



February 2014

Voter Registration at Public Assistance Agencies

The National Voter Registration Act of 1993 (NVRA) is a landmark civil rights law that was designed to reverse the effects of past discriminatory practices regarding voter registration, and to ensure equal access to registration and voting for all eligible Americans regardless of background or circumstance.¹

The only federal law that requires states to affirmatively offer voter registration services to citizens, the NVRA is most commonly known as “motor voter,” because Section 5 of the law requires that motor vehicle offices provide voter registration services.² An equally important (though lesser known, and more poorly implemented) section of the law, Section 7, requires state public assistance agencies to offer voter registration with every initial and renewal application for public benefits, every recertification, and every address change.³ These provisions were included specifically to reach populations that are not only historically underrepresented in the electorate, but are also less likely to be reached by other registration opportunities (such as the Section 5 “motor voter” program).⁴

Considering the sheer volume of citizens who pass through public assistance offices in the United States, hundreds of thousands of Americans should be registering every year under Section 7 of the NVRA. In fact, in the first few years following the implementation of the NVRA, millions of Americans applied to become registered voters through public assistance agencies.⁵ In recent years, however, agencies have been neglecting their obligations under the law. As a result, the number of voter registrations originating from public assistance agencies in many states have dwindled to a fraction of what they should be, revealing a nationwide, colossal failure to fulfill the promise of the NVRA. This widespread lack of compliance in states across the country means that millions of Americans are being denied the right to register to vote in violation of both the spirit and the letter of the NVRA.⁶

What went wrong, and what can be done to fix it? By implementing the best practices developed by both advocates and state officials, state governments can improve compliance with the NVRA and regain the trust of those who believe in the law’s purpose: to provide our most vulnerable citizens a chance to participate in American democracy.

The Purpose of the NVRA and Section 7

This landmark civil rights legislation was passed by the 103rd Congress in 1993 as a result of a tremendous collective effort by voting rights advocates, led by Human Service Employees Registration and Voter Education (“Human SERVE”). Congress passed the NVRA with four explicit purposes:

- **To increase the number of citizens who register to vote;**
- **To encourage governments to enhance participation in voting;**
- **To protect the integrity of the electoral process; and**
- **To ensure accurate and current registration rolls.⁷**

Congress chose to accomplish the first and second goals by requiring that states offer voter registration through motor vehicle offices and public assistance and disability agencies, in Sections 5 and 7 of the NVRA respectively. (Other sections of the statute provide for voter list maintenance procedures, the creation of a simple mail-in registration form, additional locations where voter registration is to be made available, and criminal penalties for intimidation and fraud.⁸ For a more in-depth review of the history and purpose of the NVRA, see *The National Voter Registration Act at Fifteen: A Report to Congress*, by Estelle Rogers at www.projectvote.org.)⁹

In Section 7 of the NVRA, Congress specifically included language that mandated the creation of voter registration programs by public assistance and disability services agencies, a requirement designed to reach populations that were not only historically underrepre-

sented, but who were also less likely to be registered through voter registration services by motor vehicle offices:

If a State does not include either public assistance [or] agencies serving persons with disabilities...in its agency [voter registration] program, it will exclude a segment of its population from those for whom registration will be convenient and readily available—the poor and persons with disabilities who do not have driver’s licenses and will not come into contact with the other principle [sic] place to register under this Act. It is important that no State be permitted to so restrict its agency registration program.¹⁰

Therefore, among other locations, states are required to designate as voter registration agencies “offices...that provide public assistance” and “state-funded programs primarily engaged in providing services to people with disabilities.”¹¹

Public assistance offices are well suited to the goal of expanding voter registration, both ideologically and practically. Functionally, these agencies are in regular contact with millions of low-income citizens, and clients are required to contact these agencies when moving to a new address, which is one of the most common triggers for needing to re-register to vote. In terms of mission, assisting their clients in becoming fully participating members of the democratic process is a way to empower them individually, increase civic engagement, and bring the issues and concerns of their communities to the voting booth.

Requirements Under Section 7 of the NVRA

Section 7 of the NVRA requires that each state designate agencies that will offer voter registration as part of the initial and renewal application, recertification, and change of address processes for the purpose of receiving benefits.¹² The statute requires states to designate all public assistance agency offices as well as all offices that provide state-funded programs primarily engaged in providing disability services.¹³ This includes the Supplemental Nutrition Assistance Program (SNAP, formerly called the Food Stamp Program); Medicaid; the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); and the Temporary Assistance for Needy Families Program (TANF).

The statute also requires that states designate additional voter registration agencies, but stops short of mandating which additional agencies and government offices should be designated. Instead, the law includes a list of suggested designations, such as public libraries, public schools, and marriage license bureaus.¹⁴ The law also designates all recruitment offices of the Armed Forces of the United States as voter registration agencies.¹⁵ Finally, the NVRA requires that all departments, agencies, and other entities of the executive branch of the Federal Government cooperate to the greatest extent possible in designating additional agencies and offering voter registration as outlined below.¹⁶

Under the NVRA, voter registration agencies must:

1. **Distribute** a mail-in voter registration application and a voter notice form that (a) asks the applicant if s/he would like to register to vote, and (b) provides additional statutorily-required language. These must be distributed with each application for public assistance or disability services, and with each recertification, renewal, or change of address;¹⁷
2. **Provide** applicants with the same degree of assis-

tance with completing the voter registration application as is provided by the office with regard to the completion of its own forms;¹⁸ *and*

3. **Accept** completed voter registration application forms for transmittal to the appropriate state election official no later than 10 days after the date of acceptance or five days before the last day for registration to vote in an election.¹⁹

It is important to note that an essential feature of the NVRA is that voter registration services are to be offered actively, not passively.²⁰ That is, compliance with Section 7 of the NVRA is not met simply by making voter registration applications available. Clients applying for benefits, recertifying their eligibility, or changing address information with the agency must be given a voter registration application and be offered the same amount of assistance with it that the agency offers with its own forms. This is similar to the process required in departments of motor vehicles (DMVs), although Section 5 requires each state driver's license application to serve as an application for voter registration.²¹

The stated purpose of the NVRA is to establish procedures that will increase the number of eligible citizens registered to vote in elections for Federal office.²² Congress passed the NVRA in response to longstanding disparities in voter participation by various groups, including racial minorities.²³ The statute requires transparency by way of required records retention, the availability of documents for public inspection,²⁴ and a bi-annual, state-by-state report of registration under the NVRA, to be published by the Election Assistance Commission (EAC). (This report was published formerly by the Federal Election Commission).²⁵ The law requires the designation of one state official as the responsible party for the coordination of each state's NVRA responsibilities,²⁶ and provides for a private right of action²⁷ and attorney's fees for the prevailing party if the state does not follow the law. Finally, the NVRA allows for the Attorney General of the United States to bring a civil action in federal court to enforce compliance with the law.²⁸

Early Legal Challenges to Implementation

After nearly ten years and an epic battle to pass the NVRA through Congress, implementation of the law proved no less tumultuous. The NVRA was met with immediate resistance and constitutional challenges by a small group of holdout states.

