

# The Pennsylvania Voter-Not-Verified Vulnerability

## Verity Vote

### Introduction

Pennsylvania is one of fifteen states that do not require identification to vote. A lesser known fact is that Pennsylvania law does not require verification of identity or residency to register to vote. The verification requirements were removed via a Directive from the Department of State (DoS) which instructed counties to register applicants even if the applicant provided invalid identification or no identification. The DoS rationale for registering these unverified applicants is that many of the non-matches of ID numbers could be due to transposition of digits or derivation of the applicant's given name. Based on the DoS directive, if an applicant simply affirms that they meet the age, citizenship, and residency requirements to become a qualified elector, the applicant must be registered regardless of verification of identity.

On the Federal level, the Help America Vote Act of 2002 (HAVA) requires that individuals registering to vote in federal elections present identification in the form of either a driver's license number or the last four digits of their social security number in order to verify their identity. HAVA specifically requires states to verify the accuracy of the information provided by the applicant by matching the number on the application to the number in the state motor vehicle database or the federal SSN verification system. If the person declares that they do not have a driver's license or SSN, there are other forms of identification that can be presented to verify identity. The PA DoS acknowledges that HAVA "does explicitly require that an election official successfully match the information provided" as a condition for voting in an election for Federal office.

To meet the HAVA match requirement, when a registered voter submits an application for a mail ballot, the PennDoT ID or the SSN4 is automatically compared to the records at PennDoT or the SSA. If the ID numbers do not match, a ballot is mailed to the voter with a Not Verified (NV) designation. It then becomes the responsibility of the county to set aside the NV ballot until they can obtain proof of ID. The Directive to register voters without verification of identity, combined with the delivery of mail ballots without verification, creates conditions that shift the burden of verification from the DoS' automated matching system to county election offices where resources are already scarce. Deferring federally mandated ID requirements to ballot return processing causes some counties to forego the HAVA requirement. This results in the acceptance and counting of unverified ballots.

The DoS has dismissed concerns about this policy of distributing unverified mail ballots by assuring the PA legislature that that they are few and that the ballots won't be counted unless the voter provides valid identification to the county board of elections. The DoS testified on September 14, 2022, that the unverified ballots would have to be set aside until the county could contact the voter for identification. But less than two weeks later, the DoS issued Guidance informing counties that verification of identification is done "before"

the ballot is sent to an applicant. Due to this conflicting information from the DoS, even conscientious election workers could unknowingly accept and count ballots for which no verification has ever occurred.

The impact of this issue on the 2022 General Election cannot be overstated. As of October 17, 2022, a shocking 249,000 unverified mail ballots have been sent to applicants who provided invalid identification or no identification at all. The ramification of this defective process is that tens of thousands of people would have to show up at a county election office to present ID to comply with the law rather than the trivial process of correcting at the time of entry.

## Department of State Directive on HAVA

In 2018, the Secretary of the Commonwealth issued a directive instructing counties to register voters regardless of whether the driver's license number or the last four digits of the social security number match the records of PennDOT or the records of the Social Security Administration. The DoS Directive on HAVA matching makes it clear that Counties must register people even if they provide invalid Social Security Numbers or invalid driver's license numbers. Thus, eliminating any requirement for verification or confirmation of identity for new voters.

*"Counties must ensure their procedures comply with state and federal law, which means that if there are no independent grounds to reject a voter registration application other than a nonmatch[sic], the application may not be rejected and must be processed like all other applications."*

A County cannot even require a person to correct or validate the invalid numbers:

*"an applicant whose driver's license or last four of SSN could not be matched MUST be accepted, unless the county has identified another reason to decline the application." <sup>1</sup>*

This directive makes the verification of identity and eligibility for mail ballot applications even more critical to ensuring the integrity of elections in the Commonwealth. Unfortunately, ballots are delivered to unverified registrants and to requesters who submit invalid PennDot ID and invalid SSN4.

