Unraveling the Rise of Mass Voter Challenges

How voter challenge laws are being abused to disrupt the election process

Clint Swift, Sara Loving, Jessica Marsden, and Orion Danjuma

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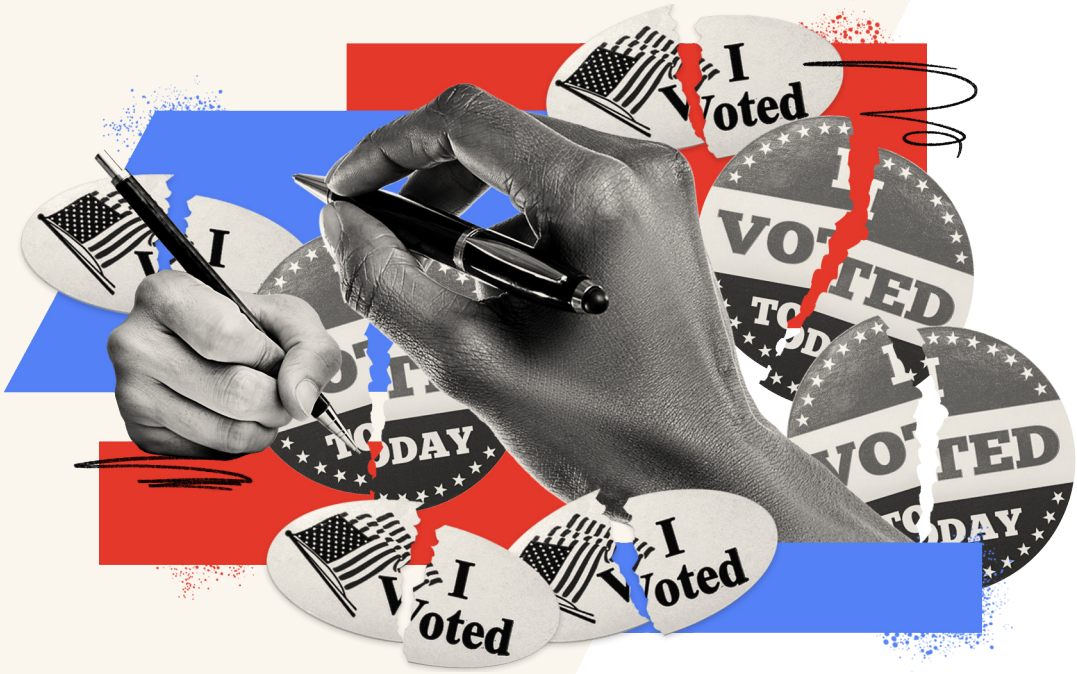

Protect Democracy

Protect Democracy is a nonpartisan nonprofit organization dedicated to preventing American democracy from declining into a more authoritarian form of government.

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Please direct inquiries to: press@protectdemocracy.org

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Introduction

IN NOVEMBER 2023, just after off-year elections and as states were preparing for the upcoming presidential primaries, a registered voter in Waterford Township, Michigan challenged the voting eligibility of over 1,000 of their neighbors. A month later, the clerk of the Township canceled the registration of these challenged voters, the vast majority of which had no legal basis to be removed from the rolls, including at least one active-duty military officer.[1] Eventually, after national reporting and attention from the Director of the Michigan Bureau of Elections, most of these voters were reinstated. These challenges were not isolated incidents, but were representative of a significant trend among election denying organizations that dates back, at least, to more than 360,000 voter challenges filed before the 2021 Georgia Senate run-off.[2]

Since then, election denier groups have actively mobilized members and donors around the notion that only they can be trusted to "clean the rolls." They have organized mass door knocking campaigns to purportedly confirm voter residency, frequently pretending that they are acting in some official capacity.[3] These organizations have also invested significant resources to develop software purportedly meant to identify ineligible voters *en masse*.[4] Such systems, however, are entirely inadequate to address voter eligibility by themselves and also redundant to the work already done by election officials.

These efforts are based on unsubstantiated and false claims that the rolls are replete with dead voters,[5] voters registered in other locations,[6] and, most recently, noncitizens.[7] Furthermore, they falsely imply that any inaccuracy in the voter rolls equates to or otherwise enables voter fraud. In reality, voter registration rolls are being continuously updated by election officials. That is by design, in part because of how frequently Americans move. None of that means that people are voting unlawfully in the wrong location or are otherwise engaged in voter fraud.

