

Senate Bill No. 637

(By Senators Stollings, Unger and Klempa)

[Introduced February 17, 2012; referred to
the Committee on the Judiciary.]

A BILL to repeal §3-2-24 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-1-3 of said code; and to amend and reenact §3-2-2, §3-2-4a, §3-2-18, §3-2-19, §3-2-21, 3-2-23, §3-2-25 and §3-2-29 of said code, all relating to the maintenance of voter registration lists and related records.

Be it enacted by the Legislature of West Virginia:

That §3-2-24 of the Code of West Virginia, 1931, as amended, be repealed; that §3-1-3 of said code be amended and reenacted; and that §3-2-2, §3-2-4a, §3-2-18, §3-2-19, §3-2-21, 3-2-23, §3-2-25 and §3-2-29 of said code be amended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

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-3. Persons entitled to vote.

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

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-2. Eligibility to register to vote.

2 (a) Any person who possesses the constitutional qualifi-
3 cations for voting may register to vote. To be qualified, a
4 person must be a citizen of the United States and a legal
5 resident of West Virginia and of the county where he or she

6 is applying to register, shall be at least eighteen years of age,
7 except that a person who is at least seventeen years of age
8 and who will be eighteen years of age by the time of the next
9 ensuing general election may also be permitted to register,
10 and shall not be otherwise legally disqualified: *Provided*,
11 That a registered voter who has not reached eighteen years
12 of age may vote both partisan and nonpartisan ballots in a
13 federal, state or county primary election, but may only vote
14 in a municipal primary election if he or she will be eighteen
15 years of age by the time of the next municipal general
16 election, but is not eligible to vote in ~~a special election~~ an
17 intervening special election other than a special primary
18 election.

19 (b) Any person who has been convicted of a felony,
20 treason or election bribery, ~~in an election~~, under either state
21 or federal law, is disqualified and is not eligible to register or
22 to continue to be registered to vote while serving his or her
23 sentence, including any period of incarceration, probation or
24 parole related thereto. Any person who has been determined
25 to be mentally incompetent by a court of competent jurisdic-
26 tion is disqualified and shall not be eligible to register or to

27 continue to be registered to vote for as long as that determi-
28 nation remains in effect.

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

1 (a) The Secretary of State shall implement, administer
2 and maintain a single, official, statewide, centralized,
3 interactive computerized voter registration ~~list~~ database of
4 every legally registered voter in the state, which shall
5 include the following:

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

10 (2) The ~~computerized list~~ database shall contain the
11 name, registration information and voter history of every
12 legally registered voter in the state.

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

16 (4) The ~~computerized list~~ database shall be coordinated
17 with other agency databases within the state and elsewhere,
18 as appropriate, including, but not limited to, the vital
19 statistics database maintained by the Department of Health

20 and Human Resources. The Department of Health and
21 Human Resources ~~by January 31st of each calendar year~~
22 shall provide by the last day of each month to ~~each county~~
23 ~~clerk~~ the Secretary of State a list from this database, sepa-
24 rated by county, of all decedents in ~~that county in the~~
25 ~~preceding year and shall provide to the Secretary of State~~
26 ~~the list of all decedents in the state in the preceding year the~~
27 state since the date of the last reporting period. The Secre-
28 tary of State shall make this information available to each
29 county clerk through the statewide voter registration
30 database for processing by the clerk or the clerk's designee.

31 (5) The Secretary of State, ~~and~~ any clerk of the county
32 commission or any authorized designee of the Secretary of
33 State or clerk of the county commission may obtain immedi-
34 ate electronic access to the information contained in the
35 computerized list.

36 (6) The clerk of the county commission shall electroni-
37 cally enter voter registration information into the computer-
38 ized list on an expedited basis at the time the information is
39 provided to the clerk.

40 (7) The Secretary of State shall provide necessary
41 support to enable every clerk of the county commission in

42 the state to enter information as described in subdivision (6)
43 of this subsection.

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

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

49 (1) If an individual is to be removed from the computer-
50 ized list, he or she shall be removed in accordance with the
51 provisions of 42 U. S. C. §1973gg, *et seq.*, the National Voter
52 Registration Act of 1993.

