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States’ Actions to Block Voters Appear Illegal

By IAN URBINA

Tens of thousands of eligible voters in at least six swing states have been removed from the rolls or have been blocked from registering in ways that appear to violate federal law, according to a review of state records and Social Security data by The New York Times.

The actions do not seem to be coordinated by one party or the other, nor do they appear to be the result of election officials intentionally breaking rules, but are apparently the result of mistakes in the handling of the registrations and voter files as the states tried to comply with a 2002 federal law, intended to overhaul the way elections are run.

Still, because Democrats have been more aggressive at registering new voters this year, according to state election officials, any heightened screening of new applications may affect their party’s supporters disproportionately. The screening or trimming of voter registration lists in the six states — Colorado, Indiana, Ohio, Michigan, Nevada and North Carolina — could also result in problems at the polls on Election Day: people who have been removed from the rolls are likely to show up only to be challenged by political party officials or election workers, resulting in confusion, long lines and heated tempers.

Some states allow such voters to cast provisional ballots. But they are often not counted because they require added verification.

Although much attention this year has been focused on the millions of new voters being added to the rolls by the candidacy of Senator Barack Obama, there has been far less notice given to the number of voters being dropped from those same rolls.

States have been trying to follow the Help America Vote Act of 2002 and remove the names of voters who should no longer be listed; but for every voter added to the rolls in the past two months in some states, election officials have removed two, a review of the records shows.

The six swing states seem to be in violation of federal law in two ways. Michigan and Colorado are removing voters from the rolls within 90 days of a federal election, which is not allowed except when voters die, notify the authorities that they have moved out of state, or have been declared unfit to vote.

Indiana, Nevada, North Carolina and Ohio seem to be improperly using Social Security data to verify registration applications for new voters.
In addition to the six swing states, three more states appear to be violating federal law. Alabama and Georgia seem to be improperly using Social Security information to screen registration applications from new voters. And Louisiana appears to have removed thousands of voters after the federal deadline for taking such action.

Under federal law, election officials are supposed to use the Social Security database to check a registration application only as a last resort, if no record of the applicant is found on state databases, like those for driver's licenses or identification cards.

The requirement exists because using the federal database is less reliable than the state lists, and is more likely to incorrectly flag applications as invalid. Many state officials seem to be using the Social Security lists first.

In the year ending Sept. 30, election officials in Nevada, for example, used the Social Security database more than 740,000 times to check voter files or registration applications and found more than 715,000 nonmatches, federal records show. Election officials in Georgia ran more than 1.9 million checks on voter files or voter registration applications and found more than 260,000 nonmatches.

Officials of the Social Security Administration, presented with those numbers, said they were far too high to be cases where names were not in state databases. They said the data seem to represent a violation of federal law and the contract the states signed with the agency to use the database.

Last week, after the inquiry by The Times, Michael J. Astrue, the commissioner of the Social Security Administration, alerted the Justice Department to the problem and sent letters to election officials in Alabama, Georgia, Indiana, Nevada, North Carolina and Ohio. The letters ask the officials to ensure that they are complying with federal law.

“It is absolutely essential that people entitled to register to vote are allowed to do so,” Mr. Astrue said in a press release.

In three states — Colorado, Louisiana and Michigan — the number of people purged from the election rolls since Aug. 1 far exceeds the number who may have died or relocated during that period.

States may be improperly removing voters who have moved within the state, election experts said, or who are considered inactive because they have failed to vote in two consecutive federal elections. For example, major voter registration drives have been held this year in Colorado, which has also had a significant population increase since the last presidential election, but the state has recorded a net loss of nearly 100,000 voters from its rolls since 2004.

Asked about the appearance of voter law violations, Rosemary E. Rodriguez, the chairwoman of the federal Election Assistance Commission, which oversees elections, said they could present
“extremely serious problems.”

“The law is pretty clear about how states can use Social Security information to screen registrations and when states can purge their rolls,” Ms. Rodriguez said.

Nevada officials said the large number of Social Security checks had resulted from county clerks entering Social Security numbers and driver’s license numbers in the wrong fields before records were sent to the state. They could not estimate how many records might have been affected by the problem, but they said it was corrected several weeks ago.