As we cover below, these challenges are not supported by evidence and in many cases will not meet the requirements of state law. We expect most should and will be rejected. Nonetheless, mass challenges can have real impacts on the election process: first, by potentially disenfranchising or deterring eligible voters who are the targets of baseless challenges, and second by imposing significant burdens on election administrators. And perhaps most impactfully, they are designed to sow doubt in the validity of our election processes and the eventual outcome in November. In what follows, we dive deeper into the nature of these challenges and how they are being abused, the vastly different challenge processes available in the states, and finally outline a few legal pathways that might provide remedies to these mass frivolous challenges.

What's the Matter with Mass Voter Challenges?

Why this outdated approach does more harm than good.

They're mostly rejected.

The vast majority of mass challenges are deemed invalid. In Georgia, even the most receptive county threw out 96.6% of the challenges brought by election conspiracy groups.

They rely on flawed data.

Mass challenges often involve matching voter records to outside data sources without the appropriate information to uniquely identify voters, leading to mismatches and inaccurate conclusions.

They overwhelm officials.

Mass challenges significantly burden already under-resourced local election administrators, taking focus from other crucial responsibilities that make our elections function.

They intimidate voters.

Mass challenge efforts have engaged in intimidating door knocking campaigns, frequently without making it clear that they are not election officials or law enforcement.

They discourage voting.

Many erroneously challenged (yet eligible) voters may receive notice of their challenge and wrongly fear that they could face consequences for casting a ballot.

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46 states

have some form of voter eligibility challenge statute, though they vary widely from state to state.

55%

increase in challenges has been seen in Michigan in the eight months between September 2023 and May 2024.

360,000

challenges filed by True the Vote in 2022 were called "seemingly frivolous" by a federal judge who said they "utterly lacked reliability."

6 people

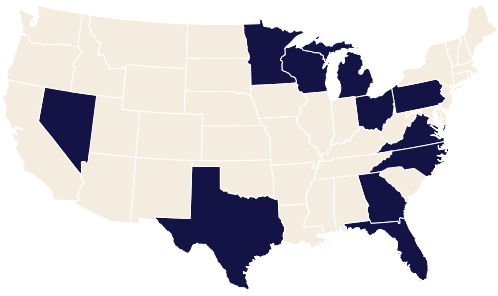
were responsible for submitting approximately 89,000 voter eligibility challenges in Georgia in 2022.

What can we do?

Several different legal remedies exist to counter schemes to file frivolous mass voter challenges. These include:

- **The National Voter Registration Act**
- **The Voting Rights Act**
- **The Ku Klux Klan Act**
- **State laws**

This paper focuses on 11 states likely to see widespread use of mass challenges as a tactic in the 2024 election:



Voter Eligibility Challenges and their Consequences

PREVIOUSLY ELIGIBLE VOTERS may become ineligible to vote in a particular jurisdiction for a number of reasons, including by moving outside the jurisdiction, as a consequence of a criminal conviction, or upon their death. Election officials across the country regularly remove these ineligible individuals from the voter rolls in accordance with state and federal law. However, federal law imposes guardrails on this process to ensure that eligible applicants aren't erroneously removed.[8] This balance between ensuring eligibility and maintaining clean rolls not only requires a detailed understanding of law and proper procedure, but also access to a great deal of information to determine individual eligibility. It should not be surprising then, given our decentralized system with its huge number of voters to track, that states and localities have typically tasked professional full-time election administrators with maintaining this important balance. Recently, however, we have seen attempts by outside groups to recruit the public in purported efforts to "clean up" the voter rolls.

Nearly all states have statutes and procedures that allow for other registered voters (i.e. ordinary citizens rather than election administrators) to challenge the eligibility of individuals on voter registration rolls or who cast ballots either by mail or in person.[9] These laws tend to predate the modernization of election administration and were meant to leverage personal knowledge in a highly decentralized system before the advent of electronic recordkeeping.[10] In the modern era, where voter registration records interface with various other types of official records,[11] election officials now have access to a broad array of data and information to keep voter rolls up to date. This greatly diminishes the purpose challenge laws were intended to fulfill.

Despite the sea change in context, voter challenge laws can still result in ballots not being counted or voters being removed from the rolls. Even when voters are not removed based on a challenge, an influx of frivolous challenges imposes overwhelming burdens on local election officials. These additional burdens also come at a time when election offices are experiencing high turnover and a broad-based assault on election official legitimacy.[12] These combined factors mean that mass challenges could very easily detract from other crucial responsibilities that these offices must carry out and, thereby, increase the chances of delays or errors.