## Ballots Sent to Unverified Voters for 2022 General Election

Table 1: 2022 General Election Not-Verified ballots, by county, including Online Mail-In Ballot Application, Not Verified (OLMailNV) and Online Regular Absentee Ballot Application, Not Verified (OLRegNV)

County	Not-Verified Ballots
ALLEGHENY	33441
PHILADELPHIA	30428
MONTGOMERY	28501
CHESTER	21103
BUCKS	18498
DELAWARE	11737
LANCASTER	9207

The Social Security Administration publishes records of SSN verification transactions on the HAVV<sup>2</sup> website, making them available to the public. As of 10/15/2022, PA processed over 58,000 non-matches of the SSN4. PennDoT, in contrast, does not make verification transaction data publicly available, so Verity Vote was unable to obtain the precise number of mismatched PennDoT IDs submitted on mail ballot applications. It may be possible to estimate this number by subtracting the HAVV mismatches from the total number of Not Verified ballot types. 2022 Mail Ballot Data from the PA website shows that counties have already mailed 243,248 unverified mail ballots and 5,866 unverified absentee ballots. Allegheny and Philadelphia Counties have sent over 30K unverified ballots that should be set aside pending verification of identification<sup>3</sup>.

## PA State Government Committee Hearing—September 14, 2022

During the State Government Committee Hearing on September 14, 2022. Representative Ryan asked Deputy Secretary Marks to explain the large number of requests submitted to the Social Security Administration Help America Vote Verification (HAVV) system. Specifically, he asked why Pennsylvania had 425,766 verification requests through HAVV System from January to April 2022. Deputy Secretary Marks indicated that the HAVV is used to verify information submitted by new voters and on applications for absentee and mail ballots. Below is the response to the question about the HAVV System:

**Deputy Secretary Jonathan Marks:** *“We also use it to verify ID, so it’s not just new voters. It’s also used to verify ID provided on Absentee and Mail-in applications and those are verified before each election. So, you know, we have permanent voter list for absentee and for mail in. It is verified multiple times during the year before each election to make sure, for example, that the person wasn’t deceased since the last time they voted. So, that would be—that’s what my gut tells me. You know, we do a lot more than just verify new registrations we also verify SSN4 for other reasons like mail-in ballots.”*

He then went on to testify that if a person submits and invalid PennDOT ID or an invalid SSN4, the counties must still send a mail ballot to the requester who provided invalid identification.

**Deputy Secretary Jonathan Marks:** *“I want to make sure we’re clear about the distinction between the two processes. Voter registration, there is no federal*

*requirement or state requirement that those numbers match or that every voter has to have one of those two numbers. With mail-in balloting, it is a requirement. If when you apply, your PennDOT ID cannot be verified or your last four of SSN cannot be verified, the county can still issue the ballot, but the ballot doesn't count unless the voter provides a valid form of ID – either a PennDOT ID or the last four of SSN that can be verified or one of the other forms of identification provided for in the statute.”*

Deputy Secretary Mark's testimony that counties verify ID prior to counting a ballot was subsequently contradicted by the PA Department of State: Guidance Concerning Examination of Absentee and Mail-In Ballot Return Envelopes dated September 26, 2022. The Guidance tells the counties that the identification is verified before sending a ballot to an applicant.

## DOS Directive – September 26, 2022

The DoS distributed a guidance document dated September 26, 2022, regarding the examination of mail and absentee ballot return envelopes. That directive included information about the verification of ID.

*“The Pennsylvania Election Code describes processes that a qualified voter follows to apply for, receive, complete, and timely return an absentee or mail-in ballot to their county board of election. These processes include multiple secure methods used by the voter's county board of election to verify that the qualified voter's absentee or mail-in application is complete and that the statutory requirements are satisfied. These include voter identification verification confirmed by either a valid driver's license number, the last four digits of the voter's social security number or other valid photo identification, and unique information on the application including the voter's residence and date of birth.*

***Before sending the ballot to the applicant***, the county board of elections confirms the qualifications of the applicant by verifying the proof of identification and comparing the information provided on the application with the information contained in the voter record. *If the county is satisfied that the applicant is qualified, the application must be approved.”*<sup>4</sup>

Deputy Secretary Marks testified that ballots are mailed to unverified applicants. But less than two weeks later, the Department of State's Guidance incorrectly informs counties that the verification is done before the ballot is sent. This conflicting information from the DoS could create confusion in the counties and results in counting unverified ballots.