53 (2) The Secretary of State shall coordinate the computer-
54 ized list with state agency records and ~~remove the~~ shall
55 establish procedures for the removal of names of individuals
56 who are not qualified to vote because of felony status or
57 death. ~~Provided, That~~ No state agency may withhold infor-
58 mation regarding a voter's status as deceased or as a felon
59 unless ordered by a court of law. ~~Provided, however, the~~
60 ~~Secretary of State shall, in each calendar year, certify that~~
61 ~~the removal of individuals who are not qualified to vote~~
62 ~~because of a felony conviction as provided in section two of~~

~~63 this article or death is completed at least thirty days preced-~~
~~64 ing the date of any primary election.~~

65 (c) The list maintenance performed under subsection (b)
66 of this section shall be conducted in a manner that ensures
67 that:

68 (1) The name of each registered voter appears in the
69 computerized list;

70 (2) Only voters who are not registered, who have re-
71 quested in writing that their voter registration be canceled
72 or who are not eligible to vote are removed from the comput-
73 erized list;

74 (3) Duplicate names are eliminated from the computer-
75 ized list;

76 (4) Deceased individuals names are eliminated from the
77 computerized list.

78 (d) The Secretary of State and the clerks of all county
79 commissions shall provide adequate technological security
80 measures to prevent the unauthorized access to the comput-
81 erized list established under this section.

82 (e) The Secretary of State shall ensure that voter regis-
83 tration records in the state are accurate and updated regu-
84 larly, including the following:

85 (1) A system of file maintenance that makes a reasonable
86 effort to remove registrants who are ineligible to vote from
87 the official list of eligible voters. Under the system, consis-
88 tent with 42 U. S. C. §1973gg, *et seq.*, registrants who have
89 not responded to a notice sent pursuant to section twenty six,
90 article two of this chapter, who have not otherwise updated
91 their voter registration address, and who have not voted in
92 two consecutive general elections for federal office shall be
93 removed from the official list of eligible voters, except that
94 no registrant may be removed solely by reason of a failure to
95 vote; and

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

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

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

105 (1) Except as provided in subdivision (2) of this subsec-
106 tion and notwithstanding any other provision of law to the

107 contrary, an application for voter registration may not be
108 accepted or processed unless the application includes:

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

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

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

117 (2) If an applicant for voter registration has not been
118 issued a current and valid driver's license, Division of Motor
119 Vehicles' identification card or a Social Security number, the
120 Secretary of State shall assign the applicant a number which
121 will serve to identify the applicant for voter registration
122 purposes. To the extent that the state has a computerized list
123 in effect under this section and the list assigns unique
124 identifying numbers to registrants, the number assigned
125 under this section shall be the unique identifying number
126 assigned under the list.

127 (g) The Secretary of State and the Commissioner of the
128 Division of Motor Vehicles shall enter into an agreement to

129 match and transfer applicable information in the ~~database of~~
130 statewide voter registration ~~system~~ database with informa-
131 tion in the database of the Division of Motor Vehicles to the
132 extent required to enable each official to verify the accuracy
133 of the information provided on applications for voter
134 registration.

135 (h) The Commissioner of the Division of Motor Vehicles
136 shall enter into an agreement with the Commissioner of
137 Social Security under 42 U. S. C. §301, *et seq.*, the Social
138 Security Act. All fees associated with this agreement shall be
139 paid for from moneys in the fund created under section
140 twelve, article two of this chapter.

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

1 (a) For the purposes of this article:

2 (1) "Original voter registration record" means all records
3 submitted or entered in writing or electronically, where
4 permitted by law, for voter registration purposes, including:

5 (A) Any original application or notice submitted by any
6 person for registration or reinstatement, change of address,
7 change of name, change of party affiliation, correction of

8 records, cancellation, confirmation of voter information or
9 other request or notice for voter registration purposes; and

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

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

25 (3) "Inactive voter registration files" means the files of
26 registration records, whether maintained on paper forms or
27 in digitized data format, containing the names, addresses,
28 birth dates and other required information for all persons
29 designated "inactive" pursuant to the provisions of section

30 twenty-seven of this article following the return of the
31 prescribed notices as undeliverable at the address provided
32 by the United States Postal Service or entered on the voter
33 registration or for failure of the contacted voter to return a
34 completed confirmation notice within thirty days of the
35 mailing. ~~For the purposes of this chapter or of any other~~
36 ~~provisions of this code relating to elections conducted under~~
37 ~~the provisions of this chapter, whenever a requirement is~~
38 ~~based on the number of registered voters, including, but not~~
39 ~~limited to, the number of ballots to be printed, the limita-~~
40 ~~tions on the size of a precinct, or the number of petition~~
41 ~~signatures required for election purposes, only those regis-~~
42 ~~trations included on the active voter registration files shall~~
43 ~~be counted and voter registrations included on the inactive~~
44 ~~voter registration files, as defined in this subdivision, shall~~
45 ~~not be counted.~~

46 (4) "Canceled voter registration files" means the files
47 containing all required information for all persons who have
48 been removed from the active and inactive voter registration
49 files and who are no longer registered to vote within the
50 county.

