

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

## **House Bill 4708**

BY DELEGATE LANE

[Introduced February 23, 2016; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §3-2-3, §3-2-4a and §3-2-23 of the Code of West Virginia, 1931, as  
2 amended, all relating to additional duties for the Secretary of State relating to voter  
3 registration.

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

1 That §3-2-3, §3-2-4a and §3-2-23 of the Code of West Virginia, 1931, as amended, be  
2 amended and reenacted, all to read as follows:

## **ARTICLE 2. REGISTRATION OF VOTERS.**

### **§3-2-3. State authority relating to voter registration; chief election official.**

1 (a) The Secretary of State, as chief election official of the state as provided in section six,  
2 article one-a of this chapter, shall have general supervision of the voter registration procedures  
3 and practices and the maintenance of voter registration records in the state and shall have  
4 authority to require reports and investigate violations to ensure the proper conduct of voter  
5 registration throughout the state and all of its subdivisions. The Secretary of State may make  
6 changes in the voter registration data necessary to comply with list maintenance requirements of  
7 sections four-a, twenty-three, twenty-five, twenty-six and twenty-seven of this article.

8 (b) The Secretary of State, as chief election official of the state, is responsible for  
9 implementing, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized,  
10 interactive computerized statewide voter registration list defined, maintained and administered at  
11 the state level that contains the name and registration information of every legally registered voter  
12 in the state and assigns a unique identifier to each legally registered voter in the state.

13 (c) The Secretary of State is hereby designated as the chief election official responsible  
14 for the coordination of this state's responsibilities under 42 U.S.C. §1973gg, *et seq.*, the "National  
15 Voter Registration Act of 1993". The Secretary of State shall have general supervision of voter  
16 registration procedures and practices at agencies and locations providing services as required by  
17 the provisions of this article and shall have the authority to propose procedural, interpretive and  
18 legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-

19 nine-a of this code for application for registration, transmission of applications, reporting and  
20 maintenance of records required by the provisions of this article and for the development,  
21 implementation and application of other provisions of this article.

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

1 (a) The Secretary of State shall implement and maintain a single, official, statewide,  
2 centralized, interactive computerized voter registration database of every legally registered voter  
3 in the state, as follows:

4 (1) The statewide voter registration database shall serve as the single system for storing  
5 and managing the official list of registered voters throughout the state.

6 (2) The statewide voter registration database shall contain the name, registration  
7 information and voter history of every legally registered voter in the state.

8 (3) In the statewide voter registration database, the Secretary of State shall assign a  
9 unique identifier to each legally registered voter in the state.

10 (4) The statewide voter registration database shall be coordinated with other agency  
11 databases within the state and elsewhere, as appropriate.

12 (5) The Secretary of State, any clerk of the county commission or any authorized designee  
13 of the Secretary of State or clerk of the county commission may obtain immediate electronic  
14 access to the information contained in the statewide voter registration database.

15 (6) The clerk of the county commission shall electronically enter voter registration  
16 information into the statewide voter registration database on an expedited basis at the time the  
17 information is provided to the clerk.

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

21 (8) The statewide voter registration database shall serve as the official voter registration  
22 list for conducting all elections in the state.

(b) The provisions of subdivision (6), subsection (a) of this section notwithstanding, the  
Secretary of State or any clerk of a county commission shall perform maintenance with respect  
to the statewide voter registration database on a regular basis as follows:

(1) If an individual is to be removed from the statewide voter registration database, he or  
she shall be removed in accordance with the provisions of 42 U. S. C. §1973gg, *et seq.*, the  
National Voter Registration Act of 1993.

(2) The Secretary of State shall coordinate the statewide voter registration database with  
state agency records and shall establish procedures for the removal of names of individuals who  
are not qualified to vote because of felony status or death. No state agency may withhold  
information regarding a voter's status as deceased or as a felon unless ordered by a court of law.

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

(1) The name of each registered voter appears in the statewide voter registration  
database;

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

(3) Duplicate names are eliminated from the statewide voter registration database; and

(4) Deceased individuals' names are eliminated from the statewide voter registration  
database.

(d) The Secretary of State and the clerks of all county commissions shall provide adequate  
technological security measures to prevent the unauthorized access to the statewide voter  
registration database established under this section.

(e) The Secretary of State shall ensure, and may perform such maintenance necessary to  
ensure, that voter registration records in the state are accurate and updated regularly, including  
the following:

49           (1) A system of file maintenance that makes a reasonable effort to remove registrants who  
50 are ineligible to vote from the official list of eligible voters. Under the system, consistent with 42  
51 U. S. C. §1973gg, *et seq.*, registrants who have not responded to a notice sent pursuant to section  
52 twenty six, article two of this chapter, who have not otherwise updated their voter registration  
53 address and who have not voted in two consecutive general elections for federal office shall be  
54 removed from the official list of eligible voters, except that no registrant may be removed solely  
55 by reason of a failure to vote;

56           (2) By participation in programs across state lines to share data specifically for voter  
57 registration to ensure that voters who have moved across state lines or become deceased in  
58 another state are removed in accordance with state law and 42 U. S. C. §1973gg, *et seq.*; and

59           (3) Through safeguards to ensure that eligible voters are not removed in error from the  
60 official list of eligible voters.

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

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

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

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

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

72           (2) If an applicant for voter registration has not been issued a current and valid driver's  
73 license, Division of Motor Vehicles identification card or a Social Security number, the Secretary  
74 of State shall assign the applicant a number which will serve to identify the applicant for voter

75 registration purposes. The number assigned under this subdivision shall be the unique identifying  
76 number assigned under the statewide voter registration database.

77 (g) The Secretary of State and the Commissioner of the Division of Motor Vehicles shall  
78 enter into an agreement to match and transfer applicable information in the statewide voter  
79 registration database with information in the database of the Division of Motor Vehicles to the  
80 extent required to enable each official to verify the accuracy of the information provided on  
81 applications for voter registration.

82 (h) The Commissioner of the Division of Motor Vehicles shall enter into an agreement with  
83 the Commissioner of Social Security under 42 U. S. C. §401, *et seq.*, the Social Security Act. All  
84 fees associated with this agreement shall be paid for from moneys in the fund created under  
85 section twelve of this article.

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

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

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

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

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

9 (C) An affidavit signed by the parent, legal guardian, child, sibling or spouse of the voter  
10 giving the name and birth date of the voter, and date and place of death;

11 (2) Upon receipt of an official notice from a state or federal court that the person has been  
12 convicted of a felony, of treason or bribery in an election;

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

15           (4) Upon receipt from the voter of a written request to cancel the voter's registration, upon  
16 confirmation by the voter of a change of address to an address outside the county, upon notice  
17 from a voter registrar of another jurisdiction outside the county or state of the receipt of an  
18 application for voter registration in that jurisdiction, or upon notice from the Secretary of State that  
19 a voter registration application was accepted in another county of the state subsequent to the last  
20 registration date in the first county, as determined from a comparison of voter records; or

21           (5) Upon failure to respond and produce evidence of continued eligibility to register  
22 following the challenge of the voter's registration pursuant to the provisions of section twenty-  
23 eight of this article.

NOTE: The purpose of this bill is to give additional duties for the Secretary of State relating to voter registration.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.