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# **Election Day Registration**

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# Election Day Registration

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Election day registration (EDR) permits eligible individuals to register and vote on election day. This reform is intended to boost participation in elections by giving people an opportunity to register or correct their current registration after the voter registration deadline.

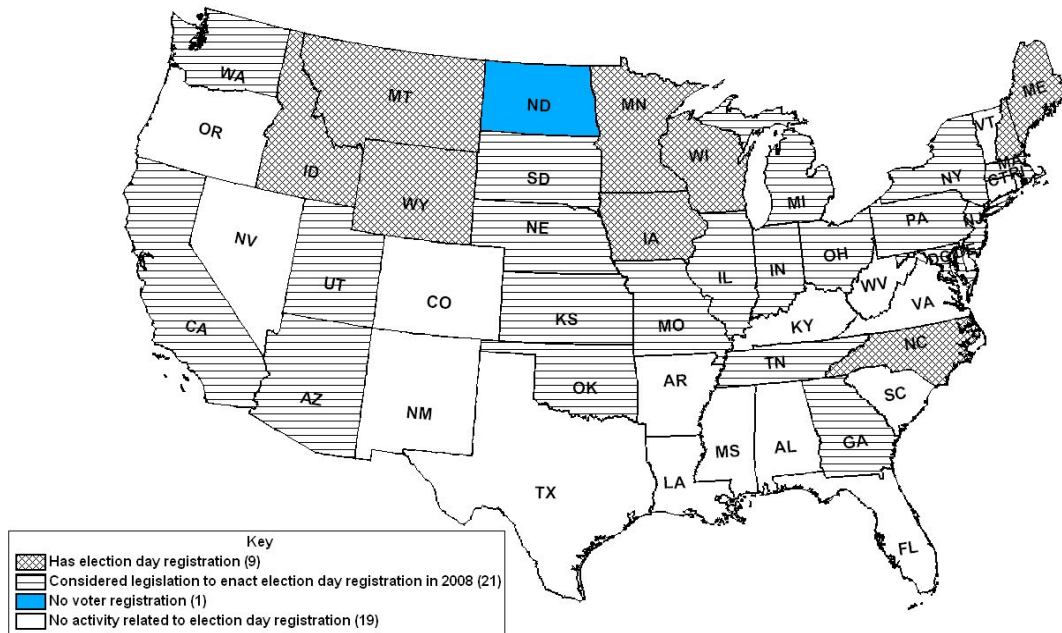
## History of EDR

The first wave of states to enact EDR included Wisconsin (1971), Maine (1973), and Minnesota (1974). These were followed by a second wave that included Idaho (1994), Wyoming (1994), and New Hampshire (1996). The second wave of states enacting EDR were spurred by the National Voter Registration Act of 1993, which exempted states that adopted EDR from certain requirements intended to make voter registration easier. Several states adopted EDR more recently, including Montana (2006), Iowa (2007), and North Carolina (2007). In Montana, EDR is only available at local elections offices. North Carolina allows EDR only at early voting centers that are open from 19 days before an election until 3 days before an election. All the other states permit EDR at all polling places on election day. In North Dakota, the only state that does not have voter registration, a person may vote by presenting certain identification at the polling place on election day.

## Recent Legislative Action on EDR

Expansion of EDR is being actively considered in statehouses across the country and in the U.S. Congress. Legislation to permit EDR has been introduced in many states in recent years and has come close to enactment in several. In 2008, 21 states considered legislation to enact EDR, according to the National Conference of State Legislatures. For a complete picture of all activity related to EDR across the country in 2008, see **Exhibit 1**. Legislation requiring EDR for all federal elections was introduced in the 110<sup>th</sup> Congress as S. 2959 and H.R. 5946, although no action was taken on either bill. These bills are sponsored by lawmakers representing Wisconsin and Minnesota, two of the states with the longest experience with EDR. Ballot questions asking voters to approve EDR were soundly rejected in California and Colorado in 2002. In Maryland, Chapter 61 of 2006 required the Office of the Attorney General and the State Administrator of Elections to study and report on issues related to the potential implementation of EDR.

## Exhibit 1 Election Day Registration Activity in 2008



Notes: North Carolina allows election day registration only during its early voting period. Hawaii considered legislation to enact election day registration in 2008. Alaska had no activity related to election day registration.