## PA State Government Committee Hearing- March 18, 2021

After the 2020 General Election, the PA House State Government committee held a series of election oversight hearings. During the March 18th, 2021, hearing, Deputy Secretary Marks testified about mail and absentee ballots being mailed to applicants who provided

invalid SSN4s, PennDOT IDs or who provided no ID. He testified that these ballots cannot be counted until the voter provides some form of ID to the election office.

**Deputy Secretary Jonathan Marks:** *“Deputy Secretary Jonathan Marks: They have to make a request, and on that request they have to provide identification. And that identification has to be verified, so that's either a driver's license or other PennDOT ID number or the last four digits of their Social Security number. If that doesn't match or if they can't provide that, they'll still be issued a ballot, but their ballot cannot be counted until they provide some form of identification as outlined in the Pennsylvania Election Code within six days after the election. So that ballot will basically be set aside. If they don't provide that identification, it can't be counted.”*

Later, Mr. Marks pointed out that ballots sent to unverified voters are “marked systematically as ID not verified.” He testified that it is the responsibility of the county to set the ballots aside and ensure that the individual provides ID. Otherwise, the ballot cannot be counted. This is a burden placed on the county election workers, yet some counties were not even made aware that mail ballot applications were approved for voters who provided invalid identification or no identification.

Representative Clint Owlett pointed out the strict requirement and the disparate treatment of in person voters. If a first time voter goes to their polling place to vote in person on election day, they must show ID before they can receive a ballot. Due to the DoS directive, a mail voter doesn't have to show ID to receive the ballot.

**Representative Owlett:** *“In order to get a ballot in my hands, if I'm in person, I have to show and get that – that ID has to be verified. If I go in person to get that ballot in my hands, I have – that ID has to be verified; is that correct? But if I'm doing mail-in, I don't necessarily have to have the ID to get that ballot in my hands. That would be, then, verified on the back end six day – hopefully within the six days, right?”*

**Deputy Secretary Jonathan Marks:** *Right. You either have to provide an ID that can be verified during the application process, or you have to present to the County Board of Elections some other form of identification within six days after the election. Otherwise, your ballot won't be counted.”*

Representative Clint Owlett asked Jonathan Marks why the identity and eligibility of a voter isn't verified before putting a ballot in the hand of an unverified mail voter. Representative Owlett pointed out that it would be a better security measure and it would also lessen the burden on the county election staff. Marks indicated that it was a small percentage of the mail voters who were not verified before receiving a ballot.

**Deputy Secretary Jonathan Marks:** *“Certainly. And the overwhelming majority of, you know, applications that do come in, the person, obviously, is able to provide, a driver's license or Social Security number that can be verified. But you know, for the small percentage that that can't, I guess the question is what would be the mechanism? Would they submit a photocopy? You know, you'd have to look at the logistics of that. But I certainly think it would be beneficial*

to the voter to have that vetting done as early in the process as possible so that they don't have to worry about submitting a ballot and then somehow getting to their County Board of Elections to present some other form of ID."

**Representative Owlett:** "Yeah. That's my thought, too, because our county officials are busy as it is on Election Day, and now all of a sudden that's an additional sorting process that really doesn't need to be taking place at that time. I would think that that ID could've been and should've been produced ahead of time. So do we – do counties keep track, or like, do we have any idea in the last election as far as how many of these ballots that the ID needed to be followed up on?"

