



# **VOTER PURGE LEGISLATIVE RESOURCE GUIDE**





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# HOW TO USE THIS RESOURCE GUIDE

## This resource guide is intended to help advocates and local leaders:

- Advocate for lawmakers and election officials to make common-sense improvements to current voter removal practices and the safeguards they have in place to protect eligible voters and
- Spot and oppose bad bills that increase the likelihood that eligible voters will be wrongfully removed from the rolls before election day.

When a state or county conducts a program to systematically remove people from its list of registered voters, this is called “voter list maintenance.” When done correctly, these programs can increase the accuracy of voter rolls by removing people who pass away, no longer live in the state, or have become ineligible for other reasons. However, the lack of clear and uniform standards for list maintenance has resulted in inconsistent standards from state to state and poorly developed “voter purge” programs have often led to the mass disenfranchisement of eligible voters, disproportionately impacting voters of color, low-income voters, and young people.

State legislatures should amend their list maintenance laws to protect eligible voters against wrongful and discriminatory voter purges and create more transparent and more accurate removal practices, with better notice to voters in their states. The section on [best practices for list maintenance](#) walks through the key provisions that good list maintenance legislation should contain. If you wish to advocate for your state legislature to adopt one or more of these provisions, we have provided examples from different states to serve as a starting point for your state’s legislation.

The section on [how to spot a bad list maintenance bill](#) is intended to serve as a watchlist for legislation that, whether intentionally or inadvertently, makes wrongful voter purges more likely to occur. Once again, we have provided examples of bad bills from various states to make it easier to spot similar tactics if they turn up in your own state’s legislative session.

For a more in-depth analysis of voter removal practices and safeguards, please refer to Dēmos’ report, [Protecting Voter Registration: An Assessment of Voter Purge Policies in Ten States](#).

# BEST PRACTICES FOR LIST MAINTENANCE

The removal of voters from the rolls needs to be undertaken with the greatest of care. Good list maintenance laws should:

- Comply with the standards established by federal law, including the [National Voter Registration Act](#);
- Have safeguards in place to protect eligible voters from wrongful removals;
- Place the burden on the state or county government to establish that removal is necessary, not on the voter to prove it isn't.
- Leave list maintenance to professional election administrators rather than allowing third parties, who often have no training in election administration and rely on faulty data, to challenge voters' eligibility.

Below are some specific practices and policies that accomplish these goals, with examples from different states to use as models if you are advocating for your state to improve its list maintenance laws.

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## **Give all voters adequate notice before removal and a meaningful opportunity to contest removal.**

While the [NVRA](#) does require states to send notice before they can remove voters for moving to a different jurisdiction, there is no similar notice requirement for removing voters for death, felony conviction, or adjudication of mental incapacity. States should pass laws that require voters to be notified when they are about to be removed from the rolls for any reason and allow them to correct any errors or omissions or demonstrate eligibility before they are stricken from the rolls.

### **Example—Florida:**

- For removal due to mental incapacitation or a felony conviction (and for removal due to death if the source of that information isn't the Department of Health or the U.S. Social Security Administration), Florida requires that a notice be sent to the voter and gives them 30 days to respond and contest their removal.
- [Fla. Stat. § 98.075\(7\)](#)

## Ensure that list maintenance and removal practices don't remove voters for "inactivity" (failing to vote).

While the [NVRA](#) explicitly prohibits states from removing a voter from the registration rolls simply for not voting, it is legal for states to flag inactivity as an indicator that a voter may have moved and eventually remove that voter from the rolls. However, if your state's list maintenance laws allow for removing voters from the rolls simply because they have skipped voting in several consecutive elections and have not responded to a mailed notice, abolishing these "use it or lose it" provisions should be a priority reform. While states may justify this practice by saying that not voting in recent elections and not responding to a mailed notice is a proxy for identifying people who have moved to a different jurisdiction, this is a highly imperfect and unnecessary mechanism for keeping voting rolls up to date. Advocating for your state to get rid of it ensures that people who get energized to vote in a particular election can cast a ballot instead of showing up at the polls and discovering they are no longer registered.

