



MICHIGAN

State excerpt from

Dēmos

Protecting Voter Registration

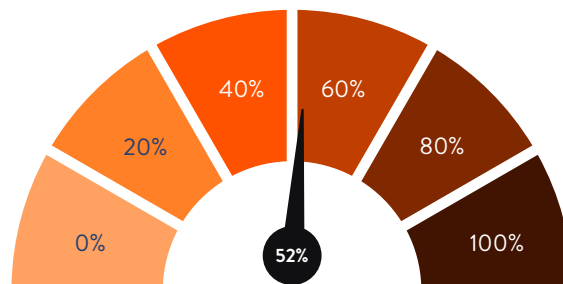
An Assessment of Voter
Purge Policies in Ten States

Michigan

Removal Practices

FIGURE 25

Michigan Removal Practices



Michigan scored 52% for its removal practices. Michigan does not have a “use it or lose it” policy whereby the failure to vote triggers a removal process. Instead, like other states that do not purge for failing to vote, Michigan places voters in an “inactive voter” status if they do not vote for six consecutive years or if the voter is sent a notice based on reliable information that they no longer reside at the address at which they were registered.¹⁵⁰ However, voters marked “inactive” for not voting are not required to return a confirmation notice to remain eligible.¹⁵¹

Additionally, while Michiganders incarcerated for a crime are not allowed to vote while they are incarcerated, the state does not remove them from the registration rolls during that time, and their voting rights are automatically restored upon their release, so persons who are again eligible to vote post-incarceration do not have to re-register.¹⁵² Michigan does not disen-

¹⁵⁰ Mich. Comp. Laws § 168.509r(6). The purpose of the “inactive” designation is to allow clerks to disregard inactive voters when drawing precincts, which, in most circumstances, are limited in size to 2,999 voters. Election Officials’ Manual, Michigan Bureau of Elections, Chapter 2, Updated November 2019, p 20, available at https://www.michigan.gov/sos/-/media/Project/Websites/sos/01mcalpine/IL_Voter_Registration.pdf?rev=ec740a2054d8432ba2864b8af7d45133&hash=5041CC134AF6B0695B9A80D5E2FCFD16.

¹⁵¹ Mich. Comp. Laws §§ 168.509r(7), 509bb. However, if a voter fails to respond to a confirmation that was mailed based on reliable information that the voter has moved to a different city or township, the voter will be removed from the rolls if the voter fails to vote during a period covered by the next two general elections. Mich. Comp. Laws § 168.509aa(3)(c)(i). We do not consider this a “use it or lose it” process because voters are not required to respond to a confirmation notice solely because they failed to vote, but instead only when a clerk has information from the U.S. Postal Service or other reliable information that the voter has moved. Mich. Comp. Laws 168.509aa(1).

¹⁵² Mich. Comp. Laws § 168.758b. See also Secretary of State website, FAQs, Elections and Voting, Can Michigan residents in jail or prison still vote? <https://www.michigan.gov/sos/faqs/elections-and-campaign-finance/elections-and-voting> (last visited February 18, 2023).

franchise voters based on grounds of alleged mental incapacity.¹⁵³

For removals based on death, Michigan's practices are mixed. Although the state does dictate what information county clerks must provide to election officials when notifying them of deaths,¹⁵⁴ Michigan law does not spell out a process for giving notice or for correcting erroneous removals.¹⁵⁵

In addition, the state provides election officials with "catch-all" authority for removals, authorizing election officials to summarily remove voters upon suspicion that the voter's name is in the registration record because of illegality or fraud, without requiring the kind of voter notice applicable to other bases for removal.¹⁵⁶ Voters targeted under these procedures are notified only after removal and do not have the opportunity to contest the removal in advance.¹⁵⁷ If the clerk does not remove the voter's registration record but instead marks them as "challenged," the challenged voter must sign an oath as to qualification when appearing to vote.¹⁵⁸

Finally, any registered voter may challenge the registration of another voter, although this must be done by signing an affidavit. Such an affidavit automatically requires the challenged voter to appear at a hearing on their eligibility unless the challenged voter submits their own affidavit explaining the grounds of their eligibility.¹⁵⁹ The voter may have their registration canceled or be immediately removed from the rolls if they fail to submit such an affidavit or attend the hearing.¹⁶⁰ The law does, however, make it a misdemeanor for a person who challenges a voter's registration "indiscriminately and without good cause or for the purpose of harassment."¹⁶¹

¹⁵³ While the Michigan constitution has provisions authorizing the legislature to impose competency requirements for voter eligibility (Mich. Const. art. II, § 2), no such laws exist. See also "State Laws Affecting the Voting Rights of People with Mental Disabilities," Bazelon Center for Mental Health Law, 2016, available at http://www.bazelon.org/wp-content/uploads/2017/11/2016_State-Laws-Affecting-Voting-Rights-of-PWD.pdf.

¹⁵⁴ Mich. Comp. Laws §§ 168.509o(4), 168.510.

¹⁵⁵ Mich. Comp. Laws § 168.510.