Other states described similar problems in entering data.

Under the Help America Vote Act, all states were required to build statewide electronic voter registration lists to standardize and centralize voter records that had been kept on the local level. To prevent ineligible voters from casting a ballot, states were also required to clear the electronic lists of duplicates, people who had died or moved out of state, or who had become ineligible for other reasons.

Voting rights groups and federal election officials have raised concerns that the methods used to add or remove names vary by state and are conducted with little oversight or transparency. Many states are purging their lists for the first time and appear to be unfamiliar with the 2002 federal law.

“Just as voting machines were the major issue that came out of the 2000 presidential election and provisional ballots were the big issue from 2004, voter registration and these statewide lists will be the top concern this year,” said Daniel P. Tokaji, a law professor at Ohio State University.

Voting rights groups have urged voters to check their registrations with local officials.

In Michigan, some 33,000 voters were removed from the rolls in August, a figure that is far higher than the number of deaths in the state during the same period — about 7,100 — or the number of people who moved out of the state — about 4,400, according to data from the Postal Service.

In Colorado, some 37,000 people were removed from the rolls in the three weeks after July 21. During that time, about 5,100 people moved out of the state and about 2,400 died, according to postal data and death records.

In Louisiana, at least 18,000 people were dropped from the rolls in the five weeks after July 23. Over the same period, at least 1,600 people moved out of state and at least 3,300 died.

The secretaries of state in Michigan and Colorado did not respond to requests for comment. A spokesman for the Louisiana secretary of state said that about half of the numbers of the voters removed from the rolls were people who moved within the state or who died. The remaining 11,000 or so people seem to have been removed by local officials for other reasons that were not
clear, the spokesman said.

The purge estimates were calculated using data from state election officials, who produce a snapshot every month or so of the voter rolls with details about each registered voter on record, making it possible to determine how many have been removed.

The Times’s methodology for calculating the purge estimates was reviewed by two voting experts, Kimball Brace, the director of Election Data Services, a Washington consulting firm that tracks voting trends, and R. Michael Alvarez, a political science professor at the California Institute of Technology.

By using the Social Security database so extensively, states are flagging extra registrations and creating extra work for local officials who are already struggling to process all the registration applications by Election Day.

“I simply don’t have the staff to keep up,” said Ann McFall, the supervisor of elections in Volusia County, Fla.

It takes 10 minutes to process a normal registration and up to a week to deal with a flagged one, said Ms. McFall, a Republican, adding that she was receiving 100 or so flagged registrations a week.

Usually, when state election officials check a registration and find that it does not match a database entry, they alert local election officials to contact the voter and request further proof of identification. If that is not possible, most states flag the voter file and require identification from the voter at the polling place.

In Florida, Iowa, Louisiana and South Dakota, the problem is more serious because voters are not added to the rolls until the states remove the flags.

Ms. McFall said she was angry to learn from the state recently that it was her responsibility to contact each flagged voter to clear up the discrepancies before Election Day. “This situation with voter registrations is going to land us in court,” she said.

In fact, it already has.

In Michigan and Florida, rights groups are suing state officials, accusing them of being too aggressive in purging voter rolls and of preventing people from registering.

In Georgia, the Justice Department is considering legal action against the state because officials in Cobb and Cherokee Counties sent letters to hundreds of voters stating that their voter registrations had been flagged and telling them they cannot vote until they clear up the discrepancy.

On Monday, the Ohio Republican Party filed a motion in federal court against the secretary of
state to get the list of all names that have been flagged by the Social Security database since Jan. 1. The motion seeks to require that any voter who does not clear up a discrepancy be required to vote using a provisional ballot.

Republicans said in the motion that it is central to American democracy that nonqualified voters be forbidden from voting.

The Ohio secretary of state, Jennifer Brunner, a Democrat, said in court papers that she believes the Republicans are seeking grounds to challenge voters and get them removed from the rolls.

Considering that in the past year the state received nearly 290,000 nonmatches, such a plan could have significant impact at the polls.