### Example—Arkansas:

- Arkansas Constitutional Amendment 51 states that a voter's registration is permanent and is only subject to cancellation for delineated reasons, which do not include failure to vote.
- [Ark. Const. amend. 51 § 11](#)

### Example—Colorado:

- Colorado law explicitly prohibits removing a voter simply for not voting.
- [Colo. Rev. Stat. § 1-2-605\(7\)](#)

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## Ensure that election officials have updated and accurate information about which voters have died.

The [Help America Vote Act \(HAVA\)](#) requires states to cross-reference their voter rolls with data from state death records before removing deceased voters. But to ensure that they are not inadvertently removing voters who are alive and well from the rolls, it is best practice for election officials to go beyond the requirements of [HAVA](#) and use additional data sources to verify deaths.

### Example—Minnesota:

- In Minnesota, the commissioner of health submits a monthly report to the Secretary of State containing a list of individuals 18 years of age or older, with their names, addresses, dates of birth, and counties of residence, who died while maintaining residence in Minnesota since the previous report. The Secretary then determines who on that list was registered to vote. The list of deceased

registered voters is then forwarded to the county auditors, who mark them as ‘deceased’ within 60 days after receipt of the list.

- The Secretary can also use the Social Security Death Index and other states’ vital records to determine whether a registered voter in Minnesota is deceased. The information from this determination is sent to county auditors to have the voters marked as deceased.
- [Minn. Stat. 201.13](#)

### **Example—Delaware:**

- Every month, the Office of Vital Statistics sends a list of every person 16 years of age or older who died in Delaware since the last report to the State Election Commissioner. The list contains each decedent’s name, Social Security number, residence at the time of death, date of birth, date of death, and death certificate number. Every January and July each year, the Office of Vital Statistics sends a similar list to the State Election Commissioner of every Delaware citizen 16 years of age or older who was reported to the office to have died in another country or state. The State Election Commissioner must cancel the registration of each registered voter whose name is on either of these lists.
- A deceased voter’s registration may also be canceled upon receipt of a death certificate, written notice by the deceased’s spouse, adult child, sibling, or parent, or, if the deceased voter died in another state or country, an obituary from a Delaware newspaper.
- [DE Code Title 15 Section 1705](#)

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## **Ensure that election officials have updated and accurate information about which voters have been convicted of a disenfranchising offense.**

In many states, being convicted of certain crimes disqualifies a voter for some period of time. Accordingly, most states require courts or corrections departments to file regular reports with the state’s chief election official listing all disenfranchising convictions. However, since many states restore voting rights upon release from incarceration or completion of sentence (parole and/or probation, and in some states, payment of fines, fees, and restitution), it is best practice to make sure that this information is transmitted to the state’s chief election official as well.

### **Example—California:**

- In California, people incarcerated for felonies are ineligible to vote, but their right to vote is restored when they’re released from incarceration, even on probation or parole. Prior to California passing CA SB 504, clerks of courts sent the Secretary of State and county election officials monthly reports of people convicted of felonies since the last report, and this data was used to cancel voter registrations.

- [CA SB 504](#) created a new process where the Department of Corrections sends the Secretary of State two lists every week, one made up of the people who have lost their voting eligibility in the previous week, and one made up of the people whose eligibility has been restored in the previous week. Each list must include specific identifying criteria for each person on it. The Secretary of State cross-references the lists with the statewide voter registration database before providing the matching registration records to county election officials. In addition to canceling voter registrations for people who have lost their voting eligibility, county election officials must also provide notice to people who have had their voting eligibility restored.
  - [CA SB 504](#), codified as [CA ELEC § 2212](#)
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## **Ensure that election officials have updated and accurate information about which voters have been adjudicated mentally incapacitated to vote.**

Many states have specific rules requiring the removal of a person determined not to have the mental capacity to vote. However, since there is no set standard for measuring the mental capacity to vote, it is easy for these laws to be applied indiscriminately. Advocates should push for reforms that prohibit or limit the instances in which those with alleged mental incapacity lose their right to vote and ensure that these laws are applied fairly and consistently. Note that laws that bar people subject to guardianship or conservatorship from voting without an individualized inquiry into their capacity to vote may violate the U.S. Constitution as well as federal voting rights and anti-discrimination laws, as outlined in this report from the [National Disability Rights Network](#).