Source: National Conference of State Legislatures

## EDR and Voter Turnout

States with EDR have significantly higher turnout than states that do not. According to data compiled by the advocacy group Demos, which supports EDR, average turnout in the states with EDR was 51 percent in the 2006 election, compared to 42 percent in the states without EDR. In the 2004 presidential election, 74 percent of voters turned out in EDR states, while 60 percent participated in non-EDR states, according to Demos. Turnout is higher for elections in EDR states whether or not the state is closely contested.

Some of the discrepancy in turnout between states with EDR and those without is attributable to factors other than EDR. However, scholarly research supports the notion that EDR has a measurable effect on turnout. A study published in 2005 found that EDR increases

turnout by 1 percent in presidential elections and more than 3 percent in midterm elections.<sup>1</sup> The 2006 report by the Maryland Attorney General and State Administrator of Elections found that EDR would likely increase turnout between 1 and 3 percent. EDR is particularly effective in boosting turnout of young voters and voters who have recently moved, according to a study published in 2000.<sup>2</sup>

Proponents of EDR also note that it permits unregistered individuals who become interested in an election late in the campaign to cast a ballot. EDR also gives voters whose registration is incorrect or who are mistakenly left off the rolls through no fault of their own an opportunity to re-register and vote on election day. This benefit could be particularly significant because problems with voter registration lists are fairly common. A 2001 study estimated that from 1.5 to 3.0 million people were unable to vote in the 2000 presidential election because of mistakes in the registration process.<sup>3</sup> A survey by the U.S. Census Bureau of people who did not vote in the 2000 election found that 7.4 percent cited difficulties with voter registration as the reason.

## How EDR Works

All states with EDR require proof of identity and residency in order to register on election day. The type of documentation required to prove identity and residency varies in each state. Some states require photo ID and others do not. In Wisconsin, for example, a voter may show a state-issued driver's license or identification card, employer-issued identification card, property tax bill, residential lease, school identification card, utility bill, bank statement, paycheck, or other governmental document that includes a name and address. Several states allow an individual without the required documentation to register at the polling place if another registered voter vouches for the individual's identity and residence. In most EDR states, there are separately staffed tables in the polling place for people registering to vote and registered voters checking in to cast ballots. This is intended to ensure that new registrations do not delay voting. In EDR states, approximately 15 to 21 percent of voters register on election day.

A report by the nonpartisan, nonadvocacy organization Electionline.org sheds light on the experiences of other states that have adopted EDR. The 2007 report, entitled *Election-Day Registration: A Case Study*, focused on Montana, which experienced difficulties implementing EDR for the first time in the 2006 election. Elections officials there were surprised by a larger than expected turnout of 4,000 people who registered on election day. This led to long lines and confusion at county election offices, the only locations where EDR is authorized in Montana. In

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<sup>1</sup>Mary Fitzgerald, *Greater Convenience But Not Greater Turnout: The Impact of Alternative Voting Methods on Electoral Participation in the United States*, 33 American Politics Research. 842, 856 (2005).

<sup>2</sup>Stephen Knack and James White, *Election-Day Registration and Turnout Inequality*, 22 Political Behavior 29, 41 (2000).

<sup>3</sup>Caltech-MIT Voting Technology Project, *Voting, - What Is, What Could Be* (July 2001) (available at <http://www.vote.caltech.edu/2001report.htm>).

contrast, Minnesota, which has had EDR for over 30 years, does not have major problems administering EDR, according to the report. Minnesota did experience long lines and confusion at the polls when EDR was first implemented in the 1970s, the report said, but in the years since, elections officials largely overcame these problems through better planning, training of poll workers, and voter education.

## **EDR and Voter Fraud**

A common concern raised about EDR is that it could make it easier to commit voter fraud, such as multiple voting. Elections officials in states with EDR report that incidents of fraud are very rare, according to the 2006 report of the Attorney General and State Administrator of Elections. For example, the New Hampshire Attorney General reported after making “a major effort” to investigate allegations of voter fraud in the 2004 general election that “there are very few instances of wrongful voting” in that EDR state. In addition, some experts say that voter fraud is less likely to occur when the perpetrator must confront elections officials in person, as with EDR, than when there is no personal interaction, as with registration by mail.

Some EDR states take additional measures to ensure security, such as mailing letters or postcards to EDR registrants after the election and investigating any cases where these are returned as undeliverable. Minnesota requires an audit of EDR registrations after the election and mandates an investigation of any that are questionable.

