

FLORIDA VOTER REGISTRATION SYSTEM ADDRESS LIST MAINTENANCE RECORDS (ELIGIBILITY) MAINTENANCE

Presented by:

Maria Matthews, Assistant General Counsel

Florida Department of State/Office of General Counsel

April 16, 2009

Governing Law

National Voter Registration Act of 1993 (NVRA)

(42 U.S.C. § 1973gg-6 (a)(3), (a)(4), (b)(2)); (aka section 8 of NVRA)

Help America Vote Act of 2002 (HAVA)

(Public Law 107-252), Title III, Section 303)

Sections 98.065, 98.0655 and 98.075, Fla. Stat.

Objective of Address List and Records (Eligibility) Maintenance Activities Under State and Federal Laws

Maintain accurate and current rolls triggered by activities that indicate either a *change in a voter's address of legal residence* or a *change in the voter's eligibility*.

- **Once registered, a voter's name can only be removed IF the voter:**
 - ✓ Requests it in writing.
 - ✓ Is ineligible (convicted of a felony without civil rights restored; found by a court to be mentally incapacitated as to voting rights and has not had them restored, non voting age, non U.S. citizen, listed with a false residence address, fictitious person)
 - ✓ Is placed on the inactive voter list and after two consecutive general (federal) elections, and has not voted or attempted to vote, requested an absentee ballot or otherwise updated his or her registration records during that time
 - ✓ Is registered in another state and you receive official word from the out-of-state election official

Address List Maintenance Activities

A change in a registered voter's legal residence ...

Address List Maintenance

- **Incorporate at least 1 of 3 general address maintenance activities program**
- **Conduct program at least every odd-numbered (note: non-general (federal) election year)**
- **Use feedback to make address changes, send notices, and trigger status change for registered voter**

Address List Maintenance

- **2009 Law Change**
 - Enter address change first, then contact the voter through notice or voter information card
 - “Third-party source” refers to information triggered by a source other than from the voter that his or her residence address has changed

(Typically this will include feedback from address list maintenance program activities and other mailings you send out.)

Address List Maintenance (cont'd)

1. United States Postal Service (USPS)/NCOA) change of address information.

- You run the registered voter database list for your county against USPS database under a license.
- If the information you get suggests that voter's legal residence has changed. . .
- You make appropriate change in record and send either an Address Change Notice or Address Confirmation Final Notice depending on change

Address List Maintenance (cont'd)

1. United States Postal Service (USPS)/NCOA change of address information.(cont'd)

CAUTION: Be sure that you are running a comparison of residential address in the voter database against residential address in the USPS database. If the address change pertains to mailing address information, NCOA may be only the start for triggering address list maintenance before you can change a voter's address of legal residence.

You may have to send an address confirmation request (if in-state mailing address) or address confirmation final notice (if out-of-state mailing address) first and then based on the information you get back from that, initiate address change notice or address confirmation final notice.

Address List Maintenance (cont'd)

2. Countywide mailing to all registered voters.

- You send out some election related mailing (return if undeliverable nonforwardable mailing) to all registered voters in your county. (e.g., absentee ballots)
- If the information you get back suggests that voter's legal residence has changed. . .
- You make appropriate change in record and send either an Address Change Notice or Address Confirmation Final Notice depending on change.

Address List Maintenance (cont'd)

3. Targeted countywide mailing.

- You send mail (return if undeliverable nonforwardable) solely to registered voters in your county who have not voted or updated their registration records in the last 2 years.
- If the information you get back suggests that voter's legal residence has changed. . .
- You make appropriate change in record and send either an Address Change Notice or Address Confirmation Final Notice depending on change.



Address List Maintenance

3rd Party Sources that may trigger notices to voter

- USPS/NCOA
- USPS (“yellow sticky”)
- Jury notice lists
- HSMV Out-of-state DL lists
- Other sources: Any returned undeliverable or nonforwardable mailing you sent out to the registered voter such as any returned/ undeliverable address confirmation requests, absentee ballot, mail ballot, notice to registered voter that he is potentially ineligible per s. 98.075(7), F.S., address change notice to newly recorded address

Address List Maintenance:

What to do if the 3rd party source indicates an in-county address change for legal residence?

Enter new address change into FVRS

Send Address Change Notice and Voter Information Card to newly recorded address (county SOE of original residence)

Retain original document.
Do not scan into FVRS.

Address List Maintenance:

What to do if the 3rd party source indicates an **out-of-county** address change for legal residence?