¹⁵⁶ Mich. Comp. Laws § 168.521.

¹⁵⁷ Id.

¹⁵⁸ Id.

¹⁵⁹ Mich. Comp. Laws § 168.512.

¹⁶⁰ Id.

¹⁶¹ Id.

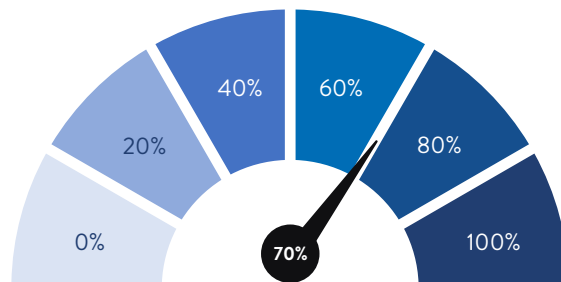
Table 25: Removal Practices

Reason for Removal	Felony Conviction ¹⁶²	Death	Citizenship Status	Adjudication of Mental Incapacity	Other Reasons for Removal
Matching Criteria	4	2	0	4	Inactivity 20
Notice of Removal	4	0	0	4	Catch-all Removal Authority 0
Procedures to Contest	4	0	0	4	Caging / Mass Challenges 0
Notice of Restoration to Voter	0	n/a	n/a	2	Total 52/100 = 52%
Notice of Restoration to Elec. Official	2	n/a	n/a	2	

Safeguards Against Erroneous Removal

FIGURE 26

Michigan Safeguards from Removal



Michigan scored 70% for its safeguards to protect voters who do not learn that their registrations have been canceled or marked inactive until they attempt to vote in an election. Most importantly, Michigan offers its voters same-day registration both during the early voting period and on Election Day.¹⁶³ This process provides a method for voters who have been erroneously removed from the rolls to cast a regular ballot, although the voter cannot do so at the polling place only at the county clerk’s office.¹⁶⁴ Such voters are also required to show documentary proof of residence which can consist of a utility bill, bank statement, or government check as proof of residence).¹⁶⁵ Another positive for Michigan is that a voter who has been erroneously

¹⁶² Since Michigan law does not dictate removal of voters from the registration rolls while they are incarcerated and ineligible to vote, notice to election officials of the renewed eligibility of these voters post-release is not necessary.

¹⁶³ Mich. Comp. Laws § 168.497(2).

¹⁶⁴ Id.

¹⁶⁵ Id. at (2)-(4).

removed from the rolls due to a failure to respond to an address confirmation mailing may swear an oath attesting to the voter’s qualifications and vote a regular ballot.¹⁶⁶ Voters on the inactive list for previous inactivity may cast a regular ballot as well.¹⁶⁷

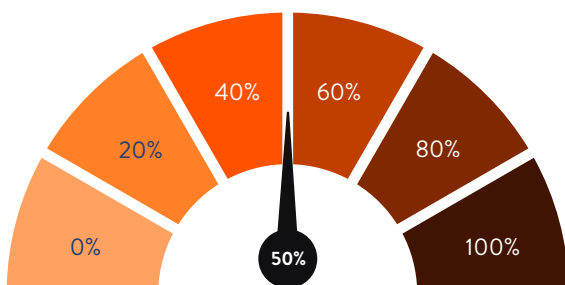
Table 26: Safeguards Against Erroneous Removal

Safeguard	
Scope of Same-Day Registration (SDR)	30
SDR Identification Requirements	0
Regular or Provisional Ballot for SDR Voter	20
Regular or Provisional Ballot for Correcting Inactive Status	20
Total	70/100 = 70%

Data Accessibility

FIGURE 27

Michigan Data Accessibility



Michigan scored 50% for data accessibility. Anyone can request the full voter file, and it comes in an electronic format.¹⁶⁸ However, the file is not free, although it is considerably less costly than voter files in other states,¹⁶⁹ and the timeline for receiving the file is unclear.¹⁷⁰ In addition, Michigan does not make the full file available for immediate download but instead requires submission of a “Qualified Voter File Data Request Form.”¹⁷¹

¹⁶⁶ Mich. Comp. Laws §§ 168.509r(6); 168.727; 168.729.

¹⁶⁷ Mich. Comp. Laws §§ 168.509r(7).

¹⁶⁸ Michigan Election Law § 168.522

¹⁶⁹ The EAC estimates the Michigan voter files costs around \$23. See U.S. Election Assistance Commission, “Availability of State Voter File and Confidential Information,” Updated October 29, 2020, available at https://www.eac.gov/sites/default/files/voters/Available_Voter_File_Information.pdf (last visited April 20, 2023).

¹⁷⁰ Mich. Comp. Laws 168.522(1).

¹⁷¹ Michigan Department of State, Bureau of Elections, “Qualified Voter File Data Request Form” available at https://www.michigan.gov/documents/FOIA_FORM_120378_7.pdf?msclkid=efbb9a11aed111ec84e135843b32f766 (last visited Feb. 18, 2023).