The report of the Maryland Attorney General and State Administrator of Elections stated that the risk of fraudulent multiple voting could increase with the implementation of EDR unless the electronic poll books used to check in voters are able to communicate with other precincts in real time on election day.

## **Implementation of EDR in Maryland**

### **Constitutional Provisions**

The 2006 report by the Attorney General and State Administrator of Elections discussed several issues related to the implementation EDR in Maryland. Several provisions of the Maryland Constitution must be amended before the General Assembly may pass legislation authorizing EDR. These provisions assume that registration is closed for a period of time before an election and on election day, and are therefore inconsistent with EDR, according to the report.

### **Registration Process**

The report outlines how the process of registering voters at the polls would differ from current registration procedures. Under regulations adopted by the State Board of Elections,

elections officials first request an applicant's driver's license number or Social Security number on the voter registration form and attempt to match these numbers with Motor Vehicle Administration or Social Security Administration databases. If an applicant does not have a driver's license number or Social Security number or if one of these numbers cannot be verified in the databases, elections officials write the applicant to request an alternative form of identification. Acceptable forms of identification include photo ID, a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. An applicant who provides acceptable identification before the voter registration list is prepared may vote a regular ballot on election day. An applicant who has not provided acceptable identification before the voter registration list is prepared must show identification at the polling place and vote a provisional ballot. An applicant who does not present acceptable identification at the polling place may still vote a provisional ballot, but the ballot will only be counted if the applicant provides identification before the canvass of provisional ballots. All applicants are mailed a voter registration card after their registration is verified. If the card is returned as undeliverable, the applicant's name is removed from the voter registration list.

The current practice of matching an applicant's driver's license number or Social Security number with government databases would have to be dropped for election day registrants, according to the report. This process takes more than one day in the case of the Social Security Administration database. Although matches with the Motor Vehicle Administration database are instantaneous, polling places lack an electronic connection to this database. Therefore, instead of verifying registrations by checking a database, registrations would be verified when an applicant comes to the polling place and shows one of the forms of acceptable identification listed in current regulations. An additional verification step would occur after the election when voter registration cards are mailed to those who registered on election day. Registrants whose cards are returned as undeliverable would be dropped from the rolls and could be subject to criminal investigation.

### **Cost of Implementing EDR**

The main added cost of implementing EDR is for additional staff to process election day registrations at polling places. Local boards of elections would need two to three additional election judges in each precinct in order to handle election day registrations, according to the report. However, it is not certain that many additional judges would be required. The State Board of Elections' testimony in 2008 on House Bill 801, a bill to implement polling place EDR, indicated only that "at least one additional election judge in each precinct" would be necessary. In addition, the fiscal and policy note for House Bill 801 reported that Baltimore City officials said they could implement EDR with only one or two additional judges per precinct. Local governments would be responsible for the costs of the additional election judges.

The report of the Attorney General and State Board of Elections did not provide an overall cost estimate for implementing EDR. The fiscal and policy note for House Bill 801 of

2008 stated that the cost of implementing EDR could not be reliably estimated due to uncertainty about what would be required to administer EDR. However, the State Board of Elections indicated that there could be significant costs at the State level for such items as additional staff, training materials, and reprogramming of the statewide voter registration database and electronic poll books.

At the local level, the fiscal and policy note for House Bill 801 reported that Baltimore City estimated costs of \$196,800 for election judges and processing registration applications. However, Montgomery County reported there would be no net increase in its costs due to EDR because the county would no longer have to devote resources to processing provisional ballots. The number of provisional ballots issued would be greatly reduced or eliminated with EDR. States with EDR report virtually no use of provisional ballots. Voters not found on the list of registered voters and voters who must show ID at the polls because their registration is pending would be able to vote a regular ballot instead of a provisional ballot. This would save local election officials time and effort in processing provisional ballots and could offset increased costs for additional election judges and other items.

## **Potential Legislation**

House Bill 801, a bill implementing EDR at the polling place, was introduced in the 2008 session but was subsequently withdrawn from consideration before any action was taken. The sponsor indicated that the legislation would be reintroduced in the 2009 session together with a constitutional amendment authorizing the General Assembly to adopt EDR. If such an amendment were to pass the General Assembly, it would appear on the ballot for adoption or rejection by the voters in the 2010 statewide general election. Legislation implementing EDR could then take effect for all subsequent elections.