



NVRA COMPLIANCE



PRESENTED BY:

Jason Torchinsky &
Dennis Polio

Holtzman Vogel Baran
Torchinsky Josefiak
PLLC



WHAT IS THE NVRA?

The NVRA is a federal law designed to increase citizens' access to voter registration opportunities.

COMPLIANCE IS MANDATORY!



South Dakota Department of Public Safety MUST offer voter registration services to each person applying for service or assistance, renewing or recertifying eligibility, or submitting a change of address.

SECTION 5 & SECTION 7 OF THE NVRA

- Section 5 - 52 U.S.C. 20504: Pertaining to Agencies that issue Drivers Licenses:
 - Each State motor vehicle driver's license application (including any renewal application) submitted to a State motor vehicle authority must serve as a simultaneous voter registration application unless the applicant fails to sign the voter registration application.
 - Any change of address form submitted for State driver's license purposes must also serve as notification of change of address for voter registration purposes unless the registrant states on the form that the change of address is not for voter registration purposes
 - NVRA voter registration opportunity applies to applications, renewals, and change of address transactions regarding any personal identification document issued by a State authority.
 - South Dakota MUST include a voter registration form as part of an application for a State driver's license and any application for driver's license renewal.
 - The application shall also include statements specifying that:
 1. if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes
 2. if an applicant does register to vote, the identity of the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes

SECTION 5 & SECTION 7 OF THE NVRA

- **Section 7 – 52 U.S.C. 20506: Other Voter Registration Agencies**
 - Covered agencies have obligations to present the opportunity for voter registration during all Covered Transactions
 - Present Voter Preference Question
 - Distribute Voter Registration Application forms
 - Assist Applicants in completing Voter Registration Application forms (unless the Applicant refuses such assistance), and;
 - Accept and transmit completed Voter Registration Forms for transmittal to county election officials.
 - **Covered agencies under Section 7 include:**
 - Any office that provides either “public assistance” or state-funded programs primarily engaged in providing services to persons with disabilities must offer voter-registration services.
 - Armed Forces recruitment offices

AGENCIES AND OFFICES THAT MUST OFFER VOTER REGISTRATION

- Offices providing Drivers Licensing and ID services
- Supplemental Nutrition Assistance Program (SNAP, formerly the Food-Stamp Program)
- The Special Supplemental Nutrient Program for Women, Infants and Children (WIC)
- Temporary Assistance for Needy Families (formerly the Aid to Families with Dependent Children or AFDC program)
- Medicaid
- State Children's Health Insurance Program (SCHIP)

COVERED EMPLOYEES

- Covered Employees (within Covered Agencies)
 - Any employee or Staff of an Agency, or any employee of another agency or office that conducts Covered Transactions
 - Whose job responsibilities include assisting in any way with voter registration, Covered Transactions, or NVRA compliance.
 - Staff performing Drivers Licensing services who are not DPS employees, including issue site staff and frontline staff in office sharing situations, who interact with individuals seeking to participate in Covered Transactions.

COVERED TRANSACTIONS

Covered Transactions

- Includes applications, renewals, and change of address requests for Driver's Licenses and non-driver identification cards and applications, renewals, recertifications, and change of address requests for public assistance.
- Whether conducted in-person or remotely, and whether conducted at an Agency or another site pursuant to a contract or agreement with an Agency.

VOTER REGISTRATION SERVICES

—

MUST BE OFFERED

- **Voter Registration**
 - Each applicable agency must maintain a supply of voter registration applications in an accessible and easy to see location.
 - (Same with local offices.)
- In South Dakota, the Drivers License/Renewal/Change of Address application form serves a dual role and includes a voter registration portion.

VOTER REGISTRATION SERVICES

—

DECLINATION

- **Declination provisions**
 - Opportunity for declination must be provided with each application for service or assistance and with each recertification, renewal, or change-of-address form relating to that service or assistance.
- South Dakota's application contains a check-box where applicants can decline to register to vote or change their registration.