Forty-three states and the District of Columbia were required to be in compliance with the NVRA as of January 1, 1995.²⁹ Two states—California and Virginia—challenged the constitutionality of the law right out of the gate in 1994 and 1995. Four other states—Pennsylvania, Illinois, Michigan, and South Carolina—simply refused to implement the NVRA. Civil rights groups that had worked so hard to advocate for the law’s passage threw themselves into the ring to defend the NVRA by suing the states that refused to comply and encouraging the U.S. Department of Justice (DOJ) to do the same. The DOJ sued all six states in an unprecedented and aggressive support of voting rights.³⁰

The constitutional challenges raised the issue of whether the NVRA is unconstitutional because it invades powers reserved to the states. Article I, Section 4 of the U.S. Constitution grants Congress the explicit power to “make or alter” regulations governing the “times, places, and manner” of federal elections.³¹ The Tenth Amendment states, “the powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people.”³²

The courts’ consideration of the issue of the constitutionality of the NVRA, however, was short and conclusive. Within two years, all of the noncompliant states lost their challenges to the NVRA in the U.S. District Courts.³³ Some states appealed to the U.S. Courts of Appeals in several circuits, but were unsuccessful.³⁴ One state, California, petitioned the United States Supreme Court to review a lower court’s decision to uphold the constitutionality of the NVRA. The U.S. Supreme Court refused to hear the case.³⁵

The following two case summaries provide a thumbnail sketch of states’ early challenges to the NVRA, and courts’ conclusions on the constitutional issue.

California

In California, then-Governor Wilson issued an Executive Order requiring that state agencies comply with the NVRA *only* “to the extent [that] federal funding is made available for such purposes.”³⁶ Without federal funding, Governor Wilson’s order was tantamount to a direct order that California state agencies not implement the NVRA. The U.S. District Court ruled the NVRA constitutional under Article I, Section 4 of the Constitution, which specifically states that Congress may make or alter state regulations concerning the time, place, and manner of elections.³⁷ On appeal, the Court of Appeals for the Ninth Circuit affirmed the district court’s ruling that, as a consequence of Article I, Section 4, “Congress through the NVRA may directly regulate the state’s manner and means of voter registration without invading an area reserved to the states.”³⁸ In this case, the Ninth Circuit ultimately concluded that Congress can require state agencies to offer voter registration for federal elections, and that the cost, if any, must be borne by the states.³⁹

Illinois

In Illinois, the state General Assembly took no action to comply with the law. The United States joined several organizational plaintiffs and sued the state.⁴⁰ The district court granted the United States’ motion for summary judgment and issued an injunction requiring, among other things, that Illinois take all steps necessary to comply with the NVRA.⁴¹ The state appealed to the Seventh Circuit. The appeals court concluded that the district court’s injunction requiring Illinois to follow the law was a proper and lawful remedy.⁴² In its reasoning, the district court noted that, while it is true that Article I, Section 4 directs the states to regulate the times, places, and manner of holding federal elections, this same section also allows for Congress to supplement these state regulations or substitute its own, which Congress has done with its passage of the NVRA.⁴³

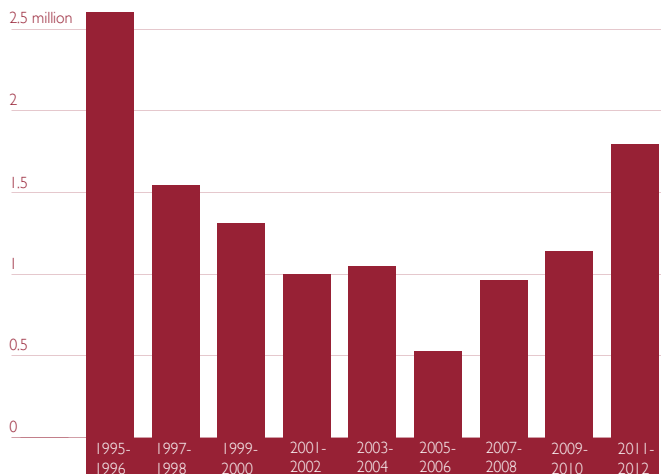
History of Noncompliance

The resistance by several states in the early years of the NVRA's implementation was replaced, at first, by notable success in registering millions of Americans. Unfortunately, performance declined over time due to widespread neglect.

Compliance with the NVRA is measured, in part, by the EAC in its bi-annual report on voter registration.⁴⁴ A 2008 Project Vote and Demos report, *Unequal Access: Neglecting the National Voter Registration Act 1995-2007*, examined EAC data to document that the number of registration applications from public assistance agencies was in fact at an historic low.⁴⁵ According to the report:

- The numbers of people registering through public assistance agencies in 2005-2006 declined by 49 percent compared to the previous two-year period.
- 2005-2006 numbers represent a stunning 79 percent decline from 1995-1996, the first two years the NVRA was in effect.
- Both the numbers of people receiving social services during this time and the numbers of people needing to register have remained high, suggesting that the difference is one of implementation more than demand.

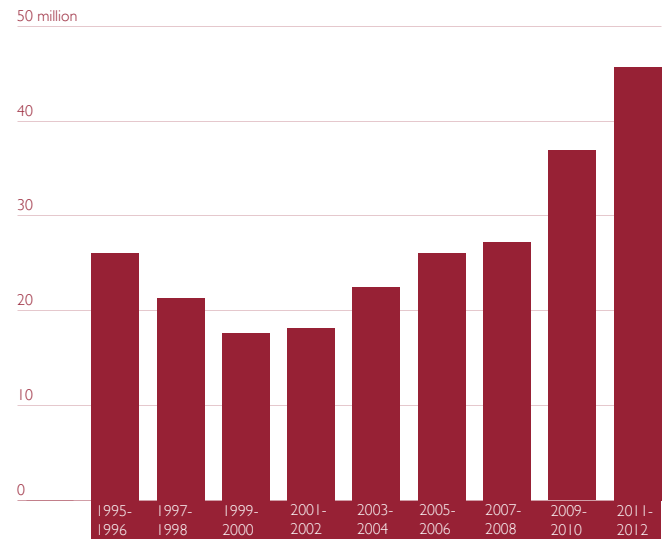
Number of Voter Registration Applications Collected at Public Assistance Agencies Nationwide



After hitting an all-time low in 2005-2006, the trend has begun to reverse, thanks largely to efforts by civic organizations—such as Project Vote and its partners—and some efforts by the Department of Justice. In 2011-2012, nearly 1.8 million people registered through public assistance agencies. Unfortunately, this is still well below the 2.6 million people who registered in 1995-1996, despite the fact that the number of people on public assistance has increased dramatically.

