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# LOUISIANA VOTER PROTECTION LAWS IN A NUTSHELL

Version 1.0 | Fall 2021



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## DISCLAIMER

The authors prepared this Nutshell for information purposes only. It is not legal advice and is not intended to nor does it create an attorney-client relationship. Any decision to take action, legal or otherwise, or to obtain legal advice or an attorney, should not be based solely on information contained in this publication.

## **I. INTRODUCTION**

The purpose of this publication (“Nutshell”) is to distill complex election law for lawyers, advocates, voter registration campaigns, and “get out the vote” campaigns. It combines state election law with state regulations, rules, attorney general opinions, and other election materials to provide a comprehensive interpretation of the law and practices with respect to elections. While this Nutshell does not cover every provision of state election law, it highlights those provisions that, in our experience, have most affected the voting rights of voters of color, including voters with convictions. The authors welcome all comments and questions.

## **II. ACKNOWLEDGEMENTS**

The authors wish to thank Professor Emeritus Bill Quigley of Loyola University New Orleans, College of Law and Voice of the Experienced (VOTE), a grassroots organization founded and run by formerly incarcerated people in Louisiana, for their expertise and guidance in creating this Nutshell and their collective efforts through many decades to protect and advance the right to vote for all.

## **III. ABOUT US**

### **ADVANCEMENT PROJECT NATIONAL OFFICE**

Advancement Project is a next generation, multi-racial civil rights organization. Rooted in the great human rights struggles for equality and justice, we exist to fulfill this nation’s promise of a caring, inclusive and just democracy. We envision a future where people of color are free – where they can thrive, be safe and exercise power. Driven by the genius of ordinary people and their movements, racism will no longer exist and justice will be radically transformed. Our Power and Democracy Program is involved in movement-based work aimed at blocking barriers to the ballot for voters of color and expanding access to the vote before Election Day, including supporting partners undoing the remnants of Jim Crow legacies that deprive communities of their voice and vote.

### **CROWELL & MORING LLP**

Crowell & Moring LLP is an international law firm with offices in the United States, Europe, MENA, and Asia that represents clients in litigation and arbitration, regulatory and policy, and transactional and corporate matters. The firm is internationally recognized for its representation of Fortune 500 companies in high-stakes litigation and government-facing matters, as well as its ongoing commitment to *pro bono* service and diversity, equity, and inclusion.

## IV. VOTER REGISTRATION

### A. WHO MAY REGISTER AND VOTE?

In general, a person may register and vote if they are: (1) at least 18 years of age; (2) a U.S. citizen; and (3) a resident of Louisiana and the parish in which they offer to register to vote.<sup>1</sup>

No minimal durational time period is required to establish a residence for the purpose of voter registration; a resident is simply a citizen who resides in the parish with the intent to reside there indefinitely.<sup>2</sup>

A 17-year-old may register to vote at any time prior to the first election at which they have attained 18 years of age. A 16-year-old's driver's license application submitted to the Office of Motor Vehicles (OMV) automatically registers them to vote unless they specifically decline to register. However, no one, under the age of 18 years, is permitted to vote.<sup>3</sup>

All full-time students attending institutions of higher learning in Louisiana may register to vote either (1) at the place where they reside while attending the institution; or (2) at the place where they reside while not attending the institution, but not both.<sup>4</sup>

### B. MAY VOTERS IMPACTED BY THE CRIMINAL LEGAL SYSTEM REGISTER AND VOTE?

Yes. The vast majority of people impacted by Louisiana's criminal legal system are eligible to register and vote. People with **misdemeanor** convictions and people held in **pre-trial detention** do not lose their right to vote. People in pre-trial detention may vote absentee mail ballots from jail. Please see section VIII (below).

Many formerly incarcerated people and people with **felony** convictions are also eligible to vote, including people currently on **probation and parole**. In Louisiana, people who are not or no longer under an order of imprisonment for a felony conviction as well as people who are still under such an order, but have not been incarcerated pursuant to that order within the last five years

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<sup>1</sup> [La. R.S. § 18:101](#); La. Const. Art. I § 10(A).

<sup>2</sup> Op. Att'y. Gen. No. 91-235, May 13, 1991; *Soileau v. Bd. of Supervisors*, 361 So.2d 319, 322 (La. Ct. App 1978); *Frequently Asked Questions*, <https://www.sos.la.gov/ElectionsAndVoting/RegisterToVote/FrequentlyAskedQuestions/Pages/default.aspx?OwnershipName=RegisterToVote&faqid=0>.

<sup>3</sup> [La. R.S. §§ 18:101\(A\)\(2\), \(A\)\(3\); 18:114\(B\)\(1\)](#).

<sup>4</sup> [La. R.S. § 18:101\(C\)](#).



are eligible to register and vote.<sup>5</sup> In plainer terms, a person with a felony conviction may register and vote if they are:

- **“Off paper,”** meaning they have been released from the actual physical custody of the Department of Public Safety and Corrections (DPSC or DOC) and/or discharged from the supervision of the Division of Probation and Parole (P&P) pursuant to a full-term sentence completion.
- **“On parole for five years,”** meaning they have been released from DOC’s actual physical custody and have been on parole for at least five years.
- **“On standard probation,”** meaning that in general, people sentenced to standard probation will not have their voting rights suspended and can register and vote unless they serve a period of time in state DOC custody prior to being out on probation. For example, people who are on probation after receiving a sentence deferral under La. C.C.R.P. 893(E) can register and vote. These individuals have never spent a day in the actual physical custody of the DOC. People with other types of probation sentences may also be eligible. For more information, contact the Secretary of State’s office at 1-800-883-2805 or Voice of the Experienced (VOTE) at (504) 571-9599.

When registering to vote this fall, a significant number of eligible voters with felony convictions may receive a “21-day suspension notice” or other written notice from the Secretary of State or their local registrar of voters instructing the person to take two additional actions in order to register to vote: (1) obtain a **Voting Rights Certification (“VRC”) Form**; and (2) bring the VRC Form in

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<sup>5</sup> Louisiana suspends the right to vote to people who are “under an order of imprisonment for conviction of a felony.” La. Const. Art. I § 10(A). This suspension applies to people currently in prison. This suspension also applies during “a sentence of confinement, whether or not suspended, whether or not the subject of the order has been placed on probation, with or without supervision, and whether or not the subject of the order has been paroled.” [La. R.S. § 18:2\(8\)](#); [La. R.S. § 18:102\(A\)\(1\)](#). In 2018, Act 636 created exceptions to this suspension period. These exceptions allow people who “ha[ve] not been incarcerated pursuant to the order of imprisonment within the last five years” to register to vote if the person “submits documentation to the registrar of voters from the appropriate correctional official showing that the person has not been incarcerated pursuant to the order within the last five years.” [La. R.S. § 18:102\(A\)\(1\)\(b\)](#). In 2021, Act 127 removed the documentation requirement, defined “incarcerated pursuant to the order” as “actual confinement” and streamlined voter registration and reporting processes between state agencies, among other changes. Act 127 does not go into effect until February 1, 2022. Note: A person who is under an order of imprisonment for election fraud or an election-related felony offense is not eligible to register and vote until they have completed their order of imprisonment. For more information, please visit Voice of the Experienced (VOTE), <https://www.vote-nola.org>. See also Act 636/HB265 (2018), <https://www.legis.la.gov/Legis/BillInfo.aspx?s=18RS&b=HB265&sbi=y>; Act 127/HB378 (2021): <https://www.legis.la.gov/Legis/BillInfo.aspx?s=21RS&b=HB378&sbi=y>.

person to the registrar's office.<sup>6</sup> The VRC Form is a one-page document embossed with the DOC seal certifying that a person is eligible to register and vote. Upon receiving this notice, the voter should follow the instructions. VRC forms are available at P&P offices statewide. Voters should also look through their discharge paperwork for the VRC Form as the DOC now provides the VRC Form as part of the discharge process.<sup>7</sup>

Importantly, the VRC form may be provided by mail, facsimile, commercial carrier, or hand delivery if a person (1) is approved as being eligible for the Special Program for Handicapped Voters; (2) has submitted current proof of disability from a physician along with certification from the physician indicating by reason of the person's disability the person is unable to appear in person to vote either during early voting or at the polling place on Election Day.<sup>8</sup> For more information about the VRC form, voters should contact their registrar,<sup>9</sup> their P&P office,<sup>10</sup> or VOTE at (504) 571-9599.

Following years of advocacy by VOTE, starting on February 1, 2022, the effective date of Act 127, the number of registrants who receive 21-day notices should decrease.<sup>11</sup> Please see section VI below for more on suspension and reinstatement of registrations of voters under Louisiana's felony disenfranchisement laws.

### C. **WHEN WILL THE FALL 2021 ELECTIONS BE HELD?**

Due to the statewide emergency declared in response to then-Tropical Storm Ida on August 26, 2021, the fall election schedule is as follows:

#### **November 13, 2021 – Election Day (Open Primary Election)**

- November 12 – Deadline for Registrar to Receive a Voted Absentee Ballot
- November 9 – Deadline to Request Absentee Ballot From Registrar
- November 6 – Early Voting Ends
- October 30 – Early Voting Begins (Excluding October 31)

#### **December 11, 2021 – Election Day (General Election)**

- December 10 – Deadline for Registrar to Receive a Voted Absentee Ballot

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<sup>6</sup> [La. R.S. §§ 18:102\(A\)\(1\); 18:176\(A\)\(2\); 18:177.](#)

<sup>7</sup> State of Louisiana, Dep't of Pub. Safety & Corr., Corr. Servs., Dep't Reg., No. IS-F-3, 01 March 2019, on file with authors.

<sup>8</sup> [La. R.S. § 18:177\(A\)\(2\).](#)

<sup>9</sup> *List of Registrar of Voters Offices*, <https://voterportal.sos.la.gov/registrar>.

<sup>10</sup> *List of Division of Probation or Parole Offices*, <https://doc.louisiana.gov/about-the-dpsc/facility-locations/?facility=probation-parole-offices>.

<sup>11</sup> Act 127/HB378 (2021): <https://www.legis.la.gov/Legis/BillInfo.aspx?s=21RS&b=HB378&sbi=y>.

- December 7 – Deadline to Request Absentee Ballot From Registrar
- December 4 – Early Voting Ends
- November 27 – Early Voting Begins (Excluding November 28)

D. **WHEN ARE VOTER REGISTRATION DEADLINES FOR THE FALL 2021 ELECTIONS?**

Louisiana's **online** voter registration deadline is 20 days prior to Election Day. For the Fall 2021 Elections, those deadlines are:

- **October 23, 2021** (For the November 13, 2021 Election)
- **November 20, 2021** (For the December 11, 2021 Election)

Louisiana's **in-person/mail** voter registration application deadline is 30 days prior to Election Day: For the Fall 2021 Elections, those deadlines are:

- **October 13, 2021** (For the November 13, 2021 Election)
- **November 10, 2021** (For the December 11, 2021 Election)

If mailing a voter registration application, the application or envelope must be **postmarked** 30 days prior to the election – or October 13, 2021 (for the November 13, 2021 Election) and **November 10, 2021 (for the December 11, 2021 Election)**<sup>12</sup>

E. **WHAT HAPPENS TO A VOTER'S VOTER REGISTRATION RECORD WHEN A STATE OF EMERGENCY – E.G., HURRICANE IDA – INVOLUNTARILY DISPLACES THEM FROM THEIR RESIDENCE?**

Nothing. A person who has been involuntarily displaced from their place of residence by the effects of a gubernatorially declared state of emergency shall not be considered to have vacated their residence and shall be considered to be a resident of Louisiana and the parish in which they were registered to vote **before** the emergency unless they (1) change their residence address; or (2) claim a homestead exemption.<sup>13</sup> However, a displaced voter should update their mailing address if it is different from their pre-emergency residence address.<sup>14</sup> The voter may do so at their register's office or at GeauxVote, Louisiana's online voter portal.<sup>15</sup>

F. **HOW AND WHERE MAY AN INDIVIDUAL SUBMIT A VOTER REGISTRATION APPLICATION?**

<sup>12</sup> [La. R.S. § 18:135\(A\)\(1\)](https://www.sos.la.gov/OurOffice/PublishedDocuments/2021JBE13ElectionsRescheduled.pdf); La. Executive Order Number 2021 JBE 13 (Sept. 9, 2021), <https://www.sos.la.gov/OurOffice/PublishedDocuments/2021JBE13ElectionsRescheduled.pdf>.

