

1 **Senate Bill No. 637**

2 (By Senators Stollings, Unger and Klempa)

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4 [Introduced February 17, 2012; referred to the Committee on the
5 Judiciary.]
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10 A BILL to repeal §3-2-24 of the Code of West Virginia, 1931, as
11 amended; to amend and reenact §3-1-3 of said code; and to
12 amend and reenact §3-2-2, §3-2-4a, §3-2-18, §3-2-19, §3-2-21,
13 §3-2-23, §3-2-25 and §3-2-29 of said code, all relating to the
14 maintenance of voter registration lists and related records.

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

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17 be repealed; that §3-1-3 of said code be amended and reenacted; and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

21 **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

22 **§3-1-3. Persons entitled to vote.**

23 Citizens of the state shall be entitled to vote at all
24 elections held within the precincts of the counties and

1 municipalities in which they respectively reside. But no person who
2 has not been registered as a voter as required by law, or who is a
3 minor, or ~~of unsound mind~~ who has been judged mentally incompetent,
4 or who is under conviction of treason, felony or election bribery
5 ~~in an election,~~ or who is not a bona fide resident of the state,
6 county or municipality in which he offers to vote, shall be
7 permitted to vote at such election while such disability continues,
8 unless otherwise specifically provided for by federal or state
9 code. Subject to the qualifications otherwise prescribed in this
10 section, however, a minor shall be permitted to vote only in a
11 primary election if he will have reached the age of eighteen years
12 on the date of the general election next to be held after such
13 primary election.

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

15 **3-2-2. Eligibility to register to vote.**

16 (a) Any person who possesses the constitutional qualifications
17 for voting may register to vote. To be qualified, a person must be
18 a citizen of the United States and a legal resident of West
19 Virginia and of the county where he or she is applying to register,
20 shall be at least eighteen years of age, except that a person who
21 is at least seventeen years of age and who will be eighteen years
22 of age by the time of the next ensuing general election may also be
23 permitted to register, and shall not be otherwise legally
24 disqualified: *Provided,* That a registered voter who has not
25 reached eighteen years of age may vote both partisan and

1 nonpartisan ballots in a federal, state or county primary election,
2 but may only vote in a municipal primary election if he or she will
3 be eighteen years of age by the time of the next municipal general
4 election, but is not eligible to vote in a ~~special election~~ an
5 intervening special election other than a special primary election.

6 (b) Any person who has been convicted of a felony, treason or
7 election bribery, ~~in an election~~, under either state or federal
8 law, is disqualified and is not eligible to register or to continue
9 to be registered to vote while serving his or her sentence,
10 including any period of incarceration, probation or parole related
11 thereto. Any person who has been determined to be mentally
12 incompetent by a court of competent jurisdiction is disqualified
13 and shall not be eligible to register or to continue to be
14 registered to vote for as long as that determination remains in
15 effect.

16 **§3-2-4a. Statewide voter registration database.**

17 (a) The Secretary of State shall implement, administer and
18 maintain a single, official, statewide, centralized, interactive
19 computerized voter registration ~~list~~ database of every legally
20 registered voter in the state, which shall include the following:

21 (1) The ~~computerized list~~ statewide voter registration
22 database shall serve as the single system for storing and managing
23 the official list of registered voters throughout the state.

24 (2) The ~~computerized list~~ database shall contain the name,
25 registration information and voter history of every legally

1 registered voter in the state.

2 (3) ~~Under the computerized list~~ In the database, the Secretary
3 of State shall assign a unique identifier to each legally
4 registered voter in the state.

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

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

23 (6) The clerk of the county commission shall electronically
24 enter voter registration information into the computerized list on
25 an expedited basis at the time the information is provided to the

1 clerk.

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

5 (8) The computerized list shall serve as the official voter
6 registration list for conducting all elections in the state.

