

111TH CONGRESS
1ST SESSION

H. R. 3835

To amend the National Voter Registration Act of 1993 and the Help America Vote Act of 2002 to strengthen protections against the wrongful removal of individuals from the official list of eligible voters and the wrongful denial of applications for voter registration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 2009

Mr. HOLT introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the National Voter Registration Act of 1993 and the Help America Vote Act of 2002 to strengthen protections against the wrongful removal of individuals from the official list of eligible voters and the wrongful denial of applications for voter registration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protection Against
5 Wrongful Voter Purges Act”.

1 **SEC. 2. NOTICE AND REVIEW REQUIREMENTS FOR RE-**
2 **MOVAL OF INDIVIDUALS FROM OFFICIAL**
3 **LIST OF ELIGIBLE VOTERS BY REASON**
4 **OTHER THAN CHANGE OF RESIDENCE.**

5 (a) IN GENERAL.—Section 8 of the National Voter
6 Registration Act of 1993 (42 U.S.C. 1973gg–6) is amend-
7 ed—

8 (1) by redesignating subsection (j) as sub-
9 section (k); and

10 (2) by inserting after subsection (i) the fol-
11 lowing new subsection:

12 “(j) NOTICE AND REVIEW REQUIREMENTS FOR RE-
13 MOVAL OF INDIVIDUALS FROM LIST OF ELIGIBLE VOT-
14 ERS BY REASON OTHER THAN CHANGE OF RESI-
15 DENCE.—

16 “(1) MINIMUM NOTICE PRIOR TO REMOVAL.—

17 “(A) IN GENERAL.—In addition to any
18 other requirements applicable under this sec-
19 tion, a State may not remove a registrant from
20 the official list of eligible voters for an election
21 for Federal office by reason other than death or
22 a change of residence unless the State provides
23 the registrant with a notice of removal meeting
24 the requirements of subparagraph (B) not later
25 than 30 days before the date of the election.

1 “(B) REQUIREMENTS FOR NOTICE.—The
2 notice required under this subparagraph shall
3 be sent by forwardable mail, and shall include
4 the following:

5 “(i) A statement that the State in-
6 tends to remove the registrant from the of-
7 ficial list of eligible voters for elections for
8 Federal office.

9 “(ii) A description of the reasons for
10 removal, including (in the case of an indi-
11 vidual proposed to be removed by reason of
12 criminal conviction) sufficient identifying
13 information on the criminal conviction al-
14 leged to be the basis for removal to enable
15 the registrant to determine whether the
16 registrant was convicted of the offense
17 cited in the notice, or (in the case of an in-
18 dividual proposed to be removed by reason
19 of mental incapacity) sufficient identifying
20 information on the judicial determination
21 of mental incapacity alleged to be the basis
22 for removal to enable to registrant to de-
23 termine whether the registrant was ad-
24 judged to be mentally incapacitated.

1 “(iii) A statement that the registrant
2 may obtain a review of the removal from
3 an appropriate State election official in ac-
4 cordance with paragraph (2).

5 “(iv) A postage pre-paid and pre-ad-
6 dressed envelope and a clear list of contact
7 information for the appropriate State elec-
8 tion official that includes a mailing ad-
9 dress, telephone number, and fax number.

10 “(2) REVIEW OF DECISION TO REMOVE.—

11 “(A) IN GENERAL.—A registrant who re-
12 ceives a notice of removal under paragraph (1)
13 may submit a written request to a designated
14 State election official to withdraw the notice
15 and retain the registrant on the official list of
16 eligible voters, and may include in the request
17 such information and evidence as the registrant
18 considers appropriate to show that the reg-
19 istrant is not subject to removal from the list
20 under State law, including information and evi-
21 dence showing that the registrant was not con-
22 victed of the criminal offense cited in the notice
23 or that the period of ineligibility imposed as the
24 result of a conviction of a criminal offense has
25 expired (in the case of an individual proposed to

1 be removed by reason of criminal conviction) or
2 that the registrant was not adjudged to be men-
3 tally incapacitated as cited in the notice or that
4 the incapacity has since been invalidated, with-
5 drawn, or rescinded (in the case of an indi-
6 vidual proposed to be removed by reason of
7 mental incapacity).

