from the registration rolls solely due to nonvoting,[48] or for moving within the same electoral jurisdiction.[49] States may "conduct a general program that makes a reasonable effort" to remove voters from the list due to death or a change of residence.[50] States may also remove a voter from the registration rolls if the registrant has notified the election

[41] 52 U.S.C. §20508(b)(2)(B).

[42] 52 U.S.C. §20508(b)(3).

[43] See U.S. Election Assistance Commission, *Memorandum of Decision Concerning State Requests to Include Additional Proof-of-Citizenship Instructions on the National Mail Voter Registration Form*, January 14, 2014, available at https://www.eac.gov/voters/nvra-related-documents/ (along with other related materials); Simone Pathé, "Voting-Rights Advocates Get Win at Supreme Court," *Roll Call*, June 29, 2015, at https://www.rollcall.com/news/supreme-court-victory-for-voting-rights-advocates.

[44] 52 U.S.C. §20506(d).

[45] 52 U.S.C. §20507(a)(2).

[46] 52 U.S.C. §20507(a)(1).

[47] 52 U.S.C. §20507(3-4). For an overview of state laws regarding voting rights and criminal convictions, see links provided under "Additional Resources" at *Felon Voting Rights*, National Conference of State Legislatures, September 29, 2016, at http://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx; for one overview of state laws regarding voter rights and mental health conditions, see National Alliance on Mental Illness, *Voter Rights: Mental Health Conditions*, September 2016, at https://www.nami.org/getattachment/Get-Involved/Take-Action-on-Advocacy-Issues/2016-Elections/VoterLawsforMHConditions.pdf.

[48] 52 U.S.C. §20507(b)(2).

[49] 52 U.S.C. §20507(e-f). If a voter changed addresses within a jurisdiction and was removed from the voter roll, NVRA contains provisions to allow these individuals to vote or update their registration information on Election Day.

[50] 52 U.S.C. §20507(a)(4).

office that he or she has moved. [51] States may also remove voters from the registration rolls if the registrant does not respond to a notice sent by the registrar (containing a forwardable mail response card with prepaid postage) and fails to vote or appear to vote in two consecutive general elections for federal office.[52]

The processes states use to maintain accurate, up-to-date voter registration lists for use in federal elections must be undertaken in a "uniform, nondiscriminatory" fashion and in compliance with the Voting Rights Act of 1965.[53] States could use the U.S. Postal Service (USPS) "National Change of Address" program as one way to help maintain their voter registration rolls.[54] Removal of ineligible voters from the registration rolls must be completed at least 90 days prior to the date of any federal election (general or primary).[55] Beyond these guidelines, NVRA does not specify any particular process states must follow when removing individuals from their registered voter lists.

"Fail-Safe" Provisions for Within-Jurisdiction Residence Changes

NVRA includes "fail-safe" voting provisions, enabling voters who have moved within a jurisdiction but lack updated registrations to vote on Election Day and to update the state's records.[56] These "fail-safe" provisions are limited to registrants who move within the same election jurisdiction, under the principle that "once registered, a voter should remain on the list of voters so long as the individual remains eligible to vote in that jurisdiction."[57] This situation could arise because voters did not realize their information required an update, or because of technical or bureaucratic mistakes in processing a registrant's updated application. A voter whose residence was formerly covered by one polling place but whose residence is currently covered by another polling place in the same jurisdiction must be allowed to update his or her voting records and vote, either at the voter's former polling place, current polling place, or at a central location within the jurisdiction.[58]

Criminal Penalties

Section 12 of NVRA establishes criminal penalties for federal election fraud and voter intimidation. No individual may "knowingly and willfully" attempt to intimidate, threaten, or coerce anyone who is attempting to register to vote, assisting with voter registration, voting, or exercising any right under NVRA. Individuals may also be charged for attempting to deprive state residents of a "fair and impartially conducted election process" by procuring or submitting voter registration applications or ballots that are known to be fraudulent according to state law.

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[51] 52 U.S.C. §20507(d).

[52] 52 U.S.C. §20507(d). For an analysis of the current U.S. Supreme Court case, *Husted v. A. Philip Randolph Institute*, see CRS Legal Sidebar LSB10053, *Supreme Court to Hear Voter Roll Case: What Are the Implications?*, by L. Paige Whitaker.

[53] 52 U.S.C. §20507(b)(1).

[54] 52 U.S.C. §20507(c)(1).

[55] 52 U.S.C. §20507(c)(2)(A).

[56] 52 U.S.C. §20507(e)(2).

[57] U.S. Congress, House Committee on House Administration, *National Voter Registration Act of 1993*, report to accompany H.R. 2, 103rd Cong., 1st sess., February 2, 1993, H.Rept.103-9 (Washington: GPO, 1993), p. 18.

[58] 52 U.S.C. §20507(e)(2)(A). State law may set forth which of these options are available, but at least one must be provided.

Individuals committing these acts could be fined in accordance with Title 18 of the U.S. Code and/or imprisoned for up to five years.[59]

Records and Reporting Requirements

Under NVRA, states are required to keep records pertaining to voter registration list maintenance and to make these records publicly available.[60] NVRA also required the FEC to produce a biennial report "assessing the impact of this Act on the administration of elections for federal office ... including recommendations for improvements in Federal and State procedures, forms, and other matters affected by this Act."[61] Since 2003, these NVRA reports have been produced by the EAC.[62] The biennial NVRA reports are submitted to Congress by June 30 of each odd-numbered year.[63] No further instructions on the content of the reports were provided by NVRA; in practice, the FEC/EAC has chosen to conduct surveys of the states to collect information that it deems necessary to carry out its statutory requirement.[64]

The biennial NVRA reports provide statistics and detailed discussion on the voter registration activities of the states for the preceding two-year period under study.[65] This includes information on the total number of registered voters, new registrants, and sources of registrations covered by NVRA (i.e., motor vehicle agencies, in-person, by mail, or other designated state office). The NVRA reports also provide information on the removal of voters from registration lists and reasons for removals. Issues with list maintenance have at times been discussed in these reports, as have recommendations for improvements.

Initial NVRA Implementation

Many of NVRA's requirements were designed to be implemented through state-level policy changes, if existing state laws were not already in compliance with its provisions. Six states were exempt from NVRA at the time of its enactment because they either had no voter registration requirement or provided voter registration at polling places on Election Day.[66] The other 44 states were tasked with implementing NVRA by January 1, 1995; however, if something in a state's

[59] 52 U.S.C. §20511.

[60] 52 U.S.C. §20507(i).