Challenges can also impose additional burdens on those eligible voters being challenged, and in many instances encourage voter intimidation[13] through associated door-knocking campaigns or other activities. Challenged voters may need to take affirmative steps, like responding to a notice or filing an affidavit, to ensure their eligibility. Challenged voters without confident knowledge about the rules for voter eligibility may also be dissuaded from voting for fear of mistakenly casting a fraudulent ballot, a fear exacerbated by the establishment of so-called "election integrity" prosecution units across several states.[14]

The Current Trend of Mass Challenges

SINCE THE 2020 ELECTION, various groups and individuals have endeavored to distort voter challenge laws on the books into something they were never designed to be: a tool to call into question the eligibility of large numbers of registered citizens at once. Mass challenges were not unheard of prior to 2021: A Brennan Center report from 2012 noted increases in poll watching and in-person challenges at the time. But frivolous mass pre-election challenges to voter eligibility have largely emerged as a result of efforts to stoke fear about false claims of voter fraud in the wake of the 2020 election. After several attempts to prove fraud in the 2020 election through audits[15] or the courts[16] failed, election deniers and their associated organizations increased their focus on mobilizing around presumed deficiencies in voter registration. The underlying implication of this strategy, frequently stated explicitly,[17] is that any inaccuracy in the voter rolls equates to fraud and that erroneous registrations are "evidence" for past and future claims of vote fraud. That premise is false. State laws make it difficult for a voter who is registered in multiple places or is otherwise ineligible to commit voter fraud (which is exceedingly rare).[18]

This narrative has fueled several strategies of the election denier movement: First, litigation sponsored by the RNC and state Republican parties in several battleground states has claimed that state officials have failed to clean voter rolls in accordance with state and/or federal law.[19] Second, election deniers have, somewhat ironically, targeted the Electronic Registration Information Center (ERIC) — possibly the only group able to

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reliably identify cross-state double voting — for its supposed left leanings.[20] Since 2022, nine GOP-led states have left ERIC as a result of this campaign.[21] Third — the focus of this report — groups have mobilized supporters to use challenge laws to "clean" the rolls themselves. As a result, in the lead up to the 2021 Georgia Senate runoff as well as the 2022 midterms, we saw large numbers of challenges filed in several places.[22]

By and large, these efforts failed to disrupt the 2022 elections. In Michigan, for example, more than 22,000 challenges were deemed invalid and disposed of in July 2022 for being inappropriately filed. The director of the Michigan Bureau of Elections promptly issued guidance on how challenges must be submitted to conform to the law.[23] In Harris County, Texas, more than 6,000 challenges, resulting from coordinated canvassing campaigns,[24] were dismissed for not meeting statutory requirements.[25] And in Georgia, ProPublica reported that of all the challenges from 2022 that they reviewed, the Forsyth County board was the most "aggressive" in ruling in favor of the challenger, yet they only approved about 3.4% of the 32,600 challenges submitted by a handful of activists.[26]

ProPublica's reporting found that those few approved challenges imposed significant barriers for this group of eligible voters, who were forced to appear at a hearing on a workday or otherwise prove their eligibility. One voter interviewed for the story opted to allow the county to drop him from the rolls rather than going through the hassle of appearing for the hearing. It is also clear that in Georgia and elsewhere where challenges were submitted en masse, administrators had to dedicate more and more time and effort to dealing with challenges than ever before.

Emerging Mass Challenge Infrastructure

THE MODEST IMPACT of mass challenge efforts in 2021 and 2022 does not appear to have deterred election denier organizations from continuing to pursue this tactic. Two such groups — True the Vote and the Election Integrity Network — have created software meant to aid supporters in identifying records to challenge in their jurisdictions.

Independent Voter Verification and Validation (IV3) is a project of True the Vote that appears to be under the direct supervision of co-founder Gregg Phillips. The platform initially launched[27] in 2022 across seven states and was recently updated to cover all 50 states.[28] It supposedly allows users to evaluate the voter rolls in their locality and then aids them in preparing formal challenges for those records. The earlier version of the application would prepare voter challenges according to state regulations and submit them on the user's behalf. The newer version, however, only allows users to download the relevant data so that they can "do whatever [they] want to do" with them.[29]

Cleta Mitchell's Election Integrity Network has supported the development of EagleAI, which was created by retired Georgia physician Dr. John W. Richards Jr.[30] He developed the platform with the consultation of Jason Frazier, a private citizen who filed over 10,000 challenges in Fulton County, Georgia in 2023.[31] As with IV3, EagleAI was designed from the beginning as a means of facilitating voter challenges at scale.

