

Testimony of J. Christian Adams

Before the U.S. House of Representatives Committee on House Administration

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Chairman Steil, Ranking Member Morelle, Members of the Committee, thank you for the invitation to offer testimony in today's hearing.

List Maintenance Requirements of Section 8 of NVRA

Here's a question Congress might ponder: What does the Section 8 of the National Voter Registration Act mean when it mandates that states must "conduct a general program that makes a <u>reasonable effort</u> to remove the names of ineligible voters from the official lists of eligible voters?" According to federal courts, unfortunately, it means next to nothing. That isn't what Congress intended.

Courts have unfortunately interpreted the language passed by this Congress in 1993 to find the mere *existence* of a list maintenance program is far more important than its *effectiveness*. Panels of the Sixth² and Eleventh³ Circuit Courts of Appeals reached these conclusions, despite, for example, Michigan having over 25,000 dead registrants – many dead for over two decades. In Florida, Broward County allowed noncitizens to vote and deferred the removals of ineligible registrants for years out of sheer incompetence.

The list maintenance requirements within the National Voter Registration Act (NVRA) of 1993 are gutted, particularly in the Sixth and Eleventh Circuits.

It's ironic, since the NVRA owes its existence to these very same list maintenance requirements of the NVRA. Senator Bob Dole's compromise list maintenance amendment in 1993 broke a filibuster that would've doomed the bill, just as a steadfast filibuster doomed previous attempts to pass NVRA in previous Congresses.

² Pub. Int. Legal Found. v. Benson, 136 F.4th 613 (6th Cir. 2025).

¹ 52 U.S.C. §20507(a)(4).

³ *Bellitto v. Snipes*, 935 F.3d 1192 (11th Cir. 2019).

These troubling court rulings will become the primary cause of voter rolls gathering deadwood.

Some more detail: The Public Interest Legal Foundation originally brought a list maintenance lawsuit against the Broward County Supervisor of Elections in the Southern District of Florida. Despite the law nearing its 30th birthday at the time, this case was *the first to have a full bench trial*. The evidence of Broward County's alleged failures to follow federal law included testimony about voters who moved away, voters who died, and a ratio of registered voters to eligible residents exceeding 100 percent, according to a method borrowed from the Justice Department.

This evidence survived a motion to dismiss, but the trial court and the Eleventh Circuit eventually rejected these theories. The Eleventh Circuit generally held that if an election official makes an effort to clean rolls, no matter how shoddy the effort is, it's acceptable and that best practices are not required under the NVA.⁴ The proof is decidedly not in the NVRA pudding.

The Public Interest Legal Foundation has since abandoned ratio theories – where more voters are registered than alive as a basis for liability - and instead focused on demonstrating real world examples of failure to maintain voter rolls, real dead people on the rolls. In early 2020, PILF built a database of nationwide voter rolls to identify likely deceased and duplicate registrations. We validated our findings by using the Social Security Death Index (SSDI), the National Change of Address (NCOA), and Experian commercial data systems.

Supplementing voter rolls with commercial data works. Commercial data tools let the Public Interest Legal Foundation effectively test American voter rolls for accuracy. **Commercial**

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⁴ Bellitto v. Snipes, 935 F.3d 1192 (11th Cir. 2019)

data reveal problems on the rolls far better than ratios. Ratios yield a clue something might be wrong; Commercial data tell you specifically which records are wrong. PILF's database doesn't rely on incomplete data, snake oil, partial dates of birth, or rumors. We use the best possible means to detect dead and duplicates – commercial credit data.

We were surprised to learn that states like Arizona, Georgia, Michigan, and Texas had multitudes of deceased on their rolls. We briefed courts on the risks of relying on various states' voter rolls if they moved toward all-mail elections in 2020.⁵ We gave election officials the results of our research.

Unfortunately, some, notably Michigan Secretary of State Jocelyn Benson, failed to act.

Despite positive trends in other states, the list of likely deceased registrants in Michigan only grew worse. A significant number of the **25,000 likely deceased Michigan registrants had** been registered for decades after death. *Decades*. Once PILF dug deeper in discovery into what Michigan was doing to keep rolls clean, and failing to do, the breakdowns became more apparent.

In litigation, however, the U.S. Sixth Circuit⁶ interpreted the language that Congress passed requiring a "reasonable effort" to keep the rolls clean means:

"[A] program that makes a rational and sensible attempt to remove dead registrants; a state need not, however, go to 'extravagant or excessive' lengths in creating and maintaining such a program."

Notice the court never says successful, or effective. Results don't matter. The proof is *not* in the pudding. I do not believe this is what Congress intended. I do not believe the

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⁵ https://publicinterestlegal.org/cases/

⁶ Pub. Int. Legal Found. v. Benson, 136 F.4th 613 (6th Cir. 2025).

Republicans would have dropped their filibuster with this limp version of a list maintenance standard.