[61] 52 U.S.C. §20508(a)(3).

[62] HAVA transferred this responsibility from the FEC to the EAC in 2002. See P.L. 107-252, title VII, §802(a), October 29, 2002, 116 Stat. 1726, 42 U.S.C. §15532.

[63] 52 U.S.C. §20508(a)(3).

[64] U.S. Federal Election Commission, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 1995-1996*, report to the 105th Congress, Washington, DC, June 30, 1997, at https://www.eac.gov/assets/1/6/The%20Impact%20of%20the%20National%20Voter%20Registration%20Act%20on%20Federal%20Elections%201995-1996.pdf, p. 5 (hereinafter, *1995-1996 NVRA Report*); *2016 EAVS Comprehensive Report*, p. 3.

[65] The first biennial report, covering 1993-1994, did not contain this information.

[66] For the exemption requirements, see 52 U.S.C. §20503(b). North Dakota had no voter registration requirement when NVRA was enacted; Minnesota, Wisconsin, and Wyoming enabled voters to register at polling places on Election Day prior to March 11, 1993, the date specified in the original enacted text of NVRA. This cut-off date was changed to August 1, 1994 (P.L. 104-91, title I, §101(a), January 6, 1996, 110 Stat. 11, as amended P.L. 104-99, title II, §211, January 26, 1996, 110 Stat. 37). Under this new date, Idaho and New Hampshire were also exempt from NVRA requirements. See also *1993-1994 NVRA Report*, p. 7. These states remain exempt; see *2015-2016 NVRA Report*, p. 17.

constitution precluded compliance, NVRA allowed for a later enactment date to allow for the state's constitutional amendment process.[67]

NVRA provided no federal funding to the states to carry out any of its prescribed requirements. States are, however, eligible to use reduced mailing rates from USPS for voter registration mailings.[68] Each state was required to designate a state officer or employee to serve as the chief state election official and coordinate state responsibilities related to NVRA.[69]

NVRA also created specific roles for the FEC and made the Department of Justice (DOJ) responsible for civil enforcement of its provisions.[70] The FEC was responsible for providing information to states about their responsibilities under NVRA; developing a mail-based federal voter registration form; and producing a biennial report to Congress, in consultation with states' chief election officers.[71] Within the FEC, the Office of Election Administration (OEA) carried out its NVRA responsibilities, until the passage of HAVA in 2002 transferred these responsibilities to the EAC.[72]

The initial NVRA report from the FEC noted that "[NVRA] is something of an experiment in governance in that the federal responsibilities for its proper implementation are divided between two separate federal agencies," meaning the FEC and DOJ.[73] In early guidance to states regarding NVRA implementation, the FEC stated it "does *not* have legal authority either to interpret the Act or to determine whether this or that procedure meets the requirements of the Act," noting that such activities would fall under the DOJ's civil enforcement responsibilities.[74]

While NVRA was under consideration by Congress, some were concerned about the costs it could impose upon states, since the bill contained a number of requirements for state election officials and other state agencies but no funding to carry them out.[75] As states began to implement NVRA, however, costs were not cited in the FEC reports as a significant impediment, and implementation generally proceeded without many reported complications.[76] In the 1995-1996

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[67] §13. The enactment date for states with constitutional conflicts was January 1, 1996, or "the date that is 120 days after the date by which…it would be legally possible to adopt and place into effect any amendments to the constitution of the States that are necessary to permit such compliance with this Act without requiring a special election." Arkansas, Vermont, and Virginia required constitutional amendments in order to implement NVRA. See *1993-1994 NVRA Report*, p. 7.

[68] P.L. 103-31 §8(h); 39 U.S.C. §§2401, 3627, 3629.

[69] 52 U.S.C. §20509.

[70] 52 U.S.C. §20510.

[71] P.L. 103-31 §9(a); 52 U.S.C. §20508(a).

[72] U.S. Election Assistance Commission, "History of the National Clearinghouse on Election Administration," at https://www.eac.gov/assets/1/28/ History%20of%20the%20National%20Clearinghouse%20on%20Election%20Administration.pdf; *1993-1994 NVRA Report*, pp. 5-6.

[73] Ibid., p. 4.

[74] National Clearinghouse on Election Administration, U.S. Federal Election Commission, *Implementing the National Voter Registration Act of 1993: Requirements, Issues, Approaches, and Examples*, Washington, DC, January 1, 1994, p. 1.

[75] U.S. Congress, Senate Committee on Rules and Administration, *National Voter Registration Act of 1993*, report to accompany S. 460, 103rd Cong., 1st sess., February 25, 1993, S.Rept. 103-6 (Washington: GPO, 1993), pp. 50-51; Sen. Paul Coverdell, "Unfunded Federal Mandates" *Congressional Record*, vol. 140 (March 10, 1994), pp. 4480-4482.

Alan Greenblat, "Court Rejects 'Motor Voter' Case, But the Battle Isn't Over," *Congressional Quarterly*, weekly report, vol. 54, January 27, 1996, p. 232.

[76] California, Illinois, Pennsylvania, and South Carolina, however, were each engaged in litigation regarding NVRA implementation at the time the first FEC report was issued. See *1993-1994 NVRA Report*, p. 7.

NVRA report, for example, the FEC said that the motor vehicle provisions "appeared to be the easiest for States to implement," and that states reported "relatively few problems" with implementing the mail registration provisions. The FEC attributed this, in part, to the fact that 26 of the 43 states responding to the survey had already enacted some form of motor voter registration prior to NVRA, and that 25 of the responding states already had voter registration by mail prior to NVRA.[77] Voter registration rates did increase in the years following the passage of NVRA, as compared to the years immediately preceding its passage.[78] Some have suggested, however, that it is difficult to isolate the particular effect NVRA had on this increase, due to a number of other factors that could lead voters to register or to not register.[79]

In its 1993-1994 NVRA report, the FEC noted that statewide computerization of voter registration "greatly facilitates the implementation of NVRA," and that "even larger networks linking motor vehicle, public assistance, vital statistics, and courts to the voter registration system" could further assist with intake and verification of voter records. At the time, FEC found varying degrees of computerized record systems across states, and noted that in some states, the record systems used by different local jurisdictions were incompatible with one another.[80]

States were granted some latitude to comply with other provisions in NVRA that were not as strictly specified by the legislation, such as the designation of voter registration agencies and state procedures for voter list maintenance; as a result, the ways in which they approached these provisions varied. As one example, for NVRA's requirement that states designate other offices as voter registration agencies, the FEC's 1995-1996 report found four states had not designated any agencies, and the 21 other states that responded had selected "a wide variety of agencies." Regarding voter list maintenance, the FEC stated that "[a]s one might expect, [the] States covered by this report approached the rather technical and detailed problems of list maintenance quite differently and unevenly."[81]

Help America Vote Act (HAVA) of 2002

The Help America Vote Act (HAVA)[82] was enacted in 2002 and serves as another key piece of federal election policy, addressing a number of election administration elements in light of issues revealed during the 2000 presidential election. This section focuses only on the parts of HAVA that affected NVRA or voter registration in federal elections, namely, the computerization of state voter lists; changes to the federal mail-based voter registration form; and transferring the FEC's role to a newly created Election Assistance Commission (EAC). HAVA has many additional components, however, and more comprehensive information on it can be found in CRS Report RS20898, *The Help America Vote Act and Election Administration: Overview and Selected Issues for the 2016 Election*.