### **Example—California:**

- Under California law, a person is presumed competent to vote regardless of the person's conservatorship status. A person is mentally incompetent and disqualified from voting only if, during the course of certain conservatorship proceedings or a criminal trial where the defendant pleads not guilty by reason of insanity, the court finds by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process. The court then forwards the determination to the Secretary of State and county elections official, and the county elections official cancels the person's registration.
- [CA ELEC § 2209](#)
- After the determination of mental incompetency and disqualification from voting is made, a court investigator reviews annually or biennially the person's capability of communicating, with or without reasonable accommodations, a desire to participate in the voting process. If a conservatee is able to communicate a desire to vote, the court must hold an evidentiary hearing, and the conservatee's rights are restored unless there is clear and convincing evidence that the conservatee is incapable of communicating a desire to vote.
- CA ELEC §§ [2201](#), [2208](#)



### Example—Minnesota:

- Minnesota requires specific findings by the court that an individual is incompetent or has revoked the right to vote. The right to vote is not automatically lost by being under guardianship or being found incompetent for other reasons.
- [Minn. Stat. 201.145](#)

### Example—Indiana:

- Under Indiana law, detention or commitment for mental incompetency does not disqualify individuals from voting.
- Ind. Code §§ [12-26-2-8](#), [12-27-2-3](#).

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## Put procedures in place to ensure that the person being removed from the list is the same person who was identified as ineligible to vote.

Robust and explicit matching criteria codified in a statute or regulation help to ensure that the suspected deceased, convicted, incapacitated, non-citizen, or relocated person is, in fact, the voter being removed from the list.

### Example—Texas:

- The Texas Administrative Code defines criteria for strong and weak matches for removals of deceased voters and duplicate registrations. Strong matches generally require the entire last name, full social security number (or DPS number for duplicates), and date of birth. Weak matches are some lesser combination of factors.
- [1 Tex. Admin. Code § 81.6](#)
- Strong matches may be removed without additional investigation, while weak matches must be investigated further.
- [Tex. Elec. Code § 18.068](#)

### Example—Florida:

- The League of Women Voters developed the following model practice for determining multiple registrations, sometimes known as “duplicates,” to guard against faulty matches, based on the rules in a 2002 settlement agreement between the state of Florida and the NAACP:
  - To determine multiple registrations, the state may match:
    - » the last name, first name, least common denominator of the middle name, and the date of birth (DOB);

- » full nine digits of the SSN, last name, and either first name or DOB;
  - » driver's license or state ID number, and last name;
  - » SSN and last name, or DOB; or
  - » Florida ID and last name, or DOB.
- In applying these matching criteria, the following conditions apply:
    - » the last name in both records must be exact;
    - » the DOB in both records must be exact;
    - » there can be no conflict in race data or gender data and
    - » there can be no conflict in SSN—transpositions will not be accepted

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## Put processes in place for updating voter addresses.

State election officials should automatically update registrations upon receiving notice that a person has moved within the state and confirm the update with the voter. They should send clear, hard-to-ignore confirmation mailers when verifying addresses to ensure notice is effective – for example, by designing confirmation mailers to help the voter distinguish the mailer from junk mail and to ensure they will clearly understand the need to respond to avoid removal or placement on the inactive list. Already-registered voters who have moved anywhere within a state but have not yet updated their registration should be allowed to update their address at the polls and vote in the location of their current residence. The [NVRA](#) already allows registered voters who move within their existing election jurisdiction and congressional district to update their addresses and vote on Election Day. [NVRA § 8, 52 USC § 20507\(d\)](#). States should allow this for any in-state mover, as such voters have already had their information verified by election officials through the registration process.

### Example—Florida:

- Florida law allows voters who have moved anywhere in the state but have not updated their registration to change their address and vote at the polling place for the new address or an early vote site in their new county when casting a ballot. If the location uses an electronic poll book, the voter can vote a regular ballot. Otherwise, the voter must cast a provisional ballot but does not have to follow up after the election.
- [Fla. Stat. § 101.045](#)

### Example—Ohio:

- Ohio voters who have moved in-state can also update their address and vote at the precinct

for their new residence but must cast a provisional ballot. Voters do not need to follow up with additional documentation if they voted provisionally for this reason.

