



NORTH CAROLINA

State excerpt from

Dēmos

Protecting Voter Registration

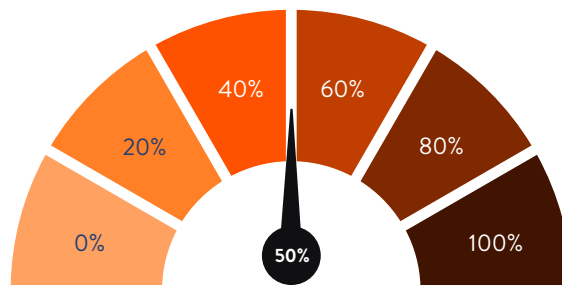
An Assessment of Voter
Purge Policies in Ten States

North Carolina

Removal Practices

FIGURE 29

North Carolina Removal Practices



North Carolina scored 50% for its removal practices. The state employs many problematic procedures, including a “use it or lose it” policy whereby the county board initiates a removal process after every congressional election by sending a confirmation mailing to every registrant “if the county board has not confirmed the registrant’s address by another means.”¹⁷⁹

“By another means” refers to the clerk having a record that the person had voted or engaged in other election-related activities.¹⁸⁰ The voter is placed on the “inactive” list if they do not return the notice within 30 days and will be removed from the rolls if the voter does not vote during the next two general elections.¹⁸¹ After only two years of not voting, initiating a removal process is a particularly aggressive form of “use it or lose it.”

A North Carolina voter’s eligibility can also be challenged by any other voter in the county.¹⁸² This provision, unfortunately, can be used for abusive “voter caging.” Mail returned as undeliverable is treated as evidence that a

¹⁷⁹ N.C. Gen. Stat. 163-82.14(d)(2). “By another means” refers to voting or other election-related activity. State Board of Elections and Ethics Enforcement, Maintaining the Voter Registration Database in North Carolina, July 27, 2017, at 5-6, available at https://s3.amazonaws.com/dl.ncsbe.gov/Public_Records_Requests/Judicial_Watch_04122019/North_Carolina_ListMaintenancePolicy.pdf (last visited April 20, 2023).

¹⁸⁰ State Board of Elections and Ethics Enforcement, Maintaining the Voter Registration Database in North Carolina, July 27, 2017, at 5-6, available at https://s3.amazonaws.com/dl.ncsbe.gov/Public_Records_Requests/Judicial_Watch_04122019/North_Carolina_ListMaintenancePolicy.pdf (last visited April 20, 2023).

¹⁸¹ N.C. Gen. Stat. 163-82.14(d)(2); State Board of Elections and Ethics Enforcement, Maintaining the Voter Registration Database in North Carolina, July 27, 2017, at 7, available at https://s3.amazonaws.com/dl.ncsbe.gov/Public_Records_Requests/Judicial_Watch_04122019/North_Carolina_ListMaintenancePolicy (last visited April 20, 2023).

¹⁸² N.C. Gen. Stat. § 163-85.

person has moved,¹⁸³ which allows bad actors to target specific communities for mass mailings that can require hundreds of voters to attend hearings to defend their eligibility.¹⁸⁴

North Carolina has other problematic removal practices, as well. Although administrative guidance specifies matching criteria that must be satisfied before removing an individual who is flagged as having died,¹⁸⁵ neither statutes nor administrative guidance requires that a voter be notified when their registration is canceled because they are believed to have died. In terms of removals for felony convictions, state law does not specify data points that must match when comparing a conviction record to a voter's record. It merely requires the State Board of Elections to provide monthly lists to county boards of election of the name, county of residence, and residential address "if available" of persons convicted of felonies.¹⁸⁶ On the positive side, however, notice is required to a voter prior to removal based on a felony conviction,¹⁸⁷ and when a voter's eligibility is restored after completion of sentence, both the voter and election officials receive notice.¹⁸⁸

North Carolina also does not grant election officials "catch-all" authority to remove registered voters from the rolls; instead, state law requires specific reasons to cancel a voter's registration, either through the uniform list maintenance process or by a challenge from another registered voter.¹⁸⁹ North Carolina does not have a specific requirement for removing voters based on an adjudication of mental incapacity.¹⁹⁰

¹⁸³ N.C. Gen. Stat. § 163-85 (e).