VOTER REGISTRATION SERVICES - CHANGES

- You may have noticed changes to the Driver's License Application and some updated policies and procedures for changes of address.
- Specifically, voter registration procedures are now opt-out rather than opt-in



SOUTH DAKOTA
DEPARTMENT
OF PUBLIC SAFETY
prevention — protection — enforcement
DRIVER LICENSING

Date: June 30, 2022

To: All Driver Licensing Personnel and County/City Issue Partners

From: Jane Schrank, Driver Licensing Director

Subject: Implementation of New South Dakota Driver License/I.D. Card Applications

As of July 8, 2022, all offices will have received a supply of new "South Dakota Driver License/I.D. Card Application" forms. Please do not begin using the new forms until the morning of July 8th. All old forms must be destroyed. A copy of the new application is attached.

Based upon our review of the National Voter Registration Act (NVRA) and in consultation with legal counsel, it has been determined the revisions are appropriate to best serve applicants interested in registering to vote or changing their voter registration information.

The new application will require the applicant to check a box to "opt out" of having their information used to register them to vote or update their voter registration address.

Anyone wishing to vote, whether they are applying for a driver's license/ID or not, can register to vote at any driver exam station or county/city issue site. An applicant must NOT be turned away or referred to any other office if they request to register to vote. Failure to allow someone to register to vote on the driver's license application form is a violation of the NVRA.

If your office has not received a supply of new applications by July 6th please contact our office.

118 West Capitol Avenue • Pierre, South Dakota 57501



W: dps@state.sd.us
P: 605.773.6883


E: dpslicensing@state.sd.us
1-800-952-3696




F: 605.773.3018

VOTER REGISTRATION SERVICES - CHANGES

*****Important: New Driver's License Application Forms*****

 Schrank, Jane
To  DPS-DRIVER LICENSING

 You forwarded this message on 06/29/2022 3:46 PM.

 Reply  Reply All  Forward

Wed 06/29/2022

Good afternoon,

As most of you are aware, there is an ongoing lawsuit about the state's compliance with the National Voter Registration Act (NVRA). Based on the results of that lawsuit the voter registration section of the "South Dakota Driver License/I.D. Card Application" form is being changed to the following:

SECTION B: VOTER REGISTRATION	
Your information will be used to update your voter registration or register you to vote.	
<input type="checkbox"/> Do not use my information for voter registration purposes. (Your decision not to register to vote is confidential. If you register, the place where you register is confidential.)	
Choice of party _____ If you are currently registered to vote in South Dakota and you leave Choice of party field blank you will remain registered with your current party affiliation. If you are not currently registered to vote in South Dakota and you leave the choice of party blank, you will be entered as an independent/no party affiliation voter, which is not a political party in South Dakota.	
Last registration location: City: _____ County: _____ State: _____	
I declare, under penalty of perjury (2 years imprisonment and \$4,000 fine), that:	
* I am a citizen of the United States of America;	* I have not been judged mentally <u>incompetent</u> .
* I <u>actually live</u> at and have no present intention of leaving the above <u>address</u> ;	* I am not currently serving a sentence for a felony conviction; and
* I will be 18 on or before the next <u>election</u> ;	* I authorize cancellation of my previous registration.

If an applicant does **not** want to register to vote or update their voter registration they must mark the opt out box.

If they were not previously registered to vote in South Dakota, do not check the box to opt out, and leave the "Choice of party" line blank they will be registered with no party affiliation.

Anyone wishing to vote, whether they're applying for a driver's license/ID or not, can register to vote at any driver exam station or county/city issue site.

Failure to allow someone to register to vote on the driver's license application form is a violation of the NVRA.

New applications are being mailed out this week. **As of July 8, 2022 destroy all old applications and start using the new ones.**

Overnight on 7/7/2022 programming will change in the voter registration section of SDDrivers and online renewal.

There are more changes coming, such as required NVRA training, and we'll send that information out once the lawsuit settlement has concluded.

Important: if your office has not received new applications by July 7th please let your supervisor know. Some applications will be mailed from the printer, some will be mailed from the Central office, and some will be hand delivered.

