

A photograph of a large, classical-style building with a prominent dome, illuminated at night. The building is the Missouri State Capitol.

A Success Story of the Public Agency Voter Registration Project

Registering Low-Income Voters through Public Assistance Agencies in Missouri

With growing agreement on the need to improve voter registration in the United States, it is important to recognize that those least likely to be registered are low- to moderate-income Americans. How can we bring more lower-income voters into the democratic process?



As this memorandum shows, the solution may be as simple as enforcing an existing—but long neglected—federal law. The National Voter Registration Act of 1993 (NVRA) requires, among other things, that states provide voter registration services at public assistance agencies and agencies serving people with disabilities. The public agency provision is a counterpart to the better known and widely successful “motor voter” provision of the NVRA, and was included precisely to reach this population of historically underrepresented Americans. But for too many years this aspect of the law has been poorly implemented and rarely enforced, and as a result millions of low-income Americans have been denied their legal right to government-provided voter registration services.

After years of neglecting their responsibility to help low-income clients register to vote, public assistance agencies in the state of Missouri went from collecting fewer than 8,000 applications a year to collecting over 180,000 applications in just fifteen months. This remarkable turn around came about through the *Public Agency Voter Registration Project*, a joint partnership of Project Vote, Demos, and the Lawyers’ Committee for Civil Rights Under Law, in cooperation with the law firms of Dewey & LeBoeuf LLP and Arthur Benson & Associates.



This case study documents how this success was achieved, and provides a timely and powerful reminder of how proper implementation of public agency voter registration can dramatically increase the number of low-income Americans who are registered to vote.

Public Agency Voter Registration

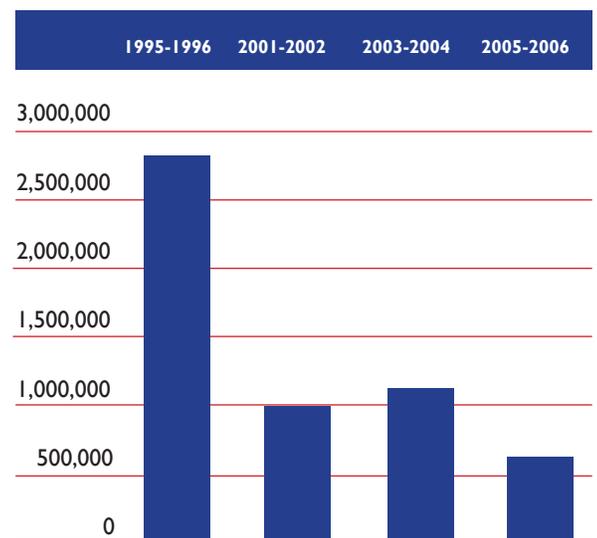
The National Voter Registration Act of 1993 (NVRA) is a landmark civil rights law enacted to reverse the effects of past discriminatory practices regarding voter registration, and to ensure equal access to registration and voting by all citizens regardless of their background or circumstances. The NVRA is the only federal law requiring that government affirmatively offer voter registration to broad segments of the population.

The Act is best known for its “motor voter” provision, which requires motor vehicle departments to offer voter registration to individuals applying for or renewing their driver’s licenses.¹ An equally important but less well-known provision is the requirement that states provide voter registration at public assistance agencies and agencies that serve people with disabilities when clients apply for benefits, recertify their eligibility, or change their address. Congress included this requirement in the NVRA to reach populations that might not be registered through voter registration services at motor vehicle offices. Populations that receive

voter registration services under the public agency provisions of the NVRA include younger, lower-income, and disabled citizens, urban residents, and elderly women: populations that are less likely to be registered and typically face the most barriers to registration.

Unfortunately, the NVRA has been poorly implemented in many states and poorly enforced by state and federal authorities. In 1995-1996, the first two years after the passage of the NVRA, 2.6 million Americans registered to vote at public assistance agencies nationwide.² In recent years, however, agencies have neglected the law, and registrations are now a fraction of what they once were. By 2005-2006, the number of public assistance agency-based registrations had suffered a staggering 79 percent drop. This steep decline occurred despite increasing numbers of people

Voter Registrations from Public Assistance Agencies



Source: U.S. Federal Election Commission and U.S. Election Assistance Commission.



needing to register to vote and increasing participation in public assistance programs.