[77] *1995-1996 NVRA Report*, pp. 1-5. The 1995-1996 report is cited here, instead of the preliminary1993-1994 report, because it provides a more comprehensive account of NVRA's early implementation. The 1993-1994 report was released only six months after the earliest effective date for state NVRA implementation, and only 37 states and the District of Columbia participated in the survey.

[78] See, for example, voter registration data reported in *1995-1996 NVRA Report*, p. 11.

[79] Benjamin Highton and Raymond E. Wolfinger, "Estimating the Effects of the National Voter Registration Act of 1993," *Political Behavior*, vol. 20, no. 2 (June 1998), pp. 79-104.

[80] *1993-1994 NVRA Report*, p. 7.

[81] *1995-1996 NVRA Report*, p. 2.

[82] P.L. 107-252, 116 Stat. 1666, October 29, 2002; 52 U.S.C. §§20901 et seq.

In the years preceding HAVA, the FEC's biennial NVRA reports contained a number of recommendations related to the voter registration and list maintenance requirements set forth by NVRA. HAVA incorporated several of these recommendations, some as its own provisions and others as amendments to NVRA. Notably, HAVA established requirements for states to utilize computerized statewide voter registration lists,[83] which the FEC had frequently suggested in its NVRA reports. HAVA also provided funding to help states carry out this requirement and its other objectives, many of which were related to modernizing voting equipment and generally improving federal election administration across all the states.[84]

HAVA required four specific additions to the NVRA mail-based voter registration form: (1) a question asking whether the registrant was a citizen, with corresponding answer check boxes; (2) a question asking whether the registrant would be 18 years of age or older by the next election, with corresponding answer check boxes; (3) a statement that if the registrant had answered "no" to either of the preceding questions, that he or she was to stop filling out the form and not register; and (4) a statement alerting the registrant to submit copies of appropriate documentation with his or her application, if he or she is a first-time registrant, and the completed forms are submitted through the mail, or else he or she may be required to provide such documentation when voting for the first time.[85]

Prior to HAVA, the FEC's Office of Election Administration (OEA) carried out federal activities related to election administration. HAVA created the Election Assistance Commission, an independent, bipartisan agency, which absorbed the OEA's responsibilities in addition to carrying out other new requirements.[86] The EAC's responsibilities included carrying out payment and grant programs related to federal elections; testing and certifying voting systems; studying election issues; and issuing guidelines and other guidance related to voting systems and implementation of HAVA's requirements, in consultation with election officials and other stakeholders.

Biennial Report Recommendations Since HAVA

Since the passage of HAVA in 2002, the biennial EAC reports have often contained further recommendations related to voter registration and election administration. Many of these recent recommendations pertain to modernizing data collection and improving data sharing practices within and among states. The recommendations are typically broad based and use generalized language; they serve only as suggestions to the states, or possibly to Congress, since the EAC lacks the authority to require states to take any action related to voter registration. **Table 2** presents a summary of NVRA recommendations contained in the EAC reports since 2004.

Table 2. Summary of NVRA Recommendations from EAC Biennial Reports

EAC's Recommendation	In Report Year(s)
Implement electronic transmission of state agency records to state election officials	2003-2004
Check federal databases electronically for state voter list maintenance	2003-2004

[83] 52 U.S.C. §21083.

[84] 52 U.S.C. §20901.

[85] Individuals who fall into this category and are unable to provide documentation when voting for the first time may cast a provisional ballot. See 52 U.S.C. §21083(b)(2)(B).

[86] 52 U.S.C. §§20921 et seq.

EAC's Recommendation	In Report Year(s)
"Continue to modernize" election systems	2006-2007; 2007-2008
Create statewide databases to track individual voter activity and voter registration history	2003-2004; 2005-2006
Standardize data collection practices across states for data used in the biennial NVRA reports	2005-2006
Coordinate local election jurisdictions to provide voter registration data to the states	2007-2008
Have states provide EAC with best practices on data collection	2007-2008
Use technology to alleviate workloads in election offices	2007-2008
Encourage state agencies to remind voters to update their registration	2007-2008
Make modernization a priority	2013-2014
Review advances in voter registration and list maintenance	2013-2014

Source: U.S. Election Assistance Commission, *The Impact of the National Voter Registration Act on the Administration of Elections for Federal Office, 2003-2004*, a report to the 109th Congress, June 30, 2005, pp. 13-15; U.S. Election Assistance Commission, *The Impact of the National Voter Registration Act on the Administration of Elections for Federal Office, 2005-2006*, a report to the 110th Congress, June 30, 2007, pp. 13-14; U.S. Election Assistance Commission, *The Impact of the National Voter Registration Act on the Administration of Elections for Federal Office, 2007-2008*, a report to the 111th Congress, June 30, 2009, pp. 8-9; U.S. Election Assistance Commission, *The 2014 EAC Election Administration and Voting Survey Comprehensive Report*, a report to the 114th Congress, June 30, 2015, p. 24.

Notes: Recommendations in this table are paraphrased from EAC report language. No recommendations were included in the EAC reports for 2009-2010, 2011-2012, or 2015-2016. Reports for each year are available at https://www.eac.gov/voters/national-voter-registration-act-studies/.

Voter Registration Sources Since NVRA

Table 1 (earlier in report) provides information on the sources of voter registration applications for states covered by NVRA during 1995-1996, 2005-2006, and 2015-2016. These data include new voter registration applications and applications requesting an update or modification for an existing registered voter. Nationwide, DMV offices have remained the most common source among those covered by NVRA for voter registration applications received by state election officials. Mail-based forms are consistently the second most common source for voter registration applications.[87] The EAC notes that online voter registration has grown in recent years, accounting for 17.4% of new voter registration applications for the 2016 election. For the 2014 election, 6.5% of voter registration applications were submitted online, and for the 2012 election, 5.3% of voter registration applications were submitted online.[88]

[87] These findings are consistent across each biennial NVRA report, although only a selection of years is presented in **Table 1**.

