

States Embrace E-Signatures to Support Secure and Convenient Elections

Securing elections and making them more accessible and convenient, including the administrative processes that support them, are mission-critical priorities for U.S. states and territories. Secure and trusted voter identification is one major issue at the forefront of these initiatives.

As states continue to modernize their election processes, they're increasingly turning to innovative technologies to make voter identification easier, more dependable and more trusted. One such technology is electronic signatures. This paper examines the adoption of electronic signatures by states in their electoral process and how this technology can make elections both more secure and simpler for voters and election officials.

Wet signatures vs. electronic signatures

A “wet signature” indicates signing a physical paper document, form or contract with pen and ink. In comparison, an electronic signature (e-signature) is a fast, simple and secure way to sign a digital document. E-signatures can be used in nearly all the same instances as wet signatures; however, unlike wet signatures, e-signatures are also highly efficient, mobile-friendly and protected by digital security tools.

Congress passed the landmark [Electronic Signatures in Global and National Commerce \(ESIGN\) Act](#) in 2000, establishing that electronic signatures have the same legal status as traditional wet signatures in the United States¹. Therefore, any federal law with a signature requirement can be satisfied by e-signature.

Over the past two decades, states have enacted laws allowing e-signatures to help accelerate the collection and management of traditional wet signatures in various official procedures. For example, the Uniform Electronic Transactions Act (UETA) was introduced in 1999 and has been adopted by 49 U.S. states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. New York has adopted similar laws making electronic signatures legally enforceable. Among other things, UETA provides that when a law requires either a writing or a signature, an electronic record or an electronic signature can satisfy that requirement when the parties to the transaction have agreed to proceed electronically.²

The COVID-19 pandemic accelerated a trend of states implementing e-signature use in vital areas where the need for secure and reliable electronic verification is essential. E-signatures are trusted in each of the fifty states for government services such as benefits application/enrollment, administering unemployment insurance, automating HR paperwork processes, and streamlining legal and procurement operations. E-signatures are also trusted across other regulated industries to verify identities and ratify agreements when signing business contracts, transferring funds throughout the global financial technology segment, and granting access to highly sensitive personal health information (PHI).

How states are currently using e-signatures in elections

Most states already address, to some degree, the use of e-signatures in elections. As of the end of 2023, 43 states and Washington, D.C. explicitly mention the use of e-signatures in their election codes³. While the extent to which the signatures can be used varies, states have at least begun to recognize that e-signature technology is an important tool for election administration and related processes.

Some states are beginning to specifically allow e-signatures to have the same effect in law as traditional wet signatures.

- Kansas law states that a voter “application shall be signed by the applicant under penalty of perjury and shall contain the original signature of the applicant or the computerized, electronic or digitized transmitted signature of the applicant.” (K.S.A. 25-2309.)
- A Mississippi statute states that “instead of placing the signatures of voters in a paper receipt book, the signatures of voters may be electronically captured in the polling place and a paper version of the signatures of voters may be generated after the close of the polling place, which shall be sealed in the ballot box.” (Miss. Code Ann. § 23-15-547.)

States have also begun to modernize their voter registration systems by allowing e-signatures when registering to vote. These systems may utilize existing digital signatures already on file with another state agency (e.g., DMV) or capture the prospective voter’s signature with an electronic signature device, which is then transmitted to election officials.

- In Florida, the law states that “if the applicant’s name and date of birth are consistent with the records of the Department of Highway Safety and Motor Vehicles, the online voter registration system shall transmit, using the statewide voter registration system ... the applicant’s registration application, along with the digital signature of the applicant on file with the Department of Highway Safety and Motor Vehicles, to the supervisor of elections. The applicant’s digital signature satisfies the signature requirement” required for registration. (F.S.A. § 97.0525.)
- Illinois requires the State Board of Elections to “establish and maintain a system for online voter registration that permits a person to apply to register to vote or to update his or her existing voter registration. In accordance with technical specifications provided by the State Board of Elections, each election authority shall maintain a voter registration system capable of receiving and processing voter registration application information, including electronic signatures, from the online voter registration system established by the State Board of Elections.” (10 ILCS 5/1A-16.5.)

States are also beginning to allow e-signatures in their absentee ballot laws.

- In Mississippi, a voter “may sign an absentee ballot application by electronic signature.” (Miss. Code Ann. § 23-15-687.)
- Michigan law states, “an application signed using a stored digital signature or manual signature must be treated identically as an application signed with a physical handwritten signature.” It requires that “the online absent voter ballot application must provide an opportunity for a voter to use the voter’s stored digital signature on file with the secretary of state on the application.” The law provides that “the online absent voter ballot application must verify the voter’s identity and registration status by requesting the voter’s name, complete driver’s license or state ID number, full date of birth, last four digits of the voter’s social security number, and eye color.” (Mich. Admin. Code R 168.33.)

However, while most states are expanding the use of e-signatures in their elections and voter registration processes, some states specifically restrict or ban their use. This trend is especially prevalent when addressing the collection of signatures to submit ballot measures via the initiative, referendum and recall process. The ballot measure process involves collecting thousands of signatures to place a measure on the ballot.

- Montana specifically prohibits “electronic, digital, or facsimile signatures” when collecting signatures for statewide ballot issues. (MCA 13-27-103.)
- Likewise, Idaho law for initiatives and referendums voids “any signature that is not a physical signature, including an electronic signature.” (I.C. § 34-1807.)

Technology can help make elections safer and more secure

The COVID-19 pandemic accelerated many technology trends when in-person interactions were restricted. One of those trends was related to the use of technology for legal and security purposes, as authorities needed to verify a person's identity without necessarily having a face-to-face interaction. Businesses and government agencies embraced technologies such as remote online notarization and e-signatures, which predated the pandemic, to keep the economy moving while prioritizing security. Depending on the provider, e-signature technology can offer extensive, built-in security features including:

- An electronic record that serves as an audit trail and proof of the transaction
- A detailed certificate of completion that includes specific details about each signer on the document
- A method to digitally seal documents using Public Key Infrastructure (PKI) to indicate the e-signature is valid and that the document hasn't been tampered with or altered since the date of signing
- Multiple options to verify a signer's identity before they can access the document and sign

Election administrators should continue to consider how e-signature technology can enhance confidence and security in our elections.

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1 Public Law: 106 PL 229, 114 Stat. 466 (June 30, 2000). This includes the full statutory text.

2 Model Act: Uniform Law Commission, Uniform Electronic Transactions Act (1999), available at <https://www.uniformlaws.org/>.

3 Internal Research, 50-State Survey of Electronic Signature Use in Election Codes (Dec. 2023).

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