Meanwhile, the registration gap between the rich and the poor remains. In 2008, only 65 percent of adult citizens in households making less than \$25,000 per year were registered to vote compared to over 85 percent of those in households making \$100,000 or more.³

In response to states' failure to comply with the NVRA, Project Vote and Demos developed the *Public Agency Voter Registration Project* ("the Project"), which is working in states across the country to increase compliance and encourage agencies to adopt best practices. These goals are achieved through a comprehensive strategy of assessment, advocacy, technical assistance, and—where necessary—litigation.

Missouri: A Case Study

Assessing Non-Compliance in Missouri —Spring/Summer 2007

Under the NVRA, the state of Missouri is required to offer voter registration services at Motor Vehicle License Fee, Employment Security, State and County Family Services, State and County Health Department, Rehabilitation Service for the Blind, Worker's Compensation, Mental Health, Governor's Council on Disabilities, and Armed Forces recruitment locations.

In the initial two-year period of NVRA implementation, Missouri was a leader in registering voters through public assistance agencies, but there was a sharp decline in voter registration numbers from Missouri agencies in the years that followed.

Project Vote documented the dramatic decline in Missouri's performance in its September 2007 report, *Investigating Voting Rights in Missouri: An Assessment of Compliance with the National Voter Registration Act, 2002-2006*.⁴

Voter Registration Applications through Missouri Public Assistance Agencies

Registrations	
1995-1996	143,135
1997-1998	68,475
1999-2000	51,951
2001-2002	34,923
2003-2004	17,637
2005-2006	15,568

Project Vote's analysis indicated that the decline in voter registration at public assistance agencies was not a consequence of changes in public assistance participation, or of increases in registrations through other avenues. Instead, Project Vote's report revealed evidence of poor or non-existent compliance with the NVRA by the Department of Social Services and the Department of Health.



This conclusion was strengthened considerably by surveys and interviews conducted by Project Vote and ACORN in 2007. Out of the 11 Department of Social Services (DSS) offices in interviewed, **none** could produce a voter registration form when asked. Out of 53 surveyed Missourians who had met with a DSS caseworker, only four people reported being offered voter registration services during their visit.

Notifying Missouri of its Non-Compliance—August 2007

Despite repeated requests from advocacy groups and Secretary of State Robin Carnahan, Missouri DSS agencies failed to make the necessary changes to bring themselves into compliance with the law.

In August 2007 Project Vote and Demos sent a letter to Deborah Scott, who at the time was the director of the Missouri Department of Social Services (DSS), citing the above evidence and notifying her of the groups' intention to litigate the issue if the agency did not take steps to comply:

“Please advise us promptly of the steps you intend to take to remedy your agency’s violations of the NVRA,” the letter concluded, “including (i) the measures you will implement to assure future compliance and (ii) the steps you will take to provide registration opportunities to those who have been denied their rights under ...the NVRA in the past three years. In the absence of such a plan, we will have no alternative but to initiate litigation.”⁵

The Project offered to meet with Missouri DSS to assist in the development of a comprehensive plan to address the situation, but this offer was ignored and DSS failed to take steps necessary to comply with the NVRA. As promised, Project Vote, Demos, and the Lawyers' Committee filed suit to compel compliance.

Lawsuit Brought Against Missouri DSS for Non-Compliance—Spring/Summer 2008

In April 2008 Project Vote, Demos, and the Lawyers' Committee filed the lawsuit, *ACORN v. Levy* (formerly *ACORN v. Scott*), on behalf of ACORN and Missouri resident Dionne O'Neal. The complaint alleged that Missouri's public assistance agencies routinely failed to provide the required voter registration opportunities to persons seeking public assistance or engaging in other NVRA covered transactions as required by law. The complaint cited the results of Project Vote's agency surveys, as well as Ms. O'Neal's experience as a public benefits recipient who had not been offered voter registration services during any of her bi-annual visits to a public benefits office in St. Louis.

Plaintiffs sued Deborah Scott, Director of Missouri Department of Social Services (DSS); Janel Luck, Director of DSS's Family Support Division; and the Kansas City, Jackson County, and St. Louis City Boards of Election Commissioners. Plaintiffs ACORN and Ms. O'Neal were represented by lawyers from Project Vote, Demos, the Lawyers' Committee for Civil



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Rights Under Law, and the law firm of Dewey & LeBoeuf LLP, as well as by local counsel Arthur Benson of Arthur Benson & Associates.