> "Election officials already have access to the information made available through IV3 and EagleAI and many states mandate the regular use of that information in official voter roll maintenance procedures.

Both of these platforms are fatally unreliable because they employ incomplete data and flawed methodologies. Reporting by WIRED,[32] for

example, revealed that IV3 matched records to the US Postal Service's National Change of Address (NCOA) list, a practice that cannot reliably gauge eligibility because the NCOA list is frequently used to forward mail for temporary changes of address and not permanent residency changes.[33] Additionally, the matches performed by these systems are themselves highly unreliable. For good reason, the public voter files that these systems

alternative to ERIC in Georgia.[37] The associated capability note outlines similar matching practices as to IV3, but technical details are very limited.[38] At least one Georgia county has contracted with EagleAI directly.[39]

While aspects of IV3 remain shrouded in secrecy, a recent federal court case, *Fair Fight v. True the Vote*, opens a window onto the shoddy

> "The federal court concluded that True the Vote's "list utterly lacked reliability" and found that the group's method for challenging voters "verges on recklessness."

access omit sensitive personally identifying information (PII), making them rely on other non-uniquely identifying pieces of information, such as names, birth days or years, and/or addresses.[34] For example, a voter named John Smith born in 1966 might be erroneously matched to another John Smith born in the same year in another state, though they are two separate voters. Kansas' now defunct[35] Interstate Voter Registration Crosscheck (IVRC) system was criticized by researchers as more than 99% inaccurate based on similarly deficient matching procedures.[36]

Since it was a public program, researchers had access to IVRC's methods and procedures to evaluate it thoroughly. Unfortunately, this isn't the case with either IV3 or EagleAI. In fact, most of what we know about the capabilities of EagleAI comes from the attempt to sell it as an official

methodology behind True the Vote's voter challenge efforts. Plaintiffs sued True the Vote for a series of mass challenges brought by the group during the 2021 Georgia runoff election. Following a bench trial, the court analyzed the list of voters that had been submitted as potentially ineligible. The federal court concluded that True the Vote's "list utterly lacked reliability" and found that the group's method for challenging voters "verges on recklessness."[40] The court observed that the untrustworthiness of True the Vote's data would be readily apparent to a layperson and found that it was "clear that [the group] did not engage in a quality process to create the list, nor did they have proper review or controls in place."[41]

It should be noted that the supposed benefit of the challenge process is to leverage individual knowledge to keep the rolls clean. But systems

like IV3 and EagleAI distort the challenge process by calling into question a voter's eligibility based solely on a (flawed) database match, rather than personal knowledge or individualized inquiry about the voter. Election officials already have access to the information made available through IV3 and EagleAI and many states mandate the regular use of that information in official voter roll maintenance procedures.[42] In addition, unlike IV3 and EagleAI, election administrators can effectively match records due to their access to protected personally identifying information (PII), like driver's license or Social Security numbers, that are excluded from publicly available files.

Based on the development of these tools and their creators' continued focus on false fraud narratives, it is not surprising that challenges have continued through the 2024 primaries and into the general election period.[43] Challenges are also unlikely to let up as these groups seek to take advantage of the various types of laws in the states to impose barriers, overwhelm administrators, and intimidate voters. In the next section we outline the variation in challenge laws across the country, with an eye towards understanding the type of vulnerabilities that they may create.

Differences in Challenge Procedures Across States

THE IMPACT OF VOTER challenges has varied throughout the country, largely due to differences in the state laws and procedures governing them. Factors such as who may submit challenges, when they may be submitted, and on what basis they may be submitted create quite different processes that can unfold in a variety of ways. Though these rules are different across states, many states have provisions that allow election administrators to limit the types of baseless mass challenges that have been attempted in recent years.[44]

> “Some states impose significant requirements and offer narrow opportunities to challenge other voters, while some states appear to intentionally open the door to challenges.