[88] *2016 EAVS Comprehensive Report*, p. 7.

Legislative Proposals Regarding Voter Registration

Bills that address voter registration are routinely introduced in Congress. **Table A-1** in the **Appendix** lists 38 pieces of legislation that have been introduced in the first session of the 115th Congress related to voter registration or to other elements of election administration covered by NVRA.[89] Often, these bills seek to expand the ways in which individuals can register to vote or to update the technologies states use to share and store voter registration data. Some of these bills are narrowly tailored to address a particular part of voter registration, whereas other bills propose broader policies affecting a number of components of election administration. The sections below categorize some of the common types of policy proposals related to NVRA and federal voter registration.[90] Given the variety and quantity of measures currently before Congress, this is not meant to be a comprehensive discussion of all available voter registration policy options.

Automatic Voter Registration Legislation ("Opt-Out")

Under NVRA, federal voter registration opportunities are made available at a number of state and local government offices and are presented alongside state driver's license applications. Currently, an individual must indicate that he or she wishes to register to vote when applying for a driver's license, or complete a separate voter registration form at other agencies. Some have proposed changing this to an "opt-out" system, where an individual is automatically registered to vote when submitting a driver's license application or other eligible agency form, rather than being given the opportunity to opt-in to register to vote through an additional selection. An option for declining to register to vote could be presented on the form itself, or provided to the individual at a later time through a notice mailed by election officials.

Automatic voter registration currently occurs in 10 states and the District of Columbia.[91] In 2017, 32 states introduced legislation to allow for or expand their own existing automatic voter registration processes.[92] Proponents argue that automatic voter registration could increase the number of registered voters, particularly among demographic groups that are less likely to be registered, and decrease registration costs.[93] Others have raised concerns that the government should not require citizens to register to vote, and that "opt-out" forms, if sent by mail, may not sufficiently ensure that an individual who wishes not to register can decline registration. Similarly, automatic registration may require more work for state election officials who must sort

[89] **Table A-1** only highlights provisions from these bills that would affect voter registration or would affect a related component of election administration covered by NVRA. It does not provide a comprehensive summary of each piece of legislation and may omit key provisions of these bills that address additional elements of election administration that are beyond the scope of this report. Other election administration bills, like those introducing voting by mail, might also have an indirect effect on an element of voter registration policy; the effects of these bills may not be fully captured in this table.

[90] Some voter registration bills introduced in the first session of the 115th Congress fall outside of these categories, but they are included in **Table A-1**.

[91] Oregon became the first state to adopt automatic voter registration in 2015. The other states with automatic voter registration processes are Alaska, California, Colorado, Connecticut, Georgia, Illinois, Rhode Island, Vermont, and West Virginia. See Brennan Center for Justice, *Automatic Voter Registration*, New York University School of Law, August 28, 2017, at https://www.brennancenter.org/analysis/automatic-voter-registration.

[92] See Wendy Underhill, *Automatic Voter Registration*, National Conference of State Legislatures, Washington, DC, August 31, 2017, at http://www.ncsl.org/research/elections-and-campaigns/automatic-voter-registration.aspx.

[93] Robert Griffin and Paul Gronke, "More States are Registering Voters Automatically. Here's How that Affects Voting," *Washington Post* (*Monkey Cage* blog), June 16, 2017, at https://www.washingtonpost.com/news/monkey-cage/wp/2017/06/16/more-states-are-registering-voters-automatically-heres-how-that-affects-voting/.

out eligible and ineligible voter registration applicants.[94] In the first session of the 115th Congress, 11 bills proposed some form of automatic voter registration requirement. Another bill would provide grants to states for implementing automatic voter registration.

Same-Day Voter Registration

Seven bills introduced in the first session of the 115th Congress would require states to provide for same-day voter registration, which would enable a qualified individual to register to vote and cast a ballot simultaneously at a designated polling place. Fourteen states and the District of Columbia currently have same-day voter registration.[95] By combining these two steps, proponents believe same-day voter registration simplifies the process for citizens and can increase registration rates and turnout.[96] The month before an election is often a peak time for political campaigning, but unregistered individuals who are mobilized to participate during this period may be unable to vote if the voter registration deadline has passed; in many jurisdictions, the registration cut-off can be 30 days before Election Day.[97] Others believe that pre-election registration deadlines remain necessary for state election officials to sufficiently process individuals' applications.[98] In some places with same-day registration, voters who register on Election Day cast provisional ballots until their information can be verified, but this may create a delay in determining election results.

Online (or Electronic) Voter Registration

A number of government forms and applications can be submitted on the Internet, and some have proposed a federal requirement for online (or electronic) voter registration applications. Currently, 38 states and the District of Columbia allow for online voter registration.[99] Five bills introduced in the first session of the 115th Congress propose requiring nationwide availability of online voter registration for federal elections. Proponents believe that online voter registration could increase registration rates, particularly among younger voters, and could serve as an extension of existing accessibility accommodations for individuals with disabilities. Proponents note that online forms can include required fields, which could reduce the number of errors on

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[94] See Wendy Underhill, *Automatic Voter Registration*, National Conference of State Legislatures, Washington, DC, August 31, 2017, at http://www.ncsl.org/research/elections-and-campaigns/automatic-voter-registration.aspx.

[95] California, Colorado, Connecticut, Hawaii, Idaho, Illinois, Iowa, Maine, Minnesota, Montana, New Hampshire, Vermont, Wisconsin, and Wyoming are the states that allow same-day voter registration on Election Day. Maryland and North Carolina allow same-day voter registration during early voting periods, as do California, Colorado, Hawaii, Illinois, Iowa, and Vermont. See *Same Day Voter Registration*, National Conference of State Legislatures, Washington, DC, October 12, 2017, at http://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx.

[96] Stephen Knack and James White, "Election-Day Registration and Turnout Inequality," *Political Behavior*, vol. 22, no. 1 (March 2000), pp. 29-44; Raymond E. Wolfinger and Steven J. Rosenstone, *Who Votes?* (New Haven, CT: Yale University Press, 1980), pp. 37-80.

[97] Rep. John Conyers, "Voter Suppression in America," extension of remarks, *Congressional Record*, vol. 157, part 168 (November 4, 2011), p. E2016; Rep. Martin Olav Sabo, "Introducing Same Day Voter Registration Legislation," extension of remarks, *Congressional Record*, vol. 151, part 8 (February 1, 2005), p. E114.