<sup>13</sup> [La. R.S. § 18:101\(F\)](#).

<sup>14</sup> *Register to Vote*, <https://www.sos.la.gov/ElectionsAndVoting/RegisterToVote/Pages/default.aspx>.

<sup>15</sup> *Geaux Vote*, <https://voterportal.sos.la.gov/>.

The National Voter Registration Act of 1993 (NVRA) or “Motor Voter Law”<sup>16</sup> and Louisiana law allow individuals to submit voter registration applications in one of the following ways:

- In person at the registrar’s office;
- Through the OMV and other designated voter registration agencies, including the Louisiana Department of Children and Family Services; WIC offices; food stamp offices; Medicaid offices; offices serving persons with disabilities such as the Deaf Action Centers and Independent Living Offices; Armed Forces recruitment offices; all public colleges and universities; all public high schools; all private colleges and universities with their permission; all private high schools with their permission; and all municipalities with their permission;
- Electronically via GeauxVote, the online voter portal, if the applicant has a Louisiana driver’s license or a Louisiana Special identification (ID) card. A person without these forms of ID will not be able to **submit** their application electronically. However, they will be able to complete an application via GeauxVote, print, and mail or deliver to their registrar’s office; or
- By mail using either the national mail voter registration form or state mail voter registration form.<sup>17</sup>

Under the Louisiana Election Code, the Department of Public Safety and Corrections (DPSC or DOC) must provide people who complete their orders of imprisonment following felony convictions with state mail voter registration applications.<sup>18</sup>

Voter registration applications are also available to purchasers of firearms from firearm retailers in the state. Firearm retailers have a Type 01 federal firearms license and employ 25 or more full time employees. Firearm retailers may register with the Secretary of State to receive voter registration information and procedures.<sup>19</sup>

**G. MAY INDIVIDUALS SUBMIT APPLICATIONS THROUGH THIRD-PARTY VOTER REGISTRATION GROUPS?**

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<sup>16</sup> National Voter Registration Act (NVRA) of 1993; 52 U.S.C. § 20501.

<sup>17</sup> [La. R.S. §§ 18:103\(A\); 18:116.](#)

<sup>18</sup> [La. R.S. § 177.1\(2\).](#)

<sup>19</sup> [La. R.S. § 18:118\(C\).](#)

Yes. Third party voter registration groups are encouraged to use GeauxVote in addition to mail voter registration application forms.<sup>20</sup> Third party groups are also encouraged to contact their registrars who are required to maintain a supply of mail voter registration application forms for use in organized registration drives.<sup>21</sup> Registrars are also required to submit a yearly listing of groups that requested voter registration information or forms along with the number of completed voter applications received.<sup>22</sup>

**H. ARE GROUPS OR PERSONS CONDUCTING VOTER REGISTRATION DRIVES REQUIRED TO DELIVER OR MAIL COMPLETED VOTER REGISTRATION APPLICATIONS TO REGISTRAR OFFICES WITHIN A CERTAIN TIME LIMIT?**

Yes. Third party groups must turn in any completed application to their registrar within 30 days of receipt of the completed application from the applicant.<sup>23</sup> Third party groups must also submit completed applications no later than the registration deadline for a particular election.<sup>24</sup>

**I. WHAT INFORMATION MUST BE PROVIDED ON A VOTER REGISTRATION APPLICATION FORM?**

In order for registrars to assess eligibility to vote, applicants must provide this information:<sup>25</sup>

- Date of application
- Name
- Date of birth
- Residence address, and if a rural address, sufficient information, in addition to rural route address and post box number, to identify the precinct of residence
- Mailing address (if different from the residence address)
- ID Number/Form of Identification such as: (1) Louisiana driver's license number; or (2) Louisiana Special ID card number, or if the applicant has neither a Louisiana driver's license, (3) the last four digits of their social security number, if they have one. If the applicant does **not** have a Louisiana driver's license, Special ID card, or a social security number, and the applicant is submitting the application by mail and is a first-time voter, in order to avoid additional identification requirements for first-time voters, the applicant **must** attach one of the following items: (4) a copy of a current and valid photo identification; **or** (5) a

<sup>20</sup> See *Voter Registration Drive Flyer*, <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/VoterRegistrationDriveFlier.pdf>.

<sup>21</sup> [La. R.S. § 18:115\(D\)](#).

<sup>22</sup> La. Admin. Code tit. 31 Pt. II, § 709.

<sup>23</sup> [La. R.S. § 18:1461.7\(A\)\(1\)](#).

<sup>24</sup> [La. R.S. § 18:115](#); La. Admin. Code tit. 31 Pt. II, § 709.

<sup>25</sup> [La. R.S. § 18:104\(A\)](#).



copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the applicant.<sup>26</sup>

No application shall be complete unless the applicant provides one of the forms of identification above.<sup>27</sup> See section V below for more information on voter identification.

Additionally, the Louisiana voter registration form gathers information for “clear and sufficient identification” for voter registration purposes and later at the polls.<sup>28</sup> All information below is required, except for race/ethnic origin and a designated party/political affiliation.<sup>29</sup>

- Sex
- Race or ethnic origin
- Place of birth
- Mother's maiden name
- Electronic mail address
- Telephone number
- Whether the applicant requires assistance when they vote, and if so, the reason
- Last residence address
- Place of last registration
- Former registered name, if any
- Affirmation informing the applicant of the penalties for violation of applicable laws, providing an affidavit on eligibility (including residency, citizenship status, eligibility under felony disenfranchisement and interdiction laws), and a space for the applicant to attest to the affidavit through a handwritten signature or a mark (if they do not write) alongside space for two witness signatures and names.

#### J. **HOW DOES A VOTER CHANGE THEIR PARTY AFFILIATION?**

Party affiliation can be changed by completing another voter registration application. All changes made at least 20 days prior to an election via GeauxVote or 30 days prior to an election if submitting changes in person or by mail are effective for that election; otherwise, the change cannot become effective until the next election. No voter can be affiliated with more than one

<sup>26</sup> [La. R.S. § 18:104\(A\)\(5\)](#); 52 U.S.C. § 21083(b)(2)(A).

<sup>27</sup> [La. R.S. § 18:104\(J\)](#).

<sup>28</sup> [La. R.S. § 18:104\(B\)](#).

<sup>29</sup> [La. R.S. §§ 18:104\(E\); 18:107; 18:104\(B\)\(C\)](#).

party at a time.<sup>30</sup> Voters must be affiliated with a party in order to vote in the party's primary election. Louisiana otherwise conducts local and state elections under an open primary system in which any qualified elector may qualify as a candidate and run for office, regardless of a party affiliation, and all eligible voters may cast a vote in the election, regardless of party affiliation.<sup>31</sup> The candidate that wins a majority is the winner; if no candidate wins a majority, then the top two candidates enter a run-off election.<sup>32</sup>

**K. DOES A NATURALIZED CITIZEN VOTER — A VOTER BORN OUTSIDE OF THE U.S. — HAVE TO PROVIDE DOCUMENTARY PROOF OF CITIZENSHIP TO REGISTER TO VOTE?**

No. Voter registration applicants born outside of the U.S. **do not** have to show proof of naturalization and citizenship.<sup>33</sup>

**L. MAY AN UNHOUSED PERSON USE THEIR SHELTER ADDRESS AS A RESIDENCE ADDRESS?**

Yes. Unhoused people and people experiencing homelessness may use their shelter address as their residence address for the purpose of voter registration.<sup>34</sup>

**M. ARE THERE SPECIAL REQUIREMENTS FOR STATES REGARDING FIRST-TIME VOTERS WHO REGISTER TO VOTE BY MAIL?**

Yes. The Help America Vote Act of 2002 (HAVA)<sup>35</sup> requires states to obtain an ID number from first-time voters who register to vote by mail after January 1, 2003. HAVA requires a current and valid driver's license number or the last four digits of the applicant's social security number. If the applicant has neither a driver's license number nor a social security number, the state will assign the applicant a unique identification number for voter registration

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<sup>30</sup> [La. R.S. § 18:107\(F\)](https://www.sos.la.gov/ElectionsAndVoting/RegisterToVote/FrequentlyAskedQuestions/Pages/default.aspx?OwnershipName=RegisterToVote&faqid=0); see *Frequently Asked Questions*, <https://www.sos.la.gov/ElectionsAndVoting/RegisterToVote/FrequentlyAskedQuestions/Pages/default.aspx?OwnershipName=RegisterToVote&faqid=0>.

<sup>31</sup> *Review Types of Elections*, <https://www.sos.la.gov/ElectionsAndVoting/GetElectionInformation/ReviewTypesOfElections/Pages/default.aspx>.

<sup>32</sup> *Review Types of Elections*, <https://www.sos.la.gov/ElectionsAndVoting/GetElectionInformation/ReviewTypesOfElections/Pages/default.aspx>.

<sup>33</sup> In 1874, Louisiana passed Act 155, a law requiring additional documentation for naturalized citizen voters. In 2016, following a lawsuit brought by plaintiff VAYLA New Orleans alleging race and national origin discrimination in violation of the federal constitution, Louisiana repealed Act 155. See [La. R.S. § 105\(B\)\(C\)](https://www.usccr.gov/files/pubs/2018/08-20-LA-Voting-Barriers.pdf); La. Advisory Comm. for the U.S. Comm'n on Civil Rights, Briefing Paper (June 2018) at 32-33, <https://www.usccr.gov/files/pubs/2018/08-20-LA-Voting-Barriers.pdf>; Act 155 repealed by Act No. 281, § 3 (eff. May 31, 2016) at 41.

<sup>34</sup> Op. Att'y. Gen., No. 95-431, (Feb. 6, 1996).

<sup>35</sup> Help America Vote Act of 2002 (HAVA), 52 U.S.C. §§ 20901-21145.

purposes.<sup>36</sup> The purpose of the HAVA ID number is to enable the state to identify duplicate registration records with greater ease.

N. **CAN ELECTION OFFICIALS DELAY THE PROCESSING OF A VOTER REGISTRATION APPLICATION OR DENY REGISTRATION OUTRIGHT, BASED ON THEIR INABILITY TO MATCH THE APPLICANT'S HAVA ID NUMBER WITH THE RECORD IN THE SOCIAL SECURITY ADMINISTRATION (SSA) OR STATE DRIVER'S LICENSE DATABASE?**

No. Louisiana does not outright reject applications based solely on a no-match between the HAVA ID number and the SSA and state driver's license databases. However, a no-match does trigger an additional 10 to 20-day process for the applicant, starting with a verification letter mailed from the registrar providing the applicant with 10 days from the date on which the letter is mailed to respond.<sup>37</sup>

O. **DOES LOUISIANA IMPOSE ANY SPECIAL REQUIREMENTS FOR VOTERS WHO REGISTER TO VOTE BY MAIL OR ONLINE AND HAVE NOT PREVIOUSLY VOTED IN THEIR PARISH?**

Yes. Any voter who registered to vote by mail or online and has not previously voted in their parish must vote in person either during early voting or at their precinct on Election Day.<sup>38</sup> They may not vote absentee by mail. There are exceptions, including:

- Students attending institutions for higher learning located outside of their parishes of residence;
- Voters who appear in registrar's office and establish their identities prior to the early voting period;
- Voters registered to vote in another parish and previously voted in the other parish;
- Voters in the state's Address Confidentiality Program, military and overseas voters, voters with disabilities, voters in the special handicapped programs, among others.<sup>39</sup>

Please see Section VIII below for more on absentee-by-mail voting.