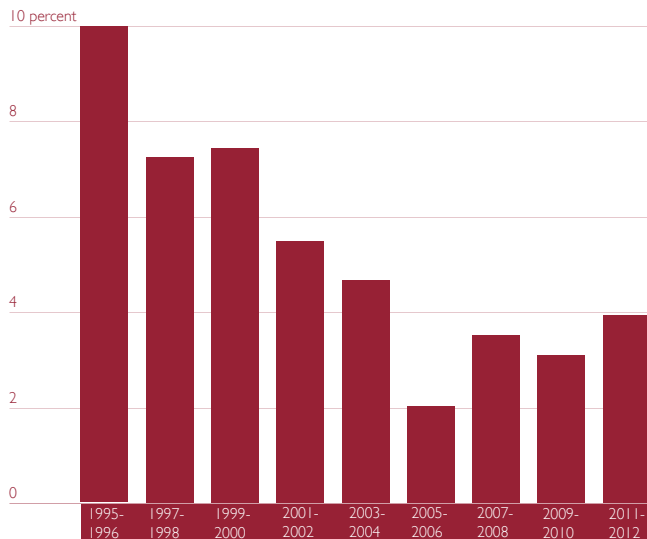
For example, the average yearly participation in SNAP (formerly the “food stamp” program) has jumped from approximately 26 million people in 1995-1996 to nearly 46 million people in 2011-2012.⁴⁶

National Yearly Average Participation in the Supplemental Nutrition Assistance Program (SNAP)



Even more problematic is the fact that, even though both numbers have risen, the number of people participating in public assistance programs has grown faster than the number of people completing voter registration applications through those programs. As a result, the percentage of people completing applications is much smaller. (See chart on the following page.)

Collected Voter Registration Applications as a Percentage of the Number of SNAP Clients



Substantial harm to the democratic process results when public assistance agencies do not comply with the NVRA. As a result of non-compliance, millions of low-income citizens have been denied the opportunity to register to vote, contributing to significant disparities in the electorate that tend to exclude the voices of the least powerful and most vulnerable citizens from major public policy decisions.

For example, approximately 28 percent of adult citizens from households making less than \$20,000 per year were not registered to vote in 2012, compared to only 7 percent of those from households with incomes over \$100,000.⁴⁷

Meanwhile, millions of adult citizens interact with public aid agencies each year. For example, more than forty million people participated in the SNAP program each year from 2010 to 2012.⁴⁸ In short, millions of additional citizens could be registered each election cycle if state agencies were to simply follow the law.

What are Public Assistance Agencies Doing Wrong?

Surveys of public aid offices, requests for state records related to NVRA management, and conversations with public officials have revealed overwhelming evidence of poor compliance with the public agency provisions of the NVRA in numerous states:

- Many agencies fail to distribute a voter registration application form with every transaction covered by the NVRA as required; instead, a written offer of voter registration is presented alone, placing the burden on the client to request an application to register.
- Many social service agencies do not even stock the voter registration applications necessary to comply with the NVRA. Current procedures regarding voter registration services in agencies often do not comply with federal and/or state law.
- Training materials for agency personnel regarding voter registration services are often missing, go unused, or misinform staff about required procedures.
- Monitoring or evaluation of agency performance and staff compliance with the NVRA is usually non-existent or insufficient.
- Voter registration services are not being adapted to handle an increasing number of remote transactions with public aid agencies via the Internet or over the phone.

Enforcing Section 7 of the NVRA

States that do not comply with the NVRA are subject to litigation by private plaintiffs and/or the U.S. Department of Justice. Federal courts have established important precedent with respect to enforcement of the public agency provision. While local agency offices are responsible for carrying out their day-to-day voter registration obligations under the NVRA, both the state's chief election official—typically the secretary of state—and statewide agency directors can be held accountable for noncompliance.

United States Department of Justice

The NVRA gives the U.S. Department of Justice explicit authority to bring a civil action against states that violate the statute.⁴⁹ However, DOJ has invoked its enforcement authority under Section 7 only six times since 2001.

The case of *United States v. Tennessee*⁵⁰ led to a consent agreement in 2002 that required the state to (1) implement uniform procedures for the distribution, collections, transmission, and retention of voter registration applications; (2) implement mandatory, annual NVRA training programs for all counselors and employees whose responsibilities include providing driver's licenses, public assistance, or services to residents with disabilities; and (3) ensure the timely collection of voter registration applications and transmittal to the appropriate county election officials. The number of voter registrations from Tennessee agencies improved dramatically as a result of DOJ enforcement action and the subsequent consent agreement. The numbers jumped more than 200 percent between 2001-2002 and 2003-2004, from 52,373 to 173,927.⁵¹

In 2008, DOJ entered into agreements with the Arizona Department of Economic Security⁵² and the Illinois Department of Human Services⁵³ to require Section 7 compliance. Both agreements require systematic and compliant distribution of voter registration applications and notice forms, as well as regular reporting, tracking, and monitoring of voter registration activities by the agencies.

In 2010, the case of *United States v. State of New York* led to a summary judgment order against New York. The court found that the State had failed to implement the requirements of section 7 of the NVRA by refusing to designate Disability Support Service offices on its public university campuses as mandatory voting rights agencies.⁵⁴

Most recently, in 2011, the Department of Justice filed lawsuits against the States of Rhode Island and Louisiana. The District Court of Rhode Island entered a consent decree just 7 days after the lawsuit was filed. The consent decree required the state to (1) ensure that voter registration is offered by all public assistance and disability services offices in the state; (2) develop and implement NVRA training and tracking programs for those offices; and (3) amend its contracts with private entities that provide state-funded disability programs to ensure that they offer voter registration.⁵⁵ The lawsuit against Louisiana is ongoing.⁵⁶

Voting rights advocates are hopeful that DOJ will increase its Section 7 enforcement activities. As the Presidential Commission on Election Administration recognized, non-compliance with the NVRA is a serious problem.⁵⁷ The more aggressively DOJ enforces the law, the more likely it is that non-compliant states will voluntarily come into compliance rather than waiting to be sued.

Citizen/Organization Actions

Where DOJ has not intervened to enforce compliance, advocacy groups have picked up the slack. To date, Project Vote and its partner organizations, including Demos and the Lawyers' Committee for Civil Rights Under Law, have sent letters to officials in nearly two dozen states over the past five years, notifying them of noncompliant practices by their local agency offices and the advocates' intention to initiate litigation if non-compliance continues.⁵⁸ Together, the groups have filed lawsuits against nine states—Missouri, Ohio, Indiana, New Mexico, Louisiana, Georgia, Massachusetts, Nevada, and Pennsylvania—for noncompliance with Section 7 of the NVRA.