Deputy Secretary Marks testified that he did not know how many of these unverified ballots were sent to unverified voters in the 2020 General Election. This seems to be a number that the DoS should have been monitoring during the election.<sup>5</sup>

## PA State Government Committee Hearing- March 25, 2021

At the election oversight hearing the following week, several county election directors were present to testify about their experiences during the 2020 General Election. Patricia Nace, former Election Director from Snyder County and Election Consultant for Northumberland and Snyder Counties testified that she was not aware that mail ballots were sent to unverified voters.

**Representative Keefer:** Okay. And then I have another question for you. Are you familiar with an unverified ballot?

**Ms. Nace:** Unverified? I'm not sure that I know that terminology.

**Representative Keefer:** Okay. It was something that was explained to us in our last hearing, so I had not heard about it at any county level, so I was just checking to see if at the county level –

**Ms. Nace:** Voter not verified?

**Representative Keefer:** Excuse me?

**Ms. Nace:** What does that mean?

**Representative Keefer:** It was explained to us that when the State sends to you voters to enter into the SURE system and they do not have all the information required to validate their identity, but they've checked the box that they are an eligible voter, that you have to enter them into the SURE system. And they said what happens is that voter is sent out then – if they request a mail-in or an absentee ballot, they are sent out an unverified ballot, and then when that's mailed back, those are set aside. Do you have a process for that?

**Ms. Nace:** *I 'm not sure how voter registration would handle that in either county, but I'm assuming that if they did not have the information, I'm not sure why they would get an absentee ballot to begin with if there was something missing that they really should have continued to try and find the information on that voter before the absentee ballot would go out.*

**Representative Keefer:** *Okay.*

**Ms. Nace:** *I'm not sure why the ballot would go to someone who was not verified.*

Ed Allison, Lawrence County Election Director, testified that his county does identify the unverified ballots and sets them aside until they can “go after the missing information.”

**Representative Keefer:** *Correct. And so when they would request a mail-in ballot, would they receive this unverified ballot?*

**Mr. Allison:** *Yes, they would. And then of course at that particular point it is clearly delineated in the list whether or not it's been valid or verified or unverified. If it's unverified, then we go after the missing information, again, to get their file up to 100 percent complete.*

**Representative Keefer:** *And that's done after you still mail out that ballot, though, even though – and that's with the unverified ballot?*

**Mr. Allison:** *That is correct. If they are registered, they get a ballot.*

**Representative Keefer:** *Okay. So then you have a process in place to hold all of those when you receive them back?*

**Mr. Allison:** *Yes, ma'am.*

## Ramifications of Illogical Delegation

The DoS has created an unnecessary crisis by deferring verification from the time when the potential voter is filling out forms. Worse yet, they pushed this responsibility onto county election officials making it nearly impossible to verify the identify of the ballot requester.

County election officials have access to the results of the PennDOT verification and the SSN4 HAVV verification, but they have no substantive role in that matching process. County election officials report that, for some applicants, a letter may be generated and mailed to the voter, notifying them that the ID they provided did not match the SSA records. The letter instructs those voters to submit proof of identification to the county.

However, if a correction or proof of ID is not received, the county election officials report that they can and do count the ballots without the ID from the voter. In addition, several

counties report that they can “fix” the invalid ID in the system and accept the ballot (with no action taken by the voter).

This is an enormous task that the DoS has chosen to delegate to the county election offices for which the DoS has provided inaccurate guidance. This policy jeopardizes the counties’ ability to verify the ID of these nearly quarter million individuals and creates a situation where counties have to go after this missing information to comply with the law, all while trying to carry out their other election responsibilities.

This is likely to lead to some undesirable outcomes:

1. tens of thousands of ballots rejected
2. tens of thousands of unverified ballots accepted, in violation of the law
3. long lines of voters at county offices waiting to show id by the deadline
4. litigation of this policy, excessively delaying the final results

## HAVV Verification Records 2022 General Election

In the three months leading up to start of mail and absentee ballot delivery, PA counties have already processed over 58,000 applications on which the SSN4 provided did not match the records of the Social Security Administration.

Table 2: HAVV verification transactions since July 2022.