P. **WHEN VOTER REGISTRATION APPLICATIONS ARE MAILED OR DELIVERED TO ELECTION OFFICIALS, HOW LONG WILL IT TAKE FOR THE APPLICATIONS TO BE PROCESSED?**

If voters do not receive a verification mailing card within **two weeks of registering**, they should contact their registrar, according to the Secretary of

<sup>36</sup> 52 U.S.C. § 21083(a)(5)(A)(i-ii).

<sup>37</sup> [La. R.S. §§ 18:101.1\(A\)\(1\)\(b\); 18:115.](#)

<sup>38</sup> [La. R.S. §§ 18:115\(F\); 18:115.1\(F\).](#)

<sup>39</sup> [La. R.S. § 18:115\(F\).](#)

State.<sup>40</sup> The Secretary of State must “promptly” provide registrars with notices of registration or changes in registration information (e.g. address), which registrars must then mail to voters.<sup>41</sup> The NVRA requires state election officials to **ensure** that any eligible applicant who submits a valid and timely application is registered to vote in an election.<sup>42</sup> The NVRA also requires election officials to notify each applicant of the disposition of their application.<sup>43</sup> Under the NVRA, completed voter registration applications accepted at the OMV must be transmitted to the appropriate state election official no later than ten days after acceptance. However, if an application is accepted at the OMV within five days of a voter registration deadline for an election, the application must be transmitted to election officials no later than five days after acceptance. The agency providing voter-registration services may not require a registrant to mail in the form themselves or discourage them in any manner from submitting the form to the agency.<sup>44</sup>

**Q. ARE THERE ANY ADDITIONAL SPECIAL RULES PERTAINING TO THE NATIONAL MAIL VOTER REGISTRATION APPLICATION?**

No. Under federal and state law, Louisiana accepts and uses the national mail voter registration form (Federal Form).<sup>45</sup> The Louisiana-specific instructions for the Federal Form include the state’s requirement to attach identification documents to a mail voter registration application if the applicant lacks a driver’s license, a Special ID, and a SSN.<sup>46</sup>

**R. WHAT REMEDIES EXIST FOR AN INDIVIDUAL WHO BELIEVES THEY WERE WRONGFULLY DENIED VOTER REGISTRATION?**

Any person who alleges that they possess the qualifications for voting who is denied registration or reinstatement may apply for relief, without cost, to the district court having jurisdiction of civil causes for the district in which they offer to register or seek to be reinstated.<sup>47</sup> Complaints may also be reported to the State of Louisiana Elections Compliance Unit at 1-800-722-5305. The NVRA provides additional remedies. In addition to private enforcement, the Voting

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<sup>40</sup> *Register to Vote*,

<https://www.sos.la.gov/ElectionsAndVoting/RegisterToVote/Pages/default.aspx>

<sup>41</sup> [La. R.S. § 18:109](#).

<sup>42</sup> 52 U.S.C. § 20507(a)(1).

<sup>43</sup> 52 U.S.C. § 20507(a)(2).

<sup>44</sup> 52 U.S.C. § 20506(d).

<sup>45</sup> [La. R.S. § 18:115\(A\)](#).

<sup>46</sup> See *Arizona v. Inter Tribal Council of AZ, Inc.*, 570 U.S. 1, 20 n.11 (2013) (“The EAC recently approved a state-specific instruction for Louisiana requiring applicants who lack a Louisiana driver’s license, ID card, or Social Security number to attach additional documentation to the completed Federal Form. See National Mail Voter Registration Form, p. 9; Tr. Oral Arg. 57 (United States).”).

<sup>47</sup> [La. R.S. § 18:113\(A\)](#).

Section of the Civil Rights Division of the U.S. Department of Justice brings NVRA enforcement actions; contact them at 1-800-253-3931.

S. **WHAT IS THE PENALTY FOR KNOWINGLY SUBMITTING A VOTER REGISTRATION APPLICATION WITH FALSE INFORMATION?**

Chapter 10 of the Louisiana Election Code (Title 18) provides for Election Offenses, including election offenses affecting registration. In relevant part, the code states that no person shall **knowingly, willfully, or intentionally** procure or submit voter registration applications that are known by the person to be materially false, fictitious, or fraudulent.<sup>48</sup> Those who violate this provision will be fined not more than \$2,000 or will be imprisoned, with or without hard labor, for not more than two years, or both, for the first offense. On a second or subsequent offense, the penalty will be a fine of not more than \$5,000 or imprisonment at hard labor for not more than five years, or both.<sup>49</sup>

V. **IDENTIFICATION REQUIREMENTS**

A. **WHAT IDENTIFICATION IS REQUIRED FOR VOTER REGISTRATION?**

When registering **online** (via GeauxVote), an applicant must have in hand their Louisiana driver's license or Louisiana Special ID card. The card has a four-digit audit code, which the individual must enter. Note: A Louisiana mobility impaired card is not acceptable because it does not contain a signature.<sup>50</sup>

When registering **by mail**, if an applicant cannot provide a Louisiana driver's license number, Special ID card number, or the last four digits of their SSN, the applicant **must** physically attach one of the following items to their application: a copy of a current and valid photo identification; **or** a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the applicant.<sup>51</sup>

When registering **in person** at a registrar's office, an applicant must submit documentation that reasonably and sufficiently establishes their identity, age, and residency, such as a Louisiana driver's license, Special ID card, picture

<sup>48</sup> [La. R.S. § 18:1461.2\(A\)\(5\)](#) (emphasis added); see also [La. R.S. § 18:1461.2\(A\)\(3\)](#) (providing that no person shall knowingly, willfully, or intentionally "[r]egister, vote, or attempt to register or vote in the name of another or in an assumed or fictitious name, or in any manner other than as provided" in Title 18), and [La. R.S. § 18:1461.2\(A\)\(4\)](#) (providing that no person shall knowingly, willfully, or intentionally "[f]orge the name of another or use a fictitious name on an affidavit or document required under" Title 18).

<sup>49</sup> [La. R.S. § 18:1461.2\(B\)](#).

<sup>50</sup> [La. R.S. § 18:115.1](#); *Register to Vote*, <https://www.sos.la.gov/ElectionsAndVoting/RegisterToVote/Pages/default.aspx>.

<sup>51</sup> [La. R.S. § 18:104\(A\)\(5\)](#); 52 U.S.C. § 21083(b)(2)(A).



identification card, utility bill, payroll check, or government document that includes name and address.<sup>52</sup> If registering at a **mandated site**, no further proof of identification is required, other than whatever proof is required for services received for which they applied at the public agency.<sup>53</sup>

Special Louisiana ID cards are issued by the OMV and are accepted as valid identification for voter registration purposes.<sup>54</sup> The relevant application forms may be found via the OMV webpage.<sup>55</sup> In particular, go to: “Application for License or Identification Card” and “Voter ID Affirmation.”<sup>56</sup>

## B. WHAT IDENTIFICATION IS REQUIRED AT THE POLLING PLACE ON ELECTION DAY?

In Louisiana, all voters must provide a form of photo identification on Election Day or sign a Voter Identification Affidavit.<sup>57</sup> The forms of photo identification include:

- A Louisiana driver’s license;
- A Louisiana Special ID card;
- An LA Wallet digital driver’s license;<sup>58</sup>
- A U.S. military identification card (containing the voter’s name and picture); or
- Some other generally recognized **picture identification card** (containing the voter’s name and signature).

An individual may obtain a free Louisiana Special ID card at the OMV by showing their voter registration information card.<sup>59</sup>

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<sup>52</sup> If an applicant uses a birth certificate, it will be used only to establish the applicant’s identity and age. [La. R.S. § 18:105\(A\)](#); *Register to Vote*, <https://www.sos.la.gov/ElectionsAndVoting/RegisterToVote/Pages/default.aspx>; [La. R.S. §§ 18:101.1; 18:104; 18:105](#).

<sup>53</sup> *Register to Vote*, <https://www.sos.la.gov/ElectionsAndVoting/RegisterToVote/Pages/default.aspx>

<sup>54</sup> See [La. R.S. § 40:1321](#).

<sup>55</sup> *Driver’s License Forms*, La. Office of Motor Vehicles, <https://www.expresslane.org/omv/forms-documents/driver-s-license-forms/>.

<sup>56</sup> *Application for License or Identification Card*, La. Dep’t of Pub. Safety and Corr., <https://public.powerdms.com/LADPSC/documents/347026>.

<sup>57</sup> [La. R.S. § 18:562\(A\)\(2\)\(a\)\(i-ii\)](#).

<sup>58</sup> *Vote on Election Day*, <https://www.sos.la.gov/ElectionsAndVoting/Vote/VoteOnElectionDay/Pages/default.aspx>; see also LA WALLET, <https://lawallet.com/timeline/> (“October 26, 2018 – Secretary of State Kyle Ardoin announced that Louisiana residents can use LA Wallet as their official identification when voting”).

<sup>59</sup> A new voter information cards may be obtained by contacting the Registrar of Voters (see *Registrar of Voters*, <https://voterportal.sos.la.gov/registrar>), or voters may print their cards by logging into the Louisiana Voter Portal (see *Geaux Vote*, <https://voterportal.sos.la.gov/>). *Vote*

No voter should be turned away for lack of photo identification. If an individual does not have any of the above documents, they can still vote a regular ballot if they fill out a **Voter Identification Affidavit** attesting to their identity.<sup>60</sup> It includes the voter's name, address, date of birth, and mother's maiden name (if known).<sup>61</sup>

C. **WHAT IDENTIFICATION IS REQUIRED TO OBTAIN OR VOTE AN ABSENTEE-BY-MAIL BALLOT OR TO VOTE DURING EARLY VOTING?**

Only individuals who vote **absentee-by-mail due to a disability** must provide proof of disability and a photo identification and/or a letter of oath with their application.<sup>62</sup>

Before any voter is allowed to vote during the **early voting period**, the registrar will establish the voter's identity by requiring them to submit one of the following:

- A Louisiana driver's license;
- A Louisiana Special ID card, or other generally recognized picture identification card that contains the name and signature of the voter; or
- A U.S. military identification card that contains the voter's name and picture.

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on Election Day,

<https://www.sos.la.gov/ElectionsAndVoting/Vote/VoteOnElectionDay/Pages/default.aspx>.

<sup>60</sup> The Secretary of State supplies the affidavit, which will include the applicant's date of birth and mother's maiden name, and which the applicant will complete and sign to the effect that the applicant does not have one of the stated forms of identification before the commissioners. [La. R.S. § 18:562\(A\)\(2\)\(b\)](#). The commissioners will place the affidavit in the envelope marked "Registrar of Voters" and attach the envelope to the precinct register. *Id.* Applicants who may vote without the specified picture identification required are subject to challenge. *Id.*

<sup>61</sup> [La. R.S. § 18:562\(A\)\(2\)\(b\)](#); *La. SOS Informational Pamphlet for Election Day Voting (2020)*, <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/InformationalPamphletForElectionDayVoting.pdf>

<sup>62</sup> [La. R.S. § 18:1303\(I\)\(1\)](#); *Elections and Voting: Letter of Oath*, <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/LetterOfOath.pdf>; Photo ID (Louisiana driver's license, Louisiana special ID card, or other photo ID with name and signature) or a form/letter of oath<sup>#</sup> where the voter has listed the names and addresses of two persons residing in your precinct who could make oath (if required) to the fact that he/she/they are physically disabled; *Vote Absentee*, <https://www.sos.la.gov/ElectionsAndVoting/Vote/VoteByMail/Pages/default.aspx>; *Disabled Application for Absentee by Mail Ballot*, <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/DisabledApplicationForAbsenteeByMailBallot.pdf>.