The parties have successfully settled six of the lawsuits—Missouri, Ohio, Indiana, New Mexico, Georgia, and Pennsylvania—with dramatic results:

In **Missouri**, local interviews of Department of Social Services (DSS) clients revealed that office staff were not asking everyone who applied, recertified, or changed their address whether they wanted to register to vote. Even more telling, numerous offices had run out of voter registration applications entirely and simply did not have any to offer clients. The result of this widespread noncompliance was clear: after collecting over 143,000 applications in the first two years of the NVRA, Missouri public assistance agencies had fallen to fewer than 8,000 applications a year by 2005-2006. Meanwhile, in 2006, more than 250,000 adults in households making less than \$25,000 a year were not registered to vote in the state.

In 2008 Project Vote, Demos, and the Lawyers' Committee for Civil Rights Under Law filed a lawsuit against the Missouri DSS and two county election boards for violating Section 7 of the NVRA. The Plaintiffs filed a motion for preliminary injunction. In July 2008 a federal judge granted the motion, stating in

the ruling that “the record clearly establishes that DSS employees have not fully complied with NVRA.”⁵⁹ The court ordered DSS to immediately comply with the law.⁶⁰ 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 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 2005-2006.⁶¹ The numbers have remained relatively high: in 2009-2010, Missouri public assistance agencies collected over 120,000 applications, and in 2011-2012, they collected over 103,000 applications.⁶²

In **Ohio**, the level of noncompliance with the NVRA was also obvious. Extensive pre-suit investigation and discovery in the case revealed that many of Ohio's county public assistance offices were ignoring their responsibilities to provide voter registration to their low-income clients. Then-Secretary of State Kenneth Blackwell contended that the state's obligation to provide voter registration services to its low-income residents was satisfied by the maintenance of a toll-free hotline for public assistance offices to call, while the Department of Job and Family Services (DJFS) claimed that Ohio law stripped the agency director of any responsibility to enforce DJFS compliance with the NVRA. In 2002-2004, Ohio reported collecting applications from less than one-half of 1 percent of the number of persons applying for or seeking recertification of Food Stamp benefits.⁶³

Project Vote, Demos, and the Lawyers' Committee for Civil Rights Under Law filed suit on behalf of public assistance recipients who had not been offered the opportunity to register or change their voter registration addresses on any of their visits to DJFS offices. After

dismissal by the district court,⁶⁴ the plaintiffs prevailed at the Sixth Circuit Court of Appeals, establishing an important precedent that state officials have ultimate responsibility for compliance with the NVRA.⁶⁵ The parties agreed to a settlement in November 2009.⁶⁶ The settlement, which requires, among other things, systematic tracking and monitoring to ensure compliance with the NVRA, has resulted in an exponential increase in voter registrations through Ohio public agencies. The state's Department of Job and Family Services subsequently reported 191,237 completed voter registration applications in 2010; 195,323 in 2011; and 166,247 in 2012.⁶⁷

In **Indiana**, voter registration applications originating through public assistance agencies declined 97% between 1995-1996 and 2007-2008, to a mere 2,519 applications, even as the number of citizens on public assistance increased. Investigations of the Family & Social Services Administration, which administered food stamps and Medicaid, confirmed that voter registration was not being offered as required by the NVRA. Of seven offices visited, only one could even provide a voter registration application upon request.

Project Vote and a number of other voting rights groups—including the ACLU, Demos, Lawyers' Committee for Civil Rights Under Law, and the NAACP—filed suit in 2009 against officials with the Indiana Family and Social Services Administration and various election officials. The lawsuit was brought on behalf of the Indiana State Conference of the NAACP and an Indiana resident and public assistance client who was not provided the opportunity to register to vote. In April 2011, the parties agreed to a settlement that requires Indiana to provide voter registration during all required transactions, including those that occur via mail, Internet, and phone, and to engage in quality control measures.⁶⁸ In the eight months from May 2011 through December 2011, FSSA offices reported 28,817 completed voter registration applications. In

2012, they reported 33,026 completed voter registration applications.⁶⁹

In **New Mexico**, the number of voter registration applications originating through public assistance agencies declined by 91 percent between 1995-1996 and 2007-2008, to a mere 1,428. Investigations in 2008 and 2009 turned up numerous violations of Section 7, including offices that provided voter registration applications only during change of address transactions or upon an affirmative request by the applicant.

Project Vote, along with other civic organizations, filed suit in July 2009 on behalf of several individual plaintiffs. In December 2010, the district court granted the plaintiffs' motion for partial summary judgment, finding that New Mexico's Human Services Department had violated the NVRA.⁷⁰ The parties subsequently settled most of the issues and the district court entered a consent decree in February 2011,⁷¹ but the defendants appealed to the Tenth Circuit on the question of whether they had to provide voter registration applications to people who did not affirmatively request them. Upholding the district court's decision, the Tenth Circuit held that the NVRA requires New Mexico to provide a voter registration application to each client during the required transactions, unless the client declines in writing to receive an application. Thus, the client must opt-out of receiving an application, rather than opt-in to receive one.⁷² In 2011, New Mexico reported 18,166 completed voter registration applications from public assistance agencies. In 2012, that number rose to 26,151.⁷³

In **Georgia**, the number of voter registration applications originating through public assistance agencies fell from 103,942 in 1995-1996 to 13,443 in 2009-2010, even though the number of food stamp applications more than doubled in that same time period. According to the state's registration data, 39 out of 159 counties failed to register a single voter through the Depart-

ment of Human Services (DHS) for at least one of the prior seven years, and one county failed to register even a single voter during the entire seven-year span. Furthermore, 95 out of the 159 counties registered 25 or fewer voters per year through DHS offices during that same seven-year period. Investigations of DHS offices in 2010 confirmed that clients were not being offered voter registration.

In June 2011, Project Vote and its partners filed suit against the Georgia Secretary of State and the Commissioner of the DHS for violations of Section 7 of the NVRA. The district court denied the defendants' motion to dismiss and made it clear that their policies likely violated the NVRA,⁷⁴ and the parties settled the case three months later. The settlement, signed in April 2012, included requirements that Georgia would distribute voter registration applications during all required transactions, including those occurring out of the office, unless the client affirmatively opted not to receive one.⁷⁵ In the eight remaining months of 2012, Georgia public assistance agencies reported 51,337 completed voter registration applications. In the first six months of 2013, they reported 20,442.⁷⁶

In **Pennsylvania**, public assistance agencies followed the same policy of requiring clients to affirmatively request voter registration applications. Two of the offices investigated did not have any voter registration applications available at all. Unsurprisingly, the number of voter registration applications originating through Pennsylvania public assistance agencies declined 93 percent between 1995-1996 and 2009-2010 (from 59,462 to 4,179) even though the number of initial food stamp applications had nearly doubled in that same time frame (from 1 million to 1.8 million).

Project Vote and its partners filed a complaint in July 2012 on behalf of the Black Political Empowerment Project and ACTION United. The matter was settled a month later. Defendants agreed to, among other things,

distribute voter registration applications unless clients opted out, update policies and trainings, and monitor the number of voter registration applications being completed through each public assistance office.⁷⁷ Between July 2012 and July 2013, Pennsylvania public assistance offices collected 43,723 voter registration applications.