Court held an evidentiary hearing on July 9, 2008. On July 15, 2008 U.S. District Court Judge Nanette K. Laughrey granted plaintiffs' motion for preliminary injunction and ordered DSS to immediately comply with the NVRA. According to the ruling, "the record clearly establishes that DSS employees have not fully complied with NVRA. Even the testimony of DSS employees confirmed significant lapses in NVRA compliance."

The court cited "substantial evidence" of voting rights violations in its ruling, including:

1. Evidence that DSS was not providing registration forms to clients, with testimony from clients (including O'Neal); findings from the field surveys conducted by ACORN members; and state documents proving that DSS had not ordered anywhere near the number of voter registration forms that would be required to meet reasonable demand.
2. Emails from DSS employees acknowledging that half the counties in a 21-county survey were not routinely providing voter registration applications to DSS clients.
3. Emails between two DSS employees acknowledging that voter registrations applications completed by clients had been allowed to pile up for more than

a year, through several elections. No evidence was submitted that these applications were ever mailed to the election board.

The court's order instructed defendants Scott and Luck to send notice within five days to all DSS locations informing them that compliance with the NVRA was mandatory and required by law, with failures subject to citation for contempt of court. Each local DSS office was ordered to implement a monitoring system for documenting voter registration applications and declinations capable of being verified by the court, and to identify a person in each local office responsible for NVRA compliance and enforcement within 15 days.

Judge Laughrey's ruling reinforced the purpose of the NVRA's public agency provisions, summarily rejecting DSS's claims that there was no "concrete injury" because other voter registrations options were available to O'Neal and other clients.

"The explicit purpose of NVRA was to reduce barriers to voting, especially for disadvantaged groups of which O'Neal is a member...Therefore any additional barrier to voting [such as registering elsewhere] where it would have been unnecessary had DSS followed the law, satisfies any requirement of a concrete injury for purposes of standing."

Following this landmark ruling, the attorneys for the plaintiffs in *ACORN v. Levy* began



negotiating a settlement with DSS, and opened discussions with the state’s WIC program to further improve Missouri’s implementation of the NVRA.

Court Order Spurs Dramatic Increase in Public Assistance Agency Registrations —August 2008-May 2009

In the six-week period following the court’s order, voter registrations through Missouri DSS agencies skyrocketed: **more than 26,000 Missourians registered to vote through DSS agencies from mid-August through the end of September.**

Through the remainder of 2008 and the remainder of 2009, applications from DSS agencies continued at an impressive pace of between 8,000 and 18,000 per month. From August to December 2008, DSS agencies reported nearly 59,000 applications collected in local offices, nearly four times as many as were collected in all of 2005-2006. In 2009, Missouri public assistance agencies collected over 120,000 applications.

By November 2009 over 180,000 people had applied to become registered voters through DSS since the court order went into effect.

While the highest levels were achieved in the two months before the 2008 presidential election, it is important to note that 2009 levels consistently averaged over 10,000 registrations per month.

DSS Registrations After the Court Order: August 2008–November 2009

Registrations	
2008	
August (2nd half)	8,083
September	18,332
October	14,331
November	9,447
December	9,520
2009	
January	10,346
February	8,980
March	11,888
April	11,408
May	10,255
June	11,602
July	11,694
August	11,744
September	10,863
October	11,377
November	10,533
TOTAL	180,403

Settlement of ACORN v. Levy: June 2009

Throughout the second half of 2008 and the beginning of 2009, the attorneys for the plaintiffs in *ACORN v. Levy* worked to negotiate a settlement with Missouri DSS that ensured immediate and future compliance with the NVRA. In June 2009 the parties filed a settlement with the court that included the following stipulations:



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1. Each DSS office will collect and report detailed monthly data on the numbers of persons visiting DSS offices, their responses to voter registration inquiries, the numbers of voter registrations completed and submitted to local election authorities, and other key information, and provide this data monthly to plaintiffs' counsel.
2. The agency will designate statewide and office-specific NVRA coordinators who are responsible for, among other things, tracking compliance data, ensuring adequate supplies of voter registration applications, and overseeing corrective action plans.
3. Each local DSS office will designate mandatory training of employees in voter registration duties using a uniform training program, and consider voter registration compliance as part of employee and office evaluation.
4. DSS is required to provide voter registration applications with regular mailings to clients and in connection with transactions by phone or internet, and to follow up with clients to provide voter registration services whenever it determines that a particular individual was not offered voter registration during a benefits transaction.

