

Voter List Maintenance

State Administration and Veterans' Affairs Interim Committee

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What is Voter List Maintenance?



Voter List Maintenance

- The process state and local election officials use to maintain accurate and up-to-date voter lists.
- Federal law establishes a baseline of requirements, but the frequency, scope, and specific activities of list maintenance vary by state.
- Keeping voter registration lists up to date is a continual process.

Benefits of Voter List Maintenance

- Protects against fraud by ensuring only eligible electors can cast a ballot
- Ensures eligible voters are assigned to the correct voting districts
- Informs Election Day planning by helping accurately budget for ballots, voting machines, polling places, and poll workers
- Minimizes wait times at the polls
- Simplifies post-election procedures by reducing the need for provisional ballots

Which Federal Laws Govern Voter List Maintenance?



Federal Laws

- National Voter Registration Act (1993)
- Help America Vote Act (2002)
- Privacy Act (1974)
- Driver's Privacy Protection Act (1993)

National Voter Registration Act

- Requires states to conduct general list maintenance and establishes a process for states to keep voter registration lists accurate
- Provides that programs must be uniform, non-discriminatory, and in compliance with the Voting Rights Act of 1965
- Prohibits list maintenance activities within 90 days of an election

Help America Vote Act

- Requires states to develop statewide voter registration databases
- Clarifies that a voter cannot be removed from a voter list for the sole reason that they did not vote

Privacy Act

- Prohibits states from requiring an individual to provide their full social security number to register to vote
- Requires the state to assign the applicant a number to be used for voter registration purposes (*if no SSN or DL number*)

Driver's Privacy Protection Act

- Prohibits the disclosure of certain individual information derived from motor vehicle records (*including SSN and DL number*)
- Does allow SSN and DL number to be used for certain government functions including list maintenance

What Are Typical Voter List Maintenance Practices?



Common Voter List Maintenance Practices

- In 21 states, voters **who fail to vote or otherwise engage with election officials** for a specified period of time can be removed from the rolls
 - AL, AK, FL, GA, HI, ID, IA, LA, ME, MN, MO, MT, NH, OH, OK, PA, RI, SD, WV, WI, WY.
- In 48 states, people **convicted of certain crimes** are disqualified
 - All states except Maine and Vermont
- In 29 states, people who are **deemed mentally incompetent** by the courts are disqualified
 - AL, AK, AZ, CA, FL, GA, IA, KY, LA, MD, MA, MI, MN, MO, NE, NV, NM, NY, OH, OK, RI, SC, SD, TX, UT, VA, WA, WV, WI.

Common Sources for Voter Registration Changes

Information Type	Third-Party Source
Death Records	<ul style="list-style-type: none">• Vital Statistics• Health Department• Social Security Admin• Other Govt Entities• Personal Knowledge Reports
Address Changes	<ul style="list-style-type: none">• Reports from Other Election Officials• Returned Undeliverable Election Mail• USPS NCOA Program
Declarations of Mental Incapacitation (<i>if applicable</i>)	<ul style="list-style-type: none">• Courts
Convictions of Specific Disqualifying Crimes (<i>if applicable</i>)	<ul style="list-style-type: none">• Courts• Regional U.S. Attorney's Offices• Government Prosecutors• Department of Corrections

What Does Montana Do?



State Law

- 13-1-111, MCA – Qualifications of Voter
- 13-2-220, MCA – Maintenance of Active and Inactive Voter Registration Lists
- 13-2-402, MCA – Reasons for Cancellation

Qualifications of Voter

13-1-111. Qualifications of voter. (1) A person may not vote at elections unless the person is:

- (a) registered as required by law;
- (b) 18 years of age or older;
- (c) a resident of the state of Montana and of the county in which the person offers to vote for at least 30 days, except as provided in 13-2-514; and
- (d) a citizen of the United States.

(2) A person convicted of a felony does not have the right to vote while the person is serving a sentence in a penal institution.

(3) A person adjudicated to be of unsound mind does not have the right to vote unless the person has been restored to capacity as provided by law.