8 “(B) RESPONSE BY STATE.—Not later
9 than 10 days after receiving a request from a
10 registrant under subparagraph (A), the State
11 shall review the information and evidence in-
12 cluded and accept or reject the request, and
13 shall notify the registrant in writing of its deci-
14 sion.

15 “(3) SPECIAL RULES FOR REMOVAL BY REASON
16 OF DEATH OF REGISTRANT.—In the case of an indi-
17 vidual proposed to be removed by reason of death—

18 “(A) the notice of removal under para-
19 graph (1) shall be addressed to the occupant of
20 the most recent address of the registrant in the
21 records of the appropriate State election offi-
22 cial;

23 “(B) the notice shall include a statement
24 that the occupant should notify the appropriate

1 State election official immediately if the notice
2 of the registrant's death is in error;

3 “(C) if the notice of removal was issued in
4 error, the registrant may submit a written re-
5 quest under paragraph (2) to withdraw the no-
6 tice and retain the registrant on the official list
7 of eligible voters; and

8 “(D) if the registrant submits such a writ-
9 ten request, the State shall notify the registrant
10 of the decision made under paragraph (2)(B)
11 with respect to the request.

12 “(4) OPPORTUNITY TO CAST PROVISIONAL BAL-
13 LOT.—Any registrant who receives a notice of re-
14 moval under paragraph (1) and believes that the re-
15 moval decision was made in error shall be permitted
16 to cast a provisional ballot in an election for Federal
17 office in accordance with section 302(a) of the Help
18 America Vote Act of 2002, and the vote cast by such
19 a ballot shall be counted in the election (in accord-
20 ance with the standards and procedures of such sec-
21 tion) if it is determined that the removal decision
22 was made in error.

23 “(5) NO EXPANSION OF GROUNDS FOR RE-
24 MOVAL.—Nothing in this subsection may be con-
25 strued to require or authorize the establishment of

1 any grounds for the removal of a registrant from the
2 official list of eligible voters for an election for Fed-
3 eral office which were not in effect prior to the en-
4 actment of this subsection.”.

5 (b) ADOPTION OF VOLUNTARY GUIDANCE REGARD-
6 ING AUDITS OF COMPUTERIZED LIST.—Section 311 of
7 the Help America Vote Act of 2002 (42 U.S.C. 15501)
8 is amended by adding at the end the following new sub-
9 section:

10 “(d) VOLUNTARY GUIDANCE REGARDING AUDITS OF
11 COMPUTERIZED LIST.—Not later than October 1, 2010,
12 the Commission shall adopt voluntary guidance with re-
13 spect to audits of the Statewide computerized voter reg-
14 istration list required to be maintained under section 303
15 so that each State will be able to ensure that the list re-
16 flects an accurate and complete count of all individuals
17 who are validly registered to vote in elections for Federal
18 office in the State and is secure against unauthorized
19 uses.”.

20 (c) CONFORMING AMENDMENTS.—

21 (1) NATIONAL VOTER REGISTRATION ACT OF
22 1993.—Section 8 of the National Voter Registration
23 Act of 1993 (42 U.S.C. 1973gg–6) is amended—

24 (A) in subsection (a)(3)(B), by striking
25 “State law,” and inserting “State law and con-

1 sistent with the requirements of subsection
2 (j);”;

3 (B) in subsection (a)(4)(A), by striking the
4 semicolon at the end and inserting and “, con-
5 sistent with the requirements of subsection
6 (j);”;

7 (C) in the heading for subsection (d), by
8 inserting after “ROLLS” the following: “BY
9 REASON OF CHANGE OF RESIDENCE”; and

10 (D) in subsection (i)(2), by inserting after
11 “subsection (d)(2)” the following: “and all per-
12 sons to whom notices described in subsection
13 (j)”.