51 (5) “Pending application files” means the temporary files
52 containing all information submitted on a voter registration
53 application, pending the expiration of the verification
54 period.

55 (6) “Rejected application files” means the files contain-
56 ing all information submitted on a voter registration applica-
57 tion which was rejected for reasons as described in this
58 article.

59 (7) “Confirmation pending files” means the files contain-
60 ing all required information for persons who have been
61 identified to be included in the next succeeding mailing of
62 address confirmation notices as set forth by the National
63 Voter Registration Act of 1993(42 U. S. C. 1973gg).

64 (b) For the purposes of this chapter or of any other
65 provisions of this code relating to elections conducted under
66 the provisions of this chapter, whenever a requirement is
67 based on the number of registered voters, including, but not
68 limited to, the number of ballots to be printed, the limita-
69 tions on the size of a precinct, or the number of petition
70 signatures required for election purposes, only those regis-
71 trations included on the active voter registration files shall
72 be counted and voter registrations included on the inactive

73 voter registration files, as defined in this subdivision, shall
74 not be counted.

75 ~~(b)~~ (c) Active voter registration files, confirmation
76 pending files and inactive voter registration files may be
77 maintained in the same physical location or database,
78 providing the records are coded, marked or arranged in such
79 a way as to make the status of the registration immediately
80 obvious. Canceled voter registration files, pending applica-
81 tion files, and rejected application files shall each be main-
82 tained in separate physical locations ~~or databases~~. However,
83 all such records shall be maintained in the statewide central-
84 ized voter registration database, subject to a schedule of
85 retention.

86 ~~(c)~~ (d) The effective date of any action affecting any
87 voter's registration status shall be entered on the voter
88 record in the appropriate file, including the effective date of
89 registration, change of name, address or party affiliation or
90 correction of the record, effective date of transfer to inactive
91 status, return to active status or cancellation. When any
92 registration is designated inactive or is canceled, the reason
93 for the designation or cancellation and any reference

94 notation necessary to locate the original documentation
95 related to the change shall be entered on the voter record.

96 ~~(d) (e) Within one hundred twenty sixty~~ sixty days after each
97 primary, general, municipal or special election, the clerk of
98 the county commission shall ~~as evidenced by the presence or~~
99 ~~absence of signatures on the pollbooks for such election;~~
100 ~~correct any errors or omissions on the voter registration~~
101 ~~records resulting from the poll clerks erroneously checking~~
102 ~~or failing to check the registration records as required by the~~
103 ~~provisions of section thirty-four, article one of this chapter;~~
104 ~~or shall~~ enter the voting records into the statewide voter
105 registration database. ~~uniform data system if the precinct~~
106 ~~books have been replaced with printed registration books as~~
107 ~~provided in section twenty-one of this article.~~

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

1 ~~(a) Each county shall continue to maintain a record of~~
2 ~~each active and inactive voter registration in precinct~~
3 ~~registration books until the statewide voter registration~~
4 ~~system is adopted pursuant to the provisions of section four-~~
5 ~~a of this article, fully implemented and given final approval~~

6 by the secretary of state. The precinct registration books
7 shall be maintained as follows:

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

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

28 ~~precinct registration books unless the registration is lawfully~~
29 ~~transferred or canceled pursuant to the provisions of this~~
30 ~~article.~~

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

33 (1) ~~County precinct books shall~~ Clerks of the county
34 commission shall prepare pollbooks or voter lists to be used
35 in municipal elections when the county precinct boundaries
36 and the municipal precinct boundaries are the same and all
37 registrants of the precinct are entitled to vote in state, county
38 and municipal elections within the precinct or when the
39 registration records of municipal voters within a county
40 precinct are separated and maintained in a separate municipi-
41 pal section or book for that county precinct and can be used
42 either alone or in combination with other ~~precinct books~~
43 pollbooks or voter lists to make up a complete set of registra-
44 tion records for the municipal election precinct.