Thank you and please let us know if you have any questions.

Jane Schrank, Director
South Dakota DPS, Driver Licensing Program
118 W. Capitol Ave. (Sutherland Bldg)
Pierre SD 57501
Phone: 605-773-4123

VOTER REGISTRATION SERVICES

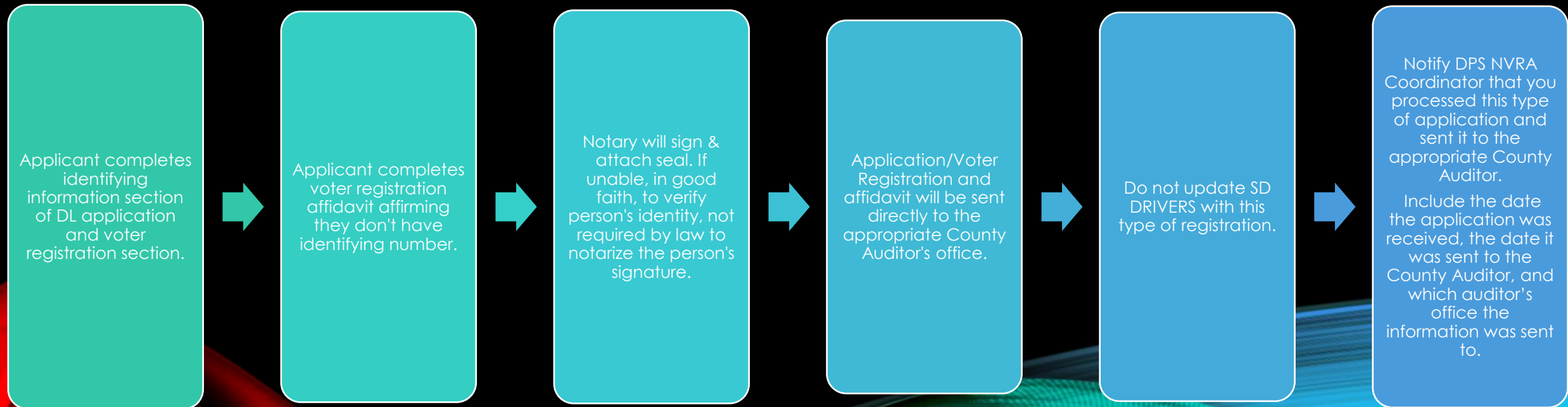
—

MUST BE OFFERED

- Must provide Voter Registration services to all applicants, even if the applicant does not have a Drivers License, Social Security Number, or non-driver identification card.
- These individuals will complete an application form and an affidavit/attestation that DPS will forward to the appropriate county auditor's office so the county auditor can register the applicant.
- DPS will
 - Notify staff of the process for providing Voter Registration services to these individuals.
 - Provide written instructions of this process.
 - Provide attestation forms described in ARSD 05:02:02:21 to all DL offices.
- In cooperation with the Secretary of State, DPS will update all policies, manuals, forms, and training materials to reflect this process.

VOTER REGISTRATION SERVICES FOR APPLICANT PRESENTING WITH NO IDENTIFYING NUMBER

(I.E. NO DRIVER'S LICENSE, NON-DRIVER ID CARD, SOCIAL SECURITY NUMBER)



VOTER REGISTRATION SERVICES

- Upon receipt of all completed Driver's License Application forms (including renewal and change of address requests) and Voter Registration Applications:
 - Must immediately date and time-stamp the form, and;
 - Input the forms into the State's TotalVote electronic portal or otherwise transmit the completed forms to the appropriate county election officials
 - Within ten business days, or;
 - Within five business days if the form was accepted/received within five days before the last day for registration to vote in an election.
 - Voter Registration Deadline: October 24, 2022

VOTER REGISTRATION SERVICES

MUST BE OFFERED

- **Registration assistance**
 - Forms, bilingual options, and accessibility
 - These areas should have signs that direct individuals to the applications and guide them through the process.
 - Signage should:
 - Include location of available forms;
 - Include location where to deposit the forms once completed;
 - Inform that assistance is available if needed;
 - Include a statement indicating: “Register to Vote Here.”