Three lawsuits are currently pending. In **Louisiana**, the number of voter registration applications originating through public assistance agencies declined 88% between 1995-1996 and 2007-2008, even though more than a quarter of Louisiana adult citizens in households earning less than \$15,000 per year were not registered to vote in 2008. Of 102 public assistance offices investigated in December 2008, staff at 53 of them reported that they did not offer voter registration. Follow-up investigations throughout 2010 yielded similar results, including offices that did not have voter registration applications and clients that reported not being asked whether they wanted to register to vote.

Project Vote and the NAACP Legal Defense and Educational Fund filed suit in April, 2011. The district court held that public assistance agencies must offer voter registration during transactions that occur outside the office (such as by mail, telephone, or online)⁷⁸ and that the defendants had violated the NVRA by only requiring distribution of voter registration applications when clients affirmatively requested them.⁷⁹ The court also held that the secretary of state had "failed to enforce the NVRA in Louisiana" and that, other than publishing a manual and "conducting sporadic and faulty training sessions, the [secretary of state did] nothing to ensure" compliance with the law.⁸⁰ The court issued a permanent injunction⁸¹ and the defendants submitted certificates of compliance.⁸² The secretary of state, however, separately appealed to the Fifth Circuit.⁸³ Oral arguments were on December 3, 2013, and, as of this writing, the parties are waiting for the Fifth Circuit to rule.

In **Massachusetts**, the number of voter registration applications originating through public assistance offices dropped 92.5% between 1999-2000 and 2009-2010. Public assistance offices routinely failed to provide voter registration applications to clients who did not decline in writing, failed to include an offer of voter registration through their online public assistance application, and failed to post “register to vote” signs as required by state law.

In May 2012, Project Vote and its partners filed suit on behalf of the NAACP-New England Area Conference, New England United for Justice, and an individual public assistance client.⁸⁴ The parties agreed to an interim settlement agreement in July 2012⁸⁵ that required Massachusetts’ Department of Transitional Assistance (DTA) to, among other things, mail voter registration applications to all current clients and persons who had been clients within the past year, because they may have previously been denied the opportunity to register; conduct or participate in voter registration outreach in areas with high concentrations of DTA clients; arrange for public service announcements to publicize the availability of voter registration forms and assistance; and provide better voter registration procedures, training, and oversight to its employees. By December 20, 2012, more than 30,000 individuals had submitted voter registration applications as a result of the DTA mailing to clients and past clients.⁸⁶ Unfortunately, the parties could not agree to a final settlement. As of this writing, discovery and motions in the case are ongoing.

In **Nevada**, the number of voter registration applications originating through public assistance agencies fell from a peak of 39,444 in 2001-2002 to 1,677 in 2009-2010, a decline of 95.7 percent, even though the number of monthly food stamp applications had more than doubled in that same period. Investigations showed that many clients were not being offered voter registration, and that when clients specifically indicated that they wanted to register, they were not given voter reg-

istration applications. Investigations also showed that offices in the Department of Health & Human Services (DHHS) had a policy of only providing voter registration applications when clients specifically requested them; that many offices did not post signs indicating that voter registration was available, even though such signs are required by state law; and that some offices did not have voter registration applications available at all. One office had not had applications for a year, and another office had not had them for two years.

Project Vote and its partners filed suit in June 2012 on behalf of the National Council of La Raza and the Las Vegas and Reno-Sparks Branches of the NAACP. As a result of the lawsuit, DHHS changed several of its policies. Among other things, the agency began requiring that all applications (including those printed from the agency’s website), redeterminations, and change of address/name forms must have a voter registration form attached. The number of voter registrations originating through public assistance agencies also rose to 9,057 in 2011-2012.⁸⁷ Unfortunately, the district court dismissed the case for lack of standing and failure to comply with the NVRA’s notice requirements.⁸⁸ That decision is currently on appeal to the Ninth Circuit.⁸⁹ As of this writing, oral argument has not yet been scheduled.

Despite the overwhelming record of success of the litigation strategy of Project Vote and its partners, federal voting rights should not be left to non-profits to defend. The Department of Justice should engage in more Section 7 investigation and litigation. More importantly, state election and agency officials need to realize that, while NVRA compliance can be simple and relatively inexpensive, the cost of noncompliance is high. Compared with the time and resources states spend responding to DOJ investigations or defending themselves in lawsuits, the right path is obvious: states should simply follow the law.

The Road to Compliance: What States Can Do to Fulfill the Promise of the NVRA

Twenty years after passage of the NVRA, many states have yet to come up with a plan to implement the law effectively. Even more troubling, most states that have NVRA implementation plans fail to follow their own procedures. Such failures are caused, in part, by inadequate instruction to staff, inadequate or nonexistent training, and haphazard procedures for monitoring compliance. However, states can easily remedy these failures and avoid noncompliance with the law.

Project Vote has employed statistical surveys of both public assistance clients and staff in an effort to diagnose noncompliance and identify problems that contribute to noncompliance by state agencies and local offices. Based on these findings, Project Vote offers technical assistance to state agencies in drafting NVRA implementation plans and developing compliance monitoring procedures. If fully and correctly implemented by the agencies, these plans can produce much-needed gains in voter registration in low-income communities.

In **Colorado**, for example, after working with Project Vote for several months, the Elections Division of the Secretary of State developed an NVRA implementation plan that provided detailed instructions to guide agency staff in fulfilling their duties under the law. In addition to providing an overview of requirements under Section 7, the Colorado plan outlines exactly what each agency office and staff person must do to comply with the NVRA. In 2011-2012, Colorado public assistance agencies collected more than 40,000 applications.⁹⁰

Project Vote has also worked successfully with **California** to improve compliance. In May 2009, Project Vote sent a notice letter to California, detailing the state's

lack of compliance with the NVRA. Since then, Project Vote has continued to work cooperatively with the state to implement changes that better ensure compliance. Project Vote's advocacy led to the passage of California's SB 35, which requires, among other things, that public assistance agencies offer voter registration during remote transactions (see best practice #3 below), as well as reporting to and monitoring by the state's chief election official.

The following best practices are critical to compliant and successful NVRA procedures by state public assistance agencies.

1. Seamless Form Design

Voter registration must be offered with each application, recertification, renewal, and address change (referred to as "covered transactions"). Voter registration applications should be integrated into or combined with the forms that are used for these covered transactions. Short of integrated benefits forms, the voter notice or "declination" question ("If you are not registered to vote where you live now, would you like to register to vote here today?") should be combined with voter registration application forms and distributed with every covered transaction. The combined approach is preferred to the "two-step" method, where the voter registration application form is distributed separately from the voter notice or declination question.