7 (b) The Secretary of State or any clerk of a county commission
8 shall perform maintenance with respect to the computerized list on
9 a regular basis as follows:

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

14 (2) The Secretary of State shall coordinate the computerized
15 list with state agency records and ~~remove the~~ shall establish
16 procedures for the removal of names of individuals who are not
17 qualified to vote because of felony status or death. ~~Provided,~~
18 ~~That~~ No state agency may withhold information regarding a voter's
19 status as deceased or as a felon unless ordered by a court of law.
20 ~~Provided, however, the Secretary of State shall, in each calendar~~
21 ~~year, certify that the removal of individuals who are not qualified~~
22 ~~to vote because of a felony conviction as provided in section two~~
23 ~~of this article or death is completed at least thirty days~~
24 ~~preceding the date of any primary election.~~

25 (c) The list maintenance performed under subsection (b) of

1 this section shall be conducted in a manner that ensures that:

2 (1) The name of each registered voter appears in the
3 computerized list;

4 (2) Only voters who are not registered, who have requested in
5 writing that their voter registration be canceled or who are not
6 eligible to vote are removed from the computerized list;

7 (3) Duplicate names are eliminated from the computerized list;

8 (4) Deceased individuals names are eliminated from the
9 computerized list.

10 (d) The Secretary of State and the clerks of all county
11 commissions shall provide adequate technological security measures
12 to prevent the unauthorized access to the computerized list
13 established under this section.

14 (e) The Secretary of State shall ensure that voter
15 registration records in the state are accurate and updated
16 regularly, including the following:

17 (1) A system of file maintenance that makes a reasonable
18 effort to remove registrants who are ineligible to vote from the
19 official list of eligible voters. Under the system, consistent with
20 42 U. S. C. §1973gg, et seq., registrants who have not responded to
21 a notice sent pursuant to section twenty six, article two of this
22 chapter, who have not otherwise updated their voter registration
23 address, and who have not voted in two consecutive general
24 elections for federal office shall be removed from the official
25 list of eligible voters, except that no registrant may be removed

1 solely by reason of a failure to vote; and

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

4 (3) Quarterly review of the computerized list by the Secretary
5 of State to ensure routine file maintenance is being conducted at
6 the county level and written notification to any clerk of the
7 county commission who appears to have not performed the duties
8 prescribed in this section.

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

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

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

18 (B) In the case of an applicant who has been issued an
19 identification card by the Division of Motor Vehicles, the
20 applicant's identification number; or

21 (C) In the case of any other applicant, the last four digits
22 of the applicant's Social Security number; and

23 (2) If an applicant for voter registration has not been issued
24 a current and valid driver's license, Division of Motor Vehicles'
25 identification card or a Social Security number, the Secretary of

1 State shall assign the applicant a number which will serve to
2 identify the applicant for voter registration purposes. To the
3 extent that the state has a computerized list in effect under this
4 section and the list assigns unique identifying numbers to
5 registrants, the number assigned under this section shall be the
6 unique identifying number assigned under the list.

7 (g) The Secretary of State and the Commissioner of the
8 Division of Motor Vehicles shall enter into an agreement to match
9 and transfer applicable information in the ~~database of~~ statewide
10 voter registration ~~system~~ database with information in the database
11 of the Division of Motor Vehicles to the extent required to enable
12 each official to verify the accuracy of the information provided on
13 applications for voter registration.

14 (h) The Commissioner of the Division of Motor Vehicles shall
15 enter into an agreement with the Commissioner of Social Security
16 under 42 U. S. C. §301, et seq., the Social Security Act. All fees
17 associated with this agreement shall be paid for from moneys in the
18 fund created under section twelve, article two of this chapter.

19 **§3-2-18. Registration records; active, inactive, canceled, pending**
20 **and rejected registration files; procedure; voting**
21 **records.**

22 (a) For the purposes of this article:

23 (1) "Original voter registration record" means all records
24 submitted or entered in writing or electronically, where permitted

1 by law, for voter registration purposes, including:

2 (A) Any original application or notice submitted by any person
3 for registration or reinstatement, change of address, change of
4 name, change of party affiliation, correction of records,
5 cancellation, confirmation of voter information or other request or
6 notice for voter registration purposes; and

7 (B) Any original entry made on any voter's registration record
8 at the polling place, or made or received by the clerk of the
9 county commission relating to any voter's registration, such as
10 records of voting, presentation of identification and proof of age,
11 challenge of registration, notice of death or obituary notice,
12 notice of disqualifying conviction or ruling of mental incompetence
13 or other original document which may affect the status of any
14 person's voter registration.

