

Chapter 1

Executive Summary

The NVRA

The National Voter Registration Act of 1993 (NVRA) was designed to increase the number of registered voters in the United States by requiring many government offices to offer people the opportunity to register to vote. The NVRA requires each state to offer voter registration services at motor vehicle agency offices and, in addition, to designate as voter registration agencies:

- All offices that provide public assistance;
- All offices that provide state-funded programs primarily engaged in providing services to persons with disabilities; and
- Other state and local agencies.

Beyond expanding opportunities to register to vote, the NVRA also protects the integrity of elections by requiring states to maintain accurate and current voter registration rolls. The NVRA specifically prevents states from removing voters from the rolls unless certain conditions are met and requires states to offer “fail safe” voting to registered voters who have moved within their county. California’s provisional voting laws meet NVRA requirements.

The United States Election Assistance Commission (EAC) reports to Congress every two years on the impact of the NVRA. The EAC gathers data on the NVRA from states by including questions about NVRA voter registrations and provisional voting in its biennial Election Day Survey of all 50 states. In California, the Secretary of State responds to the EAC survey by gathering and compiling data from each of the 58 county elections offices.

Voter Registration at the Department of Motor Vehicles

Chapter Two of this manual covers NVRA voter registration services at the Department of Motor Vehicles (DMV). Under the NVRA, state motor vehicle departments must offer voter registration with each new, renewal, or change of address application for a state driver license or identification card (DL/ID). Under the NVRA, DMV change of address requests serve as notice of a change of address for voter registration purposes, unless the voter chooses otherwise.

In California, under the California Motor Voter program, every eligible applicant who visits a DMV office to apply for or renew a DL/ID or to change an address is automatically registered to vote, unless they choose to opt out of automatic registration. Additionally, every eligible applicant who receives a DL/ID renewal form online is automatically registered to vote, unless they choose to opt out of automatic registration.

During the automatic registration process, the applicant can register for the first time or re-register after a change in name, address, or party preference. This voter registration information is sent electronically to the California statewide voter registration database, which then shares the information with county elections officials who update voter registration records. Additionally, when a voter updates their address with a DMV office in California, this information is also provided to the statewide voter registration database.

Moreover, every person who receives a DL/ID renewal form by mail also receives a California Voter Registration Application (VRC). The VRC can be used to register to vote or to re-register after a change in name, address, or party preference. Lastly, the DMV continues to accept completed VRCs and forwards them to the Secretary of State or the county where the voter lives.

Voter Registration at Public Assistance Agencies, Disability Service Agencies, and Other Voter Registration Agencies in California

Chapter Three of this manual covers voter registration services at public assistance agencies, disability service agencies, and other agencies designated under the NVRA. The NVRA requires each state to designate as “voter registration agencies” all agencies and offices that provide public assistance or are funded by the state primarily to serve people with disabilities.

Designated agencies must provide both an NVRA Voter Preference Form, which asks “Would you like to register to vote?” and a VRC to each person who applies for new services or benefits, requests renewal or recertification, or identifies a change of address. The NVRA requires designated agencies to ask the applicant to complete the Voter Preference Form and to keep all completed Voter Preference Forms on file for two years. If an applicant asks for assistance in completing a VRC, the NVRA requires designated agencies to assist the applicant with filling out the VRC in the same manner it assists applicants with filling out the agency’s own forms. Finally, designated agencies must accept and forward completed VRCs to elections officials.

California law goes a step further than the NVRA and requires that if an NVRA agency allows applicants to apply online for services, they must also allow an applicant to electronically submit a Voter Preference Form and voter registration application. All NVRA agencies are provided their own unique URL for voter registration purposes.

Registered Voter List Maintenance Requirements

Chapter Four of this manual covers the NVRA requirements on how states maintain voter registration rolls. California state election laws meet the NVRA list maintenance requirements. Both the NVRA and state law provide for the:

- confirmation of voter registration sent to each newly registered voter or voter who updates their voter registration;

- removal of ineligible and deceased voters from the rolls;
- updating of a voter's current registration if it is within California;
- cancellation of a voter's registration if the:
 - voter confirms a change of residence outside California; or
 - county elections official receives notice from the U.S. postal service that the voter appears to have moved, and the voter both fails to respond to an address verification postcard and fails to vote in two subsequent federal general elections. In California, the county elections officials receive notices such as this via messages from the statewide voter registration database.