[98] Rep. Alcee L. Hastings, "Introducing the Voter Outreach and Turnout Expansion Act of 2003," extension of remarks, *Congressional Record*, vol. 149, part 51 (February 1, 2005), p. E621.

[99] Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin are the states that allow online voter registration. Oklahoma has enacted legislation, but has not yet implemented its online registration policies. See Wendy Underhill, *Online Voter Registration*, National Conference of State Legislatures, December 6, 2017, at http://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx.

submitted voter registration applications. Although there are some upfront costs to implement online registration, proponents believe it may be a relatively inexpensive way for state election officials to maintain up-to-date and accurate voter lists.[100] Others, however, have concerns about the ability to confirm applicants' identities and the overall security of online voter registration systems. Without accurate checks on the voter registration process, some believe that it could be easier for individuals to vote illegally.[101]

Outreach or Preregistration for Teenagers

Under the 26th Amendment, individuals must be 18 years old to vote in federal elections, but some proposals related to voter registration seek to reach younger teenagers, usually 16 or 17 years old. Three bills introduced in the first session of the 115th Congress, for example, propose a preregistration program in which younger individuals could submit, in advance, an application to register to vote; four bills propose voter education or participation outreach program for minors. Currently, 28 states and the District of Columbia let individuals under 18 preregister to vote, using a variety of age criteria.[102] Proponents consider these measures a means to help improve the turnout rate for younger voters, which is typically lower than for older voters.[103] By encouraging 18-year-olds to vote in the first election in which they are eligible, some believe that there will be longer-term effects of these policies on voter turnout, as voting becomes a lifelong habit for these individuals.[104] Others, however, are concerned that preregistered individuals are likely to move between the time of their application and the first election they are qualified to vote in, which could render a number of the preregistrations invalid. This could cause some young voters who have moved to mistakenly believe they are eligible to vote in their new jurisdiction without updating their registration information, or create extra costs for state election officials as they seek to update these individuals' records and maintain accurate voter lists.[105]

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[100] Michelle Kanter Cohen, "Online Voter Registration," *Issues in Election Administration* policy paper, Project Vote, May 2013, at http://www.projectvote.org/wp-content/uploads/Policy-Paper-Online-Voter-Registration.pdf; Iseul Choi, Josef Dvorak, Steven Kulig, et al., *Cost-Benefit Analysis of Implementing an Online Voter Registration System in Wisconsin*, Wisconsin Government Accountability Board, December 20, 2013, at http://elections.wi.gov/publications/other/CBA_projects.

[101] Latanya Sweeney, Ji Su Yoo, and Jinyan Zang, "Voter Identity Theft: Submitting Changes to Voter Registrations Online to Disrupt Elections," *Journal of Technology Science*, September 6, 2017, at https://techscience.org/a/2017090601.

[102] California, Colorado, District of Columbia, Delaware, Florida, Hawaii, Louisiana, Maryland, Massachusetts, Oregon, Rhode Island, Utah, and Vermont allow 16-year-olds to preregister. Iowa, Maine, Nebraska, New Jersey, Nevada, and West Virginia allow 17-year-olds to preregister; Georgia and Mississippi allow individuals who are 17 years and 6 months old to preregister; Alaska allows individuals who are within 90 days of their 18th birthdays to preregister; and Texas allows individuals who are 17 years and 10 months old to preregister. Indiana, Kansas, Minnesota, New Hampshire, New Mexico, and Wyoming allow individuals to preregister if they will turn 18 by the next election. See Wendy Underhill, *Preregistration for Young Voters*, National Conference of State Legislatures, Washington, DC, http://www.ncsl.org/research/elections-and-campaigns/preregistration-for-young-voters.aspx.

[103] Michael P. McDonald and Matthew Thornburg, "Registering the Youth Through Voter Preregistration," *Legislation and Public Policy*, vol. 13, no. 3 (2010), pp. 551-572.

[104] Alan S. Gerber, Donald P. Green, and Ron Shachar, "Voting May Be Habit-Forming: Evidence from a Randomized Field Experiment," *American Journal of Political Science*, vol. 47, no. 3 (July 2003), pp. 540-550; Richard A. Brody and Paul M. Sniderman, "From Life Space to Polling Place," *British Journal of Political Science*, vol. 7, no. 1 (July 1977), pp. 347-349.

[105] See Wendy Underhill, *Preregistration for Young Voters*, National Conference of State Legislatures, http://www.ncsl.org/research/elections-and-campaigns/preregistration-for-young-voters.aspx.

Protecting Voter Information and Voter List Integrity

Verification of voter registration data is a continual challenge for state election officials seeking to prevent fraudulent voting. An initial check on a prospective voter's identity occurs when election officials confirm the identity and eligibility of an individual at the time he or she first submits a voter registration application, based on criteria set by state law. Laws requiring individuals to show a form of identification when voting exist in a number of states to prevent ineligible individuals from voting, individuals voting twice, or other forms of voting fraud.[106] Some have proposed requiring photo identification earlier in the process, at the time of a voter's application for registration, to help verify the individual's identity. One bill introduced in the 115th Congress, for example, proposes that photo identification must accompany any voter registration application. Others believe that voter identification laws may prevent some individuals who are otherwise qualified to vote from participating in elections, if these individuals cannot or do not wish to obtain the necessary identification.[107] A different bill introduced in the 115th Congress would prohibit states from requiring photo identification when an individual submits a voter registration application.

After an individual's initial application, there are a number of reasons why his or her voter registration information may subsequently change. These reasons may include a name change, moving to a new address, a criminal conviction, mental incapacity, or death. NVRA sets out some processes states must follow for performing voter list maintenance, and one bill introduced in the 115th Congress would add criteria to NVRA's voter removal requirements. In the years since NVRA's passage, technological advancements have made it possible for agencies and officials to share and cross-reference records, which can help improve list accuracy but has also raised some concerns about protecting voters' personal information. Three bills in the 115th Congress, for example, address how voter registration information can be used; one of these bills would also require a record of all requests submitted to voter registration databases.

Personally identifiable information, such as full names, addresses, and birthdays, is commonly stored in state voter registration databases, and in related state or federal databases that election officials use to help update their voter registration records within the state. Interstate information sharing systems, such as the Electronic Registration Information Center (ERIC) or the Interstate Voter Registration Crosscheck Program (Crosscheck), are used by some states to compare voter registration records with one another. These systems, proponents argue, can help states identify ineligible voters or individuals who are registered in more than one state.[108]

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[106] See CRS Report R42806, *State Voter Identification Requirements: Analysis, Legal Issues, and Policy Considerations*; Wendy Underhill, Voter Identification Requirements, National Conference of State Legislatures, June 5, 2017, at http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx.