A mere "rational attempt" is the standard. Michigan Secretary of State Jocelyn Benson got an A for effort from the court, but she deserved an F for outcome. Tens of thousands of dead registrants on the active rolls. Never mind if someone is registered multiple times. Never mind if a registration record is missing the date of birth. None of this matters under these court rulings, only whether a state makes a "rational" and "sensible attempt" to get the job done. Results are irrelevant. An attempt is what matters to the courts.

That standard isn't what the Republicans dropped a filibuster for in 1993. Congress might fix this.

Michigan and every other state might also consider the money they have wasted on the Electronic Registration Information Center (ERIC) to receive voter list maintenance data. ERIC makes big mistakes, as the Public Interest Legal Foundation's recent lawsuit against Oregon demonstrated. Oregon was removing living registrants from the rolls under ERIC's mistaken data guidance because, they thought, the registrants according to ERIC were dead. They weren't; they were alive. ERIC was giving member states garbage data and member states were removing living voters from the rolls, and our lawsuit showed Oregon had to go back and reinstate voters from the grave.

Worst Practices & Why the Voter Rolls Stay Dirty

Failed list maintenance isn't usually a political conspiracy to keep rolls dirty. It would be easier to fix if it were that simple. Instead, it is most often bureaucratic neglect and the inertia of government. It is a series of small decisions over years – inertia, failure to use all the tools

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⁷ PILF v. Read, (D.OR. 2025).

available, unwillingness to listen to people with which they disagree, defensive crouches, and that familiar characteristic – simply being set in their ways. As in Broward, it was rank incompetence.

It is tragic to watch some organizations, and politicians, reflexively defend the broken status quo. What do I mean? Wagon circling, attacking reform efforts, and most commonly, ridiculing and smearing those who speak about the broken state of the rolls. Politicians who are more interested in grandstanding and attacking those with whom they disagree instead of fixing demonstrable failures are part of the problem.

A common failure is that a registrant's data is often improperly recorded at the point of registration. The voter may never know his or her record was botched if they can still cast a ballot. But when circumstances change, like name or address changes, quite often the record update process generates a duplicate registration because of the original mistake. Or triplicate.

I've seen duplications reach up to being registered six times for a single voter in

Allegheny County, Pennsylvania - Rashawn Slade.⁸ Those who personally attack the people who monitor these problems cannot seriously defend the six voter registration forms submitted by Rashawn Slade and accepted by election officials in Pennsylvania in a short period of time.

⁸ See appendix to my testimony. The Third Circuit Court of Appeals recently held that PILF did not have standing to seek public records of this sort under Section 8 of the NVRA because this Congress, apparently, did not think discovering breakdowns in list maintenance like Rashawn Slade being registered six times was something that the NVRA was designed to uncover through the public inspection provision. The Third Circuit ruled there were no "downstream consequences" to PILF by not being able to obtain information about list maintenance breakdowns like Slade's six simultaneous registrations (and similar breakdowns) and providing this testimony to Congress. That wasn't enough for Judge Rendell, writing for the panel. The breakdown with six Slade registrations, along with thousands of breakdowns discovered by PILF, were all obtained through NVRA public inspection requests prior to the Third Circuit's opinion. After the opinion, it is hard to know how PILF or this Congress can get a complete look at the state of list maintenance, unless Congress were to take steps to undo the standing ruling in PILF v. PA Secretary of the Commonwealth. (Case No. 23-1590, Third Circuit, 2025). It is my position the Third Circuit is wildly incorrect in its interpretation of *Transunion v. Ramirez*, 594 U.S. 413 (2021). PILF will seek certiorari in the Supreme Court.

Poor list hygiene is a reliable warning signal for future list maintenance problems. The Public Interest Legal Foundation discovered **nearly a quarter of the New York statewide voter roll was missing Social Security numbers**. Left alone, this meant roughly 3 million registered New Yorkers could not be directly compared to the Social Security Death Index to find a reliable match when needed.

New York is not an outlier. This year, the Public Interest Legal Foundation is reviewing a growing number of state voter rolls with a focus on fixable hygiene issues.

Just in Maine, we found roughly 18,000 apparently deceased registrants; nearly 1,500 examples of intrastate duplicates; and another 900 examples of interstate duplicates between Maine and other states. We issued a report on these findings this month. ¹⁰

We have found voters who registered after they died, like Judy Presto who registered to vote and voted in 2020 after dying in 2013. I visited her grave and took the photo in Appendix 2 to my testimony.¹¹ If Pennsylvania had been using commercial data to screen voter rolls, this illegal vote would not have happened.

