

How Same-Day Voter Registration Reduces Election Litigation

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Same-day voter registration allows eligible U.S. citizens to register to vote and cast their ballots during a single visit to a polling place, without the need for additional steps. Same-day registration offers a number of benefits that make it an important feature of modernized, streamlined, and secure elections. Beyond the benefits to voters and election officials, same-day registration offers an additional but less discussed advantage that's increasingly important in today's contentious election environment: reduced likelihood of litigation.

Litigation-reducing benefits of same-day registration include:

- **Promoting Uniformity Statewide.** Same-day registration creates a bottom-line rule in all counties within a state. It avoids disparate practices where some counties are more strict in processing provisional ballots cast by unregistered voters or voters with out of date registrations, while others are more lenient. This uniform statewide practice avoids litigation about differential treatment of voters and provisional ballots between different counties, or even different polling places. Voters using same-day registration can know with certainty that they will have their vote counted, regardless of where in the state they reside.
- **No Litigation Around Registration Deadlines.** In recent election cycles, there has been litigation around voter registration deadlines that fall on a holiday¹ or are impacted by weather events.² Similarly, lawsuits have been brought when a state's online voter

¹Fischer, H. (2016, September 29). *Columbus Day holiday won't provide voters extra time to register.* Arizona Capitol Times.

<https://azcapitoltimes.com/news/2016/09/29/columbus-day-holiday-wont-provide-voters-extra-time-to-register/>

²Wan, W. (2016, October 12). *Florida voter registration extended to next week after Hurricane Matthew.* The Washington Post.

<https://www.washingtonpost.com/news/post-nation/wp/2016/10/12/voter-registration-in-florida-extended-to-next-week-after-hurricane-matthew/>

registration system crashes³ around the voter registration deadline. Same-day registration makes these cases less important and high stakes, since even if they miss the pre-election deadline for online or mail registration, voters can always still register to vote at the polls during early voting and on election day.

- **No Litigation Around “Failed” Registrations.** Whether due to an error by the voter, an election official, or the DMV or another voter registration agency, a voter registration form submitted in advance of the election might not be processed. Post-election litigation, particularly in close elections,⁴ can hinge on the treatment of these registrations that were never added to the rolls. Same-day registration sidesteps these issues by creating a safety net. Regardless of whether a voter should have been registered before election day, they can always correct an issue and register at the polls.
- **Reduced Litigation from Voter Confusion.** Same-day registration can simplify the voting process by establishing a single, easy to understand deadline for voter participation. Registration cutoff dates and forms can often confuse voters. Clear rules like same-day registration facilitate voter education, prevent misunderstandings, and reduce the likelihood of litigation arising⁵ from unclear or seemingly arbitrary distinctions.
- **Accessibility and voter participation.** Same-day registration helps remove barriers to voting by establishing a one-stop-shop to participate in the election. It particularly

³ WDBJ. (2016, October 19). *Virginia online voter registration system crash leads to lawsuit*. WDBJ7. <https://www.wdbj7.com/content/news/Virginia-online-voter-registration-system-crash-leads-to-lawsuit-397591951.html>

⁴ Howe, S. (2021, January 8). *NY22: 2,400 voter registration forms were not processed in Oneida County*. Observer-Dispatch. <https://www.uticaod.com/story/news/politics/elections/national/2021/01/08/anthony-brindisi-claudia-tenney-ny-22-2400-not-registered-oneida/6589449002/>

⁵ Wildstein, D. (2022, November 4). *Recently naturalized citizen who thought she was able to vote can't because she didn't register, judge rules*. New Jersey Globe. <https://newjerseyglobe.com/judiciary/recently-naturalized-citizen-who-thought-she-was-able-to-vote-cant-because-she-didnt-register-judge-rules/>

benefits transient populations, college students, and people who have recently moved or naturalized. By accommodating these individuals and ensuring their inclusion, same-day registration can increase overall voter turnout. Higher voter participation tends to lead to fewer claims of voter suppression or disenfranchisement, reducing the potential for litigation.

- **Lower Risk of Recount Litigation and Disputed Results.** Similarly, by increasing turnout, same-day registration reduces the risk of a recount or a disputed election. Depending on the election, higher turnout can increase the margin of victory. Indeed, an election with fewer voters obviously has the potential to be much closer than one with more voters. A higher margin of victory reduces the probability of an election decided by a handful of votes that results in recount litigation or a disputed election.

By providing an accessible and efficient registration system, same-day voter registration contributes to a smoother and more inclusive electoral process — all while reducing the need for litigation. It's a policy that should be in every state's tool belt.