2. Opt-Out Distribution

Section 7 is an opt-out, not an opt-in, statute. The language of the statute is very clear that clients should be given voter registration applications when they check "yes" to the voter notice question *or* when they leave it blank. The only time a client should *not* be given a voter registration application is when he or she declines in writing to receive one. This process ensures that clients who might not see the voter notice question are still offered the opportunity to register to vote.⁹¹

3. Distribution During Remote Transactions

Agencies must offer voter registration during all covered transactions, regardless of whether the client has to come to the agency office to complete the transaction. This includes transactions that occur online, over the phone, by email, and by mail.⁹² For online transactions, agencies should provide clients with an opportunity to register online (in states where it is available), download and print an application, or have an application mailed to them. This ensures that a client who cannot register online (for example, because she does not have a driver's license where that is a prerequisite), or who cannot download and print an application (for example, because he does not have access to a printer), can still receive a voter registration application. States that mail recertification and renewal paperwork should include a voter preference form and voter registration application with each mailing.

4. Effective Training Programs

All agency office staff and all third-party contractors who provide assistance with the administration of public benefits must be trained to offer voter registration services in compliance with the law. Staff should be trained before interaction with the public, and retrained no less often than once per year. The state's NVRA training manual should be revised to include the requirements that office staff ensure the voter notice or declination form has been filled out and that a system for recording a client's response be in place.

5. NVRA Coordinators

To facilitate consistent implementation of the NVRA, agency officials should appoint an NVRA Coordinator in each local office. The coordinator should be responsible for maintaining voter registration supplies, sending completed applications to election officials, and reporting NVRA data to agency and election officials. Most importantly, NVRA Coordinators should have sufficient training to enable them to orient new staff on

proper voter registration procedures.

6. Collection of Registration Data from Agencies

Agency officials cannot know if their offices are complying with the NVRA unless they monitor the number of registrations originating from each agency site. Web-based reporting systems that are easy to implement and easy to use are a promising tool for NVRA data collection. Offices should report the number of clients seen, the responses on the voter notice or declination forms, and the number of completed voter registration applications transmitted.

7. Monitoring and Evaluation of Compliance

Agency officials should regularly review registration data from their agency's sites. In offices with a history of poor reporting, or that report a sudden downturn in the number of registrations, agency staff should work with those site's managers and NVRA Coordinators to ensure that staff are offering voter registration in compliance with the law. In addition, agencies should make NVRA responsibilities a part of regular office and employee evaluations.

8. Paperless Registration

Departments of motor vehicles that have implemented paperless registration have experienced dramatic increases in the number of clients accepting the offer to register, compared to paper-based systems. Departments of motor vehicles' voter registration rates doubled in Kansas and Washington, increased 221% in Rhode Island, and grew at least seven-fold in South Dakota after those states implemented the automatic transfer of digital voter data between the DMVs and election officials.⁹³ An electronic voter registration system used by public assistance and disability agencies would also reduce costs associated with NVRA-related paperwork, reduce the likelihood that rights conferred by the NVRA are violated by these agencies, and increase accuracy in the voter rolls.⁹⁴ For example, in

Maricopa County, Arizona, paper registration applications were five times more likely to have errors than electronic files, yet cost 80 cents more per application to process.⁹⁵ By switching to paperless registration through departments of motor vehicles, Maricopa County saved more than \$450,000 in one year; Delaware saved more than \$200,000 in one year; and Washington saved more than \$126,000 in one year, not including the savings to its individual counties.⁹⁶ Public assistance agencies will need to also have paper-based registration available until they have paperless systems that work for all of their clients (including those without driver's licenses), but moving to paperless registration where possible can result in real benefits for the agency, election officials, and clients alike.

9. Health Benefit Exchanges

When a person applies for health benefits through an Exchange pursuant to the Affordable Care Act, she is necessarily also applying for public assistance, including Medicaid, SCHIP, the Basic Health Plan, advance payment of the premium tax credit, and cost-sharing reductions.⁹⁷ Health Benefit Exchanges must therefore comply with the NVRA in the same way that other public assistance programs do. This includes offering voter registration during all covered transactions, whether they occur in person, by phone, by mail, or online; distributing voter registration forms unless the client declines in writing to receive one; and providing the same assistance in the completion of a voter registration form that an Exchange provides in the completion of its own forms.

Conclusion

Congress's charge to state governments is clear. State offices that provide public assistance and disability services must take affirmative steps to assist citizens with registering to vote in federal elections. For the traditionally underrepresented populations these offices serve, Section 7 of the NVRA presents a much-needed opportunity to close the existing disparities in the American electorate.

Despite this clear mandate, however, many states continue to fail in their obligations under the law, leaving themselves vulnerable to investigation and litigation by the U.S. Department of Justice and private organizations and individuals.

The formula for compliance with the NVRA is clear and relatively inexpensive—certainly far cheaper than the cost of litigation defense. State agencies must establish administrative controls to ensure full compliance with the NVRA, just as agencies establish procedures for compliance with the United States Department of Agriculture (USDA) regulations for administering SNAP.

Above all, NVRA-compliant voter registration procedures must be institutionalized by every state agency, and consistently enforced by management. Enforcement requires regular tracking of voter registration activities—offers of voter registration, applications distributed, client responses, etc.—in every office. Agency management must monitor voter registration data to determine whether each office is distributing a voter registration application and making the offer of voter registration assistance to every person who submits an application for benefits, recertification, and change of address. Agencies must provide adequate training and guidance for staff to fulfill their obligations under the NVRA. There must be consequences for failing in these obligations, just as there are consequences for failing to meet the procedural requirements for SNAP administration.

Project Vote estimates that proper implementation of the NVRA's public assistance provisions nationwide could result in 2 to 3 million additional voter registrations per year, or 4 to 6 million per federal election cycle. For proof that full compliance with Section 7 is tremendously effective, one need look no further than the remarkable results that have followed recent settlements in NVRA compliance lawsuits in Missouri, Ohio, and other states.

States should not wait to be sued to follow the law; by implementing simple reforms recommended in this paper, states can avoid litigation by the Department of Justice or private plaintiffs, and ensure that the basic civil rights of millions of citizens are preserved.

For more information, or to obtain free technical assistance based on best practices in other states, please contact Sarah Brannon at Project Vote at sbrannon@projectvote.org. More information is also available by clicking on "Public Agency Registration" at <http://www.projectvote.org>.