45 (2) Upon request of the municipality, and if the clerk of
46 the county commission does not object, separate municipal
47 precinct books shall be maintained in cases where municipal
48 or ward boundaries divide county precincts and it is imprac-
49 tical to use county ~~precinct books~~ pollbooks or voter lists or

50 separate municipal sections of those ~~precinct books~~
51 pollbooks or voter lists. If the clerk of the county commission
52 objects to the request of a municipality for separate municipi-
53 pal precinct books, the state election commission must
54 determine whether the separate municipal precinct books
55 should be maintained.

56 (3) No registration record may be removed from a
57 municipal registration record unless the registration is
58 lawfully transferred or canceled pursuant to the provisions
59 of this article in both the county and the municipal registra-
60 tion records.

61 ~~(c)~~ (b) Within thirty days following the entry of any
62 annexation order or change in street names or numbers, the
63 governing body of an incorporated municipality shall file
64 with the clerk of the county commission a certified current
65 official municipal boundary map and a list of streets and
66 ranges of street numbers within the municipality to assist the
67 clerk in determining whether a voter's address is within the
68 boundaries of the municipality.

69 ~~(d) Each county, so long as precinct registration books~~
70 ~~are maintained, shall maintain a duplicate record of every~~
71 ~~active and inactive voter registration in a county alphabeti-~~

72 cal file. The alphabetical file may be maintained on individ-
73 ual paper forms or, upon approval of the secretary of state of
74 a qualified data storage program, may be maintained in
75 digitized format. A qualified data storage program shall be
76 required to contain the same information for each voter
77 registration as the precinct books, shall be subject to proper
78 security from unauthorized alteration and shall be regularly
79 duplicated to backup data storage to prevent accidental
80 destruction of the information on file.

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

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

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

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

26 (d) No person shall make any entry or alteration of any
27 voter record which is not specifically authorized by law.
28 Each entry or action affecting the status of a voter registra-
29 tion shall be based on information in an original voter
30 registration record, as defined in section eighteen of this
31 article.

32 (e) The clerk of the county commission shall maintain,
33 within the ~~data system~~ database, active and inactive voter
34 registration files, confirmation pending files, canceled voter
35 registration files, pending application files, and rejected
36 application files, all as defined in section eighteen of this
37 article.

38 (f) Upon receipt of a completed voter registration
39 application, the clerk shall enter into the statewide voter
40 registration database the information provided on the
41 application into the pending application file and initiate the
42 verification or notice of disposition procedure as provided in
43 section sixteen of this article. Upon completion of the
44 verification or notice of disposition, the voter record shall be
45 transferred to the proper file.

46 (g) Upon receipt of an application or written confirma-
47 tion from the voter of a change of address within the county,
48 change of name, change of party affiliation or other correc-
49 tion to a registration record in the active voter registration
50 file, the change shall be entered in the record and the
51 required notice of disposition mailed.

52 (h) Upon receipt of an application or written confirma-
53 tion from ~~the a~~ voter in the inactive voter registration file of

54 a change of address within the county, ~~change of name,~~
55 ~~change of party affiliation or other correction to a registra-~~
56 ~~tion record in the inactive voter registration file,~~ the change
57 shall be entered in the record, the required notice of disposi-
58 tion mailed and the record transferred to the active registra-
59 tion file or returned to active status, and the date of the
60 transaction shall be recorded. Receipt of an application or
61 written confirmation from a voter in the inactive voter
62 registration file that confirms the voter's current address
63 shall be treated in the same manner.

64 (i) Upon receipt of a notice of death, a notice of convic-
65 tion or a notice of a determination of mental incompetence,
66 as provided for in section twenty-three of this article, the
67 date and reason for cancellation shall be entered on the
68 voter's record and the record shall be transferred to the
69 canceled voter registration file.

70 (j) Upon receipt from the voter of a request for cancella-
71 tion or notice of change of address to an address outside the
72 county pursuant to the provisions of section twenty-two of
73 this article, or as a result of a determination of ineligibility
74 through a general program of removing ineligible voters as
75 authorized by the provisions of this article, the date and

76 reason for cancellation shall be entered on the voter's record
77 and the record shall be transferred to the canceled voter
78 registration file. Upon receipt from a voter of notice of
79 change of address to an address within the state, but outside
80 the county where registered, the clerk of the county commis-
81 sion shall provide the voter with instructions on how to
82 become registered in the new county of residence. Such
83 notice shall not be required if the voter is already registered
84 in the new county of residence or if the notice is received on
85 a valid voter registration application.