If the voter lacks these forms of identification, the voter who votes during the early voting period must be offered a **Voter Identification Affidavit**. (See V-B above.)<sup>63</sup>

## VI. VOTER REGISTRATION LIST MAINTENANCE

### A. FOR WHAT REASONS CAN ELECTION OFFICIALS CANCEL A VOTER'S REGISTRATION RECORD?

Louisiana and federal law authorize voters to be **cancelled** from the official list of voters if:

- The registrar has reason to believe the individual is illegally or fraudulently registered or deliberately gave an incorrect address or is no longer qualified to be registered for a reason **other than a change of residence or address** and fails to appear in person at the registrar's office within 21 days after the date on which the registrar mails a notice to show cause why the individual's name should not be removed;<sup>64</sup>
- Voter remains in "inactive" status, fails to respond to an address confirmation card, and does not vote in any election from the date they are placed on the inactive list until the day after the second regularly scheduled general election for federal office;<sup>65</sup>
- Voter responds to an address confirmation card (with a postage prepaid, pre-addressed return card sent by forwardable mail) and has permanently moved out of the state;<sup>66</sup>
- Voter dies;<sup>67</sup> or
- Voter requests in writing to be removed from the list.<sup>68</sup>

Systematic list maintenance (or removal of voters except for specific, individualized reasons) may not be conducted within 90 days of any federal election.<sup>69</sup>

In Louisiana, no registrar shall cancel the registration of any voter in their parish between any primary election and the subsequent general election,

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<sup>63</sup> *Early Voting*,

<https://www.sos.la.gov/ElectionsAndVoting/Vote/VoteEarly/Pages/default.aspx>; La. R.S. § 18:1309(D)(1)(a)-(b).

<sup>64</sup> La. R.S. § 18:193(G)(1)-(3).

<sup>65</sup> La. R.S. §§ 18:193(E); 18:196(D).

<sup>66</sup> La. R.S. § 18:193(D)(2).

<sup>67</sup> La. R.S. §§ 18:173; 18:176(C).

<sup>68</sup> La. R.S. § 18:110(D).

<sup>69</sup> 52 U.S.C. § 20507 (c)(2)(A).

except in the case of a person who has been fraudulently placed upon the registration records or in the case of a person whose registration is canceled pursuant to the annual canvass conducted by the registrar.<sup>70</sup>

**B. UNDER WHAT CIRCUMSTANCES WILL A VOTER BE PLACED ON A LIST OF “INACTIVE” VOTERS?**

Louisiana’s list maintenance program requires registrars to conduct an annual canvass no later than June 30 of every year.<sup>71</sup> During this canvass, registrars verify the names and addresses of all registrants in their parishes with change of address information from the U.S. Postal Service or its licensee.<sup>72</sup> If a voter’s address **cannot be verified** or if their corrected address is **outside** of the parish, the registrar places the voter on the inactive voter list and sends an address confirmation card.<sup>73</sup> If a voter’s corrected address is **inside** the parish, the registrar sends an address confirmation card, but does **not** place the voter on the inactive list.<sup>74</sup>

In general, any voter who is mailed an address confirmation card is placed on the inactive list except for a voter who moved inside their parish as described above.<sup>75</sup> Louisiana requires registrars to immediately mail address confirmation cards to any voter for whom registrars has a reason to believe is no longer qualified to be registered or has changed their residence, including a new registrant for whom a registrar receives an undeliverable notice of registration as well as military and overseas voters whose registrations are challenged for any lawful cause.<sup>76</sup>

Notably, voters on the inactive list are **not** counted in computing the number of voters required to divide or constitute a precinct, the number of voting machines to be used, and other important election decisions.<sup>77</sup> Additionally, Louisiana requires election officials to print the entire inactive list 90 days prior to a regularly scheduled federal primary election in the official journal of the

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<sup>70</sup> [La. R.S. § 18:197](#).

<sup>71</sup> [La. R.S. § 18:192\(A\)\(1\)\(a\)](#).

<sup>72</sup> [La. R.S. § 18:192\(A\)\(1\)\(a\)](#).

<sup>73</sup> [La. R.S. §§ 18:192\(A\)\(1\)\(2\); 18:193](#).

<sup>74</sup> [La. R.S. §§ 18:196\(A\)\(1\); 18:193\(A\)](#).

<sup>75</sup> [La. R.S. § 18:196\(A\)\(1\)](#).

<sup>76</sup> [La. R.S. §§ 18:115\(G\); 18:195; 18:193\(A\)](#).

<sup>77</sup> [La. R.S. § 18:196\(A\)\(1\)](#).

parish governing authority or a newspaper calculated to provide maximum notice to the parish.<sup>78</sup>

### C. HOW MAY A VOTER GET BACK ON THE ACTIVE LIST?

A voter on the inactive list can get back on the official list by:

- Sending back the address confirmation card confirming they have not moved or have moved inside the parish;<sup>79</sup>
- Verifying their address through GeauxVote, the online portal,<sup>80</sup> or going in person to the registrar's office;<sup>81</sup>
- Signing a petition for nomination or recall election;<sup>82</sup>
- Voting either absentee by mail or during early voting;<sup>83</sup> or on Election Day after completing an Address Confirmation Card on Election Day affirming that they have not moved or have moved to a new address within the parish.<sup>84</sup> (See sections VII–VIII below.)

Voters may use the Secretary of State's online Inactive Voter Portal to check whether they are on the inactive list.<sup>85</sup>

### D. CAN A VOTER ON THE INACTIVE LIST VOTE?

Yes. A voter on an inactive list can vote on Election Day at the polling place of their **last address** and completing an Address Confirmation Card form affirming they:

- Still reside at the address on file with the registrar; or
- Still reside within the parish, but have a new address; or
- No longer live within the parish, but have moved **within 3 months** of the date of the election (meaning, on or after August 13, 2021 for the November 13, 2021 Election and on or after September 11, 2021 for the December 11, 2021 Election), and request transfer of their voter registration to their new residential address.<sup>86</sup>

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<sup>78</sup> [La. R.S. § 18:193\(F\)](#).

<sup>79</sup> [La. R.S. § 18:193\(C\)](#).

<sup>80</sup> Online Voter Registration, <https://voterportal.sos.la.gov/VoterRegistration>

<sup>81</sup> Register to Vote,

<https://www.sos.la.gov/ElectionsAndVoting/RegisterToVote/Pages/default.aspx>.

<sup>82</sup> [La. R.S. § 18:196\(A\)\(2\)](#).

<sup>83</sup> [La. R.S. §§ 18:196\(C\)\(2\); 18:195](#).

<sup>84</sup> [La. R.S. § 18:196\(C\)\(1\)](#).

<sup>85</sup> Inactive Voter Search, <https://voterportal.sos.la.gov/InactiveVoters>.

<sup>86</sup> [La. R.S. § 18:196\(B\)](#); see also La. SOS Informational Pamphlet for Election Day Voting (2020), <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/InformationalPamphletForElectionDayVoting.pdf> at 38–39.



Voters on the inactive list may also vote early or absentee by mail.<sup>87</sup>

E. **WHAT SHOULD A VOTER DO IF THEY CHANGE THEIR ADDRESS?**

A voter can submit their new residential address (1) online (via GeauxVote);<sup>88</sup> (2) by mail via a voter registration application (check the box “Updating Voter Registration”); or (3) in-person at the registrar’s office.<sup>89</sup> The SOS is required to “promptly” forward information about the address change to registrars who are then required to mail notices of registration.<sup>90</sup>

If the voter has moved **within** their parish and submits their address change **after** the voter registration deadline for the primary election, the change is effective on the day **after** the general election with some exceptions. The main exception occurs when the voter casts a ballot in the primary and/or returns an address confirmation card or other notice confirming their address change **before** the voter registration deadline for the general election. This voter will return to the active list and their address change will take effect **before** the general election.<sup>91</sup>

F. **WHAT ARE THE PROCEDURES FOR REMOVING VOTERS FROM THE VOTER ROLLS WHO HAVE FELONY CONVICTIONS, ARE UNDER AN ORDER OF IMPRISONMENT, AND ARE OR HAVE BEEN INCARCERATED PURSUANT TO THE ORDER WITHIN FIVE YEARS?**

Louisiana does not allow for cancellation of a voter registration based solely on whether the voter becomes ineligible under the state’s felony disenfranchisement laws.<sup>92</sup> (See VI above for grounds for cancellation.) However, Louisiana does require suspension of this registration, but only after the registrant fails to respond to a registrar’s written notice providing 21 days for the person to show cause as to why their registration should not be suspended.<sup>93</sup>

Currently, Louisiana law requires registrars to send 21-day suspension notices to a broad group of people with felony convictions, some of whom are in fact

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<sup>87</sup> [La. R.S. §§ 18:196\(C\)\(2\); 18:195.](#)

<sup>88</sup> *Online Voter Registration*, <https://voterportal.sos.la.gov/VoterRegistration>.

<sup>89</sup> [La. R.S. § 18:110\(A\).](#)

<sup>90</sup> [La. R.S. § 18:109.](#)

<sup>91</sup> [La. R.S. §§ 18:110\(B\)\(3\); 18:196\(C\).](#)

<sup>92</sup> [La. R.S. § 18:176\(A\).](#)

<sup>93</sup> [La. R.S. § 18:176\(A\).](#)

eligible to vote.<sup>94</sup> Starting on February 1, 2022, the effective date of Act 127, registrars will only send 21-day notices to those who are ineligible to register and vote under the state's felony disenfranchisement scheme.<sup>95</sup> In the meantime, voters with convictions who receive a 21-day notice should respond to the notice and bring a Voting Rights Certification (VRC) form from the P&P office in person to the registrar's office in order to avoid suspension under the current law. (See Section IV above for more on voter registration for people with felony convictions.)

**G. MAY A PERSON WHO IS NO LONGER UNDER AN ORDER OF IMPRISONMENT FOR A FELONY CONVICTION AND HAS NOT BEEN INCARCERATED PURSUANT TO THAT ORDER WITHIN FIVE YEARS REINSTATE THEIR VOTER REGISTRATION?**

Yes. In order to reinstate a registration suspended under Louisiana's felony disenfranchisement laws, the voter must appear in the office of the registrar in person with documentation from the appropriate correctional official showing they are eligible to register and vote.<sup>96</sup> Currently, Louisiana requires many if not all people with a felony conviction to obtain a Voting Rights Certification (VRC) form, and deliver that form in person to a registrar of voters' office as part of the reinstatement after suspension and voter registration processes.<sup>97</sup> See Section VI-A above for more information about the VRC form.

**H. WHAT ARE THE PROCEDURES FOR SUSPENDING AND REINSTATING PERSONS WHO HAVE BEEN FOUND MENTALLY INCOMPETENT?**

When a court declares a person is not competent to take care of their own affairs and appoints a curator for that person, the clerk of the court will record such judgment which specifically suspends the right to register and vote. The registrar then suspends the registration of the person for the period which the court has determined. Each person whose registration is suspended as such shall immediately be notified of the suspension and the reason.<sup>98</sup> A person's

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<sup>94</sup> Specifically, 21-days notices currently go to (1) "each person" listed on reports compiled by the SOS based on information from the DOC as well as reports from federal authorities; and (2) "any person the registrar has reason to believe has been convicted of a felony and is under an order of imprisonment." [La. R.S. § 18:176\(A\)\(1\)](#).

<sup>95</sup> 2021 La. Act 127/HB378: <https://www.legis.la.gov/Legis/BillInfo.aspx?s=21RS&b=HB378&sbi=y>.

<sup>96</sup> [La. R.S. § 18:177\(A\)\(1\)](#).

<sup>97</sup> 2018 La. Act 636//HB265, <https://www.legis.la.gov/Legis/BillInfo.aspx?s=18RS&b=HB265&sbi=y>; [La. R.S. § 18:177\(A\)\(1\)](#).