Notes

1. 42 U.S.C. § 1973gg(b)
2. 42 U.S.C. § 1973gg-3
3. 42 U.S.C. § 1973gg-5
4. "Section 7 of the NVRA [was] designed specifically to increase the registration of 'the poor and persons with disabilities who do not have driver's licenses and will not come into contact with the other principal place to register under this Act.'" *Harkless v. Brunner*, 545 F.3d 445, 449 (6th Cir. 2008) (quoting H.R. Rep. No. 103-66, at 16, reprinted in 1993 U.S.C.C.A.N. 140, 144). See also H.R. Rep. No. 103-9, at 11, reprinted in 1993 U.S.C.C.A.N. 105, 116 (public assistance agencies "are considered most likely to serve persons of voting age who may not have driver licenses and therefore are not served by the motor-voter provisions"); S. Rep. No. 103-6, at 13 (Section 7 was designed to "enable[] more low income and minority citizens to become registered").
5. In 1995 and 1996, a reported 2,602,748 voter registration applications originated through public assistance offices. The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 1995-1996, at table 2, page 12 (U.S. Federal Election Commission, 1997), available at <http://www.eac.gov/assets/11/AssetManager/The%20Impact%20of%20the%20National%20Voter%20Registration%20Act%20on%20Federal%20Elections%201995-1996.pdf>.
6. The Presidential Commission on Election Administration recently acknowledged that "[T]he election statute most often ignored, according to testimony the Commission received, is the National Voter Registration Act (NVRA or "Motor Voter")." Presidential Commission on Election Administration, The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration, at 17 (Jan. 2014), available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.
7. 42 U.S.C. § 1973gg(b)
8. 42 U.S.C. §§ 1973gg-3(c)(2)(C), 4(c)(1), 5(a)(6)(A)(i), 6(b), 6(c)(2)(A), 7(b)(2), 10
9. Rogers, Estelle. *The National Voter Registration Act at Fifteen: A Report to Congress*. (Project Vote, 2009.) Available at <http://projectvote.org/images/publications/NVRA/THE%20NVRA%20at%20FIFTEEN--A%20Report%20to%20Congress.pdf>
10. U.S. House of Representatives. (1993, April 28). Conference Report on H.R. 2, National Voter Registration Act of 1993, page H2082
11. 42 U.S.C. § 1973gg-5(a)
12. 42 U.S.C. § 1973gg-5
13. 42 U.S.C. § 1973gg-5(a)(2)
14. 42 U.S.C. § 1973gg-5(a)(3)(B)
15. 42 U.S.C. § 1973gg-5(c)
16. 42 U.S.C. § 1973gg-5(b)
17. 42 U.S.C. § 1973gg-5(a)(6)
18. 42 U.S.C. § 1973gg-5(a)(6)(C)
19. 42 U.S.C. § 1973gg-5(d)
20. The NVRA requires "a designated voter registration agency to provide an applicant with a voter registration form unless the applicant declines, in written form, to register to vote. . . . Thus, [the NVRA] requires an applicant to affirmatively, by way of writing, "opt out" of receiving a voter registration form." *Valdez v. Squier*, 676 F.3d 935, 945-46 (10th Cir. 2012).
21. 42 U.S.C. § 1973gg-3(a)(1)
22. 42 U.S.C. § 1973gg(b)
23. 42 U.S.C. § 1973gg(a)(3)
24. 42 U.S.C. § 1973gg-6(i). See also *Project Vote v. Long*, 682 F.3d 331 (4th Cir. 2012) (completed voter registration applications must be disclosed under the NVRA).
25. 42 U.S.C. § 1973gg-7(a)
26. 42 U.S.C. § 1973gg-8
27. 42 U.S.C. § 1973gg-9(b)-(c)
28. 42 U.S.C. § 1973gg-9(a)
29. Six states are exempt from the NVRA: Idaho, Minnesota, North Dakota, New Hampshire, Wisconsin, and Wyoming. These states are exempt because they had Election Day voter registration or no voter registration at the time of passage. See Fox Piven, Frances & Richard A. Cloward, *Why Americans Still Don't Vote and Why Politicians Want it That Way*, at 305. (Beacon Press 2000) ("Piven")
30. *Id.* at 256
31. U.S. Const., amend. X
32. U.S. Const. art I, § 4
33. Piven at 257
34. *Id.* at 256
35. *Id.* at 257
36. Executive Order No. V-98-94
37. *Wilson v. U.S.*, 878 F. Supp. 1324, 1328 - 1329 (N.D. Cal. 1995)
38. *Id.* at 1328
39. *Voting Rights Coalition v. Wilson*, 60 F.3d 1411, 1415 (9th Cir. 1995)
40. *Ass'n of Cmty. Orgs. for Reform Now v. Edgar*, 880 F. Supp. 1215, 1217 (N.D. Ill. 1995)
41. *Id.* at 1222-1223; and see *Ass'n of Cmty. Orgs. for Reform Now v. Edgar*, 56 F.3d 791, 797 (7th Cir. 1995)
42. *Edgar*, 56 F.3d at 798
43. *Edgar*, 880 F. Supp. at 1220
44. The biannual reports are available on the United States Election Assistance Commission's website at <http://www.eac.gov/registration-data>.
45. Hess, Douglas R. and Scott Novakowski. (2008, February). *Unequal Access: Neglecting the National Voter Registration Act, 1995-2007*. Washington, DC: Project Vote. Available at http://www.projectvote.org/images/publications/NVRA/Unequal_Access_Final.pdf
46. Average annual participation in the SNAP program is available at U.S. Department of Agriculture, *Supplemental Nutrition Assistance Program Participation and Costs* (Date as of September 6, 2013), <http://www.fns.usda.gov/pd/SNAPsummary.htm>. Two-year averages were achieved by adding the average participation for two years and dividing by two. For example, the average participation in 1995 was 26,619,000, while the average participation in 1996 was 25,543,000. Thus, the average participation for the 1995-1996 period was 26,081,000.
47. United States Census Bureau, *Voting and Registration in the Election of November 2012 - Detailed Tables*, Table 7, available at <http://www.census.gov/hhes/www/soc-demo/voting/publications/p202012/tables.html>. For more details on disparities in voter registration and voter turnout rates, see: Hess, Douglas R. and Jody Herman. (2009, November). *Representational Bias in the 2008 Electorate*. Washington, DC: Project Vote. Available at: <http://www.projectvote.org/images/publications/Reports%20on%20the%20Electorate/Representational%20Bias%20in%20the%202008%20Electorate/Representational%20Bias%20in%20the%202008%20Electorate.pdf>
48. U.S. Department of Agriculture, *Supplemental Nutrition Assistance Program Participation and Costs* (Date as of September 6, 2013), <http://www.fns.usda.gov/pd/SNAPsummary.htm>
49. 42 U.S.C. § 1973gg-9
50. No. 3-02-0938 (M.D. Tenn. 2002)
51. The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2001-2002, Federal Election Commission, at 48, available at [http://www.eac.gov/assets/11/Page/The%20Impact%20of%20the%20National%20Voter%20Registration%20Act%20on%20Federal%20Elections%202001-](http://www.eac.gov/assets/11/Page/The%20Impact%20of%20the%20National%20Voter%20Registration%20Act%20on%20Federal%20Elections%202001-2002)