Enter new address change into FVRS. *If out-of-county address cannot be validated, send copy of documentation to new county of residence who will be responsible for validating the address and sending the voter an Address Change Notice and Voter Information Card.*

Send Address Change Notice to newly recorded address (county SOE of original residence) *Process to be automated in FVRS to notify new county of residence about new registered voter. Until then, notify new county SOE. Retain original document. Do not scan into FVRS. Send document upon request to new county SOE.*

Send Voter Information Card (county SOE of new residence)

Address List Maintenance:

What to do if the 3rd party source indicates out-of-state address change for legal residence?

Enter new address change as change to mailing address into FVRS.

Send Address Confirmation Final Notice to out-of-state address (county SOE of original residence). If no out-of-state address provided, send to last address of record.

Retain original document. Do not scan into FVRS.

Address List Maintenance:

What to do if the 3rd party source indicates change in legal residence but **provides no forwarding address?**

Send Address Confirmation Final Notice (with prepaid pre-addressed return form) to last address of record (county SOE of original residence)

Retain original document. Do not scan into FVRS.

Address List Maintenance:

Voter Feedback to Address Change Notice *(voter does not have to reply)*

• Voter responds 'I did not change or intend for address to change.'

1. Change record back to address
2. Send new voter information card
3. If you are no longer the voter's county of residence, notify the other county and provide the return card so county can make the change back to your county.

• Voter does not respond or voter verifies address change is correct

Do nothing more to record

• Voter confirms 'My legal residence is now out-of-state.'

1. Process information as voter's request to remove.
2. Remove registered voter's name from FVRS official list

Address List Maintenance:

Feedback to Address Change Notice *(voter does not have to reply)*

- Postal response: ACN comes back as undeliverable with no forwarding address?

Send Address Confirmation Final Notice to registered voter's last address on record (even though it is going to come back as undeliverable).

Address List Maintenance:

Voter Feedback to Address Confirmation Final Notice (ACFN)

• Voter response: 'I did not change or intend for address change'

1. Change address in FVRS record to the address stated by voter
2. Send new Voter Information Card (unless out-of-county address change, then county SOE of new residence sends voter information card)

• Voter does not respond within 30 days

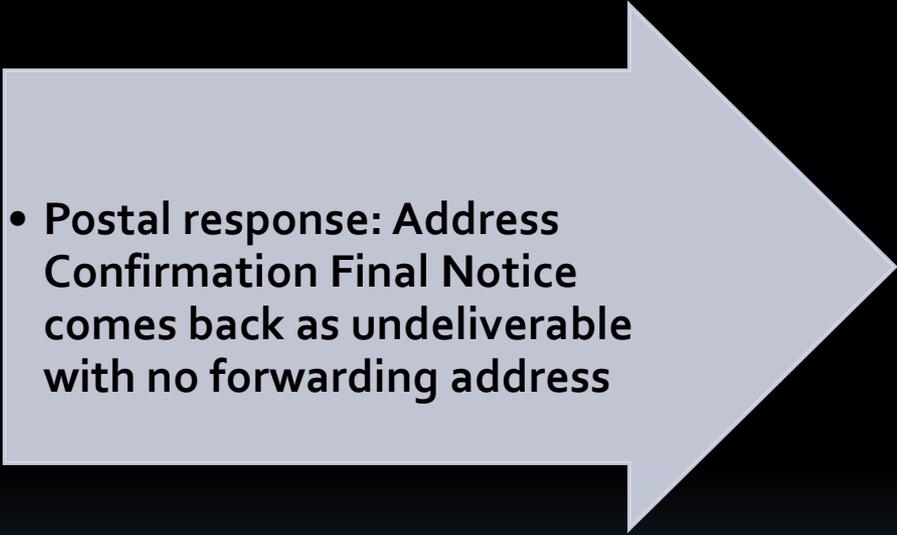
Place registered voter on inactive list

• Voter responds 'My legal residence is now out-of-state'

1. Process information as voter's request to remove.
2. Remove registered voter's name from FVRS' official list

Address List Maintenance:

Feedback to Address Confirmation Final Notice(ACFN)

- 
- **Postal response: Address Confirmation Final Notice comes back as undeliverable with no forwarding address**

Place registered voter on inactive list

Address List Maintenance

Place on Inactive Voter Status List

(s. 98.065, F. S.)

- Voter has not responded (i.e. returned postage pre-paid, preaddressed return form) to Address Confirmation Final Notice within 30 days, or
- The Address Confirmation Final Notice is returned as undeliverable with no forwarding address.

Address List Maintenance

Restore Inactive Voter to Active Status (s. 98.065, F.S.)