14 (2) HELP AMERICA VOTE ACT OF 2002.—Section
15 303(a) of the Help America Vote Act of 2002 (42
16 U.S.C. 15483(a)) is amended—

17 (A) in paragraph (2)(A)(i), by striking
18 “and (e)” and inserting “(e), and (j)”; and

19 (B) in paragraph (4)(B), by striking
20 “Safeguards” and inserting “In addition to
21 meeting the applicable notice and review re-
22 quirements of section 8 of the National Voter
23 Registration Act of 1993, safeguards”.

1 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion or any amendment made by this section may be con-
3 strued—

4 (1) to affect the right of any individual to cast
5 a provisional ballot under section 302(a) of the Help
6 America Vote Act of 2002; or

7 (2) to prohibit any State from providing indi-
8 viduals threatened with removal from the official list
9 of eligible voters in the State with greater protec-
10 tions than those required under section 8(j) of the
11 National Voter Registration Act of 1993 (as added
12 by subsection (a)).

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall apply with respect to the regularly sched-
15 uled general election for Federal office in November 2010
16 and each succeeding election for Federal office.

17 **SEC. 3. PROCEDURES FOR REMOVAL OF INDIVIDUALS**
18 **FROM OFFICIAL LIST OF ELIGIBLE VOTERS**
19 **BY REASON OF CHANGE OF RESIDENCE.**

20 (a) PERMITTING REMOVAL AT REQUEST OF INDI-
21 VIDUAL ONLY IN CASE OF SPECIFIC WRITTEN REQUEST
22 OR VERIFIED REGISTRATION IN A NEW JURISDICTION.—
23 Section 8(a)(3) of the National Voter Registration Act of
24 1993 (42 U.S.C. 1973gg-6(a)(3)) is amended—

1 (1) in subparagraph (A), by striking “the re-
2 quest” and inserting “the specific written request”;

3 (2) by redesignating subparagraph (C) as sub-
4 paragraph (D); and

5 (3) by inserting after subparagraph (B) the fol-
6 lowing new subparagraph:

7 “(C) upon verification by the State that the
8 registrant has registered in a new jurisdiction (in ac-
9 cordance with subsection (d)(3)).”.

10 (b) REQUIRING MATCH OF REGISTRATION INFORMA-
11 TION IN NEW JURISDICTION.—Section 8(d) of such Act
12 (42 U.S.C. 1973gg–6(d)) is amended—

13 (1) in paragraph (1), by striking “unless” and
14 inserting “unless (subject to paragraph (4))”;

15 (2) by redesignating paragraph (3) as para-
16 graph (4); and

17 (3) by inserting after paragraph (2) the fol-
18 lowing new paragraph:

19 “(3) A State may not remove the name of a reg-
20 istrant on the ground that the registrant has registered
21 in a new jurisdiction unless the State verifies the registra-
22 tion in the new jurisdiction by matching the registrant’s
23 existing registration information with the registrant’s reg-
24 istration information from the new jurisdiction, including
25 matching the registrant’s full name (taking into account

1 common variations in first names, middle initials and mid-
2 dle names, and documented differences in a maiden
3 name), date of birth, and the unique number used to iden-
4 tify the registrant for purposes of section 303(a)(5) of the
5 Help America Vote Act of 2002.”.

6 (c) PROCEDURE FOR HANDLING RETURNED REG-
7 ISTRATION MAILINGS.—Section 8 of such Act (42 U.S.C.
8 1973gg–6), as amended by section 2(a), is amended—

9 (1) by redesignating subsection (k) as sub-
10 section (l); and

11 (2) by inserting after subsection (j) the fol-
12 lowing new subsection:

13 “(k) PROCEDURE FOR HANDLING RETURNED REG-
14 ISTRATION MAILINGS.—

15 “(1) EVIDENCE OF CHANGE TO RESIDENCE IN
16 NEW JURISDICTION.—If a disposition notice de-
17 scribed in subsection (a)(2), a voter registration
18 card, a notice of location of a polling place or notice
19 of precinct assignment, or any other voter registra-
20 tion or voting information mailed by the registrar to
21 the registrant is returned to the registrar as undeliv-
22 erable with no forwarding address or with a perma-
23 nent forwarding address outside of the registrar’s
24 jurisdiction, the registrar shall deem such returned
25 mailing as evidence that the registrant may have

1 changed residence to a place outside the registrar’s
2 jurisdiction, and shall use the notice procedure de-
3 scribed in subsection (d)(2) to confirm the change of
4 address.

5 “(2) EVIDENCE OF CHANGE TO RESIDENCE IN
6 SAME JURISDICTION.—If any mailing described in
7 paragraph (1) is returned to the registrar with a
8 permanent forwarding address inside the registrar’s
9 jurisdiction, the registrar shall deem such returned
10 mailing as evidence that the registrant may have
11 changed residence to a place within the registrar’s
12 jurisdiction, and shall correct the registration
13 records in accordance with subsections (c)(1)(B)(i)
14 and (f).”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply with respect to the regularly sched-
17 uled general election for Federal office in November 2010
18 and each succeeding election for Federal office.

19 **SEC. 4. STANDARD FOR REVIEW OF REMOVAL ACTIONS.**

20 (a) STANDARD.—Section 8 of the National Voter
21 Registration Act of 1993 (42 U.S.C. 1973gg–6), as
22 amended by sections 2(a) and 3(c), is amended—

23 (1) by redesignating subsection (l) as subsection
24 (m); and

1 (2) by inserting after subsection (k) the fol-
2 lowing new subsection:

3 “(l) STANDARD FOR REVIEW OF REMOVAL AC-
4 TIONS.—If any registrant who is subject to removal from
5 the official list of eligible voters requests that the appro-
6 priate election official review the removal, the removal
7 shall not take effect unless the official demonstrates by
8 clear and convincing evidence that the registrant was
9 properly removed under this Act.”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to the regularly sched-
12 uled general election for Federal office in November 2010
13 and each succeeding election for Federal office.

14 **SEC. 5. CONTENTS AND TREATMENT OF VOTER REGISTRA-**
15 **TION FORMS.**

16 (a) OPPORTUNITY TO CORRECT INCOMPLETE
17 FORMS.—Section 303(b)(4)(B) of the Help America Vote
18 Act of 2002 (42 U.S.C. 15483(b)(4)(B)) is amended by
19 striking “to answer the question included on the mail voter
20 registration form pursuant to subparagraph (A)(i)” and
21 all that follows and inserting the following: “to provide
22 any information required on any voter registration form
23 used by the State under section 6 of the National Voter
24 Registration Act of 1993, the registrar shall notify the ap-
25 plicant of the failure and provide the applicant with an

1 opportunity to complete the form in a timely manner to
2 allow for the completion of the registration form prior to
3 the next election for Federal office.”.

4 (b) PROHIBITING REQUIREMENT TO PROVIDE ADDI-
5 TIONAL INFORMATION RELATING TO AGE AND CITIZEN-
6 SHIP.—Section 303(b)(4) of such Act (42 U.S.C.
7 15483(b)(4)) is amended by adding at the end the fol-
8 lowing new subparagraph:

9 “(C) PROHIBITING REQUIREMENT TO PRO-
10 VIDE ADDITIONAL INFORMATION.—A State
11 must accept, in lieu of requiring an applicant to
12 provide any documentation of citizenship or age
13 as a condition of registering to vote, the appli-
14 cant’s checking of the applicable boxes required
15 under clauses (i) and (ii) of subparagraph (A)
16 and attesting under penalty of perjury to all ap-
17 plicable eligibility requirements (including age
18 and citizenship), as required by section 9(b)(2)
19 of the National Voter Registration Act of 1993
20 (42 U.S.C. 1973gg-7(b)(2)).”.