Maintenance of Active and Inactive Voter Registration Lists

13-2-220. Maintenance of active and inactive voter registration lists for elections -- rules by secretary of state. (1) The rules adopted by the secretary of state under 13-2-108 must include the following procedures, at least one of which an election administrator shall follow annually:

- (a) compare the entire list of registered electors, including electors on the absentee ballot list, against the national change of address files and provide appropriate confirmation notice to those individuals whose addresses have apparently changed;
- (b) mail a nonforwardable, first-class, "return if undeliverable--address correction requested" notice to all registered electors, including electors on the absentee ballot list, of each jurisdiction to confirm their addresses and provide the appropriate confirmation notice to those individuals who return the notices;
- (c) mail a targeted mailing to electors, including electors on the absentee ballot list, who failed to vote in the preceding federal general election, applicants who failed to provide required information on registration forms, and provisionally registered electors by:
 - (i) sending the list of nonvoters a nonforwardable notice, followed by the appropriate forwardable confirmation notice to those electors who appear to have moved from their addresses of record;
 - (ii) comparing the list of nonvoters against the national change of address files, followed by the appropriate confirmation notices to those electors who appear to have moved from their addresses of record;
 - (iii) sending forwardable confirmation notices; or
 - (iv) making a door-to-door canvass.



Cancellation of Voter

13-2-402. Reasons for cancellation. The election administrator shall cancel the registration of an elector if:

- (1) the elector submits a signed written request for cancellation;
- (2) a certificate of the death of the elector is filed or if the elector is reported to the election administrator as deceased by the department of public health and human services in the department's reports submitted to the county under 50-15-409 or through ~~a newspaper~~ an obituary;
- (3) the elector is of unsound mind as established by a court;
- (4) the incarceration of the elector in a penal institution for a felony conviction is legally established;
- (5) a certified copy of a court order directing the cancellation is filed with the election administrator;
- (6) a notice is received from the secretary of state or from another county or state that the elector has registered in another county or state;
- (7) the elector:
 - (a) fails to respond to certain confirmation mailings;
 - (b) is placed on the inactive list; and
 - (c) then fails to vote in two consecutive federal general elections; or
- (8) the elector fails to meet any voter qualification that is listed in 13-1-111.



Other States



Sources for Maintaining Accurate Addresses

- Self Report or Notification from Family Members
- Consumer Crediting Agencies
- Returned Jury Notices
- Utility Companies
- Motor Vehicle Department Change of Address
- Data Sharing with Other States

Removing Voters for Lack of Voting-Related Activity

- In most states, an indication of a voter's ineligibility starts a years-long process that can result in the removal of the voter from the registration list:
 - First, states must mail an address confirmation to the voter.
 - If the voter fails to respond within a specified period, in many states that voter is then placed on an inactive list.
 - Once on the inactive list, if the voter fails to vote, update his or her address, or engage in other election activity such as signing a candidate or initiative petition for a period including two federal general elections (four years), only then can election officials remove the voter from the registration list.
- The NVRA explicitly prohibits states from removing a voter from the registration rolls simply for failure to vote.

Removing Deceased Voters

- ERIC – The Electronic Registration Information Center
- Government Officials or Entities
- Vital Records
- Social Security Administration
- Family Member Reports
- Obituaries
- Notices Related to Estates, Wills, Probate
- Personal Knowledge

Removing Voters Convicted of Disqualifying Crimes

- Clerks of Court
- Department of Corrections
- U.S. Attorney's Office
- Board of Pardons or Board of Clemency
- District Attorney's Office
- Sherriff's Office
- Sentencing Commission

Removing Voters Adjudicated Mentally Incompetent

- County Judges
- Probate Judges
- Clerks of Court

Summary



Summary

- Voter list maintenance is the process state and local election officials use to **maintain accurate and up-to-date voter lists**.
- Federal law establishes a **baseline** of requirements.
- State law sets the **frequency, scope, and specific activities** of list maintenance.
- Montana conducts **annual** updates.
- There are **additional practices** used in other states Montana could consider adding.

Questions?