86 (k) ~~At least once each month during a period prescribed~~
87 ~~by the secretary of state, the clerk of the county commission~~
88 ~~of each county utilizing the state uniform voter data system~~
89 ~~shall transmit to the secretary of state, by electronic trans-~~
90 ~~mission or by the mailing of one or more data disks or other~~
91 ~~approved means, a copy of the active, inactive and pending~~
92 ~~application files as of the date of transmission, for the~~
93 ~~purpose of comparison of those records to the voter registra-~~
94 ~~tion records of other counties in the state and for any other~~
95 ~~list maintenance procedures authorized by the provisions of~~
96 ~~this article.~~

97 (1) ~~The secretary of state shall promulgate legislative~~
98 ~~rules pursuant to the provisions of chapter twenty-nine-a of~~
99 ~~this code establishing procedures for the elimination of~~
100 ~~separate precinct registration books as the official active and~~
101 ~~inactive voter registration files and for the use of the state~~
102 ~~uniform voter data system to maintain all files, to produce~~
103 ~~voter lists for public inspection and to produce precinct voter~~
104 ~~records for election day use. Separate precinct registration~~
105 ~~books shall be maintained pursuant to the provisions of~~
106 ~~section nineteen of this article until all necessary provisions~~
107 ~~required for the conduct of elections at the polling place and~~
108 ~~for the implementation of the provisions of this chapter have~~
109 ~~been made. When a county is authorized to use the state~~
110 ~~uniform voter data system exclusively for all prescribed files,~~
111 ~~the clerk of the county commission shall transfer the original~~
112 ~~voter records contained in the precinct registration books to~~
113 ~~alphabetical record storage files which shall be retained in~~
114 ~~accordance with the provisions of section twenty-nine of this~~
115 ~~article, and any rules issued pursuant thereto.~~

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

1 The clerk of the county commission shall cancel the
2 registration of a voter:

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

4 (1) A death certificate from the registrar of vital statistics
5 or a notice from the Secretary of State that a comparison of
6 the records of the registrar with the county voter registration
7 records show the person to be deceased;

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

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

14 (b) Upon receipt of an official notice from a state or
15 federal court that the person has been convicted of a felony,
16 of treason or election bribery; ~~in an election, in which event,~~
17 ~~the clerk shall enter a notation on the voter record of the~~
18 ~~date upon which the term of any sentence for such conviction~~
19 ~~will cease, unless sooner vacated by court action or pardon;~~

20 (c) Upon receipt of a notice from the appropriate court of
21 competent jurisdiction of a determination of a voter's mental
22 incompetence;

23 (d) Upon receipt from the voter ~~registration of~~ a written
24 request to cancel the voter's registration, upon confirmation

25 by the voter of a change of address to an address outside the
26 county, upon notice from a voter registrar of another juris-
27 diction outside the county or state of the receipt of an
28 application for voter registration in that jurisdiction, or upon
29 notice from the secretary of state that a voter registration
30 application accepted in another county of the state subse-
31 quent to the last registration date in the first county, as
32 determined from a comparison of voter records;

33 (e) Upon failure to respond and produce evidence of
34 continued eligibility to register following the challenge of
35 the voter's registration pursuant to the provisions of section
36 twenty-eight of this article; or

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

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

1 (a) ~~In any county maintaining active voter registration~~
2 ~~files in the state uniform voter data system, as defined in~~
3 ~~section twenty of this article,~~ The systematic purging
4 program provided for in this section shall begin no earlier
5 than October 1, of each odd-numbered year and shall be
6 completed no later than February 1, of the following year.

7 The clerk of the county commission shall transmit or mail to
8 the Secretary of State a certification that the systematic
9 purging program has been completed and all voters identi-
10 fied as no longer eligible to vote have been canceled in the
11 statewide voter registration database in accordance with law
12 no later than February 15, in the year in which the purging
13 program is completed. ~~on data disk to the secretary of state~~
14 ~~a copy of the digitized records contained in the active voter~~
15 ~~registration file as of the first day of October, to be received~~
16 ~~by the secretary of state no later than the fifteenth day of~~
17 ~~October.~~

18 (b) ~~Upon receipt of the voter records in data format,~~ The
19 Secretary of State shall provide for the comparison of data
20 records of all ~~participating~~ counties. The Secretary of State
21 shall, based on the comparison, prepare a ~~data file or printed~~
22 list for each county which shall include the voter registration
23 record for each voter shown on that county's list who
24 appears to have registered or to have updated a voter
25 registration in another county at a subsequent date. The
26 resulting ~~files and/or~~ lists shall be returned to the appropri-
27 ate county and the clerk of the county commission shall

28 proceed with the confirmation procedure for those voters as
29 prescribed in section twenty-six of this article.