<sup>98</sup> [La. R.S. §§ 18:172; 18:176\(B\)](#).

registration will be reinstated upon receipt by the registrar of a certified copy of a definitive judgment revoking the judgment.<sup>99</sup>

**I. WHAT MAY A VOTER DO IF THEY LEARN THEIR NAME HAS BEEN REMOVED FROM THE OFFICIAL VOTER LIST IN ERROR?**

Any person who believes their name has been removed from the voter list in error may apply for relief, without cost, to the district court having jurisdiction of civil causes in which they seek to be reinstated. If a person's registration was cancelled and the registrar of voters determines that the registration was not processed correctly or was cancelled through an error of the registrar of voters, the registrar of voters will process and approve the registration or correct the error and reinstate the registration.<sup>100</sup>

**J. WHO MAY OBTAIN A LIST OF REGISTERED VOTERS?**

Any person may obtain a list of the registered voters, but must obtain the consent of the Secretary of State or the registrar. That person must also pay any costs imposed by the Secretary of State for obtaining the list.<sup>101</sup>

**VII. EARLY VOTING**

**A. WHO MAY VOTE EARLY?**

Any person qualified to vote may vote early; no reason or justification is necessary.<sup>102</sup>

**B. WHEN AND WHERE DOES EARLY VOTING OCCUR?**

For the November 13, 2021 Election, early voting runs Saturday, October 30 through Saturday, November 6 (excluding Sunday, Oct. 31) from 8:30 A.M. – 6:00 P.M.

Any person in line to vote at the close of regular office hours of the registrar's office on a particular day of the early voting period must be allowed to vote on that day.<sup>103</sup> The early voting period in Louisiana is 14 days to seven days prior to any scheduled election. For presidential elections, the early voting period is from 18 days to seven days prior to the election.<sup>104</sup>

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<sup>99</sup> [La. R.S. § 18:177\(B\).](#)

<sup>100</sup> [La. R.S. §§ 18:113; 18:193.](#)

<sup>101</sup> [La. R.S. § 18:175\(C\).](#)

<sup>102</sup> [La. R.S. § 18:1303; Early Voting, https://www.sos.la.gov/ElectionsAndVoting/Vote/VoteEarly/Pages/default.aspx.](#)

<sup>103</sup> [La. R.S. § 18:1309\(A\)\(2\).](#)

<sup>104</sup> [La. R.S. § 18:1309\(A\)\(1\).](#)

Each parish registrar is required to maintain an early voting site in its office during any early voting period. If a registrar's office is "insufficient or inconvenient" for early voting, the registrar may designate another site, but the site must be the courthouse or in a public building in the immediate vicinity of the registrar's office.<sup>105</sup> The registrar may also designate "one branch office" for early voting.<sup>106</sup> All sites must be designated at least 30 days prior to a primary election and 21 days prior to a general election. Notices should be posted at the registrar's main office and branch sites.<sup>107</sup> All sites designated by the registrars must be approved by the Secretary of State.<sup>108</sup> The Secretary of State can designate additional locations.<sup>109</sup>

A statewide listing of early voting sites is located on the Louisiana Secretary of State's website.<sup>110</sup>

## **ABSENTEE-BY-MAIL VOTING**

### **C. WHO MAY VOTE BY ABSENTEE BY MAIL?**

Louisiana requires voters to have an excuse to vote absentee by mail.<sup>111</sup> A voter submitting a General Application must fall into one of the following 12 categories and submit additional documents as noted:

- Senior Citizen: 65 years old and older;
- Temporarily Absent: Outside of Louisiana or their parish during the early voting period and on Election Day;
- Offshore: Working offshore upon the waters of the State during the early voting period and on Election Day;
- Nursing Home Resident: Residents of nursing homes (which include veterans' home and extended hospital stays for a physical disability). May also qualify for the nursing home early voting program;
- Higher Education: Students, instructors, or professors located and living outside of their parish of registration, or a spouse/dependent. *Note*: Students must enclose a copy of their student ID or fee bill if voting for the first time;

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<sup>105</sup> [La. R.S. § 18:1309\(A\)\(2\)](#).

<sup>106</sup> [La. R.S. § 18:1309\(B\)\(1\)](#).

<sup>107</sup> [La. R.S. §§ 18:1309\(A\)\(2\); 18:1309\(B\)](#).

<sup>108</sup> [La. R.S. § 18:1309\(B\)\(1\)](#).

<sup>109</sup> [La. R.S. § 18:1309.2](#).

<sup>110</sup> See Early Voting Locations, <https://voterportal.sos.la.gov/earlyvoting>; [La. R.S. § 18:1309\(M\)\(1\)\(b\)](#).

<sup>111</sup> *States with No-Excuse Absentee Voting*, Nat'l Conference of State Legislatures, <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-1-states-with-no-excuse-absentee-voting.aspx>.

- Clergy: Ministers, priests, rabbis, or other members of the clergy assigned outside their parish of registration, or a spouse/dependent;
- Moved Out of Parish: Individuals who moved out of their parish less than 30 days before Election Day to another parish more than 100 miles from the parish seat of their former residence;
- Involuntary Confinement for Mental Health: Those involuntarily confined in an institution for mental treatment outside their parish of registration who are not interdicted and not judicially declared incompetent;
- Hospitalized: Individuals who expect to be hospitalized on Election Day and did not have knowledge until after the time for early voting had expired; or were hospitalized during the time for early voting and are expected to be hospitalized on Election Day; or were either hospitalized or restricted to their beds by their physicians during early voting and on Election Day. *Note*: Hospitalized voters must enclose proof of hospitalization;
- Incarcerated, But Not Under an Order of Imprisonment: Individuals who are incarcerated in an institution inside/outside their parish of registration and are **not** under an order of imprisonment for conviction of a felony may vote absentee. *Note*: Incarcerated voters must enclose a certification by sheriff;
- Address Confidentiality Program: Participants in the Secretary of State's Address Confidentiality Program;
- Sequestered Jurors: Those sequestered on juries on the day of the election and during early voting. *Note*: Jurors must enclose a certified copy of court order.

A limited number of Louisiana voters may vote absentee without an excuse, including voters who are: (1) overseas or in the military; (2) disabled or homebound and cannot vote without assistance; (3) the Secretary of State, employees of the Secretary of State, and employees of the registrar of voters.

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<sup>112</sup> These voters must submit a copy of a state employee identification card or an identification card showing employment with the Registrar and meet the other identified requirements. There appears to be no absentee ballot application process for employees of the Secretary of State and the registrar of voters. [La. R.S. § 18:1303\(A\)-\(L\)](#).



**B. MAY A FIRST-TIME LOUISIANA VOTER CAST AN ABSENTEE BALLOT?**

If the voter registered to vote in person, yes. But if they registered to vote online or by mail and have not previously voted in the parish, they must vote in person either during early voting at the registrar's office or at their precinct on Election Day unless they fall under one of the following exceptions:<sup>113</sup>

- Students attending institutions for higher learning located outside of their parishes of residence who submit a copy of a student ID or fee bill with their request;
- Voters who appear in registrar's office and verify their identities prior to the early voting period;
- Voters registered to vote in another parish and previously voted in the other parish;<sup>114</sup>
- Voters in the state's address confidentiality program, military and overseas voters, voters with disabilities, senior citizens, among others.<sup>115</sup>

**C. WHEN IS THE DEADLINE TO APPLY FOR AN ABSENTEE BALLOT?**

In general, absentee by mail ballot applications must be made by 4:30 P.M. CDT on the fourth day before Election Day.<sup>116</sup>

**D. HOW (I.E., BY WHAT METHODS) MAY INDIVIDUALS APPLY FOR AN ABSENTEE BALLOT?**

An absentee-by-mail voter can apply: (1) online (via GeauxVote);<sup>117</sup> (2) by mail; or (3) hand-deliver or fax.<sup>118</sup>

<sup>113</sup> [La. R.S. §§ 18:115\(F\); 18:115.1\(F\)](#). In the aftermath of Hurricane Katrina, Louisiana made an additional, temporary, exception. It allowed displaced first-time voters who registered to vote by mail between October 5, 2004 and September 25, 2005 to vote absentee in elections through July 2006. Jalila Jefferson-Bullock, *The Flexibility of Section 5 and the Politics of Disaster in Post-Katrina New Orleans*, 16 J. Gender Race & Just. 825, 836, and 836, n.71 (2013) (citing Kathleen Babineaux Blanco, Governor of Louisiana, Proclamation No. 62 KBB 2005, Convening of Legislature in Extraordinary Session (Oct. 31, 2005), <http://www.legis.state.la.us/archive/051es/call.pdf>). At the date of the publication of this compendium, the authors are not aware of any similar exceptions for voters impacted by Hurricanes Ida and Laura.

<sup>114</sup> 2020 La. Act, 28.

<sup>115</sup> [La. R.S. § 18:115\(F\)](#).

<sup>116</sup> Those submitting General and Disabled Applications must request an absentee ballot by 4:30 P.M. CDT on the fourth day before Election Day. Those submitting Military, Overseas or Hospitalized Applications must request their absentee ballot by 4:30 P.M. CDT on the day before Election Day. [La. R.S. §§ 18:1307\(B\)\(2\); 18:1307\(D\)](#).

<sup>117</sup> *Geaux Vote*, <https://voterportal.sos.la.gov>.

<sup>118</sup> [La. R.S. §§ 18:1307\(B\)\(1\)\(a\)\(ii\) and \(iii\)](#).

**E. WHO MAY ASSIST, IF VOTERS CANNOT HAND-DELIVER OR FAX THE ABSENTEE BALLOT APPLICATION THEMSELVES?**

Louisiana law only permits a member of the voter's immediate family to hand deliver or fax an absentee application.<sup>119</sup>

**F. IS THE REGISTRAR REQUIRED TO SEND WRITTEN REASONS FOR REJECTION OF AN ABSENTEE BY MAIL APPLICATION?**

Yes.<sup>120</sup>

**G. IF AN ABSENTEE BY MAIL APPLICATION IS ACCEPTED, WHAT DOCUMENTS SHOULD VOTERS EXPECT?**

According to the Secretary of State's website, voters should check to make sure they receive:

- Official ballot(s) (white paper ballot(s) for either the primary or general election);
- Affidavit envelope (secrecy envelope to seal a voter's voted absentee ballot with affidavit flap to certify information);
- Return envelope (to mail secrecy envelope with voted ballot(s) to registrar); and
- Instructions. Voters should allow one week for delivery of all absentee mail ballot applications and materials via the U.S Postal Service.<sup>121</sup>

**H. WHAT IF A VOTER REQUIRES ASSISTANCE IN READING AND COMPLETING THEIR ABSENTEE BALLOT?**

A voter who is unable to read or write, visually impaired or physically disabled may receive assistance from any person (except for a candidate in any election) selected by the voter. The person who assists a voter is required to execute an acknowledgement on the ballot envelope flap verifying that they have marked the ballot in the manner dictated by the voter. Their signature also satisfies the witness signature requirement described above.<sup>122</sup>

<sup>119</sup> [La. R.S. §§ 18:1307\(B\)\(1\)\(a\)\(ii\) and \(iii\).](#)

<sup>120</sup> [La. R.S. § 18:1307\(F\).](#)

<sup>121</sup> *Voting By Mail*, <https://www.sos.la.gov/ElectionsAndVoting/Vote/FrequentlyAskedQuestions/Pages/VotingByMail.aspx?OwnershipName=VotingByMail&faqid=0>; [La. R.S. § 18:1310\(A\)\(1\).](#)

<sup>122</sup> [La. R.S. § 18:1310.](#)

I. **CAN AN ABSENTEE VOTER OBTAIN A REPLACEMENT BALLOT?**

Yes. If a voter determines that their ballot is spoiled because they want to change or correct their vote on the ballot before it is cast and counted but is unable to do so, they may obtain a replacement ballot from the registrar prior to submitting a voted ballot.<sup>123</sup>

J. **HOW MUST VOTERS CAST AN ABSENTEE-BY-MAIL BALLOT TO ENSURE IT WILL BE COUNTED?**

Voters should carefully mark their ballot.