15 (2) "Active voter registration files" means the files of
16 registration records, whether maintained on paper forms or in
17 digitized data format, containing the names, addresses, birth dates
18 and other required information for all persons within a county who
19 are registered to vote and whose registration has not been
20 designated as "inactive" or "canceled" pursuant to the provisions
21 of this article.

22 (3) "Inactive voter registration files" means the files of
23 registration records, whether maintained on paper forms or in
24 digitized data format, containing the names, addresses, birth dates
25 and other required information for all persons designated

1 "inactive" pursuant to the provisions of section twenty-seven of
2 this article following the return of the prescribed notices as
3 undeliverable at the address provided by the United States Postal
4 Service or entered on the voter registration or for failure of the
5 contacted voter to return a completed confirmation notice within
6 thirty days of the mailing. ~~For the purposes of this chapter or of~~
7 ~~any other provisions of this code relating to elections conducted~~
8 ~~under the provisions of this chapter, whenever a requirement is~~
9 ~~based on the number of registered voters, including, but not~~
10 ~~limited to, the number of ballots to be printed, the limitations on~~
11 ~~the size of a precinct, or the number of petition signatures~~
12 ~~required for election purposes, only those registrations included~~
13 ~~on the active voter registration files shall be counted and voter~~
14 ~~registrations included on the inactive voter registration files, as~~
15 ~~defined in this subdivision, shall not be counted.~~

16 (4) "Canceled voter registration files" means the files
17 containing all required information for all persons who have been
18 removed from the active and inactive voter registration files and
19 who are no longer registered to vote within the county.

20 (5) "Pending application files" means the temporary files
21 containing all information submitted on a voter registration
22 application, pending the expiration of the verification period.

23 (6) "Rejected application files" means the files containing
24 all information submitted on a voter registration application which
25 was rejected for reasons as described in this article.

1 (7) "Confirmation pending files" means the files containing
2 all required information for persons who have been identified to be
3 included in the next succeeding mailing of address confirmation
4 notices as set forth by the National Voter Registration Act of
5 1993(42 U. S. C. 1973gg).

6 (b) For the purposes of this chapter or of any other
7 provisions of this code relating to elections conducted under the
8 provisions of this chapter, whenever a requirement is based on the
9 number of registered voters, including, but not limited to, the
10 number of ballots to be printed, the limitations on the size of a
11 precinct, or the number of petition signatures required for
12 election purposes, only those registrations included on the active
13 voter registration files shall be counted and voter registrations
14 included on the inactive voter registration files, as defined in
15 this subdivision, shall not be counted.

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

1 ~~(c)~~ (d) The effective date of any action affecting any voter's
2 registration status shall be entered on the voter record in the
3 appropriate file, including the effective date of registration,
4 change of name, address or party affiliation or correction of the
5 record, effective date of transfer to inactive status, return to
6 active status or cancellation. When any registration is designated
7 inactive or is canceled, the reason for the designation or
8 cancellation and any reference notation necessary to locate the
9 original documentation related to the change shall be entered on
10 the voter record.

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

23 **§3-2-19. Maintenance of active and inactive registration files for**
24 **municipal elections.**

25 ~~(a)~~ Each county shall continue to maintain a record of each

~~1 active and inactive voter registration in precinct registration
2 books until the statewide voter registration system is adopted
3 pursuant to the provisions of section four-a of this article, fully
4 implemented and given final approval by the secretary of state. The
5 precinct registration books shall be maintained as follows:~~

~~6 (1) Each active voter registration shall be entered in the
7 precinct book or books for the county precinct in which the voter's
8 residence is located and shall be filed alphabetically by name,
9 alphabetically within categories, or by numerical street address,
10 as determined by the clerk of the county commission for the
11 effective administration of registration and elections. No active
12 voter registration record shall be removed from the precinct
13 registration books unless the registration is lawfully transferred
14 or canceled pursuant to the provisions of this article.~~