Week	Total Transactions	Total Non-Matches	Total Matches	Match Deceased
10/15/2022	66,092	5,263	60,829	6
10/8/2022	59,207	4,833	54,374	6
10/1/2022	44,248	3,813	40,435	16
9/24/2022	44,595	4,111	40,484	2
9/17/2022	33,674	4,129	29,545	7
9/10/2022	21,827	2,312	19,515	4
9/3/2022	17,528	1,586	15,942	5
8/27/2022	17,885	2,227	15,658	7
8/20/2022	105,150	5,880	99,270	90
8/13/2022	106,634	5,866	100,768	91
8/6/2022	136,044	6,051	129,993	128
7/30/2022	122,366	5,704	116,662	70
7/23/2022	31,433	2,676	28,757	35
7/16/2022	8,665	1,631	7,034	5
7/9/2022	5,182	897	4,285	4
7/2/2022	8,632	1,174	7,458	3
<b>TOTAL</b>	<b>829,162</b>	<b>58,153</b>	<b>771,009</b>	<b>479</b>

The SSA defines Total Non Matches as “the total number of verification requests where there is no match in our records on the name, last four digits of the SSN or date of birth.”

Marks said that the unverified voter’s ballot will not be counted unless the voter provides a valid form of ID. According the SSA, from July 3rd through October 15th, 2022, Pennsylvania counties have already processed over 58,000 applications through HAVV on which the information provided by the applicant did not match the records of the Social Security Administration. That is 58,000 invalid Social Security Numbers on applications which were approved despite the failure to verify the identify or eligibility of the requester. These unverified ballots have already been delivered to the voter. This is just a fraction of 240K+ unverified ballots sent so far for the 2022 election.

## Social Security Administration Verification System

The User Agreement for Voter Registration Information Verification System Services between Pennsylvania and the Social Security Administration limits the use of the HAV Verification System to new applicants for voter registration only.

*“Nationally, most people of voting age possess a valid driver's license. Consequently, verification of applicant information with Social Security Administration records will not be necessary or appropriate in the majority of cases. In addition, verifications contemplated under the terms of this agreement shall be requested only for new applicants for voter registration. This service shall not be used to verify information for voters already on state voter registration rolls.”<sup>6</sup>*

The Department of State reports that the SSA verification system is used to process information for voters already on the state voter registration rolls. HAVV transaction records confirm that Pennsylvania is not complying with the User Agreement.

HAVV was intended to be used at the time of registration. Verifying the identity and eligibility of voters at the time of registration, would allow the DoS to utilize the voter’s confirmed ID on the SURE voter record for the absentee and mail ballot application ID verification.

## SSA Database Usage

The number of Registered Voters in PA as of April 4th, 2022, was 8,727,500. According to the DoS Voter Registration Statistics, 13,342 new voters registered online between January 1 and April 4 of 2022. Only a small fraction of the 13K would likely not have a driver’s license or PennDOT ID (The 2016 Survey of the Performance of American Elections, SPAE, estimates that 5% of the voting age population has no government issued identification). The HAVV is only to be used to verify the accuracy of new applicants who do not possess a driver’s license. It is not to be used to verify information for voters already on state voter registration rolls. However, PA processed 425,766 verification requests through the HAVV system from January 1 to April 4, 2022, while only a fraction of the 13,342 new voters should have required that.

States are required to verify the driver's license number against the state MVA database. Only in situations where no driver's license exists should the states verify the last four digits of the new voter registrant's Social Security Number (SSN). The State submits the last digits of the SSN, name, and date of birth to the MVA for verification with SSA. In addition, SSA is required to report whether its records indicate that the registrant is deceased.<sup>7</sup>

## Unusual Number of HAVV Transactions 2020, 2021, 2022

Verity Vote reviewed the HAVV transactions for PA, GA, NC, OH, MI and FL from the week of 11/7/2020 through the week of 4/4/2022. These states were selected because they are of similar size to Pennsylvania but require voter ID. Pennsylvania processed nearly five times the number of transactions as the other five states combined. The average number of non-matches for the five states reviewed was 11,484 but Pennsylvania had a staggering 152,519 non-matches in that same period.