- Mark all pages, front and back, by completely filling in the ovals.
- Use pencil. To change a vote, erase completely. Black and blue pen are also accepted.
- Do not make any stray or identifying marks on the ballot. Only vote for the number of candidates to be elected or only vote for or against a proposition.

Voters should carefully place their voted ballot (all pages) in their Ballot Envelope, seal, and fill out the perforated Affidavit flap attached to the Ballot Envelope.

- Do not remove the Affidavit flap from the Ballot Envelope.
- Sign the Affidavit flap in the presence of one **witness**. The witness must then sign and print their name. (See VIII-M.)

Voters should place the sealed Ballot Envelope with the completed Affidavit flap in the Return Envelope addressed to the registrar.

- Add first-class mail postage, if mailing.
- Return ballot by mail, commercial courier, hand delivery or by fax.<sup>124</sup>

K. **WHEN IS THE DEADLINE FOR A VOTER TO RETURN A VOTED ABSENTEE BALLOT?**

In general, a voted absentee ballot must be received by the registrar by 4:30 P.M. CDT on the day before Election Day. Voted ballots by Military, Overseas, or Hospitalized voters must be received by the registrar by 8:00 P.M. CDT on Election Day and shall be endorsed with the day and hour of receipt and shall be segregated from and kept separately from any other absentee by mail ballot received on or after Election Day. Voted ballots by persons serving on a

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<sup>123</sup> [La. R.S. § 18:1310\(D\)\(1\)](#).

<sup>124</sup> *Voting By Mail*,  
<https://www.sos.la.gov/ElectionsAndVoting/Vote/FrequentlyAskedQuestions/Pages/VotingByMail.aspx?OwnershipName=VotingByMail&faqid=0>.

sequestered jury must be received by the time of closing of the polls on Election Day.<sup>125</sup>

**L. WHAT IF A VOTER FEELS THEY CANNOT RETURN THEIR ABSENTEE BALLOT BY THE DEADLINE?**

**Fax:** The voter may contact the registrar and request that the registrar fax them a ballot, along with a certificate and waiver of the right to a secret ballot. If the registrar has a fax machine in the office, the registrar is required to do so. The voter should be prepared to provide the last four digits of their social security number on the waiver. The voter may also then transmit the voted ballot back to the registrar via fax.

**Hospitalized Voters:** Hospitalized voters who feel they cannot meet the deadline may request that the registrar send a ballot to them electronically, along with a certificate and waiver of a right to a secret ballot, and the registrar shall do so. An immediate family member may also pick up balloting materials at the registrar's office and return the voted ballot. Additionally, voters with disabilities may also request to have their ballots sent to them electronically.<sup>126</sup>

**M. DOES THE ABSENTEE BALLOTING PROCESS REQUIRE A WITNESS SIGNATURE?**

Yes. Louisiana requires absentee voters to sign a certificate included in the absentee balloting materials in the presence of one witness. The witness then also must sign and print their name on the balloting materials.<sup>127</sup>

**N. MUST VOTED ABSENTEE BALLOTS BE NOTARIZED?**

No. Louisiana no longer requires notarization of voted absentee ballots. One witness signature, as described in Question VII-N above, is sufficient.

**O. CAN A VOTER TRACK THE STATUS OF THEIR ABSENTEE BALLOT?**

The Louisiana Secretary of State website says yes and provides a link.<sup>128</sup>

**P. DOES LOUISIANA LAW PROVIDE ABSENTEE VOTERS AN OPPORTUNITY TO CURE A MISSING SIGNATURE OR SIGNATURE DISCREPANCY?**

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<sup>125</sup> *Voting By Mail*,  
<https://www.sos.la.gov/ElectionsAndVoting/Vote/FrequentlyAskedQuestions/Pages/VotingByMail.aspx?OwnershipName=VotingByMail&faqid=0>; La. R.S. §§ 18:1307.1; 18:1308.1.

<sup>126</sup> La. R.S. § 18:1308; see also *Vote Absentee*,  
<https://www.sos.la.gov/ElectionsAndVoting/Vote/VoteByMail/Pages/default.aspx>.

<sup>127</sup> La. R.S. § 18:1306(E)(2)(a).

<sup>128</sup> *Vote Absentee*,  
<https://www.sos.la.gov/ElectionsAndVoting/Vote/VoteByMail/Pages/default.aspx>.

Yes. Immediately upon receipt of the absentee by mail ballot, the registrar shall review the absentee by mail ballot envelope flap for the following deficiencies: 1. Missing voter signature; 2. Missing witness signature; and 3. Incomplete affidavit information. If the registrar identifies one of the deficiencies listed above, the registrar shall segregate the ballot envelope and promptly notify the voter of the ballot envelope flap deficiency and of the opportunity to cure the deficiency. The registrar shall use the telephone number and email address available in the voter's registration record. Voters are required to appear in person at their registrar's office during normal business hours until 4:30 P.M. the day before the election to cure the ballot envelope flap deficiency.<sup>129</sup>

**Q. WHEN AND WHERE WILL ABSENTEE BALLOTS BE COUNTED?**

The parish board of election supervisors begins counting absentee mail ballots no later than 8:00 P.M. CDT on Election Day at a public facility within the parish designated by the registrar.<sup>130</sup>

**R. WHAT IS THE PROCEDURE FOR DETERMINING WHETHER AN ABSENTEE-BY-MAIL BALLOT WILL BE COUNTED?**

According to the Secretary of State's website, an absentee ballot is counted by first comparing the voter's name on the affidavit to the list of absentee by mail ballots and determining if the ballot is valid. A ballot may be rejected if:

- Challenge: It is challenged successfully by a candidate or their representative, a member of the board of election supervisors, or a qualified elector for grounds of the applicant not being qualified to vote in the election or in the precinct, or not being the person whose name is shown as being registered to vote. Challengers must personally file a written challenge form with the registrar. Forms must be submitted no later than the fourth day before Election Day;
- Cause: The board of election supervisors has cause to reject the ballot (cause may include failure to fill in any and/or all blanks on the affidavit); or
- Distinguishing Marks: The ballot contains a distinguishing mark or feature making the ballot susceptible of identification.<sup>131</sup>

**IX. POLLING PLACE LOCATIONS & PROCEDURES**

**i. WHAT HOURS ARE THE POLLS OPEN ON ELECTION DAY?**

<sup>129</sup> La. Admin. Code tit. 31, Pt. I, §§ 301, 303, 305.

<sup>130</sup> [La. R.S. § 18:1313\(C\)\(1\)](#).

<sup>131</sup> [La. R.S. §§ 18:1315](#) (challenge), [18:1316](#); La. Admin. Code, tit. 31, Pt I, § 1107.

Polls open at 7:00 A.M. and close at 8:00 P.M. on Election Day, Saturday, November 13, 2021.<sup>132</sup> For each day of early voting, the registrars of voters will open their offices and/or other early voting sites from 8:30 A.M. to 6:00 P.M.<sup>133</sup> (For more information on early voting, see Section VII.)

**j. WHEN IS THE LIST OF POLLING PLACE LOCATIONS MADE AVAILABLE TO THE PUBLIC?**

The governing authority for each parish, e.g. the Caddo Parish Commission for Caddo Parish, the New Orleans City Council for Orleans Parish, is responsible for providing notice for the establishment or change of the parish's polling places.<sup>134</sup>

In primary elections, the parish board of election supervisors is required to publish the locations of the polling places at least once during the third week before the election. For the November 13, 2021 Election, the notice should be published during the week starting October 24, 2021. That notice must be in the official journal of the parish, e.g., the local newspaper.<sup>135</sup>

**k. HOW ARE DECISIONS ABOUT POLLING PRECINCTS AND POLLING PLACE LOCATIONS MADE?**

The governing authority for each parish is responsible for establishing at least one polling place for each precinct. That polling place should be within the precinct unless the governing authority determines there is no suitable location for a polling place in that precinct. Under those circumstances, the polling place shall be as close to the precinct as possible, and the governing authority shall take all reasonable steps to notify the residents of the precinct of the location of the polling place.<sup>136</sup>

Once a polling place has been established, it may only be changed by a vote of the parish governing authority, and shall not be changed during the period commencing on the date the qualifying period opens and ending on the date of the general election, unless the location of the original polling place

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<sup>132</sup> In primary and general elections, polls open at 7:00 A.M. on election day, and close at 8:00 P.M. on Election Day. In regularly scheduled congressional primary and general elections held at the same time, polls open at 6:00 A.M. on election day, and close at 8:00 P.M. on Election Day. [La. R.S. § 18:541](#). Per the Louisiana Secretary of State's office, for elections held on Saturday, polls open at 7:00 A.M. For elections held on Tuesday, polls open at 6:00 A.M. On both days, polls remain open until 8:00 P.M.; *Elections and Voting*, <https://www.sos.la.gov/ElectionsAndVoting/Vote/Pages/default.aspx>].

<sup>133</sup> *Early Voting*, <https://www.sos.la.gov/ElectionsAndVoting/Vote/VoteEarly/Pages/default.aspx>.

<sup>134</sup> [La. R.S. §§ 18:533\(A\)\(1\), 18:535](#).

<sup>135</sup> [La. R.S. § 18:535](#); a listing of all official Parish Journals is available here: *Official Parish Journals*, <https://www.sos.la.gov/OurOffice/PublishedDocuments/OfficialParishJournals.pdf>.

<sup>136</sup> [La. R.S. § 18:533](#).



becomes unavailable due to an emergency, act of God or, if the location is a private facility, through no fault of the governing authority.<sup>137</sup>

#### **l. HOW CAN VOTERS FIND THEIR POLLING PLACES?**

The Louisiana Secretary of State's website publishes a tool by which registered voters can find their polling locations and voting precincts<sup>138</sup> as well as all early voting locations.<sup>139</sup>

#### **m. HOW AND WHEN WILL VOTERS BE NOTIFIED ABOUT POLLING PLACE CHANGES?**

Where a parish governing authority changes the location of a polling place within the qualifying period and the date of the general election, it shall "give adequate notice" of the location change to each voter registered to vote at that polling place in the following manner:

- By posting a sign at the former polling place directing voters to the location of the new polling place;
- By stationing an employee of the parish governing authority at the former polling place for the purpose of directing voters to the new polling place;
- Notifying each candidate immediately by telephone and by certified mail;
- If reasonable time exists, by publishing a notice of the change of location in the official journal of the parish and in any other newspaper of general circulation in the precinct or precincts affected; the publication shall appear under the heading NOTICE OF CHANGE OF POLLING PLACE

The governing authority of the parish may also take other reasonable steps it deems necessary or desirable to inform voters of the location change, including, but not limited to, by posting notices on utility poles and advertisements in electronic media.<sup>140</sup>

#### **n. WHAT ACTIVITIES ARE RESTRICTED AT POLLING PLACES?**

The Louisiana Election Code prohibits electioneering within a radius of **600 feet of the entrance of any polling place**, engaging in political discussion,

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<sup>137</sup> [La. R.S. § 18:534.](#)

<sup>138</sup> *Geaux Vote*, <https://voterportal.sos.la.gov/Home/VoterLogin>.

<sup>139</sup> *Early Voting Locations*, <https://voterportal.sos.la.gov/EarlyVoting>.