¹⁸⁴ A federal court has issued a permanent injunction barring the use of "generic" evidence to challenge a voter's registration within 90 days before a federal election. North Carolina State Conference of NAACP v. Bipartisan State Board of Elections and Ethics Enforcement, 2018 WL 3748172 (M.D. N.C. 2018); see also Institute for Southern Studies & NC Voters for Clean Elections, *Blueprint for a Stronger Democracy*, Spring 2023, at 26-27. North Carolina law has not been changed to reflect this ruling, but the state board of elections has issued a directive to implement the ruling. North Carolina State Board of Elections, *Numbered Memo 2018-7*, available at <https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2018/Numbered%20Memo%202018-07.pdf> (last visited April 20, 2023) (directing county clerks not to allow mass challenges based on generic evidence within 90 days of an election). The court ruling does not affect our scoring, because it still allows mass challenges outside of the 90-day pre-election period.

¹⁸⁵ North Carolina State Board of Elections and Ethics Enforcement, "Maintaining the Voter Registration Database in North Carolina," July 27, 2017, at 24 ("When researching the list of registered voters, the CBE may not remove a voter unless there is an exact database match on the voter's name, date of birth and/or identification information with the deceased records received from DHHS or a near relative), available at https://s3.amazonaws.com/dl.ncsbe.gov/Public_Records_Requests/Judicial_Watch_04122019/North_Carolina_ListMaintenancePolicy.pdf (last visited April 20, 2023).

¹⁸⁶ N.C. Gen. Stat. § 163-82.14(c)(1). Guidance from the State Board of Elections states that "[u]nless a county board of elections is confident that the matched felon information matches the voter's information, the county shall not remove the voter." However, we see this guidance as too vague to provide adequate protection from erroneous removal for these voters, absent a clear definition of what "confident" means. State Board of Elections and Ethics Enforcement, *Maintaining the Voter Registration Database in North Carolina*, July 27, 2017, at 29 available at https://s3.amazonaws.com/dl.ncsbe.gov/Public_Records_Requests/Judicial_Watch_04122019/North_Carolina_ListMaintenancePolicy.pdf (last visited April 20, 2023).

¹⁸⁷ *Id.* (clerk must send notice providing 30 days to object if the voter believes they are being erroneously removed for a felony conviction).

¹⁸⁸ *Id.* see also N.C. Gen. Stat. § 13-2(a).

¹⁸⁹ N.C. Gen. Stat. §§ 163-82.14, 163-85(c).

¹⁹⁰ See N.C. Const. art VI § 2 (specifying disqualification based on felony conviction but not for judgment of mental incapacity). See also "State Laws Affecting the Voting Rights of People with Mental Disabilities," Bazelon Center for Mental Health Law, 2016, available at http://www.bazelon.org/wp-content/uploads/2017/11/2016_State-Laws-Affecting-Voting-Rights-of-PWD.pdf (last visited April 20, 2023).

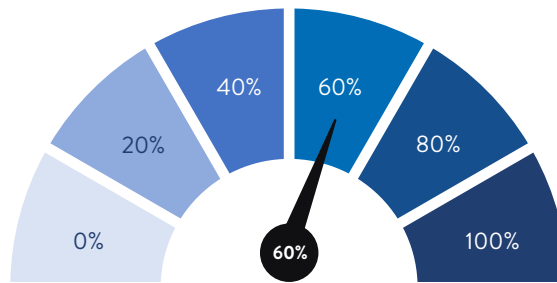
Table 29: Removal Practices

Reason for Removal	Felony Conviction	Death	Citizenship Status ¹⁹¹	Adjudication of Mental Incapacity ¹⁹²	Other Reasons for Removal
Matching Criteria	2	4	4	4	Inactivity 0
Notice of Removal	4	0	4	4	Catch-all Removal Authority 4
Procedures to Contest	4	0	4	4	Caging / Mass Challenges 0
Notice of Restoration to Voter	2	n/a	n/a	2	Total 50/100 = 50%
Notice of Restoration to Elec. Official	2	n/a	n/a	2	