- Voter updates his or her registration record (party change, name change, signature, address, etc.)
- Voter requests an absentee ballot
- Voter comes to the polls to vote

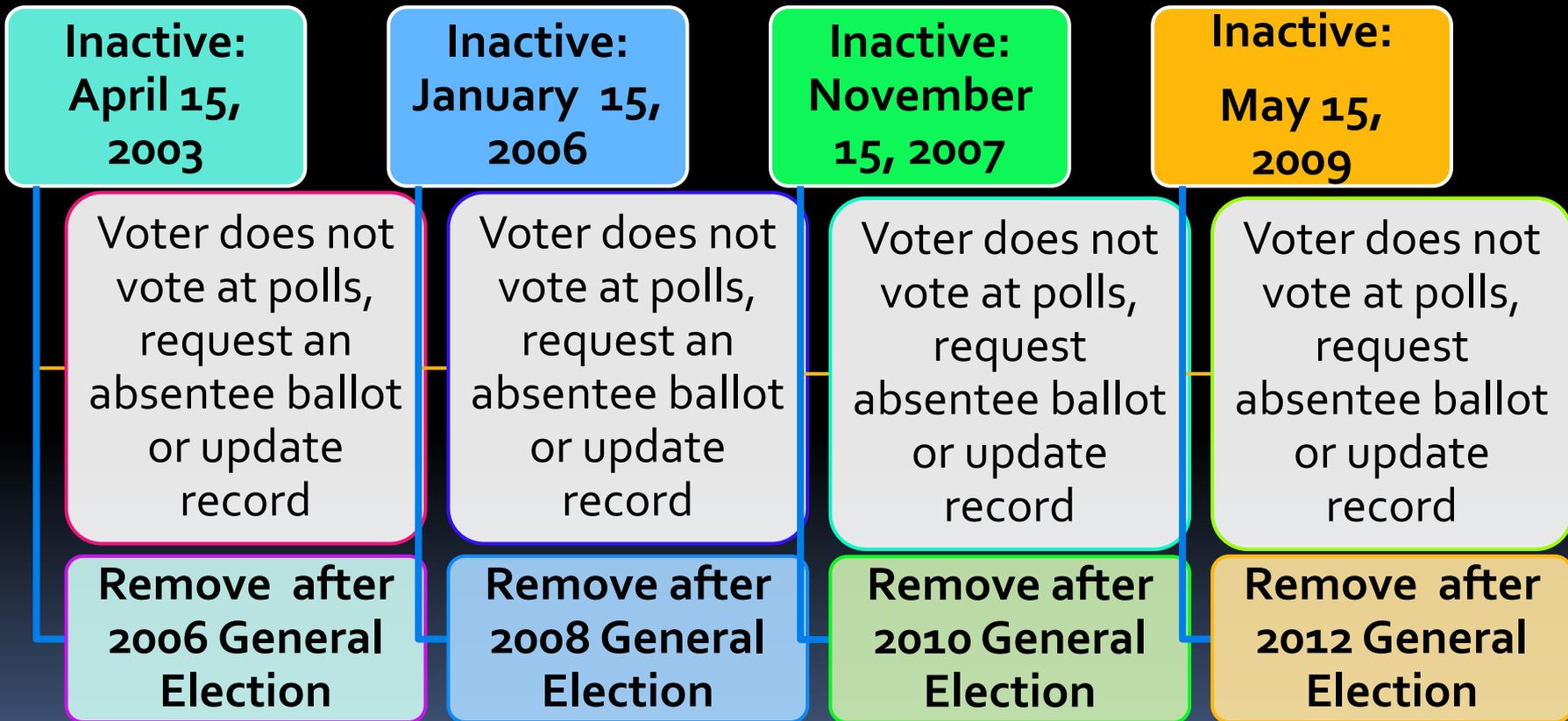
Address List Maintenance

Remove Registered Voter

- ONLY REMOVE a voter from the rolls based on his or her address change WHEN:
 1. Voter confirms in writing out-of-state residence change, OR
 2. Voter has failed to respond to Address Confirmation Final Notice), and after having been placed on the inactive registered voter's list, has not tried to vote (in person or absentee), or updated his or her voter registration record in 2 consecutive federal general elections thereafter.
 3. You receive information from an out-of-state election official that person has registered in new jurisdiction.