States can limit challenges via statute or through other guidance to election officials, as in Minnesota,[45] where the law outlines that the “county auditor must not accept a filing which challenges the eligibility of more than one voter,” or in Florida,[46] where reference guidelines state that “[e]ach challenge must be separately completed.” Some states impose significant requirements and offer narrow opportunities to challenge other voters, creating a kind of de facto prohibition on mass challenges. Other states impose penalties for making frivolous challenges that can involve either implicit or explicit ties to existing perjury (or similar) statutes, or the threat of specific fines. Still, some states appear to intentionally open the door to challenges, as in Georgia, where local election authorities are restricted from limiting the number of challenges one person may submit.

The features of challenge laws that shape their potential impact on voters and election officials can be split into two categories: (1) the requirements that govern the submission of challenges, and (2) whether voters are notified of challenges and given an opportunity to establish their eligibility (as well as the burdensomeness of that opportunity).

Specific Submission Requirements

Submission-based requirements can make it easier or harder for voters to submit challenges against a large number of other voters. Some of these factors include:

- the amount of time available for issuing challenges,
- whether each individual challenge requires its own form,
- whether challenge submissions/affidavits need to be notarized,
- whether there are penalties for submitting frivolous challenges,
- or whether challengers must have "personal knowledge" of the challenged voter's ineligibility.

Notice to Challenged Voters

As discussed above, mass voter challenges run the risk of disenfranchising or otherwise impeding the challenged voters. When evaluating the risks that these laws pose in this regard, it is vital to consider: 1) whether the challenged voter is notified and how quickly, 2) by default, will the voter be able to vote a normal ballot, provisional ballot (or similar), or not at all, and 3) how much of a burden is placed on the challenged voter to prove their eligibility.

Attempts to notify the voter give the voter a chance to remedy erroneous challenges,[47] but only if they are done in a timely manner and sufficiently in advance of the election. Because notification is imperfect, we might expect some challenged yet eligible voters to fail to remedy their challenges. That is why it is important to note whether these voters would have the ability to cast a ballot or not on election day (or prior). Finally, the degree of burden placed on the challenger to remedy erroneous challenges is central to the impact these challenges play. If an erroneous challenge only requires the challenged voter to respond to a notice, the burden is lighter than if they are required to present affirmative proof of eligibility in court, for example.

Who Can Challenge

Though some states (for example, Arizona) do not allow for registration challenges at all, most states allow for any registered voter to challenge another voter of the same county or of the state. Though it may appear that limiting who may challenge to only registered voters in close proximity might deter the submission of mass challenges, election conspiracy groups have gotten around these provisions by recruiting voters across the country to file challenges. Some states like Minnesota[48] and Nevada[49] explicitly limit the number of registration challenges that can be submitted at one time. This should act as a barrier to a flood of frivolous challenges, though election conspiracy groups have sometimes sought to bend the rules in their favor to submit challenges *en masse*.

Time Limits On Challenges

Mass challenges to voter registration that are filed close to an election can not only prevent eligible voters from voting, but also overwhelm election officials in the midst of a busy period. This underscores the importance of registration challenge deadlines — it is vital that election officials are provided with enough time to properly evaluate challenges and that voters are given notice of their potential removal. Some states provide clear time periods during which challenges may be filed. A good example is Minnesota,[50] where

there is a challenge deadline of 45 days before an election. Of the 11 states that we examined which allow for registration challenges, six have a deadline of 30 days or fewer before an election. States with the tightest deadlines (like North Carolina,[51] which has a deadline of 25 days before an election), or with no deadlines specified at all (like Pennsylvania[52] and Wisconsin[53]), might be at risk of overburdening election officials should the processing of challenges overflow into an election period.

> “Since 2020, there has been an increase in residency-based challenges stemming from election conspiracy groups and individual actors matching voter records to USPS NCOA data.

Grounds for Challenges

As with the timing of challenges, the reasons for which a voter might be challenged vary. Common grounds for challenging a voter’s registration include that the voter no longer resides in the state or county, is not yet 18 years old, has been convicted of a felony, has died, or is not a citizen. In some states, these qualifications are written out in statute or on a registration challenge form. North Carolina is an exemplary case in that it provides clear guidelines[54] for challenges in statute. In other instances, however, states will simply note that voters may be challenged for not meeting some requirement of registration without specifying what these requirements are. This could cause issues in states like Florida,[55] Michigan,[56] and Texas,[57] which do not outline eligibility requirements for voters and might be susceptible to baseless challenges.