Safeguards Against Erroneous Removal

FIGURE 30

North Carolina Safeguards from Removal



North Carolina scored 60% for its safeguards to protect voters who learn that their registrations have been canceled or marked inactive only when attempting to vote. Importantly, North Carolina provides same-day registration—though it is available only during early voting and not on Election Day itself—and allows same-day registrants to cast regular ballots rather than provisional ballots.¹⁹³ The state also allows voters who have been removed based on a suspected change of address to cast a regular ballot by affirming

¹⁹¹ State law does not establish a process for targeting registered voters for citizenship review, nor does the state give election officials “catch-all” removal authority, so we have given North Carolina full points for this.

¹⁹² State law does not disenfranchise voters based on a judgment of mental incapacity to vote, so we have given North Carolina full points.

¹⁹³ Register in Person During Early Voting, North Carolina State Board of Elections, <https://www.ncsbe.gov/registering/how-register/register-person-during-early-voting> (last visited Feb 19, 2023). Note that SDR is available in North Carolina only because a federal court struck down the legislature’s effort to repeal it. *North Carolina State Conference of NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016).

that they continue to reside at the same address.¹⁹⁴ However, same-day registrants have to present documentation of residency or identity above and beyond the ID requirements to vote.¹⁹⁵

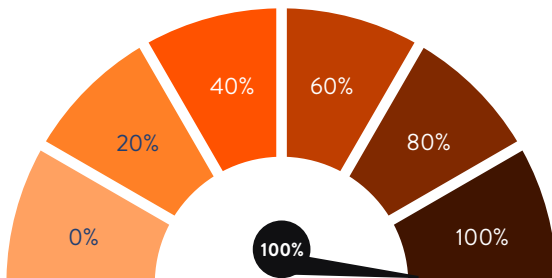
Table 30: Safeguards Against Erroneous Removal

Safeguard	
Scope of Same-Day Registration (SDR)	20
SDR Identification Requirements	0
Regular or Provisional Ballot for SDR Voter	20
Regular or Provisional Ballot for Correcting Inactive Status	20
Total	60/100 = 60%

Data Accessibility

FIGURE 31

North Carolina Data Accessibility



North Carolina received a perfect score for data accessibility. The complete file is fully available to the public, is updated weekly, can be immediately downloaded for free, and comes in an electronic format.¹⁹⁶

¹⁹⁴ N.C. Gen. Stat. §§ 163-82.14(d)(3).

¹⁹⁵ Register in Person During Early Voting, North Carolina State Board of Elections, <https://www.ncsbe.gov/registering/how-register/register-person-during-early-voting> (last visited Apr 21, 2023).

¹⁹⁶ N.C. Gen. Stat. § 163-82.10; see also North Carolina Board of Elections “Voter Registration Data” available at <https://www.ncsbe.gov/results-data/voter-registration-data?msclkid=0027ffeaedb11eca7eba5dfe8321111> (last visited April 20, 2023).

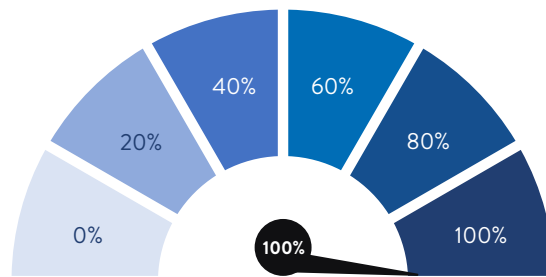
Table 31: Data Accessibility

Indicator of Accessibility	
Complete File Publicly Available	20
Who Can Request File	20
Cost	20
Timeline	20
Format	20
Total	100/100 = 100%

Data Transparency

FIGURE 32

North Carolina Data Transparency



North Carolina received a perfect score for data transparency. The voter file contains all of the categories of information in our scoring, including voter registration status and status reason code, voter demographics like race and ethnicity, voter registration or identification number, and date last voted.¹⁹⁷ While North Carolina scored perfectly on the data measures we evaluated, one way the state could make its data even more accessible and transparent would be for the state board to regularly issue reports on monthly removals, so researchers and advocates can monitor the data for potential erroneous removals and contact eligible voters who may have been removed.