- Ohio Rev. Code §§ [3503.16](#), [3505.181](#)
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## Implement good data management practices.

States should manage their data on voter registration and removals using uniform codes for registration status and reasons for removal across the state so that counties are not creating ad hoc categories that aren't comparable across the whole state. These status and reason codes should be made available to the public with an explanation of their meaning so that voters, community groups, and academic researchers can understand and better address barriers to registration. States should have a method for monitoring all changes—additions, deletions, and updates—made to their lists. This monitoring might include electronic signatures within the database, or it might include a requirement for thorough documentation.

Good data management practices also include good security practices. States should follow the recommendations of security agencies such as the [National Institutes of Standards and Technology](#) and the [DHS Cybersecurity and Infrastructure Security Agency](#) to ensure the security of voter registration lists and consult with available experts at organizations like the [Center for Internet Security](#) and the [Center for Election Innovation & Research](#) to develop strong security protocols.

### Example—North Carolina:

- North Carolina law requires that voter registration data, including the relevant fields needed to monitor and detect potential wrongful and discriminatory removals, be provided to the public for free. The data is accessible in electronic format on the [North Carolina State Board of Elections website](#) and contains the necessary information—race, voter ID numbers, voter status, status reason codes, and voting history—to help identify and prevent improper removals.
  - [N.C. GEN. STAT. § 163-82.10.](#)
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## Establish safeguards around third-party challenges to voter registrations.

Instead of allowing mass challenges by third parties, states that allow for challenges should require that each individual challenge be separately adjudicated and/or require third-party challengers to swear, under penalty of perjury, that they have personal knowledge of another voter's ineligibility. States should prohibit third-party challenges to voter eligibility based solely on National Change of Address (NCOA) data since states already use this data as part of their routine list maintenance. They should also set limits on who can challenge a voter's eligibility, place the burden of proof on the challenger, and establish a clear timeframe for challenges.

### Example—New Hampshire:

- New Hampshire’s requirement that all challengers provide “a specific source of the information or personal knowledge” of each challenged voter’s ineligibility helps ensure that any successful claim is supported by individualized, reliable evidence instead of automated challenges conducted en masse using faulty data.
- [N.H. Rev. Stat. § 659:27-a](#)

### Example—Nevada:

- Nevada places limits on which parties can bring challenges. A voter may only challenge the registration status of any other voter registered to vote in the same precinct.
- Nev. Rev. Stat. Ann. §§ [293.303](#), [293.547](#)

### Example—Michigan:

- Michigan also places limits on who can bring challenges. Challengers are selected through local political parties and advocacy groups and must meet specific requirements, such as being registered voters in the state of Michigan.
- [Mich. Comp. Laws § 168.730\(2\)](#)

### Example—Colorado:

- Colorado requires challenges to be made in writing, under oath, and signed by the challenger under penalty of perjury. The challenger must set forth the specific factual basis for the challenge, which can be on the grounds of age, citizenship, residency, or other qualifications as an eligible elector. The law sets out the questions to be asked of the voter; by answering the questions satisfactorily under oath, the voter can vote a regular ballot. If the voter does not answer the questions, they may still vote with a provisional ballot.
- Colo. Rev. Stat. §§ [1-9-201](#), [1-9-202](#), [1-9-203](#)

### Example—North Carolina:

- North Carolina makes clear that challenges “shall not be made indiscriminately and may only be made if the challenger knows, suspects or reasonably believes” the challenged voter is ineligible and that the burden of proof is on the challenger to offer affirmative proof of the challenged voter’s ineligibility.
- [N.C. GEN. STAT. § 163-88](#)
- The presumption is that the voter is properly registered; any challenge must be supported by affirmative proof for it to be sustained, and returned mail is not admissible evidence for an Election Day challenge.
- [N.C. GEN. STAT. § 163-85](#)



# HOW TO SPOT A BAD LIST MAINTENANCE BILL

Advocates monitoring their state's legislative session should be on the lookout for bills that make the following types of changes to list maintenance processes.