~~15 (2) Each voter registration which is designated "inactive"
16 pursuant to the procedures prescribed in section twenty-seven of
17 this article shall be retained in the precinct book for the county
18 precinct in which the voter's last recorded residence address is
19 located until the time period expires for which a record must
20 remain on the inactive files. Every inactive registration shall be
21 clearly identified by a prominent tag or notation or arranged in a
22 separate section in the precinct book clearly denoting the
23 registration status. No inactive voter registration record shall be
24 removed from the precinct registration books unless the
25 registration is lawfully transferred or canceled pursuant to the~~

1 ~~provisions of this article.~~

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

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

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

25 (3) No registration record may be removed from a municipal

1 registration record unless the registration is lawfully transferred
2 or canceled pursuant to the provisions of this article in both the
3 county and the municipal registration records.

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

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

23 **§3-2-21. Maintenance of records in state uniform voter database in**
24 **lieu of precinct record books.**

25 (a) The clerk of the county commission of each county, upon

1 ~~installation of the state uniform voter data system,~~ shall prepare
2 maintain a voter registration data system record book into which
3 all required records of appointments of authorized personnel,
4 tests, repairs, program alterations or upgrades and any other
5 action by the clerk of the county commission or by any other person
6 under supervision of the clerk affecting the programming or records
7 contained in the system, other than routine data entry, alteration,
8 use, transfer or transmission of records shall be entered.

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

17 (c) Voter registration records entered into and maintained in
18 the state uniform voter ~~data system~~ database shall include the
19 information required for application for voter registration, for
20 maintenance of registration and voting records, for conduct of
21 elections and for statistical purposes, as prescribed by the
22 Secretary of State.

23 (d) No person shall make any entry or alteration of any voter
24 record which is not specifically authorized by law. Each entry or
25 action affecting the status of a voter registration shall be based

1 on information in an original voter registration record, as defined
2 in section eighteen of this article.

3 (e) The clerk of the county commission shall maintain, within
4 the ~~data system~~ database, active and inactive voter registration
5 files, confirmation pending files, canceled voter registration
6 files, pending application files, and rejected application files,
7 all as defined in section eighteen of this article.

8 (f) Upon receipt of a completed voter registration
9 application, the clerk shall enter into the statewide voter
10 registration database the information provided on the application
11 into the pending application file and initiate the verification or
12 notice of disposition procedure as provided in section sixteen of
13 this article. Upon completion of the verification or notice of
14 disposition, the voter record shall be transferred to the proper
15 file.

16 (g) Upon receipt of an application or written confirmation
17 from the voter of a change of address within the county, change of
18 name, change of party affiliation or other correction to a
19 registration record in the active voter registration file, the
20 change shall be entered in the record and the required notice of
21 disposition mailed.

22 (h) Upon receipt of an application or written confirmation
23 from ~~the~~ a voter in the inactive voter registration file of a
24 change of address within the county, ~~change of name, change of~~
25 ~~party affiliation or other correction to a registration record in~~

1 ~~the inactive voter registration file,~~ the change shall be entered
2 in the record, the required notice of disposition mailed and the
3 record transferred to the active registration file or returned to
4 active status, and the date of the transaction shall be recorded.
5 Receipt of an application or written confirmation from a voter in
6 the inactive voter registration file that confirms the voter's
7 current address shall be treated in the same manner.

8 (i) Upon receipt of a notice of death, a notice of conviction
9 or a notice of a determination of mental incompetence, as provided
10 for in section twenty-three of this article, the date and reason
11 for cancellation shall be entered on the voter's record and the
12 record shall be transferred to the canceled voter registration
13 file.