30 (c) The Secretary of State may provide for the compari-
31 son of data records of ~~participating~~ counties with the data
32 records of the Division of Motor Vehicles, the registrar of
33 vital statistics and with the data records of any other state
34 agency which maintains records of residents of the state, if
35 the procedure is practical and the agency agrees to partici-
36 pate. Any resulting information regarding potentially
37 ineligible voters shall be returned to the appropriate county
38 and the clerk of the county commission shall proceed with
39 the confirmation procedure as prescribed in section twenty-
40 six of this article.

41 (d) The records of all ~~of the voters of all participating~~
42 ~~counties~~ not identified pursuant to the procedures set forth
43 in subsections (b) and (c) of this section shall be combined
44 for comparison with United States Postal Service change of
45 address information, as described in section 8 (c)(A) of the
46 "National Voter Registration Act of 1993" (42 U. S. C.
47 1973gg). The Secretary of State shall contract with an
48 authorized vendor of the United States Postal Service to

49 perform the comparison. Not less than thirty percent nor
50 more than fifty percent of the cost of the change of address
51 comparison procedure shall be paid for from the combined
52 Voter Registration and Licensing Fund established in section
53 twelve of this article and ~~participating~~ counties shall
54 reimburse the fund for the balance of the cost prorated on a
55 per voter basis.

56 (e) The Secretary of State shall return to each county the
57 identified matches of the county voter registration records
58 and the postal service change of address records.

59 (1) When the change of address information indicates the
60 voter has moved to a new address within the county, the
61 clerk of the county commission shall enter the new address
62 on the voter record in the active registration file and assign
63 the proper precinct.

64 (2) The clerk of the county commission shall then mail to
65 each voter who appears to have moved from the residence
66 address shown on the registration records a confirmation
67 notice pursuant to section twenty-six of this article and of
68 section 8(d)(2) of the National Voter Registration Act of 1993
69 (42 U. S. C. 1973gg). The notice shall be mailed, no later than
70 December 31, to the new address provided by the postal

71 service records or to the old address if a new address is not
72 available.

73 (f) The clerk of the county commission shall ~~prepare a list~~
74 ~~containing~~ indicate in the statewide voter registration
75 database the name and address of each voter to whom a
76 confirmation notice was mailed and the date on which the
77 notice was mailed. ~~The list shall be titled "Systematic~~
78 ~~Purging Program Notices" and shall include the name of the~~
79 ~~county and the date of the preparation of the list and shall be~~
80 ~~arranged in alphabetical order within precincts or for the~~
81 ~~entire county.~~

82 (g) Upon receipt of any response or returned mailing sent
83 pursuant to the provisions of subsection (e) of this section,
84 the clerk shall immediately enter the date and type of
85 response received ~~on~~ in the list of voters prepared pursuant
86 ~~to the provisions of this section~~ statewide voter registration
87 database and shall then proceed in accordance with the
88 provisions of section twenty-six twenty-seven of this article.

89 (h) For purposes of complying with the record keeping
90 and public inspection requirements of the National Voter
91 Registration Act of 1993 (42 U. S. C. 1973gg), and with the
92 provisions of section twenty-seven of this article, the public

93 inspection lists shall be maintained either in printed form
94 kept in a binder prepared for such purpose and available for
95 public inspection during regular business hours at the office
96 of the clerk of the county commission or in read-only data
97 format available for public inspection on computer terminals
98 set aside and available for regular use by the general public.
99 Information concerning whether or not each person has
100 responded to the notice shall be entered ~~onto the list~~ into the
101 database upon receipt and shall be available for public
102 inspection as of the date the information is received.