[107] Marjorie Randon Hershey, "What We Know About Voter-ID Laws, Registration, and Turnout, *PS: Political Science & Politics*, January 2009, pp. 87-91; Matt A. Barreto, Stephen Nuño, and Gabriel R. Sanchez, "The Disproportionate Impact of Voter-ID Requirements on the Electorate—New Evidence from Indiana," *PS: Political Science & Politics*, January 2009, pp. 111-116; Jason D. Mycoff, Michael W. Wagner, and David C. Wilson, "The Empirical Effects of Voter-ID Laws: Present or Absent?" *PS: Political Science & Politics*, January 2009, pp. 121-126; Nicholas Loffredo, "Voter ID Laws are Discriminatory Efforts to Disenfranchise, Courts Rule," *Newsweek*, July 30, 2016, at http://www.newsweek.com/voter-id-laws-discriminatory-disenfranchise-485708.

[108] Research by the Pew Center on the States in 2012 revealed that approximately 24 million voter registrations in the United States may be invalid or significantly inaccurate and that approximately 2.75 million individuals are registered in more than one state. Registration in multiple states is not illegal under federal law but can create costs for state election officials, for example, with regards to voter list maintenance, estimating voter turnout and allocating the appropriate level of resources for elections, and/or communications with eligible voters. Use of multiple registrations to vote in multiple jurisdictions during the same federal election would be illegal. See Pew Center on the States,

These data-sharing practices, however, raise concerns among some about information security and appropriate use of voters' data,[109] particularly if states choose to use matching systems as the basis for their voter removal processes. Some of the cross-referencing systems states use to identify and remove voters from their registration lists have been criticized for the methodologies they use to create matches. Matches created using voters' names and birthdays, for example, may falsely identify multiple, unique individuals as a single voter registered in different states.[110] ERIC and Crosscheck, however, both request additional data from voter registration files that, if available, states could utilize to better ensure that duplicate registrants are accurately identified.

Technology Improvements

The enactment of HAVA in 2002 led to a number of election technology upgrades for states, but in many of its subsequent reports, the EAC has continued to recommend that states further modernize and improve the ways in which they collect voter data and maintain their registered voter lists, as summarized in **Table 2**. States increasingly use electronic methods to register voters, maintain voter lists, administer voting, and track election results, making cybersecurity an important consideration for election officials. Some considerations involve protecting the personal information of applicants and registered voters from those who seek to use it for other purposes. Other considerations involve ensuring system reliability during periods of high usage, or near critical statutory deadlines for voter registration or Election Day vote counting. These are familiar cybersecurity concerns, similar to those faced by any government agencies, businesses, or other organizations that store individuals' personal data. Other considerations, however, are more specific to election integrity, such as the concern that voter databases or other election systems may be targeted in attempts to manipulate election results.[111]

The Department of Homeland Security (DHS) designated federal election infrastructure as a component of U.S. critical infrastructure in January 2017, following a series of cyberattacks on state and local election systems prior to the 2016 election. After evidence of these cyberattacks was discovered in August 2016, DHS and the EAC provided some assistance to state election officials to address security concerns.[112] In September 2017, the Department of Homeland Security notified 21 states that hackers had targeted their election systems ahead of the 2016

Inaccurate, Costly, and Inefficient, issue brief, February 2012, at http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2012/pewupgradingvoterregistrationpdf.pdf.

[109] For examples, see Meta S. Brown, "Voter Data: What's Public, What's Private," *Forbes*, December 28, 2015, at https://www.forbes.com/sites/metabrown/2015/12/28/voter-data-whats-public-whats-private/; Alex Howard, "Publishing Voter Registration Data Must Balance Privacy with Transparency," Sunlight Foundation, June 16, 2017. Information on state laws regarding voter list availability and uses is available from United States Election Project, *Voter List Information*, at http://voterlist.electproject.org/.

[110] Michael P. McDonald and Justin Levitt, "Seeing Double Voting: An Extension of the Birthday Problem," *Election Law Journal*, vol. 7, no. 2 (Spring 2008), pp. 111-122; Sharad Goel, Marc Meredith, Michael Morse, et al., "One Person, One Vote: Estimating the Prevalence of Double Voting in U.S. Presidential Elections," working paper, October 30, 2017, available at https://scholar.harvard.edu/morse/publications/one-person-one-vote-estimating-prevalence-double-voting-us-presidential-elections.

[111] For an overview of some of these concerns, see R. Michael Alvarez, "How Secure Are State Voter Registration Databases?" *Election Updates*, blog, California Institute of Technology, October 12, 2016, at https://electionupdates.caltech.edu/2016/10/12/how-secure-are-state-voter-registration-databases/.

[112] For more information, see CRS In Focus IF10677, *The Designation of Election Systems as Critical Infrastructure*, by Eric A. Fischer.

election. In many cases, the systems may have been targeted but not successfully breached. Some observers, however, have raised concerns that a successful hack may be difficult to detect.[113]

Often, legislative proposals in this area involve technology or cybersecurity upgrades to the software or equipment used by state election officials. For voter registration, these upgrades could involve the websites used for online applications, the databases and/or servers used to store voter list data, and the means by which voter applicant data are shared between agencies or jurisdictions. Establishing best practices or required standards for equipment and data systems used in federal elections are possible ways to initiate technology improvements. The decentralized nature of election administration and the variety of software and database systems in use may present challenges if uniform federal requirements are introduced.[114] Seven bills introduced in the first session of the 115th Congress propose improvements to the technology systems states use for voter registration and records. Some proposals include grant programs or other funding to help offset costs to states for implementing these upgrades.

Concluding Observations

Voter registration has remained a subject of interest to Congress in the years since the enactment of NVRA. Many proposals addressing federal voter registration have been introduced in Congress, but federal policies have remained largely unchanged, with the notable exception of revisions made by HAVA in 2002. Many individuals believe that providing widespread access to voter registration opportunities is a worthy objective and in keeping with protecting the constitutional right to vote. In addition to providing voters with access to registration, state election officials face the continuing challenges of updating and maintaining accurate voter registration lists. Technological advancements in the years since NVRA have made it somewhat easier for election officials to keep up-to-date voter records, but the increased reliance on computer systems has also introduced new challenges regarding data security.