21 (c) COMPLETED NATIONAL FORM DEEMED COM-
22 PLETE FOR ALL STATES.—Section 303(b) of such Act
23 (42 U.S.C. 15483(b)) is amended—

24 (1) by redesignating paragraph (5) as para-
25 graph (6); and

1 (2) by inserting after paragraph (4) the fol-
2 lowing new paragraph:

3 “(5) COMPLETED NATIONAL FORM DEEMED
4 COMPLETE FOR ALL STATES.—If an applicant for
5 voter registration in a State submits a voter reg-
6 istration application form which contains all of the
7 information required to be provided under the mail
8 voter registration form developed by the Commission
9 under section 9(a)(2) of the National Voter Reg-
10 istration Act of 1993 (whether the form submitted
11 by the applicant is the form developed by the Com-
12 mission or another form developed and used by the
13 State under section 6(a) of the National Voter Reg-
14 istration Act of 1993), the State may not refuse to
15 register the applicant as a voter on the ground that
16 the applicant failed to complete the form.”.

17 **SEC. 6. PROHIBITING DELAY OR DENIAL OF REGISTRATION**
18 **ON GROUNDS OF FAILURE TO MATCH INFOR-**
19 **MATION.**

20 (a) INFORMATION REQUIRED TO BE PROVIDED IN
21 APPLICATION.—Section 303(a)(5)(A) of the Help America
22 Vote Act of 2002 (42 U.S.C. 15483(a)(5)(A)) is amend-
23 ed—

24 (1) by amending clause (i) to read as follows:

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), notwithstanding any
3 other provision of law, an application for
4 voter registration for an election for Fed-
5 eral office shall require the applicant to in-
6 clude—

7 “(I) in the case of an applicant
8 who has been issued and has available
9 at the time of registration a current
10 and valid driver’s license, the appli-
11 cant’s driver’s license number; or

12 “(II) in the case of any other ap-
13 plicant (other than an applicant to
14 whom clause (ii) applies), the last 4
15 digits of the applicant’s social security
16 number.”; and

17 (2) by striking clause (iii).

18 (b) NO EFFECT ON REGISTRATION DUE TO FAILURE
19 TO MATCH.—Section 303(a)(5)(B) of such Act (42
20 U.S.C. 15483(a)(5)(B)) is amended by adding at the end
21 the following new clause:

22 “(iii) NO EFFECT ON REGISTRATION
23 DUE TO FAILURE TO MATCH.—A State
24 may not refuse to accept an individual’s
25 application for voter registration, delay the

1 processing of such an application, or refuse
2 to register the individual solely on the
3 grounds that the information provided by
4 the individual for purposes of the database
5 of the Statewide voter registration system
6 under this paragraph does not match infor-
7 mation contained with respect to the indi-
8 vidual in the database of the State motor
9 vehicle authority, the Commissioner of So-
10 cial Security, or any other governmental
11 entity, except that the State may require
12 (in a uniform and nondiscriminatory man-
13 ner) the individual to meet the require-
14 ments of subsection (b)(2) in the same
15 manner as an individual described in sub-
16 section (b)(1).”.

17 **SEC. 7. EFFECTIVE DATE.**

18 Section 303(d)(2) of the Help America Vote Act of
19 2002 (42 U.S.C. 15483(d)(2)) is amended—

20 (1) in subparagraph (A), by striking “Each
21 State” and inserting “Except as provided in sub-
22 paragraph (C), each State”;

23 (2) in subparagraph (B), by striking “The pro-
24 visions” and inserting “Except as provided in sub-
25 paragraph (C), the provisions”; and

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(C) DELAYED EFFECTIVE DATE FOR CER-
4 TAIN PROVISIONS.—To the extent that any pro-
5 vision of subsection (a) or subsection (b) was
6 amended by the Protection Against Wrongful
7 Voter Purges Act, such provision shall apply
8 with respect to the regularly scheduled general
9 election for Federal office held in November
10 2010 and each succeeding election for Federal
11 office.”.

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