103 (i) Any voter to whom a confirmation notice was mailed
104 pursuant to the provisions of subsection (e) of this section
105 who fails to respond to the notice or to update his or her
106 voter registration address by February 1, immediately
107 following the completion of the program, shall be designated
108 inactive and placed within the inactive voter registration
109 file, as defined in section ~~nineteen~~ eighteen of this article.
110 Any voter designated inactive shall be required to affirm his
111 or her current residence address upon appearing at the polls
112 to vote on a form prescribed by the Secretary of State.

113 ~~(j) A county which uses a digitized data system for voter~~
114 ~~registration other than the state uniform voter data system~~

115 ~~shall conduct the systematic purging program for removal of~~
116 ~~ineligible voters from active voter registration files by~~
117 ~~contracting directly with an authorized vendor of the United~~
118 ~~States postal service for change of address information, at~~
119 ~~county expense, for the identification of potentially ineligi-~~
120 ~~ble voters, and upon receipt of the list of matches, shall~~
121 ~~perform the steps required by the provisions of subsections~~
122 ~~(e) through (i) of this section within the same time limits and~~
123 ~~procedures required for those counties participating in the~~
124 ~~state approved system.~~

125 ~~(k)~~ (j) In addition to the preceding purging procedures,
126 all counties using the change of address information of the
127 United States Postal Service shall also, once each four years
128 during the period established for systematic purging in the
129 year following a presidential election year, conduct the same
130 procedure by mailing a confirmation notice to those persons
131 not identified as potentially ineligible through the change of
132 address comparison procedure but who have not updated
133 their voter registration records and have not voted in any
134 election during the preceding four calendar years. The
135 purpose of this additional systematic confirmation procedure
136 shall be to identify those voters who may have moved

137 without filing a forwarding address, moved with a forward-
138 ing address under another name, died in ~~a~~ another county or
139 state so that the certificate of death was not returned to the
140 clerk of the county commission, or who otherwise have
141 become ineligible.

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

1 (a) All original registration records and voter registration
2 data files shall remain in the custody of the county commis-
3 sion, by its clerk, or electronically, in the statewide central-
4 ized voter registration database and shall not be removed
5 except for use in an election or by the order of a court of
6 record or in compliance with a subpoena duces tecum issued
7 by the secretary of state pursuant to the provisions of section
8 six, article one-a of this chapter.

9 (b) All original voter registration records shall be
10 retained for a minimum of five years following the last
11 recorded activity relating to the record, except that any
12 application which duplicates and does not alter an existing
13 registration shall be retained for a minimum of two years
14 following its receipt. The Secretary of State shall promulgate
15 rules pursuant to the provisions of chapter twenty-nine-a of

16 this code for the specific retention times and procedures
17 required for original voter registration records.

18 (c) Prior to the destruction of original voter registration
19 applications or registration cards of voters whose registra-
20 tion has been canceled at least five years previously, the
21 clerk of the county commission shall notify the Secretary of
22 State of the intention to destroy those records. If the Secre-
23 tary of State determines, within ninety days of the receipt of
24 the notice, that those records are of sufficient historical
25 value that microfilm or other permanent data storage is
26 desirable, the Secretary of State may require that the records
27 be delivered to a specified location for processing at state
28 expense.

29 ~~(d) When a county maintains in digitized data format the~~
30 Active, inactive, pending, rejected and canceled registration
31 files, ~~a data format copy of each of the files~~ shall be main-
32 tained as a permanent record, as follows:

33 (1) Individual canceled registration records shall be
34 maintained in ~~a regularly accessible data file~~ the statewide
35 voter registration database for a period of at least ~~three~~ five
36 years following cancellation. Upon the expiration of ~~three~~
37 five years, those individual records may be removed from the

38 ~~regularly accessible canceled registration file~~ statewide voter
39 registration database and disposed of in accordance with the
40 appropriate document retention policy. ~~stored on an tape or~~
41 ~~disk. The records removed may be added to a single file~~
42 ~~containing previously canceled registration records for~~
43 ~~permanent storage, and the tape or disk shall be clearly~~
44 ~~labeled.~~

45 (2) Rejected registration record files shall be maintained
46 in the same manner as provided for canceled registration
47 files.

48 ~~(3) At least once each calendar year, during the month of~~
49 ~~February, a data format copy of the active registration file,~~
50 ~~inactive registration file and pending application file shall be~~
51 ~~made containing all records maintained in those files as of~~
52 ~~the date of the copy. The copy shall be stored on tape or disk~~
53 ~~and shall be clearly labeled with the types of files and the~~
54 ~~date the 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.)