<sup>140</sup> [La. R.S. § 18:536.](#)

unnecessarily delaying voters at polling places, or in any way interfering with the poll commissioners in the performance of their duties.<sup>141</sup>

**Firearms** are not allowed at a polling place on Election Day, even for holders of concealed carry permits. The only exception to this rule is for “peace officers” as defined by La. R.S. § 40:2402(3)(a) in the performance of their official duties.<sup>142</sup>

**Voter intimidation** is prohibited. (See Section X below.)

#### O. MAY VOTERS REQUEST ASSISTANCE AT A POLLING PLACE?

Yes. Federal law provides a statutory right to assistance in all steps of the voting process, including casting a ballot in a polling location. Specifically, Section 208 of the Voting Rights Act of 1965, provides “any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.”<sup>143</sup> The inability to read includes the inability to read English proficiently.<sup>144</sup>

Louisiana law also provides a right to assistance in voting to voters unable to read or unable to vote due to a physical disability (including being visually impaired).<sup>145</sup> Under those circumstances, the voter may request the assistance of any person of their choice, so long as their assistant is not (1) an candidate in the election; (2) a commissioner-in-charge (but a regular commissioner may be chosen); (3) an employer (or agent of the employer)

<sup>141</sup> [La. R.S. §§ 18:427; 18:1462\(A\)](https://www.sos.la.gov/ElectionsAndVoting/Vote/FrequentlyAskedQuestions/Pages/VotingOnElectionDay.aspx?OwnershipName=VotingOnElectionDay&faqid=0&PF=1); *Voting on Election Day*, <https://www.sos.la.gov/ElectionsAndVoting/Vote/FrequentlyAskedQuestions/Pages/VotingOnElectionDay.aspx?OwnershipName=VotingOnElectionDay&faqid=0&PF=1>.

<sup>142</sup> *Voting on Election Day*, <https://www.sos.la.gov/ElectionsAndVoting/Vote/FrequentlyAskedQuestions/Pages/VotingOnElectionDay.aspx?OwnershipName=VotingOnElectionDay&faqid=0&PF=1>

<sup>143</sup> 52 U.S.C § 10508; see *OCA–Greater Hous. v. Texas*, 867 F.3d 604, 607 (5th Cir. 2017).

<sup>144</sup> In formulating Section 208, Congress recognized that having the assistance of a person of one’s own choice may be “the only way to assure meaningful voting assistance and to avoid possible intimidation or manipulation of the voter.” See S. Rep. No 97–417, at 62 (1982); although Section 208 imposes no affirmative obligations on state or local governments to provide language assistance, it does create the basis for a Voting Rights Act violation if election officials impede or deny a voter’s use of an assistor in order to vote. See *United States v. Berks Cnty.*, 277 F. Supp. 2d 570 (E.D. Pa. 2003).

<sup>145</sup> [La. R.S. § 18:564\(A\)](#); see [La. R.S. § 18:1309.3](#) for parallel processes for the early voting period.

of the voter seeking assistance; or (4) a union agent where the voter seeking assistance is a member of that union.<sup>146</sup>

Process for assistance at a polling site:

- Precinct register: Upon receiving a voter's request for assistance, the commissioners must write both the voter's name and the name of their assistant into the precinct register. "If the voter is **not** marked for assistance in voting in the precinct register, the voter or [the assistant] shall check the box behind the tab for Assistance to Voters indicating that the voter has a physical disability or is unable to read. [The assistant] shall sign [their] name behind the tab for Assistance to Voters."<sup>147</sup>
- Voting: Only the voter and their assistant may enter the voting machine. The assistant must not "reveal the name of any person for whom the voter has voted, any proposition upon which [they] voted, or anything that took place while the voter was being assisted."<sup>148</sup>

Additional process for voters requesting assistance due to a **disability** on Election Day:

- If a person has not filed a statement on why they need assistance with the registrar prior to Election Day, the voter presents one of the following to the commissioner-in-charge as proof of disability: (1) a completed and signed Voter Assistance Form wherein the voter attests that they has a physical disability and requires assistance in voting; (2) current documentation showing eligibility for social security disability, veteran's disability benefits, paratransit services; or (3) a certificate from a [health care professional] indicating the voter's inability to vote without assistance because of a physical disability; or (4) a current mobility impairment ID card with a photo and the international symbol of accessibility.<sup>149</sup>

Voters with disabilities may also provide a statement to their registrars on why they need assistance and requisite documentation prior to Election Day.

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<sup>146</sup> [La. R.S. § 18:564\(A\), \(B\).](#)

<sup>147</sup> [La. R.S. § 18:564\(B\)\(5\)\(b\)](#) (emphasis added).

<sup>148</sup> [La. R.S. § 18:564\(C\).](#)

<sup>149</sup> [La. R.S. § 18:564\(D\)\(2\)\(a\)\(i-iv\).](#)

<sup>150</sup> [La. R.S. § 18:564\(D\)\(1\)\(a\).](#)

Regardless of the date of receipt (either on or prior to Election Day) of the documentation, registrars are required to update a voter's registration record. Once updated, "the voter shall not be required to present evidence of any kind at the polls or during early voting."<sup>151</sup>

Any voter, including those requesting assistance based on inability to read or visual impairment, can choose to use an audio ballot.<sup>152</sup> Audio voters have 20 minutes to complete voting.<sup>153</sup>

**p. CAN A CHILD/MINOR ENTER THE VOTING BOOTH WITH THE VOTER?**

Yes, a pre-teen child may accompany their parent or legal guardian into the voting booth with the voter.<sup>154</sup>

**q. IF A VOTER IS IN LINE TO VOTE AT POLL CLOSING TIME, BUT HAS NOT REACHED THE VOTING MACHINE, MAY THEY STILL VOTE?**

Yes. A person in line to vote when the polls close on Election Day (meaning 8:00 P.M.) shall be allowed to vote. Voting in a primary or general election terminates when (1) the polls close at 8:00 P.M., if no one is in line to vote at that time; or (2) when all persons who were in line at 8:00 P.M. have been allowed to vote.<sup>155</sup>

**r. ARE POLL WATCHERS OR OTHER NON-VOTERS PERMITTED AT THE POLLING PLACE?**

Yes, certified poll watchers are permitted in Louisiana polling places, to call "infractions of the law to the attention" of poll commissioners. Each candidate in an election is entitled to have one watcher and one alternate watcher at every Election Day precinct where the office they seek is on the ballot in a primary or general election. Watchers may not electioneer, engage in political discussion, unnecessarily delay a voter at a polling place, or in any way interfere with the commissioners in the performance of their duties. Poll watchers must (1) be qualified voters in the state of Louisiana; (2) not be entitled to assistance in voting; (3) not be candidates in the election they are watching; and (4) not be a "law enforcement officer".<sup>156</sup>

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<sup>151</sup> [La. R.S. § 18:564\(D\)\(1\)\(c\).](#)

<sup>152</sup> [La. R.S. § 18:564\(C\).](#)

<sup>153</sup> [La. R.S. §§ 18:1309\(E\)\(4\)\(b\); 18:563\(C\)\(2\).](#)

<sup>154</sup> [La. R.S. § 18:563.](#)

<sup>155</sup> [La. R.S. § 18:542.](#)

<sup>156</sup> As defined by [La. R.S. § 18:428.](#)

If the number of poll watchers inside of a polling place is so great as to interfere with the orderly conduct of an election, the commissioners may limit the number of watchers inside. Watchers will draw lots to determine which ones will be allowed into a polling place first, but the commissioners will work to ensure an equal amount of time in the polling place for all watchers.<sup>157</sup>

**S. WHAT HAPPENS IF THE ELECTRONIC VOTING MACHINES ARE MALFUNCTIONING AT A POLLING PLACE?**

If a malfunctioning voting machine results in a discrepancy between the total votes cast in an election and the total votes counted for all candidates that is large enough to change the result of an election, and there is no way to obtain an accurate count of votes on the malfunctioning machine, a court shall order a revote in the precinct where the voting machine malfunctioned, limited to those persons listed as having cast their ballots in person at the polls in the election in which the machine malfunctioned.<sup>158</sup>

**t. IS LOUISIANA CONSIDERING WHETHER TO CHANGE ITS VOTING MACHINES TO PAPER BALLOTS? IF SO, WHEN WILL THIS CHANGE TAKE PLACE?**

On July 1, 2021, Louisiana Governor John Bel Edwards signed into law SB221 (Act 480), announcing the state's intent to shift from an electronic voting system to an auditable paper ballot system.<sup>159</sup> The specific iteration of the new voting system is still unclear as of the date of this publication, e.g., the state may consider ballot-marking digital voting machines that print paper receipts to review and confirm a voter's selections, or paper ballots may be scanned into a digital system to record votes, etc.<sup>160</sup> The new legislation provides for the creation of a Voting System Commission to evaluate and recommend the type of voting system that will replace the current voting system in use as necessary, and the initial meeting of the commission would be set no later than September 1, 2021, which has since been postponed.<sup>161</sup> The Commission

<sup>157</sup> [La. R.S. §§ 18:427; 18:435](#); *Poll Watchers Booklet*, <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/PollWatchersBooklet.pdf>.

<sup>158</sup> [La. R.S. § 18:1433](#).

<sup>159</sup> SB221, <http://www.legis.la.gov/legis/BillInfo.aspx?i=240619> (last visited Oct. 14, 2021); <http://www.legis.la.gov/legis/ViewDocument.aspx?d=1236590> (last visited Oct. 14, 2021) ("The [Voting System] commission shall consider only a voting system that utilizes a voter verified paper record to replace the state's inventory of direct recording equipment."); *Analysis: Louisiana to Have New Approach for Voting Machines*, U.S. News.com (July 11, 2021) <https://www.usnews.com/news/best-states/louisiana/articles/2021-07-11/analysis-louisiana-to-have-new-approach-for-voting-machines> (last visited Oct. 14, 2021).

<sup>160</sup> *Analysis: Louisiana to Have New Approach for Voting Machines*, U.S. News.com (July 11, 2021) <https://www.usnews.com/news/best-states/louisiana/articles/2021-07-11/analysis-louisiana-to-have-new-approach-for-voting-machines> (last visited Oct. 14, 2021).

<sup>161</sup> 2021 La. Act 480, <http://www.legis.la.gov/legis/ViewDocument.aspx?d=1236590> (last visited Oct. 14, 2021).

will submit a report of its findings and conclusions to the Governor and others no later than January 31, 2022, and annually thereafter.<sup>162</sup>

## **X. CHALLENGES & VOTER INTIMIDATION**

### **i. CAN A PERSON'S RIGHT TO VOTE BE CHALLENGED AT THE POLLS?**

Yes, a voter's right to vote may be challenged on one of three grounds: (1) the voter is not qualified to vote in the election; (2) the voter is not qualified to vote in the precinct; or (3) the applicant is not the person whose name is shown on the precinct register. The challenge will be resolved by the commissioners present at the polling place in which the challenge is raised. If a majority of commissioners present determine that the challenge is valid, the challenged voter will not be permitted to vote. If the majority determines that the challenge is invalid, the voter shall be permitted to vote. Where a valid challenge determines that the would-be voter has moved within the parish or outside the parish within the last three months, the voter shall be allowed to vote upon completing an address confirmation card.<sup>163</sup>

### **j. WHO CAN CHALLENGE A PERSON'S RIGHT TO VOTE AT THE POLLS?**

A poll commissioner, a poll watcher, or qualified voter may challenge a person's right to vote at the polls.<sup>164</sup>

### **k. WHAT STEPS ARE TAKEN IF A VOTER'S NAME DOES NOT APPEAR ON THE PRECINCT REGISTER?**

The precinct register contains the official list of voters, the inactive voter list, and a supplemental list of voters who have voted absentee by mail and during early voting in that precinct.<sup>165</sup>

In a primary or general election, if the name of a voter does not appear on the precinct register, the poll commissioner must contact the registrar or the Secretary of State to ascertain whether or not the voter is registered to vote in the precinct. If the Secretary of State and/or registrar confirm that the voter's registration and there is no valid challenge of the voter, then the voter may vote a regular ballot after signing a **precinct register correction affidavit**.<sup>166</sup>

In a federal election, when a voter's name does not appear on the precinct register and the registrar or Secretary of State has **not** authorized the

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<sup>162</sup> 2021 La. Act 480.

<sup>163</sup> [La. R.S. §§ 18:562\(B\)\(2\); 18:565\(B\)](#).

<sup>164</sup> [La. R.S. § 18:565](#).

<sup>165</sup> [La. R.S. §§ 18:152\(C\)\(2\)\(a\); 18:157](#).