Since 2020, there has been an increase in residency-based challenges, particularly in states like Georgia and Michigan, stemming from election conspiracy groups and individual actors matching voter records to USPS NCOA[58] data. States like Ohio[59] and Pennsylvania[60] have attempted to stop the use of this data in registration challenges by including a statement on their challenge form or issuing official guidance stating that this data alone is not enough proof that a person no longer resides at his or her address. Additionally, Georgia, the target of many of these instances of mass residency challenges, recently amended its challenge statute[61] to include the provision that “the presence of such elector’s name on such data base shall be insufficient cause to sustain the challenge against the elector unless additional evidence would indicate that the elector has lost his or her residency.”

VOTER CHALLENGE PROCESS

Georgia

Filing requirements for challenges to eligibility to be on the voter rolls*

- Must be filed with the county board of registrars.
- No submission deadline but challenged voters may not be removed within 45 days of an election.
- Must be in writing and specify the reason for the challenge.
- Bulk challenges filed with a single document are explicitly protected by law.

**Georgia has two statutory pathways that allow challenges to voter eligibility. For simplicity, this graphic only represents the process outlined in Georgia Code § 21-2-229.*

A registered voter files a challenge against one or several voters from the same county.

A hearing date is set by the board of registrars within 10 business days.

The challenged voter is notified at least 3 days before the hearing.

The challenge hearing is held.

The board has subpoena power to obtain necessary information at the request and cost of either party. The burden of proof is on the challenger, but there is no stipulation that absence at the hearing is not evidence of ineligibility.

If the board rules in favor of the challenger, the voter records are canceled.

If the board rules against the challenge, the voter remains on the rolls.

The board must notify the canceled voter by first class mail. The voter can appeal the board's ruling by filing a petition with the court within ten days of the decision.

VOTER CHALLENGE PROCESS

Michigan

Filing requirements for eligibility challenges

- Must be filed with the municipal clerk at least 30 days prior to an election.
- Must include a written, notarized affidavit for each voter challenged.
- Must state grounds of ineligibility for each voter challenged (residency or citizenship).
- Must not be made indiscriminately, without good cause, or for the purpose of harassment.

A registered voter files a challenge against another voter from the same municipality.

Municipal clerk reviews the information in the challenge to determine if it is reliable.

If deemed reliable, the challenged voter is notified.

Notice is sent by forwardable mail to the address on record and the voter has 30 days to respond.

Voter responds.

If the voter says the challenge is correct their registration is canceled.

If the voter says the challenge is incorrect they remain on the rolls.

The voter may be asked to affirm their eligibility when casting a ballot.

Voter doesn't respond.

For citizenship challenges:

The voter record can be canceled after 30 days without a response.

For residency challenges:

The voter is placed on inactive status after 30 days. As outlined in the NVRA, if the voter does not vote in the next two federal general elections, they may be canceled.

Penalties for False Challenges

Other obstacles to registration challenges, such as criminal penalties or limits on the number of challenges one person may file, might serve as barriers to mass challenges in states where these barriers are properly upheld. Many states, such as Florida[62] and North Carolina,[63] require that challenges be submitted under oath, indicating that false challenges are subject to criminal penalties for perjury. Florida additionally has a fine of one thousand dollars for frivolous challenges, though this is not the norm in other states.[64]

Personal Knowledge Requirements

Another deterrent to mass challenges are personal knowledge requirements, which state that a challenger must have "personal knowledge" of the voters whose registration they are challenging. However, despite this requirement existing in states like Texas,[65] mass challenges have nonetheless been submitted in the state previously — in 2018, one voter filed 4,000 challenges before the election,[66] and in 2022 another 6,000 voters were challenged in Harris County.[67] Though personal knowledge requirements should allow administrators to dispose of frivolous challenges more easily, these cases highlight that this does not necessarily stop their submission. Therefore, these types of requirements should not be relied upon to, by themselves, diminish the potential for administrative burdens related to challenges.

Adjudicating a Challenge

After challenges are filed, local election officials follow a procedure to determine their validity. Usually, the clerk, registrar, or Board of Elections will notify the challenged voter and set a time and date for a challenge hearing. The period between the notification and the hearing varies, with states like Ohio[68] providing a minimum of three days and other states like Michigan[69] giving the voter 30 days to respond. Furthermore, states differ in whether or not they require the challenged voter to take action to refute the challenge. Georgia[70] and North Carolina,[71] for example, place the burden of proof on the challenging voter, making it clear that the challenger is the one who must prove a voter is ineligible, and the challenged voter does not have to defend himself or herself. On the other hand, Michigan[72] requires voters to

> "Even in the jurisdictions at highest risk of interference from mass challenges, state law and procedures provide important tools to combat frivolous mass challenges.

respond to a challenge notice or face inactivation (in the case of residency challenges) or even removal from the voter rolls (if the challenge is not residency-based). Nevada[73] additionally cancels a voter's registration if they do not respond to a challenge mailing. Practices such as these assume that the challenged voter is ineligible and inherently place the burden of proof on the challenged voter, which could lead to more voters being removed from the rolls if voters are unfamiliar with the process or if they fail to review the notice in time.