Some individuals may also question whether it is necessary to expand existing federal voter registration requirements for states, believing that existing provisions are sufficient, or that the perceived benefits of voter registration policy changes must be weighed against other considerations. It can be challenging, for example, to impose uniform regulations across states, which have each developed their own system of election laws. Many federal policy proposals regarding voter registration tend to mirror initiatives that have already been enacted across several states, which may provide lessons for broader implementation, if enacted. Other proposals may prioritize measures to protect election integrity or other areas of election administration, outside of voter registration.

[113] Associated Press, "U.S. Tells 21 States That Hackers Targeted Their Voting Systems," *New York Times*, September 22, 2017, at https://www.nytimes.com/2017/09/22/us/politics/us-tells-21-states-that-hackers-targeted-their-voting-systems.html; Callum Borchers, "What We Know About the 21 States Targeted by Russian Hackers," *Washington Post* (*The Fix* blog), September 23, 2017, at https://www.washingtonpost.com/news/the-fix/wp/2017/09/23/what-we-know-about-the-21-states-targeted-by-russian-hackers/; Pam Fessler, "If Voting Machines Were Hacked, Would Anyone Know?" *Morning Edition*, NPR, June 14, 2017, at http://www.npr.org/2017/06/14/532824432/if-voting-machines-were-hacked-would-anyone-know.

[114] Pam Fessler, "State and Local Officials Wary of Federal Government's Election Security Efforts," *Morning Edition*, NPR, April 5, 2017, NPR, at http://www.npr.org/2017/04/05/522732036/state-and-local-officials-wary-of-federal-governments-election-security-efforts.

Appendix. Legislation

Table A-1. Overview of Legislation Related to Voter Registration in the First Session of the 115th Congress

Bill Number	Bill Name	Provisions Related to Voter Registration	Committee(s) of Referral	Latest Action
H.R. 126	Students Voicing Opinions in Today's Elections (VOTE) Act	Voter registration information for 12th grade students	House Administration (01/03/17)	Referred to Committee on House Administration (01/03/17)
H.J.Res. 28	Proposing an amendment to the Constitution of the United States to protect the voting rights of the citizens of the United States	Automatic voter registration for 18-year-olds	House Judiciary (01/13/17)	Referred to Committee on the Judiciary, Subcommittee on the Constitution and Civil Justice (01/31/17)
H.R. 607	Voter Access Protection Act of 2017	Prohibit state/local election officials from requiring photo identification for voter registration	House Administration (01/23/17)	Referred to Committee on House Administration (01/23/17)
H.R. 634	Election Assistance Commission Termination Act	Amend HAVA to terminate the EAC and return EAC's NVRA responsibilities to the FEC	House Administration (01/24/17)	Ordered to be reported by Committee on House Administration (02/07/17)
H.R. 794	EAC Reauthorization Act of 2017	Funding to states to improve voter registration technology and cybersecurity	House Administration; Science, Space, and Technology (02/01/17)	Referred to Committee on Science, Space, and Technology, Subcommittee on Research and Technology (04/25/17)
H.R. 893	21st Century Voting Act	Automatic voter registration; restoration of voting rights following felony sentence; portable voter registration across states/localities	House Administration; Rules (02/06/17)	Referred to Committees on House Administration; Rules (02/06/17)
S. 360	Same Day Registration Act	Require states to offer same-day voter registration on any day voting is permitted	Senate Rules and Administration (02/13/17)	Read twice and referred to Committee on Rules and Administration (02/13/17)

Bill Number	Bill Name	Provisions Related to Voter Registration	Committee(s) of Referral	Latest Action
H.R. 1044	Same Day Registration Act of 2017	Same as above	House Administration (02/14/17)	Referred to Committee on House Administration (02/14/17)
H.R. 1398	Fair, Accurate, Secure, and Timely (FAST) Voting Act of 2017	Grants for states to improve voter registration technology and cybersecurity; grants to states for implementing automatic voter registration	House Administration (03/07/17)	Referred to Committee on House Administration (03/07/17)
H.R. 1562	Secure America's Future Elections (SAFE) Act	Funding for states to improve voter registration technology and cybersecurity	House Administration; Science, Space, and Technology (03/16/17)	Referred to Committee on Science, Space and Technology, Subcommittee on Research and Technology (04/25/17)
H.R. 2090	Election Integrity Act of 2017	Photo identification required with voter registration application	House Administration (04/12/17)	Referred to Committee on House Administration (04/12/17)
H.R. 2669	Vote By Mail Act of 2017	Automatic voter registration; voting by mail	House Oversight and Government Affairs; House Administration (05/25/17)	Referred to Committees on Oversight and Government Reform; House Administration (05/25/17)
H.R. 2694	To amend the Servicemembers Civil Relief Act to enhance protections regarding voter registration, and for other purposes	Federal voter registration in a state where servicemembers are on military ordered assignment does not alone establish residency or domicile in that state for other purposes	House Veterans' Affairs (05/25/17)	Referred to the Committee on Veterans' Affairs, Subcommittee on Economic Opportunity (05/25/17)
S. 1231	Vote By Mail Act of 2017	Automatic voter registration; voting by mail	Senate Rules and Administration (05/25/17)	Read twice and referred to the Committee on Rules and Administration (05/25/17)
H.R. 2840	Automatic Voter Registration Act	Automatic voter registration	House Administration (06/08/17)	Referred to Committee on House Administration (06/08/17)

Bill Number	Bill Name	Provisions Related to Voter Registration	Committee(s) of Referral	Latest Action
H.R. 2876	Automatic Voter Registration Act of 2017	Automatic voter registration; prohibit use of voter registration information for other uses; online voter registration	House Administration; House Science, Space, and Technology (06/12/17)	Referred to Committees on House Administration; Science, Space, and Technology (06/12/17)
S. 1353	Automatic Voter Registration Act of 2017	Same as above	Senate Rules and Administration (06/14/17)	Read twice and referred to Committee on Rules and Administration (06/14/17)
H.R. 2978	Voting Rights Advancement Act of 2017	Allow representative officials of Indian tribes to request that tribal government service offices serve as voter registration agencies under NVRA §7	House Judiciary (06/21/17)	Sponsor introductory remarks on measure (07/17/17)
S. 1419	Voting Rights Advancement Act of 2017	Same as above	Senate Judiciary (06/22/17)	Read twice and referred to Committee on Judiciary (06/22/17)
H.R. 12	Voter Empowerment Act of 2017	Online voter registration; automatic voter registration; voter list maintenance and technology security; same-day voter registration; teen preregistration; reporting requirements; criminal penalty for interference; registration access for individuals with disabilities; restoration of voting rights following felony sentence; voting by mail; universities as voter registration agencies	House Administration; Judiciary; Science, Space and Technology; Veterans' Affairs; Oversight and Government Reform; Education and the Workforce (06/23/17)	Referred to Committee on the Judiciary, Subcommittee on the Constitution and Civil Justice (07/14/17)
S. 1437	Voter Empowerment Act of 2017	Same as above	Senate Rules and Administration (06/26/17)	Read twice and referred to Committee on Rules and Administration (06/26/17)
H.R. 3091	Voter Roll Integrity Act	Specifying criteria for state election officials to use if using interstate cross-check systems to update voter registration lists	House Administration (06/28/17)	Referred to Committee on House Administration (06/28/17)