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## Tight deadlines for list maintenance

These bills set very short timelines for election officials to remove voters from the rolls, which means that officials may not have enough time to ensure that they are only removing ineligible voters and not inadvertently removing eligible voters as well.

### Example—[VA H 1377 \(2023\)](#):

- This Virginia bill was introduced but did not pass during the 2023 legislative session. It would have required registrars to cancel the registrations of voters they learned to be ineligible within seven days of discovering that information.
- This kind of quick turnaround wouldn't give registrars enough time to conduct investigations and could lead to them defaulting to removing voters from the rolls to avoid not being in compliance. There's also uncertainty and vagueness around when a registrar discovers a voter's ineligibility.
- Potential tweaks to mitigate the impact of a bill like this include adding provisions specifying that voters can only be removed upon completion of the investigation, adding a requirement to send voters notice before removal, and extending the time allotted for investigation.

### Example—[GA SB 202 \(2021\)](#), codified as [Ga. Code § 21-2-229](#):

- This Georgia law requires registrars to serve notice on voters who have their registration eligibility challenged by other voters within 10 business days of the challenge being filed and to hold hearings on challenges within 10 business days of serving such notice. It also authorizes the State Election Board to sanction registrars for failure to comply with challenge procedures. This timeframe places a significant burden on election administrators.
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## Changes to the use of interstate databases

Since the passage of the [Help America Vote Act \(HAVA\)](#) of 2002, which requires states to create and maintain electronic statewide databases of all registered voters, an increasing number of states have joined interstate compacts to facilitate data sharing across a wide area. For more than a decade, the

Electronic Registration Information Center (ERIC) has been used by both Republican and Democrat-led states as an interstate compact enabling member states to exchange information and improve the accuracy of their voter registration lists. However, as [Voting Rights Lab reports](#), it has recently been “subjected to intense scrutiny from state lawmakers and [organizations](#) seeking to restrict voting access and undermine trust in our elections.” Advocates should watch for legislation that withdraws their state from ERIC or prohibits it from joining in the first place, as well as legislation that creates new systems that lack safeguards for protecting against the wrongful removal of eligible voters.

#### **Example—TX SB 1070 (2023):**

- Passed during Texas’s 2023 legislative session, this bill prohibits a contract with an interstate crosscheck system to require any other duty not explicitly required by the state’s election code (such as the outreach to eligible unregistered voters required by ERIC).
- This bill also requires the Texas Secretary of State to contract with a “private sector data system” to identify voters who have changed addresses, are deceased, or are ineligible “for other reasons,” including felony convictions.

#### **Example—OK HB 2052 (2023):**

- This Oklahoma bill, which passed during the 2023 legislative session, adds restrictions to joining multistate list maintenance organizations and, among other restrictions, prohibits SOS from joining any organization that requires notifications to be sent to persons who are eligible but not yet registered where a member or ex-officio member is a non-state representative.
- The bill also authorizes the Oklahoma Attorney General to sue a multistate list maintenance organization if that organization shares any data with any entity other than a state that is a member of the organization.

#### **Example—state and local contracts with EagleAI NETWORK:**

- As the Brennan Center for Justice describes, “EagleAI takes from sources including the National Change of Address database, criminal justice records, and tax property data to create massive lists of voters. From there, it highlights names of potentially ineligible voters using criteria that are at best unreliable and at worst irrelevant, such as matching names on voter lists with change-of-address forms or felony convictions or even just registration at nursing homes (baselessly implying that nursing home residents are somehow not competent to vote). Amateur investigators take the highlighted names and look for purported evidence of voter ineligibility, like a social media posting from out of state. They can then use EagleAI to auto-prepare challenge forms in a couple of clicks.”
- In addition to facilitating mass challenges to voter eligibility, EagleAI has been [pitched to election administrators in several states as a replacement for ERIC](#).