We also informed **New Jersey this month about more than 10,000 cases of intra- and interstate duplication**, usually due to placeholder data which can confuse officials during data entry.¹²

New Jersey, which has statewide elections this year, is consistently one of the worst states for inserting placeholder data in records, especially when officials fail to capture dates of

⁹ Rep. Claudie Tenney (NY-22); Congresswoman Tenney Sends Letter to Demanding DOJ Enforce Federal Help America Vote Act (October 6, 2022), https://tenney.house.gov/media/press-releases/congresswoman-tenney-sends-letter-demanding-doj-enforce-federal-help-america

¹⁰ PILF Letter to Maine SOS (July 8, 2025), https://publicinterestlegal.org/wp-content/uploads/2025/07/7.8.2025- Maine-Data-Findings-Overview.pdf

Her widower was charged. See, https://www.wpxi.com/news/top-stories/south-park-man-charged-with-casting-ballot-behalf-dead-wife-after-claiming-mail-was-stolen/OZNWXNHNXBEWHOTOGDNLLNGPPU/

¹² PILF Letter to New Jersey SOS (July 16, 2025), https://publicinterestlegal.org/wp-content/uploads/2025/07/7.16.2025-NJ-Data-Findings-Overview.pdf

birth and registration. Twice now, since 2022, we've pointed to more than 15,000 records showing placeholders. This month, my team drew attention to more than 2,500 examples of intrastate duplication. Sixty-five percent of those duplicates contain placeholder dates of birth reading "1/1/1800" in the roll.

New Jersey demonstrates how bad hygiene creates more downstream voter roll maintenance problems. For example, voter registrations with missing data or small errors can mushroom into duplicate mail ballots scattered around the state.

Modeling Best Practices

It's not all bad news, though. Just because there isn't a private right of action under HAVA and courts are shrinking the effectiveness of the NVRA, there are still ready solutions and best practices.

During our New Jersey study, we sampled 10 random voter registration records with placeholder dates of birth. We triangulated the voter roll to Social Security and commercial credit records. We were able to find all the samples' missing birthdates in minutes. Seven of those ten are alive and still residing where the voter registrars last saw them. Two were found to be deceased and lingering on the active rolls for 20 years apiece. The tenth registrant moved to St. Lucie County, Florida, in 2017 and is still registered twice.

These commercial data tools are easy to use and are urgently needed in election offices around the country. I must give Election Assistance Commissioner Don Palmer credit for urging the development of commercial data in list maintenance practices. Careful and well-informed list maintenance practices will improve American voter rolls. Several states have

¹³ PILF; New Jersey: Tens of Thousands of Voter Registrations are Duplicated, Missing Critical Information (June 2022), https://publicinterestlegal.org/reports/new-jersey-tens-of-thousands-of-voter-registrations-are-duplicated-missing-critical-information/

adopted many of the best practices Public Interest Legal Foundation first helped promote in 2017.¹⁴ With credible data tools, registrars can experience this element of their work as if they were operating on easy mode.

Unequal Sovereignty and List Maintenance

One last thing. In 1993, Congress exempted six states from compliance with the National Voter Registration Act, including the transparency obligations. ¹⁵ The Public Interest Legal Foundation is challenging these obsolete exemptions as violations of Equal Sovereignty of the States that the Founders made central to the formation of the Republic in 1787. ¹⁶ These exemptions were justified in statute because those states had same-day voter registration – or for North Dakota – no voter registration in 1993. Since then, many other states have adopted same-day registration but are not exempt. The exemptions no longer match current circumstances and are obsolete. This matters, because states like Minnesota and Wisconsin need not comply with the election transparency requirements of the NVRA and this hurts confidence in elections. We simply cannot get the data we can get in 44 other states to see if election officials are doing their job. Congress can fix this by updating the transparency statute to include electronic records and apply transparency to every state.

I am bullish about the future, but what Senator Dole thought would clean the rolls was effectively wrecked by two federal courts. Section 8 of Motor Voter won't get the job done unless Congress fixes these court decisions and makes elections transparent in every state. Thank you for your invitation to testify.

¹⁴ PILF; Best Practices for List Maintenance (2017), https://publicinterestlegal.org/reports/best-practices-achieving-integrity-voter-registration/

¹⁵ The six states currently exempt are New Hampshire, Wisconsin, Minnesota, North Dakota, Wyoming and Idaho.

¹⁶ PILF v. Simon, (D.MN. 2024) and PILF v. Wolfe, (D.WI. 2024).

Respectfully submitted,

J. Christian Adams, Public Interest Legal Foundation

For more information: www.publicinterestlegal.org

Appendix 1 – Rashawn Slade Six Simultaneous Registrations

Number One of Six



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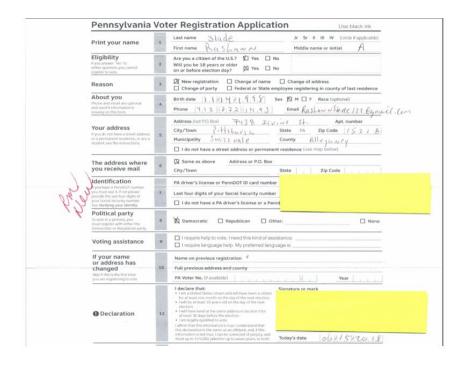
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Appendix 2 – Judy Presto

Judy Presto registered to vote in 2020 in Pennsylvania.

Judy Presto voted in November 2020 in Pennsylvania.

Judy Presto's grave National Cemetery of the Alleghenies.