Address List Maintenance

Removal of Inactive Registered Voters (Examples)



Address List Maintenance

Removal of Inactive Registered Voters

ATTENTION: A general election in which a federal office is on the ballot occurs every even-numbered year (every 2 years)



Address List Maintenance

Restrictions to Removal

- '90-Day Quiet Period'
 - ✓ Any official address list maintenance program activities or removal of inactive voters should not be initiated or should be completed within the last 90 days before a primary or general election for federal office. – 42 U.S.C. Section 1973gg-6(c)(2)(A)
 - ✓ For 2010, the deadline to wrap up address list maintenance is May 26, 2010

Address List Maintenance

Exceptions to 90-day Restriction

- **Deceased voters** → automatically if based on information from the State or if from some other source, after you follow the steps in section 98.075(7), F.S.
- **Ineligible voters (e.g., convicted felons without rights restored, persons adjudged mentally incapacitated without voting rights restored** → after you follow the steps in section 98.075(7), F.S.
- **A registered voter when he or she requests removal.**

Address List Maintenance

Importance

- Ensures voters' residence address in FVRS are current and accurate (to receive election materials and for proper assignment of precinct and polling place.)
- Starts process for removing registered voters for whom addresses are no longer valid and no longer voting or whose legal residence has changed out-of-state
- Helps petition drive efforts because the number of inactive registered voters are not used to calculate the signature threshold necessary for a petition drive (municipal recall, citizen initiative, etc.)

Address List Maintenance

Importance

- If mailing address (unless otherwise being used as the address to deliver mail for the residence address) changes, sections 98.065 and 98.0655, Fla. Stat. are not triggered BUT . . .
 - Enter change
 - Send Address Confirmation Request if mailing address change is within the state or Address Confirmation Final Notice if mailing address is out-of-state

Address List Maintenance

Timeliness

- No specific statutory timeframe to begin address list maintenance program
- Process is time-consuming and procedurally intensive.
- Should be wrapped up no later than 90 days before primary election or general election year in which federal office on ballot.
- Don't wait. 'Begin as soon as possible.'

Registration Record Maintenance Activities

A change in a registered voter's
eligibility status . . .

Help America Voter Act (HAVA)

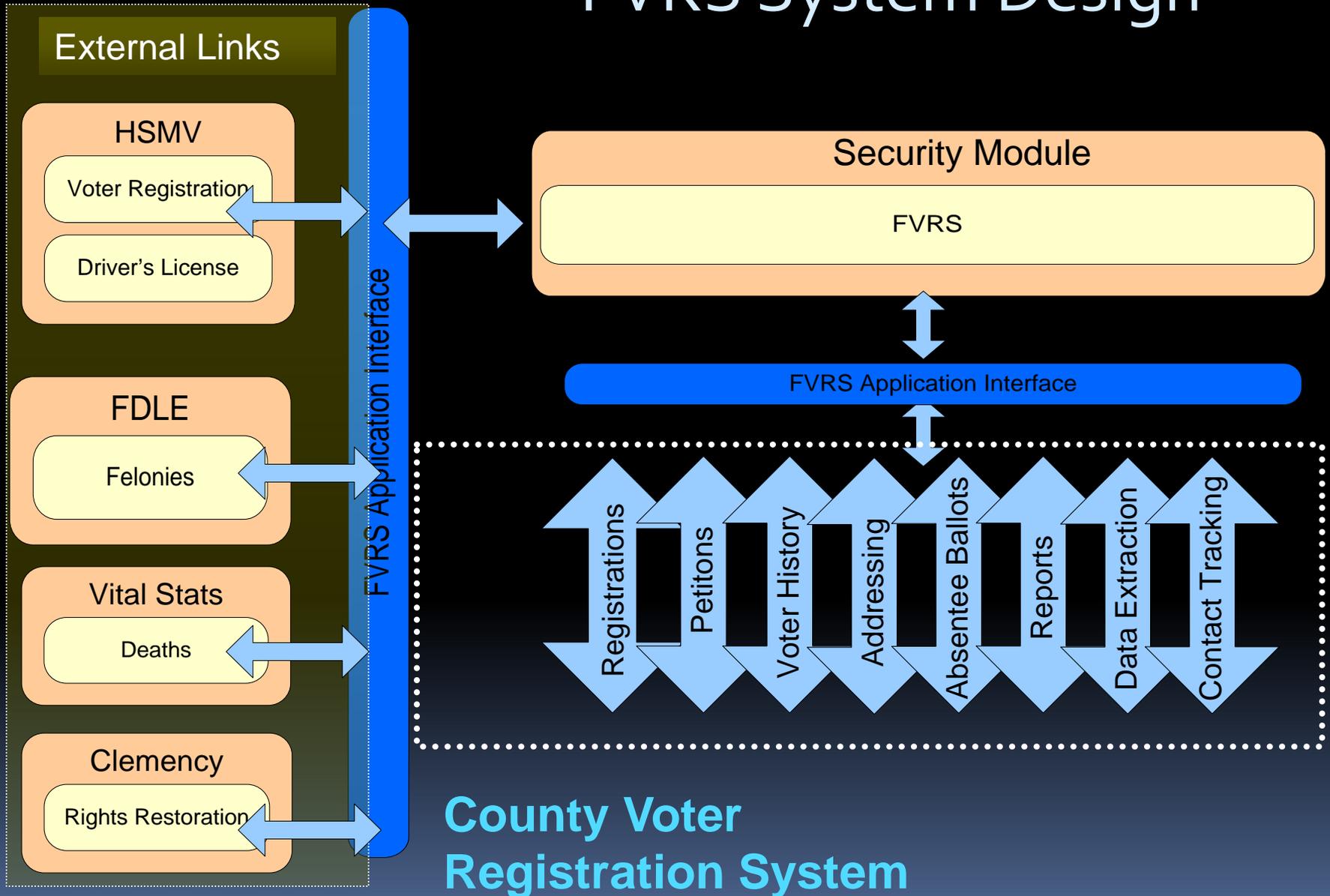
- Implement a statewide computerized voter registration list of all voters that is defined, maintained and administered by the State.
- Assign unique identifier to each registered voter.
- Coordinate with agency databases within State for expanded registration maintenance activities requirements first established with NVRA of 1993