Because of the wide variation in state laws on voter registration challenges, the risk posed by election deniers' challenge tactics varies significantly across different states, with Georgia, Michigan and Texas at perhaps the highest risk. As we've seen in recent years, Georgia is particularly susceptible to mass challenges given that mass challenges to registration are not only allowed, but any county or local official who limits the number of challenges may be subject to sanctions by the state board. Georgia saw 364,000 registrations challenged in the lead-up to the 2021 Senate run-off,[74] while another 92,000 were challenged in 2022.[75] Given this history, the continued focus on challenges[76] by organized groups in the state, and the expectation of highly competitive races, we find it likely that we will continue to see mass challenges in Georgia in the lead-up to the November general election. In Michigan, reports of mass challenges persist.[77] Given that election administration in Michigan is decentralized to over fifteen-hundred local jurisdictions, ensuring that these challenges are treated fairly, uniformly, and in accordance with state and federal law will likely continue to present obstacles. Finally, in Texas, mass challenges have also been submitted en masse. Given the persistent targeting of jurisdictions like Harris County by election deniers,[78] we expect frivolous mass challenges to persist in Texas.

Nevertheless, there are important protections for voters even in states most susceptible to mass challenges. In Georgia, as noted above, the challenger bears the burden of proving eligibility for challenged voters. Georgia's challenge law has also been updated to reject use of NCOA data as a sufficient basis for proving a voters' ineligibility. Meanwhile, Michigan law requires that each challenge to a voter be accompanied by a separate affidavit, which should blunt efforts to abuse the law by drowning administrators in frivolous challenges. Likewise, in Texas, the personal knowledge requirement for challenges can limit the threat of challenges that have been submitted en masse. Therefore, even in the jurisdictions at highest risk of interference from mass challenges, state law and procedures provide important tools to combat frivolous mass challenges. The attached table, "Voter Registration Challenges at a Glance," summarizes some of these additional requirements, such as oaths, or penalties for perjury, along with prohibitions on bulk challenges and the use of NCOA list matching, that can assist election officials in processing mass challenges should they be submitted.

Voter Registration Challenges at a Glance

	When must voter eligibility challenges be submitted?	Are bulk challenges prohibited?	Is personal knowledge required?	Oath required or penalty for perjury?	Are NCOA list challenges prohibited?
Florida	**At most 30 days** before an election and up to the day before an election.	✓ Yes	✗ No	✓ Yes	✗ No
Georgia	**At least 45 days** before an election	✗ No	✗ No	✗ No	✓ Yes
Michigan	**At least 30 days** before an election	✓ Yes	✗ No	✓ Yes	✓ Yes
Minnesota	**At least 45 days** before an election (with exceptions)	✓ Yes	✓ Yes	✓ Yes	✓ Yes
Nevada	**At least 30 days** before an election for residency or citizenship challenges; **at least 30-25 days** before an election for challenges on other grounds	✗ Not for residency/ citizenship challenges	✓ Yes	✓ Yes	✗ No
North Carolina	**At least 25 days** before an election	✓ Yes	✗ No	✓ Yes	✗ No
Ohio	**At least 30 days** before an election	✗ No	✓ Yes	✓ Yes	✓ Yes
Pennsylvania	No timeline specified	✗ No	✗ No	✓ Yes	✓ Yes
Texas	**At least 75-30 days** before a general election (with exceptions)	✗ No	✓ Yes	✓ Yes	✗ No
Virginia	**At least 60 days** before the general election in November; **at least 30 days** before any other election	✗ No	✗ No	✓ Yes	✗ No
Wisconsin	No timeline specified	✗ No	✗ No	✓ Yes	✗ No

