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Joanna Dolan
Principal Research Analyst
785-296-4440
Joann.Dolan@klrd.ks.gov

Elections and Ethics

D-5 Voter Registration and Identification

Voter Registration Requirements

National Voter Registration Requirements

Federal and state elections in the United States are generally run by the states themselves, according to Article I and Article II of the *U.S. Constitution*. Nevertheless, there are some federal requirements that impact voter registration in the states.

The Voting Rights Act of 1965 allows all U.S. citizens to vote at any election in any state, so long as they are otherwise qualified by law to vote in that election (42 USC §1971).

The National Voter Registration Act of 1993 (NVRA), also known as the “Motor Voter” law, expanded the locations where a person may register to vote by requiring states to allow driver’s license applications to also serve as an application for voter registration. The NVRA requires a voter registration application made as part of a driver’s license application to include a statement containing each eligibility requirement (including citizenship) for that state (42 USC § 1993gg-3).

Finally, the Help America Vote Act (HAVA) (Public Law 107-252, § 303) requires applicants to provide one of the following when registering to vote:

- The applicant’s driver’s license number, if the person possesses a current and valid driver’s license;
- The last four digits of the applicant’s Social Security number, if the person does not possess a driver’s license; or
- The applicant’s state assigned identification number for voter registration purposes, for those applicants with neither a driver’s license nor a Social Security number.

State Voter Registration Requirements

Every state except North Dakota requires voter registration.

Generally, state voter registration laws require applicants to:

- Be 18 years old on or before the next election;
- Be a resident of the state where they are registering;
- Not be in jail and not have been convicted of a felony (or have had civil rights restored);
- Be mentally competent/not declared incapacitated; and
- Not be registered to vote in another state.

Same-day Voter Registration

Most states also have registration deadlines applicants must comply with to qualify to vote in an upcoming election. As of June 2019, 21 states and the District of Columbia have laws that allow same-day voter registration. Twenty of these states and the District of Columbia allow same-day registration on Election Day. One state (North Carolina) allows same-day registration only during the early voting period.

New Mexico enacted legislation in the 2019 Legislative Session, allowing qualified voters to register on Election Day beginning January 1, 2021.

During the 2019 Kansas Legislative Session, HB 2092, which would have enacted same-day voter registration in the state, was introduced and referred to the House Committee on Elections. The bill had a hearing and was worked by the Committee, but was not passed out for consideration by the full House of Representatives.

Online Voter Registration

As of October 2018, 37 states and the District of Columbia have laws allowing for online voter registration. Arizona was the first state to use online voter registration in 2002. Oklahoma is the most recent state to adopt the practice, passing authorizing legislation in 2018. The states that

have not provided for the use of online voter registration are Arkansas, Maine, Michigan, Mississippi, Montana, New Hampshire, New Jersey, North Carolina, North Dakota (no registration required), South Dakota, Texas, and Wyoming.

Preregistration

The minimum age to vote in all federal and state elections is 18 years old. However, many states allow persons who are not yet 18 years old to register to vote before they turn 18 so they will be added to the voter rolls and able to vote as soon as they reach the required age. This practice is commonly referred to as preregistration and is administered by states in a variety of ways.

Twenty-seven states allow an individual to register to vote if they will turn 18 on or before the next election, usually referring to the next general election. Fourteen states and the District of Columbia begin preregistration at 16 years of age, and 4 states allow such registrations beginning at 17 years of age. Five other states have their own unique age requirements: Alaska—90 days before 18th birthday; Georgia, Iowa, and Missouri—17 years, 6 months old; Texas—17 years, 10 months old.

North Dakota does not require voters to register, but specifies that qualified electors must be 18 years of age.

Automatic Voter Registration

The NVRA of 1993 required states to allow individuals to register to vote when applying for or renewing their driver's licenses. Some states have taken this requirement a step further and adopted automatic voter registration (AVR). AVR is a process by which individuals are automatically registered to vote and must opt out if they do not wish to be on the voter rolls. As of April 2019, 16 states and the District of Columbia have implemented AVR.

Voter Identification Requirements

As of January 2019, 35 states have enacted laws requiring or requesting voters to provide some form of identification (ID) before voting. However, there are many variations as to which forms of ID are accepted, whether the ID is required to include a photo, and what happens if a voter does not provide the required or requested ID upon arriving at the polling place.

Kansas Law

Prior to the 2011 Legislative Session, Kansas law required persons voting for the first time in a county to provide ID unless they had done so when they registered. At that time, acceptable ID forms included a current, valid Kansas driver's license or nondriver's ID card, utility bill, bank statement, paycheck, government check, or other government document containing the voter's current name and address as indicated on the registration book. A voter's driver's license copy or number, nondriver's ID card copy or number, or the last four digits of the voter's Social Security number were acceptable when the voter was applying for an advance ballot to be transmitted by mail.

In 2011, the law changed significantly through the passage of HB 2067. Effective January 1, 2012, all those voting in person were required to provide photo ID at every election (with the exception of certain voters, such as active duty military personnel, absent from the country on Election Day), and all voters submitting advance ballots by mail were required to include the ID number on, or a copy of, a specified form of photo ID for every election. Free nondriver's ID cards and free Kansas birth certificates were available to anyone 17 or older for the purposes of meeting the new photo voter ID requirements. Each applicant for a free ID had to sign an affidavit stating he or she plans to vote and possesses no other acceptable ID form. The individual also had to provide evidence of being registered to vote. Relatively minor amendments were also made in 2012 SB 129, including adding an ID card issued by a Native American tribe to the list of photo ID documents acceptable for proving a voter's identity when voting in person.

A U.S. District Court judge issued an order striking down Kansas' Voter ID law as it applies to registration for federal elections on June 18, 2018. [*Fish v. Kobach*, 309 F. Supp.3d 1048 (D. Kan, 2018).]

For more information, please contact:

Joanna Dolan, Principal Research Analyst
Joanna.Dolan@klrd.ks.gov

Jessa Farmer, Research Analyst
Jessa.Farmer@klrd.ks.gov

Kansas Legislative Research Department
300 SW 10th Ave., Room 68-West, Statehouse
Topeka, KS 66612
Phone: (785) 296-3181