<sup>166</sup> [La. R.S. § 18:562](#); *La. SOS Informational Pamphlet for Election Day Voting (2020)*, <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/InformationalPamphletForElectionDayVoting.pdf>



applicant to vote by precinct register correction affidavit as provided in the statute,<sup>167</sup> or the commissioners assert that the applicant is not eligible to vote, and the applicant declares himself to be a registered voter and eligible to vote in the election for federal office, the applicant may cast a **provisional ballot** for candidates for federal office.<sup>168</sup> Please see section XI below for more on provisional balloting in federal elections.

## I. WHAT CONSTITUTES ILLEGAL INTIMIDATION OF VOTERS AT THE POLLS?

The Louisiana Election Code does specifically define “intimidation,” it prohibits all of the following actions taken knowingly, willfully, or intentionally:

- Intimidate, deceive, or misinform, directly or indirectly, any voter or prospective voter in any matters concerning voter registration, or the signing (or not signing) of a petition;
- While in a voting booth with another person to provide assistance, coercing, compelling, or otherwise influencing the assisted voter to cast his vote in a certain way;
- Intimidate a person by the use of violence, force, or threats with the intent to influence that person’s decision to vote or to impede such person’s access to a polling place;
- Without lawful authority, obstruct, hinder, or delay any voter in going to or returning from a polling place.<sup>169</sup>

A first violation of any of the provisions above will subject the offender to a fine of not more than \$2,000 or a term of imprisonment (which may include hard labor) of not more than two years, or both. For any subsequent offense, the penalty shall be a fine of not more than \$5,000 or imprisonment at hard labor for not more than five years, or both.<sup>170</sup>

Voter intimidation carries with it additional federal penalties, including fines and up to one year in prison.<sup>171</sup> Knowingly and willfully intimidating, threatening, or coercing any person, or attempting to do so, for “registering to vote, or voting,” or for “urging or aiding” anyone to vote or register to vote carries penalties including imprisonment up to five years.<sup>172</sup> Federal law also makes it a crime to “by force or threat of force” willfully injure, intimidate, or interfere with any person because they are voting or have voted or “in order to intimidate” anyone from voting<sup>173</sup>

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<sup>167</sup> [La. R.S. § 18:562.](#)

<sup>168</sup> [La. R.S. § 18:566.](#)

<sup>169</sup> [La. R.S. § 18:1461.4\(A\).](#)

<sup>170</sup> [La. R.S. § 18:1461.4\(B\).](#)

<sup>171</sup> 18 U.S.C. § 594.

<sup>172</sup> 52 U.S.C. § 20511.

<sup>173</sup> 18 U.S.C. § 245(b)(1).

Additionally, perpetrators of voter intimidation may face civil liability. Section 11 of the Voting Rights Act of 1965 makes it unlawful to “intimidate, threaten, or coerce” another person, or attempt to do so, “for voting or attempting to vote” or “for urging or aiding any person to vote or attempt to vote.”<sup>174</sup> Similarly, Section 2 of the Ku Klux Klan Act of 1871 makes it unlawful for “two or more persons [to] conspire to prevent by force, intimidation, or threat,” any voter from casting a ballot for the candidate of his or her choice.<sup>175</sup>

Louisiana law also prohibits the organization of private militias as well as paramilitary activities.<sup>176</sup> “Training” a “paramilitary organization” in Louisiana is a crime punishable by up to six months’ imprisonment and a fine of up to \$500.<sup>177</sup>

**m. TO WHOM SHOULD A PERSON REPORT ACTS OF INTIMIDATION?**

Where possible, acts of intimidation should be reported to the commissioners stationed at the polling place in question. Such acts (as well as any complaints regarding violation of Louisiana Election Code), may also be reported to the Secretary of State’s Election Fraud Hotline: 1-800-722-5305.<sup>178</sup> Additionally, voters can contact the U.S. Department of Justice, Civil Rights Division in Washington, D.C. at 1-800-253-3931 or by complaint form.<sup>179</sup> Finally, voters should report voter intimidation to 1-866-OUR-VOTE (866-687-8683), a nonprofit, nonpartisan Election Protection network.

**n. ARE LAW ENFORCEMENT OFFICERS ALLOWED IN A POLLING PLACE DURING VOTING HOURS?**

Law enforcement officers may not be stationed at polling places on Election Day. However, officers may be summoned to a polling place by a commissioner or the clerk of the court to assist in preserving order, enforcing election laws, or protecting election officials from interference in the

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<sup>174</sup> 52 U.S.C. § 10307(b).

<sup>175</sup> 42 U.S.C. § 1985(3).

<sup>176</sup> [La. R.S. § 29:31\(A\)](#) provides that “[n]o body of men, other than the organized militia of this state and the armed forces of the United States of America, students in military science courses at educational institutions, and persons honorably discharged from the armed forces of the United States of America shall associate themselves together as a military company or organization.” [La. R.S. § 14:117.1\(C\)\(1\)](#) defines “paramilitary organization” as “a group organized in a military or paramilitary structure, consisting of two or more persons who knowingly possess firearms or other weapons and who train in the use of such firearms or weapons, or knowingly teach or offer to teach the use of such firearms or weapons to others, for the purpose of committing” a state or local offense.

<sup>177</sup> [La. R.S. § 14:117.1\(B\)](#).

<sup>178</sup> *Report Election Fraud*, <https://www.sos.la.gov/ElectionsAndVoting/GetInvolved/ReportElectionFraud/Pages/default.aspx>.

<sup>179</sup> *Civil Right Division*, U.S. Dep’t. of Justice, <https://civilrights.justice.gov/>

performance of their duties. Under those circumstances, the officers are subject only to the orders of the commissioners at that polling place.

One caveat – when a polling location is in a public place where a law enforcement officer is typically stationed in the course of their ordinary duties, that officer may continue to be stationed at that location on an Election Day. That officer may not, however, interfere with the conduct of the election, the voters, or the election officials.<sup>180</sup>

For recommended best practices for election officials regarding when and how to engage law enforcement at polling sites in communities of color, see the Advancement Project’s “Election 2020 Template Memorandum of Understanding with Law Enforcement.”<sup>181</sup>

## **XI. PROVISIONAL BALLOTS AND PRECINCT REGISTER CORRECTION**

### **i. WHAT IS A PROVISIONAL BALLOT? (FEDERAL ELECTIONS ONLY)**

Provisional ballots are available for federal elections only in Louisiana. In general, any individual who believes they are properly registered and eligible to vote, but whose name does not appear on the list of eligible voters is entitled to request and receive a provisional paper ballot for elections.

### **B. WHAT IS THE PRECINCT REGISTER CORRECTION PROCESS?**

While provisional ballots are restricted to federal elections in Louisiana, the state provides a **precinct register correction affidavit process** in all elections for voters who believe they are eligible and registered to vote, but whose names are not on the list of eligible voters. This process allows a voter to cast a regular (not provisional) ballot absent any valid challenge after the poll commissioner contacts the registrar or Secretary of State confirming the voter’s eligibility and the voter signs a precinct register correction affidavit.<sup>182</sup>

In the Fall 2021 elections, all voters who do not appear on the list of eligible voters should ask their poll commissioners about the precinct register correction affidavit process.

Please see section X above for more on the precinct register correction process.

### **C. WHO MAY REQUEST A PROVISIONAL BALLOT? (FEDERAL ELECTIONS ONLY)**

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<sup>180</sup> [La. R.S. § 18:428\(C\)](#).

<sup>181</sup> *Election 2020 Template MOU with Law Enforcement*, <https://advancementproject.org/resources/template-mou-with-law-enforcement/>.

<sup>182</sup> [La. R.S. § 18:562\(B\)\(3\)](#).

A provisional voter during a federal election may be:

- A person whose name does not appear in the precinct register or supplemental register and who is not authorized to vote by Precinct Register Correction (PRC) form;
- A voter who is challenged and a majority of the commissioners determine that the challenge is valid; or
- A voter who votes in a federal election during court ordered extended poll hours.<sup>183</sup>

**D. WHY AND WHEN WILL PROVISIONAL BALLOTS BE PROVIDED TO VOTERS?**

A provisional ballot will be used whenever a voter arrives at a polling location and states they seek to vote in that election and are eligible to vote in that election. The general and guiding principle for provisional ballots is that no person seeking to vote is ever “turned away.” Common reasons voters may need to cast a provisional ballot:

- The voter’s eligibility cannot be immediately established—for example, name is not on registration list;
- The voter is in the parish where they are registered to vote but is voting at the wrong precinct;
- The voter’s eligibility is challenged by a poll watcher;
- Voter did not present ID as required by the state.<sup>184</sup>

**E. WHO DECIDES WHETHER A VOTER GETS A PROVISIONAL BALLOT?**

The commissioner will provide the voter with a provisional ballot if the commissioner determines that the voter has accurately completed the procedure for provisional voting for federal office at a polling place.<sup>185</sup>

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<sup>183</sup> [La. R.S. § 18:566.](#)

<sup>184</sup> [La. R.S. § 18:566.](#)

<sup>185</sup> [La. R.S. § 18:566\(B\)\(1\).](#)

**F. WHAT CAN A VOTER DO IF THEY REQUIRE, BUT DO NOT RECEIVE, A PROVISIONAL BALLOT?**

Any person who believes that there is a violation of their right to receive a provisional ballot counted may file a complaint in writing with the Secretary of State.<sup>186</sup>

**G. WHAT INFORMATION MUST BE PROVIDED TO VOTERS WHO CAST PROVISIONAL BALLOTS?**

The commissioner must provide a voter who casts a provisional ballot with written instructions for how the voter may determine whether the provisional vote was counted, and, if the provisional vote was not counted, the reason the vote was not counted.<sup>187</sup>

**H. DOES THE VOTER WHO CAST A PROVISIONAL BALLOT HAVE A RIGHT TO PRESENT EVIDENCE OR APPEAR IN COURT BEFORE THE ELECTION OFFICIALS EVALUATING WHETHER IT WILL COUNT?**

Any person who believes that there is a violation of their right to have their provisional ballot counted may file a complaint in writing with the secretary of state. At the request of the complainant, the board shall conduct a hearing on the record. The request must be made in writing to the secretary of state no later than ten days after the filing of the complaint or the amended complaint. A person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.<sup>188</sup>

**I. HOW DO ELECTION OFFICIALS DETERMINE WHETHER A PROVISIONAL BALLOT WILL BE COUNTED?**

A provisional ballot in a federal election will be counted by the parish board of election supervisors if they find:

- A person is an eligible voter in the federal election (including the specific federal office on the ballot in the precinct where the person cast their vote); and
- The person cast their ballot in the parish in which they are registered; and
- The person has not voted another ballot in the election anywhere in the state.

A provisional ballot will be rejected when:

- The voter is not a registered voter or

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<sup>186</sup> [La. R.S. § 18:567.2.](#)

<sup>187</sup> [La. R.S. § 18: 566\(B\)\(2\).](#)

<sup>188</sup> [La. R.S. §§ 18:567.2; 18:567.3\(F\)\(1-2\).](#)

- Fails to vote in the precinct where he is eligible to vote in the federal election<sup>189</sup>

**J. WHEN WILL PROVISIONAL BALLOTS BE COUNTED?**

Provisional ballots shall be counted prior to the compilation of returns at the office of the registrar of voters<sup>190</sup> or at a public facility within the parish designated by the parish board of election supervisors.<sup>191</sup>

**K. HOW CAN VOTERS FIND OUT WHETHER THEIR PROVISIONAL BALLOTS HAVE BEEN COUNTED?**

Information on how a voter can find out whether the vote was counted, and, if not, the reason why not is available via a toll-free telephone number and website.<sup>192</sup> Provisional voters can also use this lookup tool:  
<https://voterportal.sos.la.gov/provisionalvoters>.

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<sup>189</sup> [La. R.S. § 18:566.2](#).

<sup>190</sup> [La. R.S. § 18:574](#).

<sup>191</sup> [La. R.S. § 18:566.2\(C\)](#).

<sup>192</sup> Registrar of Voters, <https://voterportal.sos.la.gov/registrar>.