¹⁹⁷ North Carolina State Board of Elections, Current Voter Registration Data, available at <https://www.ncsbe.gov/results-data/voter-registration-data#current-data> (last visited April 20, 2023). See also the voter file layouts, available at https://s3.amazonaws.com/dl.ncsbe.gov/data/layout_ncvoter.txt and https://s3.amazonaws.com/dl.ncsbe.gov/data/layout_ncvhis.txt (last visited April 20, 2023).

Table 32: Data Transparency

Indicator of Transparency	
Race	20
Voter ID Number	20
Voter Status	20
Status Reason Code	20
Date Last Voted	20
Total	100/100 = 100%

Current Political Context

North Carolina's voting laws have been a battleground in the courts, especially since the U.S. Supreme Court in 2013 struck down the preclearance provisions of the Voting Rights Act of 1965.¹⁹⁸ Battles related to purge provisions have been no exception. The legislature attempted to eliminate SDR, an important safeguard against erroneous voter purges, as part of a package of restrictive voting laws enacted in 2013, but the Fourth Circuit found the repeal unlawful as an intentional effort to suppress the Black vote.¹⁹⁹ North Carolina citizens have also successfully sued over efforts to use the state's challenge law for abusive, large-scale challenges to voters' eligibility.²⁰⁰ And researchers and advocates are closely monitoring the state's list maintenance to identify, combat, and attempt to correct wrongful, discriminatory purges.²⁰¹

The legislature had only a short session in 2022 and did not enact major changes to election laws, but anti-voter bills have been introduced in the 2023 session, including a bill that would prohibit North Carolina's planned participation in the Electronic Registration Information Center (ERIC), which has been helpful to many states in sharing data on voters who have moved between states; the state had planned to join in mid-2023.²⁰² There is also a bill to drastically shorten the period for early voting (and same-day registration),²⁰³ one to require all same-day registrants to cast provision-

¹⁹⁸ *Shelby County v. Holder*, 133 S.Ct. 2612 (2013).

¹⁹⁹ *North Carolina State Conference of NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016).

²⁰⁰ *North Carolina State Conference of NAACP v. Bipartisan State Board of Elections and Ethics Enforcement*, 2018 WL 3748172 (M.D. N.C. 2018) (enjoining removals based on mass challenges as violating the NVRA).

²⁰¹ "Understanding Voter List Maintenance," Southern Coalition for Social Justice, <https://southerncoalition.org/resources/understanding-voter-registration-list-maintenance/>; and "North Carolina Voter List Maintenance: 2023 Update," Southern Coalition for Social Justice, <https://southerncoalition.org/resources/north-carolina-voter-list-maintenance-2023-update/>.

²⁰² NC HB 396, available at <https://www.ncleg.gov/BillLookup/2023/H396> (last visited April 10, 2023).

²⁰³ NC HB 303, available at <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H303v0.pdf>; HB134, available at <https://www.ncleg.gov/BillLookUp/2023/H134> (last visited April 10, 2023).

al ballots,²⁰⁴ one that would require purges of voters based on potentially inaccurate citizenship information,²⁰⁵ and one to defund the state's election infrastructure,²⁰⁶ among other harmful proposals. However, a different bill introduced in March 2023 would, among other things, improve list maintenance practices by setting forth specific matching criteria that county boards of elections must use before removing an individual from the voting rolls based on county death records.²⁰⁷

²⁰⁴ HB 485, available at <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H485v1.pdf> (last visited April 10, 2023).

²⁰⁵ SB 352, available at <https://www.ncleg.gov/Sessions/2023/Bills/Senate/PDF/S352v1.pdf> (last visited April 10, 2023).

²⁰⁶ NC SB 89, available at <https://www.ncleg.gov/BillLookup/Index/2023/S89/True> (last visited April 10, 2023).

²⁰⁷ NC H 362, available at <https://www.ncleg.gov/BillLookup/2023/H362> (last visited April 10, 2023).

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