Bill Number	Bill Name	Provisions Related to Voter Registration	Committee(s) of Referral	Latest Action
H.R. 3113	Citizenship Empowerment Act	Require state election officials, in coordination with Department of Homeland Security, to provide voter registration forms at certain naturalization proceedings	House Administration (06/29/17)	Referred to Committee on House Administration (06/29/17)
H.R. 3132	Restoring Confidence in America's Elections Act	Add due process requirements to NVRA §8 for removing individuals from state voter lists, including posting names and addresses to be removed online and giving individuals an opportunity to correct records before removal	House Administration; Science, Space, and Technology; Judiciary (06/29/17)	Referred to Committee on the Judiciary, Subcommittee on the Constitution and Civil Justice (07/24/17)
S. 1510	Helping State and Local Governments Prevent Cyber Attacks (HACK) Act	Create an online version of the mail-based federal voter registration form; federal voter registration form may not require full Social Security number; EAC study of election cybersecurity; election technology improvement grants to states	Senate Rules and Administration (06/29/17)	Read twice and referred to Committee on Rules and Administration (06/29/17)
H.R. 3343	Servicemember Voting Protection Act	Use UOCAVA voter registration and absentee ballot requests for multiple elections	House Administration (07/20/17)	Referred to Committee on House Administration (07/20/17)
H.R. 3537	We the People Act of 2017	Same-day voter registration	House Administration; Judiciary; Oversight and Government Reform; Financial Services; Ways and Means (07/28/17)	Referred to Committee on the Judiciary, Subcommittee on the Constitution and Civil Justices (09/06/17)
S. 1761	Intelligence Authorization Act for Fiscal Year 2018	Cybersecurity for voter registration databases and networks used to transmit data	Senate Intelligence (08/18/17)	S.Rept. 115-151 Filed (09/07/17)
H.R. 3684	Pre-Registration of Voters Everywhere (PROVE) Act	Preregistration of 16-year-olds; EAC grants to encourage involvement of minors in election activities	House Administration (09/06/17)	Referred to Committee on House Administration (09/06/17)
S. 1783	Pre-Registration of Voters Everywhere (PROVE) Act	Same as above	Senate Rules and Administration (09/07/17)	Read twice and referred to Committee on Rules and Administration (09/07/17)

Bill Number	Bill Name	Provisions Related to Voter Registration	Committee(s) of Referral	Latest Action
H.R. 3751	Protecting the American Process for Election Results (PAPER) Act	Multiagency study of election cybersecurity; election technology improvement grants to states	House Administration; Intelligence (09/12/17)	Referred to Committees on House Administration; Intelligence (09/12/17)
H.R. 3848	We the People Democracy Reform Act of 2017	Automatic voter registration; update records at polling place; online voter registration; same-day voter registration	House Administration; Judiciary; Ways and Means; Financial Services; Oversight and Government Reform; Science, Space, and Technology (09/27/17)	Referred to Committees on House Administration; Judiciary; Ways and Means; Financial Services; Oversight and Government Reform; and Science, Space, and Technology (09/27/17)
S. 2035	Securing America's Voting Equipment (SAVE) Act of 2017	Designate voting systems as critical infrastructure; grants to states to improve voter registration database security; create an annual competition (Cooperative Hack the Election Program) to discover potential vulnerabilities in state voter registration systems for computer hackers	Senate Rules and Administration (10/31/17)	Read twice and referred to Committee on Rules and Administration (10/31/17)
H.R. 4276	Safeguarding Election Infrastructure Act of 2017	Grants to states to keep offline backups of voter registration lists, to provide a secure voter registration database that logs requests to the database, or to enact and enforce use limits and safeguards for personal information contained in voter registration data; require Secretary of Homeland Security to notify Congress and state election officials within 30 days if a voter registration database has been breached or is being investigated for a possible breach	House Administration; Science, Space, and Technology (11/07/17)	Referred to Committees on House Administration; Science, Space, and Technology (11/07/17)

Bill Number	Bill Name	Provisions Related to Voter Registration	Committee(s) of Referral	Latest Action
S. 2106	Register America to Vote Act	Automatic voter registration for 18-year-olds; same-day voter registration; grants to states for implementing same-day registration and voter registration system security enhancements; enable voters who move within a state without updating registration address to vote on Election Day	Senate Rules and Administration (11/08/17)	Read twice and referred to Committee on Rules and Administration (11/08/17)
H.R. 4508	Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER) Act	Updates language regarding distribution of voter registration forms by higher education institutions that operate from NVRA-exempt states to include electronic transmission as a means by which school officials make a good faith effort to distribute voter registration materials to students	House Education and the Workforce (12/01/2017)	Ordered to be Reported (Amended) by the Yeas and Nays (12/13/2017)
S. 2240	Students Voicing Opinions in Today's Elections (Students VOTE) Act	Directs EAC to create a pilot program for providing funds to local educational agencies in order to provide voter registration information to 12th grade students	Senate Rules and Administration (12/14/2017)	Read twice and referred to Committee on Rules and Administration (12/14/2017)
S. 2261	Secure Elections Act	Improving cybersecurity of election systems, including voter registration systems; grants to states for technology improvement and modernization	Senate Rules and Administration (12/21/2017)	Read twice and referred to Committee on Rules and Administration (12/21/2017)

Source: CRS compilation of current legislative information available at http://www.congress.gov, as of January 12, 2018.

Notes: This table only highlights the provisions in these bills that would affect voter registration or would affect a related component of election administration covered by the National Voter Registration Act of 1993. It is not meant to provide a comprehensive summary of each piece of legislation and may omit key provisions of these bills, as many of them do address additional elements of election administration that are beyond the scope of this report. Bills are listed chronologically by the date they were introduced.

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