14 (j) Upon receipt from the voter of a request for cancellation
15 or notice of change of address to an address outside the county
16 pursuant to the provisions of section twenty-two of this article,
17 or as a result of a determination of ineligibility through a
18 general program of removing ineligible voters as authorized by the
19 provisions of this article, the date and reason for cancellation
20 shall be entered on the voter's record and the record shall be
21 transferred to the canceled voter registration file. Upon receipt
22 from a voter of notice of change of address to an address within
23 the state, but outside the county where registered, the clerk of
24 the county commission shall provide the voter with instructions on
25 how to become registered in the new county of residence. Such

1 notice shall not be required if the voter is already registered in
2 the new county of residence or if the notice is received on a valid
3 voter registration application.

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

14 ~~(l) The secretary of state shall promulgate legislative rules~~
15 ~~pursuant to the provisions of chapter twenty-nine-a of this code~~
16 ~~establishing procedures for the elimination of separate precinct~~
17 ~~registration books as the official active and inactive voter~~
18 ~~registration files and for the use of the state uniform voter data~~
19 ~~system to maintain all files, to produce voter lists for public~~
20 ~~inspection and to produce precinct voter records for election day~~
21 ~~use. Separate precinct registration books shall be maintained~~
22 ~~pursuant to the provisions of section nineteen of this article~~
23 ~~until all necessary provisions required for the conduct of~~
24 ~~elections at the polling place and for the implementation of the~~
25 ~~provisions of this chapter have been made. When a county is~~

1 ~~authorized to use the state uniform voter data system exclusively~~
2 ~~for all prescribed files, the clerk of the county commission shall~~
3 ~~transfer the original voter records contained in the precinct~~
4 ~~registration books to alphabetical record storage files which shall~~
5 ~~be retained in accordance with the provisions of section twenty-~~
6 ~~nine of this article, and any rules issued pursuant thereto.~~

7 **§3-2-23. Cancellation of registration of deceased or ineligible**
8 **voters.**

9 The clerk of the county commission shall cancel the
10 registration of a voter:

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

12 (1) A death certificate from the registrar of vital statistics
13 or a notice from the Secretary of State that a comparison of the
14 records of the registrar with the county voter registration records
15 show the person to be deceased;

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

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

22 (b) Upon receipt of an official notice from a state or federal
23 court that the person has been convicted of a felony, of treason or
24 election bribery; ~~in an election, in which event, the clerk shall~~
25 ~~enter a notation on the voter record of the date upon which the~~

1 ~~term of any sentence for such conviction will cease, unless sooner~~
2 ~~vacated by court action or pardon;~~

3 (c) Upon receipt of a notice from the appropriate court of
4 competent jurisdiction of a determination of a voter's mental
5 incompetence;

6 (d) Upon receipt from the voter ~~registration~~ of a written
7 request to cancel the voter's registration, upon confirmation by
8 the voter of a change of address to an address outside the county,
9 upon notice from a voter registrar of another jurisdiction outside
10 the county or state of the receipt of an application for voter
11 registration in that jurisdiction, or upon notice from the
12 secretary of state that a voter registration application accepted
13 in another county of the state subsequent to the last registration
14 date in the first county, as determined from a comparison of voter
15 records;

16 (e) Upon failure to respond and produce evidence of continued
17 eligibility to register following the challenge of the voter's
18 registration pursuant to the provisions of section twenty-eight of
19 this article; or

20 (f) As required under the provisions of section twenty-seven
21 of this article.

22 **§3-2-25. Systematic purging program for removal of ineligible**
23 **voters from active voter registration files.**

24 (a) ~~In any county maintaining active voter registration files~~
25 ~~in the state uniform voter data system, as defined in section~~

1 ~~twenty of this article,~~ The systematic purging program provided for
2 in this section shall begin no earlier than October 1, of each odd-
3 numbered year and shall be completed no later than February 1, of
4 the following year. The clerk of the county commission shall
5 transmit or mail to the Secretary of State a certification that the
6 systematic purging program has been completed and all voters
7 identified as no longer eligible to vote have been canceled in the
8 statewide voter registration database in accordance with law no
9 later than February 15, in the year in which the purging program is
10 completed. ~~on data disk to the secretary of state a copy of the~~
11 ~~digitized records contained in the active voter registration file~~
12 ~~as of the first day of October, to be received by the secretary of~~
13 ~~state no later than the fifteenth day of October.~~