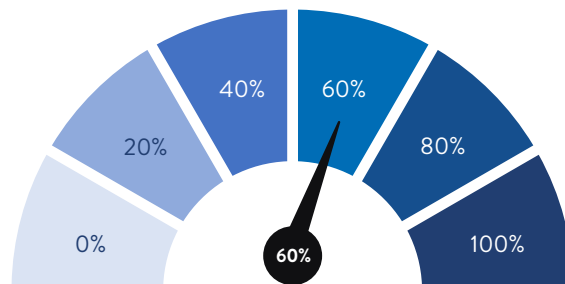
Table 27: Data Accessibility

Indicator of Accessibility	
Complete File Publicly Available	0
Who Can Request File	20
Cost	10
Timeline	0
Format	20
Total	50/100 = 50%

Data Transparency

FIGURE 28

Michigan Data Transparency



Michigan scored 60% for data transparency. The file contains voter ID, voter status, and voting history, but not status reason code or race, as Michigan does not require registrants to provide their race or ethnicity.¹⁷²

Table 28: Data Transparency

Indicator of Transparency	
Race	0
Voter ID Number	20
Voter Status	20
Status Reason Code	0
Date Last Voted	20
Total	60/100 = 60%

¹⁷² *Id.*

Current Political Context

Voter access and list maintenance have been highly visible and partisan topics in state politics for the last few years. In 2022, a bill was introduced in the Senate requiring clerks to conduct more frequent checks for deceased voters, with daily checks required shortly before elections (a substantial burden for local election officials), but the bill did not pass.¹⁷³ In 2021, the Michigan legislature passed, but the Governor vetoed, bills that would have required the secretary of state to send address confirmations to any registered voter who has not voted since 2000, informing them that they must return the form within 15 days of an election (or be required to update information at the poll or be subjected to “challenge” status) (HB 4128), and delete voters’ registration records if their voter record does not include a birthdate and they fail to provide documentary proof of birthdate prior to 15 days before an election (HB 4127).¹⁷⁴ Although Michigan has some strong safeguards against erroneous removal, including same-day voter registration,¹⁷⁵ such removal practices can still harm voters if they do not bring the appropriate documents to the polls after being purged.

In the 2022 elections, Democrats won majorities in the Michigan House and Senate after many years of Republican control of the legislature. In addition, voters rejected Republican candidates for governor, secretary of state, and attorney general, who ran on a “vote-denial” platform questioning the validity of the 2020 Presidential election.¹⁷⁶ Voters also approved Proposal 2, another set of pro-voter reforms, including early voting.¹⁷⁷

It remains to be seen whether the shift in the state legislature will result in any new legislation regulating list maintenance. The secretary of state and numerous legislators have announced plans to introduce a package of legislation protecting election workers from harassment and doxxing and making other pro-democracy changes to state law.¹⁷⁸

¹⁷³ MMI S 966, available at <https://legiscan.com/MI/bill/SB0966/2021>.

¹⁷⁴ MI HB 4128, available at [http://www.legislature.mi.gov/\(S\(izceycnm23ru0sfigxcudcfz\)\)/mileg.aspx?page=GetObject&objectname=2021-HB-4128](http://www.legislature.mi.gov/(S(izceycnm23ru0sfigxcudcfz))/mileg.aspx?page=GetObject&objectname=2021-HB-4128) (last visited April 20, 2023); MI HB 4127, available at [https://www.legislature.mi.gov/\(S\(q0f54bc0pl3wo1njfghtxwgr\)\)/mileg.aspx?page=getObject&objectName=2021-HB-4127](https://www.legislature.mi.gov/(S(q0f54bc0pl3wo1njfghtxwgr))/mileg.aspx?page=getObject&objectName=2021-HB-4127) (last visited April 20, 2023).

¹⁷⁵ Michigan implemented same-day registration as part of a 2018 ballot proposal that made substantial improvements to election practices. Kat Stafford, “Voters approved Proposal 3, bringing sweeping changes to Michigan’s election law,” Detroit Free Press, November 6, 2018, available at <https://www.freep.com/story/news/politics/elections/2018/11/06/michigan-voting-proposal-3-results/1885266002/>.

¹⁷⁶ Fredreka Schouten, “With newfound powers, statehouse Democrats race to expand voting rights,” CNN, January 25, 2023, available at <https://www.cnn.com/2023/01/25/politics/statehouse-democrats-push-voting-rights-bills/index.html>.

¹⁷⁷ Clara Hendrickson, “Proposal 2: Voting rights proposal approved in Michigan,” Detroit Free Press, November 11, 2022, available at <https://www.freep.com/story/news/politics/elections/2022/11/09/proposal-2-michigan-results-election-2022/69599504007/>.

¹⁷⁸ Michigan Department of State, Press Release, “Benson and state lawmakers announce plans to protect the people who protect democracy,” January 17, 2023, available at <https://www.michigan.gov/sos/resources/news/2023/01/17/benson-announce-plans-to-protect-the-people-who-protect-democracy>.

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