Records (Eligibility) Maintenance

Compare records within FVRS system and against other governmental records to identify:

- Ineligible persons (deceased persons, felons without rights restored, persons adjudged mentally incapacitated without voting rights restored).
- Duplicate registration records for the same voter.

FVRS System Design





Registration (Eligibility) Record Maintenance

Duplicate Registrations (section 98.075(2), F.S.)

- Front-end:

- **Cross-check** for existing registration record before creating new one. If one is found, process application as an update to existing record-only one active record per voter.

- Back-end:

- **Review duplicate record matches** for the same voter as identified by the Department (and noticed through FVRS).
- Determine whether records match, do not match or are indeterminate. Close out inactive duplicate records. There should only be one active record per voter.

Registration (Eligibility) Record Maintenance **Deceased Persons** (Section 98.075(3), Fla. Stat.)

- State compares against FVRS data from Department of Health's Office of Vital Statistics and creates file. Notice through FVRS.
 - Confirmed matches automatic through FVRS. Remove voter's name upon notice.
 - Potential matches are 1st worked by BVRS. If still unresolvable, notice sent through FVRS to SOEs who must work to determine if match is valid, not valid or indeterminate.



Registration (Eligibility) Maintenance: **Persons Adjudged Mentally Incapacitated Without Voting Rights Restored** (s. 98.075,(4) & (7), Fla. Stat.)

- Department of State's BVRS compares clerk of court data against FVRS. (should only be getting list of persons' whose voting rights removed or restored as part of mental incompetence matter).
- State creates 'credible and reliable file' and express mails overnight to SOE.
- SOE must notify voter within 7 days of notice and follow process in subsection (7) before removal from FVRS.



Registration (Eligibility) Maintenance: **Convicted Felons Without Civil Rights Restored**

(s. 98.075,(5) & (7), Fla. Stat.)

- Department of State's BVRS reviews initial FDLE data against other sources (court records, clemency data, DHSMV David system, etc.)
- State creates 'credible and reliable file' and express mails overnight to SOE.
- SOE must notify voter within 7 days and follow process in subsection (7) before removal of voter from FVRS.



Registration (Eligibility) Records Maintenance

- **Act on other information sources of ineligibility**
 - Do not wait for State
 - Initiate notice and removal procedures under section 98.075(7), Florida Statutes
 - Notify state in cases of felon or mental incapacity cases that you initiate and send notice to the voter.

Registration (Eligibility) Records Maintenance

Other Triggers

Clerk of court for your count sends you a copy of a felony conviction or a judgment of mental incapacity with voting rights removed

A registered voter tells you that someone else has fraudulently used his or her address to register (fictitious person)

Start notice and removal process under Section 98.075 (7), Fla.Stat.

You receive information from DHSMV or Bureau of Immigration & Naturalization Services that someone is not a U.S. citizen