Legal Remedies

GIVEN THE INFRASTRUCTURE election denier organizations are building to support voter challenges, we are almost certain to see mass challenge attempts in 2024. But potential challengers should know that schemes to file frivolous mass challenges will likely violate a number of federal and state laws. Both individuals and organizations that file challenges, and any boards of election that accept them, could be liable for their conduct under one or more of the following legal regimes:

National Voter Registration Act

The National Voter Registration Act (NVRA) places procedural safeguards to prevent voters from being wrongfully removed from the voter rolls, particularly close in time to the election. (The NVRA also mandates states regularly remove voters who have died, moved, or otherwise become ineligible.) Specifically, the law prohibits systematic removals of voters from the voter rolls within 90 days of a federal election. During that time period, removals based on "individualized information" may be proper.[79] But a state's decision to accept voter challenges filed *en masse* are rarely likely to satisfy the "individualized information" requirement. In at least two recent cases in North Carolina and Georgia, courts have held that local election boards violated the NVRA when they accepted challenges to voters' eligibility without taking steps to verify the basis of each individual challenge.[80] That analysis should hold particular weight when it comes to challenges generated on the basis of databases such as IV3 and EagleAI, given their unreliable approaches to identifying ineligible voters. If a jurisdiction were to remove voters from the rolls based solely on this type of voter challenge, they could expect to see lawsuits seeking to restore the voters pursuant to the NVRA.

Voting Rights Act

Section 11(b) of the Voting Rights Act prohibits, among other things, any conduct that could intimidate, threaten, or coerce a reasonable voter, regardless of how it is carried out.[81] Schemes to file voter challenges without adequate factual support could run afoul of this prohibition.[82] The well-publicized voter-challenge efforts underway this year threaten and intimidate voters by, for example, casting baseless suspicion on eligible voters, creating administrative burdens for challenged voters, and potentially disenfranchising lawful voters if inaccurate challenges are mistakenly accepted by election officials. In addition, some efforts to develop voter challenges have involved additional conduct that could be intimidating for voters — for instance, individuals (sometimes purporting to be election officials) going door-to-door asking about the status of voters registered at different addresses.[83] In such circumstances, the Voting Rights Act is a potential tool to secure an injunction blocking the filing of baseless challenges and associated intimidating activities.

The Ku Klux Klan Act

Separate from the Voting Rights Act, the Klan Act prohibits conspiracies to intimidate and threaten voters.[84] Like the Voting Rights Act, the Klan Act was intended to cover a broad range of intimidating conduct,[85] and schemes to file baseless voter challenges may violate this prohibition when they involve a conspiracy among two or more individuals. Unlike the Voting Rights Act, the Klan Act authorizes damages suits, meaning that voters impacted by challenge schemes could potentially recover monetary damages for their harms.

State laws

Finally, voter challenge schemes may violate a range of state laws, depending on the jurisdiction. First, many states' laws include their own prohibitions on voter intimidation, which may be violated by challenge schemes. Second, challengers may violate state laws prohibiting impersonation of public officials if they represent themselves as government agents in the course of developing the challenges.[86] Finally, challengers may commit fraud if they misrepresent information in filing challenges or in interactions with voters as they gather information to use in filing challenges.

Conclusion

OUR ELECTION SYSTEM has had to withstand unprecedented strain in recent years. Election conspiracy groups have endeavored to refashion state challenge laws into a new weapon to delegitimize election results they dislike. But ultimately mass challenges represent little more than a clumsy, inaccurate effort to duplicate the work election officials already do to maintain registration lists. The methodology these groups use to identify supposedly ineligible voters is demonstrably flawed — indeed "utterly lacking in reliability" according to a federal court. These challenges have the potential to create illegal hurdles for ordinary voters seeking to participate in the political process. But if disposed of properly, mass challenges are unlikely to do more than waste sorely needed administrative resources during a busy election season.

Fortunately, there are an array of tools available to combat frivolous challenges. The vast majority of mass challenges can be rejected as facially invalid under state law. And even in the states with the most permissive policies, most challenges will not be able to meet the evidentiary burden necessary to invalidate a voter's registration. The National Voter Registration Act as well as federal and state civil rights law provide additional layers of protection for voters against groups seeking to disrupt our elections. In the end, the failure of election denier groups to have any meaningful impact or uncover any fraud from their all-out assault on the voter registration system should give us confidence that the system is working. It is ultimately not these groups but the voters themselves who will decide the next election.

> "Ultimately mass challenges represent little more than a clumsy, inaccurate effort to duplicate the work election officials already do to maintain registration lists.

Notes

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