14 (b) ~~Upon receipt of the voter records in data format,~~ The
15 Secretary of State shall provide for the comparison of data records
16 of all ~~participating~~ counties. The Secretary of State shall, based
17 on the comparison, prepare a ~~data file or printed~~ list for each
18 county which shall include the voter registration record for each
19 voter shown on that county's list who appears to have registered or
20 to have updated a voter registration in another county at a
21 subsequent date. The resulting ~~files and/or~~ lists shall be returned
22 to the appropriate county and the clerk of the county commission
23 shall proceed with the confirmation procedure for those voters as
24 prescribed in section twenty-six of this article.

25 (c) The Secretary of State may provide for the comparison of

1 data records of ~~participating~~ counties with the data records of the
2 Division of Motor Vehicles, the registrar of vital statistics and
3 with the data records of any other state agency which maintains
4 records of residents of the state, if the procedure is practical
5 and the agency agrees to participate. Any resulting information
6 regarding potentially ineligible voters shall be returned to the
7 appropriate county and the clerk of the county commission shall
8 proceed with the confirmation procedure as prescribed in section
9 twenty-six of this article.

10 (d) The records of all ~~of the voters of all participating~~
11 ~~counties~~ not identified pursuant to the procedures set forth in
12 subsections (b) and (c) of this section shall be combined for
13 comparison with United States Postal Service change of address
14 information, as described in section 8 (c)(A) of the "National
15 Voter Registration Act of 1993" (42 U.S.C. 1973gg). The Secretary
16 of State shall contract with an authorized vendor of the United
17 States Postal Service to perform the comparison. Not less than
18 thirty percent nor more than fifty percent of the cost of the
19 change of address comparison procedure shall be paid for from the
20 combined Voter Registration and Licensing Fund established in
21 section twelve of this article and ~~participating~~ counties shall
22 reimburse the fund for the balance of the cost prorated on a per
23 voter basis.

24 (e) The Secretary of State shall return to each county the
25 identified matches of the county voter registration records and the

1 postal service change of address records.

2 (1) When the change of address information indicates the voter
3 has moved to a new address within the county, the clerk of the
4 county commission shall enter the new address on the voter record
5 in the active registration file and assign the proper precinct.

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

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

22 (g) Upon receipt of any response or returned mailing sent
23 pursuant to the provisions of subsection (e) of this section, the
24 clerk shall immediately enter the date and type of response
25 received ~~on~~ in the ~~list of voters prepared pursuant to the~~

1 ~~provisions of this section~~ statewide voter registration database
2 and shall then proceed in accordance with the provisions of section
3 ~~twenty-six~~ twenty-seven of this article.

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

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

1 Secretary of State.

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

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

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

4 **§3-2-29. Custody of original registration records and voter**
5 **registration data files.**

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

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

22 (c) Prior to the destruction of original voter registration
23 applications or registration cards of voters whose registration has
24 been canceled at least five years previously, the clerk of the
25 county commission shall notify the Secretary of State of the

1 intention to destroy those records. If the Secretary of State
2 determines, within ninety days of the receipt of the notice, that
3 those records are of sufficient historical value that microfilm or
4 other permanent data storage is desirable, the Secretary of State
5 may require that the records be delivered to a specified location
6 for processing at state expense.

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

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

22 (2) Rejected registration record files shall be maintained in
23 the same manner as provided for canceled registration files.

24 (3) ~~At least once each calendar year, during the month of~~
25 ~~February, a data format copy of the active registration file,~~

1 ~~inactive registration file and pending application file shall be~~
2 ~~made containing all records maintained in those files as of the~~
3 ~~date of the copy. The copy shall be stored on tape or disk and~~
4 ~~shall be clearly labeled with the types of files and the date the~~
5 ~~copy was made.~~

(NOTE: The purpose of this bill is to clarify county and state roles in the voter registration list maintenance process, to delete obsolete references and to add accountability requirements.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)