- In response to the Columbia County Board of Elections in Georgia considering a contract with EagleAI, national and state-based groups sent the board letters to the Board outlining their legal and policy concerns about using EagleAI for voter list maintenance.
    - [Letter from the Brennan Center to the Columbia County Board of Elections](#)
    - [Letter from Fair Fight to the Columbia County Board of Elections](#)
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## Additional matching requirements to register to vote or maintain registration

Accurate database matching is a complex practice - data entry errors, similar names, and changing information can all produce false matches. Furthermore, databases themselves are notoriously prone to error. The Social Security Administration (SSA) [has acknowledged](#) that matches between its database and voter registration records have yielded a 28.5 percent error rate. Advocates should watch out for bills that add matching requirements to federal or state databases for voter registration or for remaining on the rolls.

Additional matching requirements for remaining on the rolls should not be confused with additional matching requirements for **removal**. Matching requirements for **removal** is considered a good best practice as it can prevent unnecessary purges.

### Example—[VA SB 965 \(2022\)](#):

- The bill, which was introduced but did not pass during Virginia’s 2023 legislative session, would have required registrars to verify registrations in their jurisdictions annually against Social Security Administration (SSA) data. Every voter whose registration information did not match SSA data would have been sent an address confirmation notice that could eventually trigger their removal from the voter rolls.
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## Vague language

Bills with vague language run the risk of being enforced inconsistently by election officials.

### Example—[AZ HB 2243\(H\) \(2022\)](#), codified as [AZ 16-165\(I\)](#):

- The Arizona law requires recorders who have “reason to believe” a voter isn’t a citizen to check whether the person is in the Systematic Alien Verification for Entitlements, a [federal](#) system most often used by agencies to verify immigration status for the purposes of receiving benefits, and which could be inaccurate or out of date.
- The law is vague and subjective about what the recorder’s “reason to believe” should be based on. Different recorders might have different standards for this, and some might feel obligated to act

on tips from bad actors. A federal court [temporarily blocked this law from implementation for the federal elections in 2022](#), but litigation is still ongoing. Note that under the [NVRA](#), election officials are prohibited from removing a voter they believe has moved without following a confirmation process laid out in the [NVRA](#).

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## No opportunities to dispute removal

These bills add provisions for removing voters from the rolls without requiring that these voters be notified and given the opportunity to dispute their removal. This leaves voters with no recourse to prevent their registrations from being wrongly canceled and makes it more likely that they will show up at the polls to vote without knowing that they've been removed from the rolls (which will deny them the ability to participate in the election, unless their state has same-day registration). Note that such laws are likely to violate the [NVRA](#), as the [7th Circuit held in 2021](#) with regard to an Indiana law.

### Example—TX H 862 (2023):

- This Texas bill was introduced during the 2022-2023 legislative session but did not pass. It would have required court clerks to send the list of people disqualified from jury duty because of their citizenship status to county election officials as well as to the Secretary of State and for any registered voters on the list to have their registration canceled immediately without any notice or time to respond.
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## Removals for materials returned as undeliverable

These bills require or allow election officials to engage in “voter caging,” the practice of sending mail to addresses on the voter rolls, compiling a list of the mail that is returned undelivered, and using that list to purge or challenge voters’ registration on the grounds that the voters on the list do not legally reside at their registration addresses. This is a notoriously unreliable basis for determining that a voter is not eligible or does not live at the address at which he or she registered.

### Example—FL SB 7050 (2023):

- This Florida bill, which passed during the 2023 legislative session, contains a number of provisions that make it more likely for an eligible voter to be removed from the rolls due to undeliverable mail.
- The bill requires supervisors of election to annually review registration records looking for people registered at addresses that “may not be an address of legal residence” and then begin the registra-



tion cancellation process by sending a notice to those voters. The bill does not define an “address of legal residence,” and current Florida law does not address whether a residential address is an “address of legal residence.” This can be particularly challenging for homeless voters and people who live on Indigenous lands but do not have a traditional address.

- The bill repeals a previous requirement that the supervisors of elections send a second address confirmation card to voters who do not respond to the first within 30 days. Second cards will only be required if the first was returned as undeliverable without forwarding information. Relatedly, the bill also removes the notice in address confirmation mailers that instructs voters that if they have not moved, they must respond to the card within 30 days.