In some cases, California law provides more opportunities to voters while remaining consistent with the NVRA. For example, the NVRA requires states to accept voter registrations up to 30 days prior to the election. Because California has a 15-day voter registration deadline, elections officials accept voter registrations until 15 days prior to each election.

Additionally, California offers conditional voter registration (CVR) beginning on the close of the registration up through and including Election Day. Voter registrations received after the 15-day deadline that are not CVRs, are accepted for the purpose of registering voters for future elections, with the exception of registrations from new residents of California and new United States citizens. Under California law, new California residents can register to vote up to seven days prior to an election. New United States citizens are eligible to register and vote up to the time polls close on Election Day.

Provisional Voting

Chapter Five of this manual covers provisional voting, and encompasses the “fail safe” voting requirements under the NVRA. California provisional voting laws meet the NVRA fail safe voting requirements and the federal Help America Vote Act (HAVA) provisional voting requirements. California law gives any voter whose registration cannot be confirmed at the polling place the right to vote using a provisional ballot. California law also allows for conditional voter registration (CVR) and CVR provisional voting beginning on the close of registration up through and including Election Day at county elections offices and other designated locations. California voters can also check My Voter Status found on the Secretary of State's website at <https://voterstatus.sos.ca.gov/> to see if their provisional ballot has been accepted.

Recordkeeping and Reporting

Chapter Six of this manual covers state and county recordkeeping and reporting requirements under the NVRA and HAVA. The EAC reports to Congress biennially on the impact of the NVRA. To gather data for the report, the EAC surveys all 50 states every other year following the federal general election. The California Secretary of State's office responds to the EAC survey by gathering and compiling data from each of the 58 county elections offices. Counties report aggregate data on registration and voting information, including but not limited to:

- total number of registered voters (active and inactive);
- total number of voters in the most recent federal election;
- registrations by type (new, valid, rejected, duplicate, re-registrations);
- registrations by source (mail, DMV, public assistance agencies, disability service agencies, armed forces recruitment offices, other NVRA designated agencies, and other sources);
- registration removals;
- military and overseas voters and vote-by-mail ballots transmitted and cast;
- provisional ballots cast; and
- registration confirmation notices mailed, and responses received, under the NVRA list maintenance requirements.

National Mail Voter Registration Form

The last chapter of this manual, Chapter Seven, covers the NVRA requirements to establish the National Mail Voter Registration Form (National Form) and allow people to register to vote by mail. The NVRA permits states to develop their own voter registration forms but requires states to accept and use the National Form. California, a leader in mail registration and vote-by-mail voting, had already established mail registration and vote-by-mail laws before the NVRA. (See Elec. Code, § 3000 et seq.)

Enforcement of the NVRA

The NVRA authorizes the United States Department of Justice to bring a civil action in federal district court against states that do not comply with the NVRA. The NVRA also allows a person who believes they suffered harm due to a state or local failure to properly implement the NVRA to sue a state or local agency. In most circumstances, private parties must first notify the chief elections official of the state and provide an opportunity for the state to correct the violation before filing a legal action. An individual or group who prevails in court may be awarded reasonable court costs and attorney's fees. Finally, the NVRA establishes criminal penalties for certain intentional acts regarding registration, voting, or violation or denial of any other right under the NVRA.

Implementation of the NVRA in California

California embraces the NVRA's requirements and goals of helping more eligible citizens register to vote and cast ballots on Election Day by offering automatic voter registration through the DMV; offering voter registration at state and local agencies, offering vote-by-mail and provisional voting; offering conditional voter registration; offering online voter registration at RegisterToVote.ca.gov; allowing counties to conduct elections pursuant to the Voter's Choice Act and utilize vote centers; and by maintaining accurate voter rolls.

California laws permitting voter registration by mail, vote-by-mail voting, and provisional voting, as well as laws setting voter list maintenance standards meet or exceed NVRA requirements. And although the NVRA did not require the adoption of state law to give it effect, as more fully discussed in Chapter 3 of this manual, in January 2013, Senate Bill 35 codified portions of the NVRA into state law and placed new requirements on NVRA agencies, county elections officials, and the Secretary of State. (See Elec. Code, § 2400 et seq.)

This manual is designed to help counties, as well as state and local agencies designated as voter registration agencies under the NVRA, understand and carry out their NVRA duties. The Secretary of State also offers specific guidance and training for designated NVRA agencies on the Secretary of State website at <https://www.sos.ca.gov/elections/voter-registration/nvra/training/>.