

Proving a Voter's Residence by Vouching: Some Questions and Answers

Max Hailperin

In Minnesota, voters registering on election day may have someone else vouch for them, that is, sign an oath before an election judge attesting to the voucher's personal knowledge of the registrant's residence within the precinct.¹ The following questions and answers provide context for considering whether concerns about vouching are well founded.

Why should we accept someone's word without documentary proof?

An election judge accepts a sworn oath for the same reason as a court of law accepts the sworn testimony of a witness. Our legal system has never viewed sworn testimony to be inherently less reliable than documentary evidence.

But legal tradition aside, isn't a document actually more reliable?

The address on a driver's license only says where you resided on some earlier date. A voucher, on the other hand, is swearing to where you currently reside. This distinction can make a document the less reliable alternative because Minnesota law requires you to reside in the precinct when you vote.²

Aren't those who register in advance held to a higher standard?

Those who register in advance can simply swear to their own residence, rather than needing someone else to vouch for them. If you go to your county auditor's office 21 days before an election, you can register with no proof of residence beyond your own signed oath.³ The auditor will try to verify the residence and if unsuccessful will alert the election judges to question you further.⁴ The election judges will question the facts of your residency and will ask you to again swear an oath. Nothing more is needed.⁵

What if someone falsely swears?

Just as lying to a court is punishable as perjury, falsely swearing an oath regarding residency is punishable as a felony under Minnesota's election law. The same is true for any other form of proof of residency, such as presenting a driver's license bearing a former address.⁶

But if someone uses a false name and address, how would they be found?

Although it might be hard to bring a fraudulent registrant to justice, the person who falsely vouched for them should be much easier to find. The voucher must either be a registered voter in the same precinct or a certified employee of a residential facility, such as a nursing home or veterans' home, in which the registrant resides. In the case where the voucher is another registered voter, they are not allowed to have registered using vouching at the same election.⁷ There is no way for registrants to vouch for each other or to have a chain of vouched-for vouchers.

¹ 2011 Minnesota Statutes 201.061, subdivision 3. Available at <https://www.revisor.mn.gov/statutes/?id=201.061>

² 2011 Minnesota Statutes 201.016, subdivision 1. Available at <https://www.revisor.mn.gov/statutes/?id=201.016>

³ 2011 Minnesota Statutes 201.061, subdivision 1, and 201.071, subdivision 1. Available at <https://www.revisor.mn.gov/statutes/?id=201.061> and <https://www.revisor.mn.gov/statutes/?id=201.071>

⁴ 2011 Minnesota Statutes 201.121, subdivisions 1 and 2. Available at <https://www.revisor.mn.gov/statutes/?id=201.121>

⁵ 2011 Minnesota Statutes 204C.12, subdivision 3. Available at <https://www.revisor.mn.gov/statutes/?id=204C.12>

⁶ 2011 Minnesota Statutes 201.27, subdivision 3. Available at <https://www.revisor.mn.gov/statutes/?id=201.27>

⁷ 2011 Minnesota Statutes 201.061, subdivision 3. Available at <https://www.revisor.mn.gov/statutes/?id=201.061>

By the time a fraud is detected, wouldn't the ballot be irretrievably cast?

This is true with any kind of election fraud. Even a system of provisional balloting, in which some ballots are set aside for a week or so before being counted, cannot avoid this circumstance because a fraud can take considerably longer to uncover.

So couldn't an individual willing to commit a felony swing a close election?

A sufficient number of fraudulent votes could swing a close election, whether the fraud was perpetrated using vouching or other means. The only recourse would be for a court to order a new election. However, it would be very unlikely for a rogue voucher to cause this amount of damage because Minnesota law limits each registered voter to vouching for at most 15 new registrants. Election judges have specific procedures in place to enforce this limit. Moreover, the vouched-for registrants cannot themselves vouch for anyone else at the same election, so there is no possibility that each of the 15 would vouch for 15 more.⁸

Max Hailperin is an election judge in St. Peter, Minnesota.

⁸ 2011 Minnesota Statutes 201.061, subdivision 3. Available at <https://www.revisor.mn.gov/statutes/?id=201.061>