As evidenced by the settlement, Missouri DSS has renewed its commitment to fully implementing the public agency provisions of the NVRA, and once again assumed its role and

responsibilities as a full partner in ensuring the voting rights of all Missouri citizens. The 180,000 registrations to date are just the beginning; if Missouri sustains its current rate of registration it will be well on its way to reclaiming its status as a leader in public assistance registrations.

Hope for Increased Registration among Low-Income Americans

Missouri's impressive results demonstrate the success of the strategy implemented by Project Vote, Dēmos, the Lawyers' Committee, and their partners. They also help illustrate the full scope of the problem that previously existed in the state, and still exists in many other states. Clearly, Missouri public assistance agencies could have registered hundreds of thousands of additional residents over the last ten years had they implemented the law properly. Voter registration rates at public assistance agencies fell dramatically not because Missourians decided not to register, but because state agencies were not fulfilling their obligations under the law.

The successful turnaround in Missouri is remarkable, but it is not atypical. In 2002, for example, the United States Department of Justice filed a lawsuit to force the State of Tennessee into compliance with the NVRA. The parties entered into an agreement that required the state to implement compliance measures. As a result Tennessee tripled its public assistance registrations the following year, and generated over 120,000 voter registration applications in



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2005-2006. Similarly, in 2007, the Project worked with North Carolina to develop a plan for re-implementation of the NVRA, and monthly registrations skyrocketed from 484 to over 3,100 per month at public assistance agencies in the state.

Unfortunately, the noncompliance found in Missouri is also far from unusual. Project Vote has documented lack of compliance in more than a dozen states. This situation not only contributes to the continued disparity in registration rates between lower-income and upper-income Americans, but also leaves the states vulnerable to costly litigation. After extensive assessment of noncompliance and attempts to work with several states, pre-litigation notice letters have also been sent to California, Colorado, Florida, Indiana, New Jersey, and New Mexico. Project Vote, Demos, the Lawyers' Committee, and other like-minded voting rights advocates, including the National Association for the Advancement of Colored People (NAACP), filed lawsuits for Section 7 compliance in Indiana and New Mexico in July 2009. Those lawsuits are pending. During 2009 the Department of Justice investigated and achieved settlements with Arizona and Illinois to bring them into compliance with the NVRA. The Project is hopeful that DOJ will be aggressive in enforcing compliance in 2010 and beyond.

The potential for this program nationwide is tremendous. In 2008 there were over 12 million initial applications for the Food Stamps program alone, just one of the many public assistance

programs covered under the NVRA. If agencies collected enough voter registration applications to equal 20 to 25 percent of the number of initial food stamp applications—a reasonable rate based on successful implementation in model states—public assistance agencies could collect well over 200,000 applications per month, or 2 to 3 million applications from low-income voters every single year. (Indeed, if states performed as well as Missouri, this would be a conservative estimate.)

Voter registration should, first and foremost, be the responsibility of the government. Proper implementation of the public agency provisions of the the NVRA can bring millions of low-income voters to the electorate, while significantly reducing the burden on privately-funded voter registration drives. Missouri's success proves what can be achieved through greater oversight by legislators and election officials, and the implementation of best practices by agency staff. Clearly, other states across the country that have ignored their responsibilities under the NVRA should take note of Missouri's example and bring their practices into compliance with this vital and effective law.

For more information please contact Nicole Kovite, Director of the Public Agency Voter Registration Program for Project Vote, at 1-202-546-4173 or nkovite@projectvote.org, or go to www.projectvote.org

Notes

- ¹ Six states are exempt from the NVRA: Idaho, Minnesota, North Dakota, New Hampshire, Wisconsin, and Wyoming. The full text of the NVRA is available at www.projectvote.org.
- ² This was without full compliance. If all states had complied fully, Project Vote estimates that public assistance agencies could have registered many more voters.
- ³ See Project Vote's report *Representational Bias in the 2008 Electorate*, Douglas R. Hess and Jody Herman, November, 2009, available at www.projectvote.org.
- ⁴ To view or download the full report, please go to www.projectvote.org.
- ⁵ Letter from Project Vote and Demos to Deborah Scott, Director of the Missouri Department of Social Services (DSS) dated August 23, 2007. Available at http://projectvote.org/images/publications/NVRA/Missouri_NVRA_Section_7_Notice.pdf.

About Project Vote

Project Vote is a national nonpartisan, nonprofit organization that promotes voting in historically underrepresented communities. Project Vote takes a leadership role in nationwide voting rights and election administration issues, working through research, litigation, and advocacy to ensure that our constituencies can register, vote, and cast ballots that count.

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