You find out that a registered voter has lied about his or her voting age

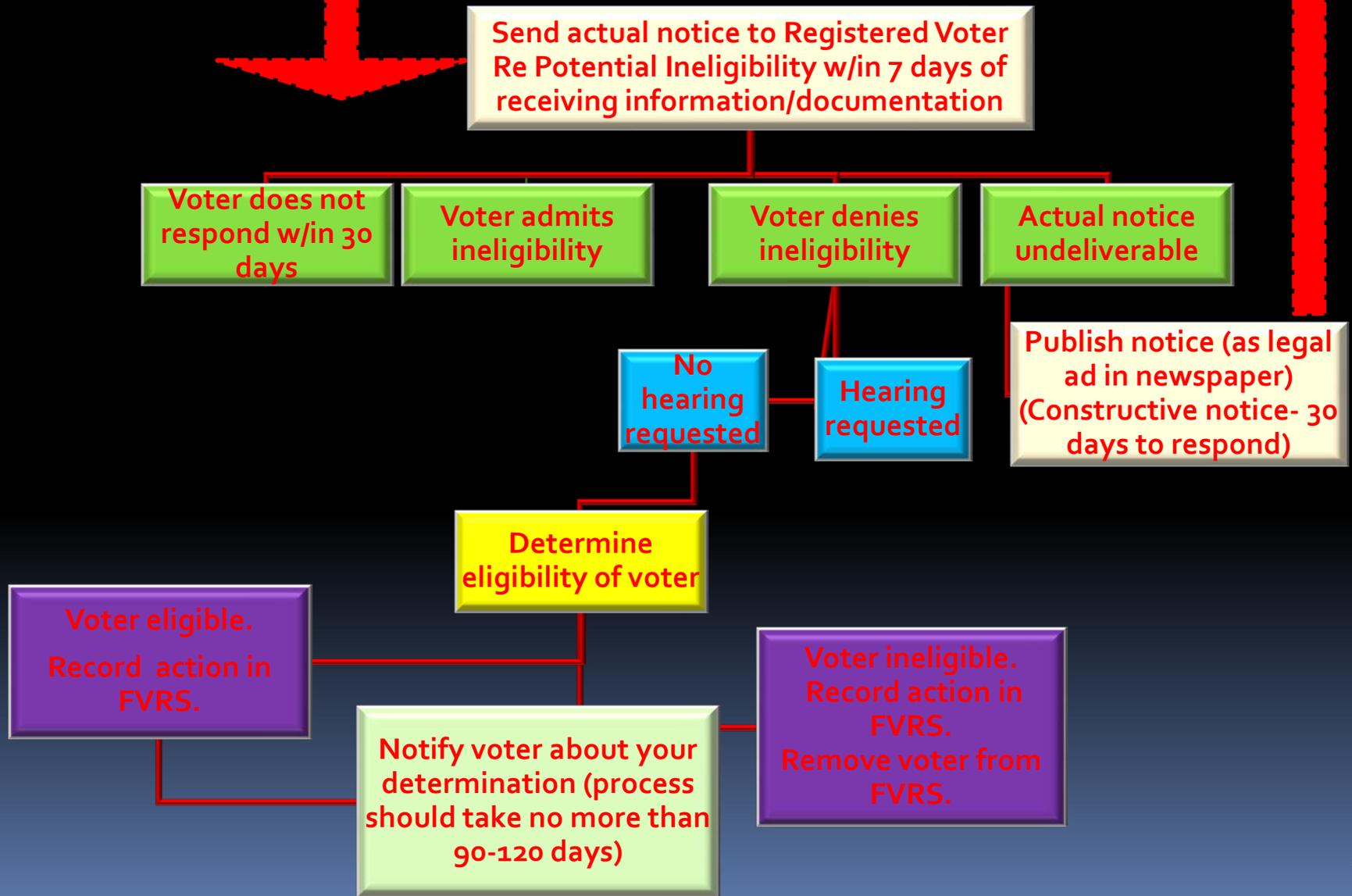
Relative brings you a copy of a death certificate from another state

Registration (Eligibility) Maintenance

Notice and Removal-Section 98.075(7), Fla. Stat.

- 1. Notification letter** (certified with return receipt) **to voter (to include:)**
 - **Basis for potential ineligibility-Include copy of supporting document as to ineligibility** redacted as to applicable confidential and exempted information
 - **Statement-Respond within 30 days or risk removal from rolls**
 - **Return form (self-addressed)** Voter admits or denies potential ineligibility assertion
 - **Statement of right to request a hearing.** Voter may ask for hearing if denying ineligibility
 - **Contact information.** Voter can ask supervisor for help to resolve the matter.
 - **Civil rights restoration instructions (if applicable)**

Registration (Eligibility) Maintenance Notice and Removal-Section 98.075(7), Fla. Stat.





Address and Eligibility Records Maintenance:

Hypothetical 1: You receive information from 3rd party source mailing that the address of a voter has changed to out-of-county. The address that has changed is the mailing address. How do you process this information?

Address and Eligibility Records Maintenance:

Hypothetical 1: You receive information from 3rd party source mailing that the address of a voter has changed to out-of-county. The address that has changed is the mailing address. How do you process this information?