VOTER REGISTRATION SERVICES - SIGNAGE



This South Dakota driver's licensing location provides voter registration services in accordance with Section 5 of the National Voter Registration Act (NVRA). Staff can assist you in completing an application form that will register you to vote or update your voter registration.



If you have further questions about voter registration at this location or would like to register a complaint, please contact:

DPS NVRA Coordinator
605-773-6883
dpsdl@state.sd.us

REMOTE TRANSACTIONS

- DPS may provide services/assistance such as application for, or renewal of, services or change-of-address notification through the internet, by telephone, by mail, or at Travel Offices and Issue Sites
- DPS and its staff must ensure the availability of voter-registration opportunities to individuals using such remote service/assistance opportunities. (Implementation of the new application forms)

REQUIREMENT FOR CONFIDENTIALITY (IN PERSON AND BY MAIL)

- Applicable for Voter Registration and;
- The application shall also include statements specifying that:
 - 1) If an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and
 - 2) If an applicant does register to vote, the identity of the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

ORDERING AND TRANSMITTING VOTER REGISTRATION FORMS

- Completed voter registration applications accepted at a motor vehicle agency must be immediately time stamped and then are either entered directly into TotalVote or mailed to the appropriate county auditor.
- No later than **TEN** (10) days after acceptance.
- If an application is accepted at a motor vehicle agency within five days of a voter registration deadline for an election, the application must be transmitted into Totalvote, electronically, or mailed to the county auditor no later than **FIVE** (5) days after acceptance.

PROHIBITED ACTIVITIES UNDER NVRA

1. Seeking to influence an applicant's political preference or party registration;
2. Displaying any political preference or party allegiance;
3. Taking any action or making any statement to an applicant to discourage the applicant from registering to vote; or
4. Taking any action or making any statement that may lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

STATEWIDE COORDINATOR

- The State is responsible for ensuring compliance with the NVRA
- The NVRA requires each State to designate a State officer or employee as the chief State election official to be responsible for coordinating State responsibilities under the Act.
- Duties:
 - Answer agency questions on NVRA procedures; monitor NVRA compliance (including collecting and analyzing data on the agency's NVRA activities) and oversee any necessary corrective action plans
 - Serve as a liaison with the State Board of Elections and county auditors
 - Ensure that the agency is meeting the NVRA's recordkeeping requirements
 - Ensure that local offices have adequate supplies of voter registration applications and declination forms
 - Ensure that staff, including any volunteers, are trained on their NVRA duties.

STATEWIDE COORDINATOR

Suzanne Wetz

South Dakota Statewide NVRA Coordinator,

South Dakota Secretary of State's Office

Email: NVRA@state.sd.us

Phone: (605) 773-3537

DPS AGENCY NVRA COORDINATOR

- DPS must designate a DPS NVRA Coordinator
 - DPS's primary point of contact for local Agency offices and Covered Employees regarding NVRA compliance and enforcement, and
 - DPS's primary liaison with the Secretary of State's office on NVRA compliance and voter registration issues.
- DPS NVRA Coordinator Duties:
 - Provide support and guidance (including technical expertise) to all of DPS's Covered Employees and local driver's license offices regarding compliance with Section 5 of the NVRA, the State's related election laws and regulations governing voter registration;
 - Provide guidance to DPS Covered Employees on NVRA requirements and related voter registration requirements, procedures, and materials;
 - Monitor DPS and each local driver's license office's NVRA compliance;
 - Cooperate with the Statewide NVRA Coordinator to implement, oversee, and monitor written corrective action plans to address and correct NVRA noncompliance by any DPS Covered Employee or by any Driver's License Office.

DPS AGENCY NVRA COORDINATOR

Jeannelle Yitagesu

Department of Public Safety NVRA Coordinator:

DPS Driver Licensing Program

Email: DPSDL@state.sd.us

Phone: (605) 773-6883



THANK YOU. QUESTIONS?