Table 3: PA has a surprising quantity of HAVV verifications relative to other states.

State	Total HAVV Transactions	Non-Matches	Registered Voters	Population
Pennsylvania	981,051	152,499	8,722,217	12,805,190
Georgia	50,866	17,525	7,004,034	10,936,299
North Carolina	48,020	10,444	7,264,266	10,807,491
Ohio	17,489	7,930	7,774,767	11,727,377
Michigan	1,352	498	8,091,176	9,995,212
Florida	60,365	21,024	14,284,346	22,177,997

## HAVA--Verification of Voter Registration Information

Voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes—or processed by a State unless the application includes— applicant's driver's license number or the last 4 digits of the applicant's social security.

HAVA Section 303(a)(5)(B)(i), requires the chief State election official and the official responsible for the MVA to enter into an information matching agreement to enable each such official to verify the accuracy of the information provided on applications for voter registration for elections for Federal office. to match information in the database of the statewide voter registration system with information in the database to enable each such official to verify the accuracy of the information provided on applications for voter registration.

**(5) Verification of voter registration information**

**(A) Requiring provision of certain information by applicants**

**(i) In general**

Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes—

(I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or

(II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number.

**(iii) Determination of validity of numbers provided**

The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law.

**(B) Requirements for State officials**

**(i) Sharing information in databases**

The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration.

Figure 1: Excerpts from HAVA (52 USC Ch. 209)

In a 2006 document, the DoS asserts that "Under HAVA and Pennsylvania law, the failure to achieve a match between a voter registration application and a record in the Commonwealth's driver's license database or the database of the Social Security Administration is not a reason to reject the application." The rationale is that there are too many non-matches due to transposition of digits, derivation of the applicant's given name and typographical errors. These non-matches could result in the rejection of applications from individuals who are otherwise eligible.

The document confirms the need to match the information provided by the applicant, "HAVA does explicitly require that an election official successfully match the information provided" as a condition for voting in an election for Federal office. Deferring the match from the time of voter registration to the time of ballot acceptance simply shifts the burden of verification or forces many counties to bypass the HAVA requirement to successfully match the information.<sup>8</sup> PA Election Code says that a notice will be sent with the ballot that requires the voter to provide proof of ID with the ballot or it will not be counted.

While HAVA specifically addresses voter registration, the vast majority of the non-matching identification was for voters who had already been registered. Only a fraction of the of the unverified ballots were sent to newly registered voters who would be required to provide ID prior to voting for the first time. DoS records show that could only apply to 18,402 of the 248,000 unverified ballots.

## References

- <sup>1</sup><https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/HAVA%20Matching%20Directive%202018.pdf>
- <sup>2</sup><https://www.ssa.gov/open/havv/#havv>
- <sup>3</sup><https://data.pa.gov/Government-Efficiency-Citizen-Engagement/2022-General-Election-Mail-Ballot-Requests-Departm/uhfm-zhus>
- <sup>4</sup><https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2022-09-26-Examination-Absentee-Mail-In-Ballot-Return-Envelopes-3.0.pdf>
- <sup>5</sup>[https://www.legis.state.pa.us/WU01/LI/TR/Transcripts/2021\\_0060T.pdf](https://www.legis.state.pa.us/WU01/LI/TR/Transcripts/2021_0060T.pdf)
- <sup>6</sup><https://www.ssa.gov/dataexchange/documents/66005--HAVA%20MOU%20MVA.pdf>
- <sup>7</sup> <https://www.ssa.gov/open/havv/#havv>
- <sup>8</sup><https://www.dos.pa.gov/VotingElections/Documents/Elections%20Division/Administration/Verification%20of%20Driver%27s%20License%20and%20SSN%20Information.pdf>

End of Report  
Submitted October 24, 2022

Verity Vote  
1451 Quentin Rd Ste 232  
Lebanon, PA 17042-7562  
717.220.8683  
verityvote.us