Change the mailing address in FVRS. No address change notice is required but highly recommend that you send an Address Confirmation Request. A voter information card is only required to be issued when there is a change of address of legal residence, name, or party affiliation.



Address and Eligibility Records Maintenance:

Hypothetical 2: You send a notice to a registered voter under section 98.075(7), Fla. Stat. that states he or she has been initially identified as ineligible due to a felony conviction. The notice comes back as undeliverable with no forwarding address. How do you process this address change information?

Address and Eligibility Records Maintenance:

Hypothetical 2: You send a notice to a registered voter under section 98.075(7), Fla. Stat. that states he or she has been initially identified as ineligible due to a felony conviction. The notice comes back as undeliverable with no forwarding address. How do you process this address change information?

There are two distinct processes here. One process relates to the notice and removal of a potentially ineligible registered voter, the other relates to address list maintenance. One is likely to resolve itself before the other (eligibility before address update/out-of-date). The law does not say to suspend one until resolution of the other. Follow the process set out in slide 41 regarding notice and removal for ineligibility. At the same time, you should be following the procedure for address list maintenance under section 98.065, F.S. If the voter is ultimately removed before of a determination of ineligibility, then the process for the address list maintenance is terminated. If the voter is determined eligible, the process for address list maintenance may ultimately result in his or her removal.



Address and Eligibility Records Maintenance:

Hypothetical 3: You send an address confirmation request to a person in your county who has not voted or updated his or her registration record in 2 years. The request comes back as undeliverable with no forwarding address. How do you process this?

Address and Eligibility Records Maintenance:

Hypothetical 3: You send an address confirmation request to a person in your county who has not voted or updated his or her registration record in 2 years. The request comes back as undeliverable with no forwarding address. How do you process this?

The law is silent on how to process this. Therefore, send the registered voter an Address Confirmation Final Notice to the same address (last address of record). Obviously, it will be sent back as undeliverable again, just like the Address Confirmation Request.



Address and Eligibility Records Maintenance:

Hypothetical 4: You send an absentee ballot to a registered voter. The absentee ballot comes back as undeliverable with a forwarding address in another county. How do you process this?

Address and Eligibility Records Maintenance:

Hypothetical 4: You send an absentee ballot to a registered voter. The absentee ballot comes back as undeliverable with a forwarding address in another county. How do you process this?

There are two processes involved here. One is processing the absentee ballot, the other is processing the address change information. One process does not cancel out or supersede the other. An undeliverable absentee ballot means that the absentee ballot request for that registered voter must be cancelled per section 101.62(1), Fla. Stat. The reason is that the mailing address is probably no longer any good. The person will have to renew his or her absentee ballot request information with new mailing address. You may contact the voter to let him or her know. The change of address information from the returned absentee ballot may or may not be THE address for the person's legal residence. If it is just a mailing address change, then the mailing address in the person's record is updated. If it is a change in the person's legal residence, enter the new address in FVRS and send the person an Address Change Notice to the newly recorded address. The system will trigger notice for the new county of residence to send a Voter Information Card.



Address and Eligibility Records Maintenance:

Hypothetical 5: You send an Address Change Notice (and voter information card) with a return form to a registered voter in your county. Neither the notice or the return form is returned. What do you do?

Address and Eligibility Records Maintenance:

Hypothetical 5: You send an Address Change Notice (and voter information card) with a return form to a registered voter in your county. Neither the notice or the return form is returned. What do you do?

Nothing. A registered voter may, but does not have to, confirm an address change in response to an Address Change Notice. However, there are consequences if a voter does not respond to an Address Confirmation Final Notice. If the voter does not respond within 30 days or the notice comes back as undeliverable, the voter's status is changed to inactive.

Address and Eligibility Records Maintenance:

Hypothetical 6: You send an Address Change Notice (and voter information card) with a return form to a registered voter in your county. The notice is returned as undeliverable? What do you do?

Address and Eligibility Records Maintenance:

Hypothetical 6: You send an Address Change Notice (and voter information card) with a return form to a registered voter in your county. The notice is returned as undeliverable? What do you do?

Send an Address Confirmation Final Notice. Follow interim guidelines until final FVRS/local vendor processes are completed.

Address and Eligibility Records Maintenance:

Hypothetical 7: You placed someone on the inactive list on December 15, 2005 based on a returned undeliverable Address Confirmation Final Notice. On April 10, 2009, you get a jury notice signed by the voter that indicates an address change (legal residence) for a new county. How do you proceed?

Address and Eligibility Records Maintenance:

Hypothetical 7: You placed someone on the inactive list on December 15, 2005 based on a returned undeliverable Address Confirmation Final Notice. On April 10, 2009, you get a jury notice signed by the voter that indicates an address change (legal residence) for a new county. How do you proceed?

Check to see if you removed the person from the rolls like you should/could have after the November 2008 General Election. If not, the person's name is now shifted back to active registered voter status. A voter information card would be sent to the voter at his or her newly recorded address. A jury notice list is handled somewhat differently. The list is not information direct from the voter but a list compiled by the clerk. It constitutes 3rd party source information in which case, you send an Address Change Notice and a Vote Information Card. Follow interim guidelines until final FVRS/local vendor system changes made.

Address and Eligibility Records Maintenance:

Hypothetical 8: A cousin (not your favorite) recently released from prison tells you that a registered voter on your rolls is a convicted felon because he was his cellmate although now he is released last week. What do you do with this information?



Address and Eligibility Records Maintenance:

Hypothetical 8: A cousin (not your favorite) recently released from prison tells you that a registered voter on your rolls is a convicted felon because he was his cellmate although now he is released last week. What do you do with this information?

You could do nothing if the source is not reliable. If reliable, you could gather documentation from the court to prepare a notice of potential ineligibility to send to the registered voter's address of record. Notify the BVRS whenever you are working a felon or mental incompetency case in order to reduce duplicative efforts if possible.

Address and Eligibility Records Maintenance:

Hypothetical 9: A relative of a registered voter in your county brings in an obituary from an Arizona newspaper that details the horrific balloon accident in which the registered voter died during vacation. What do you do with the information?



Address and Eligibility Records Maintenance:

Hypothetical 9: A relative of a registered voter in your county brings in an obituary from an Arizona newspaper that details the horrific balloon accident in which the registered voter died during vacation. What do you do with the information?

You could compile documentation to start a notice of potential ineligibility file under section 98.075(7), F.S. You could address the notice to the family of the registered voter.

Address and Eligibility Records Maintenance:

Hypothetical 10: An active local citizen brings in evidence that the address of legal residence for a registered voter is actually a home that has been abandoned or condemned for the last 4 years. The registered voter voted in the last election at the polls without making an address change. What do you do with the information?

Address and Eligibility Records Maintenance:

Hypothetical 10: An active local citizen brings in evidence that the address of legal residence for a registered voter is actually a home that has been abandoned or condemned for the last 4 years.

The registered voter voted in the last election at the polls without making an address change.

What do you do with the information?

Send an Address Confirmation Request. Other possibility if you have reason to believe that the person continues to perpetrate fraud is to refer the matter to the State Attorney's for investigative work.



Address and Eligibility Records Maintenance **Certification of Activities Reports**

- **Submit timely and thorough bi-annual certification of activities reports**
 - Due January 31 and July 31 of each year for prior 6 months
 - 2 distinct reports
 - Address list maintenance activities (section 98.065, Fla. Stat.)
 - Activities related to the identification of, notice to and removal of ineligible registered voters (section 98.075, Fla. Stat.)



Address and Eligibility Records Maintenance

Address List Maintenance Report

- **Activities triggered by changes in addresses (aggregated totals)**
 - How many address confirmation requests did you send out during the prior 6 months?
 - How many voters did you place on the inactive list during the prior 6 months?
 - How many voters did you remove from FVRS because they had been on the inactive list and had not voted, attempted to vote or update their voter registration records after 2 general (federal) general elections?



Address and Eligibility Records Maintenance

Records (Eligibility) Maintenance Report

- Activities triggered by changes in eligibility (aggregated totals)
 - How many notices of potential ineligibility did you send out during the prior 6 months?
 - How many registered voters responded to the notice?
 - How many of those notices came back as undeliverable?
 - How many notices of potential ineligibility did you publish in the newspaper?
 - How many hearings were requested?
 - How many voters did you remove from FVRS because they were ineligible?



Address and Eligibility Records Maintenance

Two Distinct Maintenance Activities Reports

- If the reason for removal is period of inactivity after placement on inactive list, then only report it on the Certification of Activities Report for Address List Maintenance.
- If the reason for removal a person is removed from FVRS because of ineligibility, then only report it on the Certification of Activities Report for Records (Eligibility) Maintenance.
- For all other activities associated with address list or eligibility regarding the same voter, report the activities separately as aggregated data.



Address and Eligibility Records Maintenance

Summary

- **Focus efforts and actively conduct list maintenance** in off-Election years
- **Expect increased attention** from public, political committees sponsoring petitions (initiatives, recall), political parties, media and DOJ regarding accurate and current rolls.
- **Anticipate more oversight** from Division of Elections to follow up on removal of deceased, duplicates, and felons – Shall include tracking status and providing reminders to SOEs.

More Questions?