- 2002%20accessible.pdf; The Impact of the National Voter Registration Act on the Administration of Elections for Federal Office 2003-2004, Federal Election Commission, at 23, available at <http://www.eac.gov/assets/1/AssetManager/NVRA%202003-2004%20Report%20Tables%201-4.pdf>
52. Agreement Between the United States Department of Justice and the Arizona Department of Economic Security Concerning Standards and Monitoring of Compliance with the National Voter Registration Act of 1993, available at http://www.justice.gov/crt/about/vot/nvra/az_nvra_moa.php
 53. Memorandum of Agreement By and Between the United States and the State of Illinois, Department of Human Services, available at http://www.justice.gov/crt/about/vot/nvra/il_nvra_agreement.pdf
 54. *United States v. State of New York*, 700 F.Supp.2d 186 (N.D.N.Y. 2010)
 55. *United States v. State of Rhode Island*, No. 11-00113 (D.R.I. March 25, 2011)
 56. *United State v. State of Louisiana*, No. 11-00470 (M.D. La.)
 57. Presidential Commission on Election Administration, The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration, at 17–18 (Jan. 2014), available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.
 58. Notice letters regarding Section 7 violations have been sent to Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nevada, New Jersey, New Mexico, Ohio, Pennsylvania, Texas, Virginia, and West Virginia.
 59. *ACORN v. Scott*, No. 08-CV-4084-NKL (W.D. Mo. Jul. 15, 2008) (order granting preliminary injunction)
 60. *Id.*
 61. Data from the State of Missouri to Project Vote is on file with the author.
 62. U.S. Election Assistance Commission, The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2009-2010, tbl. 2a, available at <http://www.eac.gov/assets/1/Documents/2010%20NVRA%20FINAL%20REPORT.pdf>; U.S. Election Assistance Commission, The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2011-2012, tbl. 2a, available at http://www.eac.gov/assets/1/Documents/EAC_NVRA%20Report_lowres.pdf.
 63. *Harkless v. Brunner*, 545 F.3d 445, 447 (6th Cir. 2008)
 64. *Harkless v. Brunner*, 467 F.Supp.2d 754 (N.D. Ohio 2006)
 65. *Harkless v. Brunner*, 545 F.3d 445 (6th Cir. 2008)
 66. *Harkless v. Brunner*, No. 06-2284 (N.D. Ohio, Nov. 25, 2009), available at <http://projectvote.org/images/publications/Litigation/Harkless%20v.%20Brunner/Harkless%20v.%20Brunner%20Signed%20Final%20Settlement%20Agreement.pdf>
 67. Data from the State of Ohio to Project Vote is on file with the author.
 68. *Indiana State Conference of the NAACP v. Gargano*, No. 09-0849 (S.D. Ind., Apr. 18, 2011), available at <http://projectvote.org/images/publications/Litigation/NAACP%20v.%20Murphy/Indiana%20v.%20Gargano%20Settlement%20Agreement%20-%20May%202011.pdf>
 69. Data from the State of Indiana to Project Vote is on file with the author.
 70. *Valdez v. Herrera*, 09-668, 2010 U.S. Dist. LEXIS 142209 (D.N.M. Dec. 21, 2010)
 71. *Valdez v. Duran*, No. 09-00668 (D.N.M. Feb. 24, 2011), available at http://projectvote.org/images/publications/Litigation/Valdez%20v.%20Herrera/Valdez_v_Duran_Consent%20Order%20Sec%207%20Feb.24.2011.pdf
 72. *Valdez v. Squier*, 676 F.3d 935 (10th Cir. 2012)
 73. Data from the State of New Mexico to Project Vote is on file with the author.
 74. *Georgia State Conference of the NAACP v. Kemp*, 841 F.Supp.2d 1320 (N.D. Ga. 2012)
 75. *Georgia State Conference of the NAACP v. Kemp*, No. 11-01849 (N.D. Ga. Apr. 18, 2012), available at <http://projectvote.org/images/publications/Litigation/GA%20NAACP%20v.%20Kemp/NAACP%20v.%20Kemp%20Executed%20Settlement%20Agreement.pdf>
 76. Data from the State of Georgia to Project Vote is on file with the author.
 77. *Black Political Empowerment Project v. Aichele*, No. 12-03808 (E.D. Pa. Aug. 22, 2012), available at http://projectvote.org/images/publications/Litigation/B-PEP%20v%20Aichele/BPEP_v_Aichele_Settlement.pdf
 78. *Ferrand v. Schedler*, No. 11-926, 2012 WL 1570094 (E.D. La., May 3, 2012)
 79. *Scott v. Schedler*, No. 11-926, 2013 WL 264603, at *10, *13 (E.D. La., Jan. 23, 2013)
 80. *Id.* at *16.
 81. *Scott v. Schedler*, No. 11-926 (E.D. La., Jan. 23, 2013), available at http://projectvote.org/images/publications/Litigation/Ferrand%20v.%20Schedler/ferrand-v-schedler_permanent_injunction.pdf
 82. *Scott v. Schedler*, No. 11-926 (E.D. La., Mar. 15, 2013)
 83. *Scott v. Schedler*, No. 13-30185 (5th Cir. 2013)
 84. *Delgado v. Galvin*, No. 1:12-cv-10872 (D. Mass., May 15, 2012)
 85. On file with the author
 86. As reported by DTA to the *Boston Globe*
 87. U.S. Election Assistance Commission, The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2011-2012, tbl. 2a, available at http://www.eac.gov/assets/1/Documents/EAC_NVRA%20Report_lowres.pdf
 88. *National Council of La Raza v. Miller*, 914 F.Supp.2d 1201 (D. Nev. 2012)
 89. *National Council of La Raza v. Miller*, No. 13-15077 (9th Cir. 2013)
 90. U.S. Election Assistance Commission, The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2011-2012, tbl. 2a, available at http://www.eac.gov/assets/1/Documents/EAC_NVRA%20Report_lowres.pdf.
 91. *Valdez v. Squier*, 676 F.3d 935 (10th Cir. 2012)
 92. *Georgia State Conference of the NAACP v. Kemp*, 841 F.Supp.2d 1320 (N.D. Ga. 2012); *Ferrand v. Schedler*, 2012 WL 1570094 (E.D. La. 2012).
 93. Brennan Center for Justice, *The Case for Voter Registration Modernization 12* (2013), available at <http://www.brennancenter.org/sites/default/files/publications/Case%20Voter%20Registration%20Modernization.pdf>
 94. According to the Presidential Commission on Election Administration, “[B]y all accounts, the root of many registration difficulties occurs at the point where one agency receiving a registration form or updated address fails to transmit that information accurately and seamlessly with the voter registration database held by the election authority.” Presidential Commission on Election Administration, The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration, at 17-18 (Jan. 2014), available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.
 95. Brennan Center for Justice, *The Case for Voter Registration Modernization 13–14* (2013), available at <http://www.brennancenter.org/sites/default/files/publications/Case%20Voter%20Registration%20Modernization.pdf>
 96. *Id.* at 14
 97. See, e.g., The Department of Justice, The National Voter Registration Act of 1993 (NVRA): Questions and Answers, Q&A 13, available at http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php (listing Medicaid and SCHIP as federal public assistance programs that are required to offer voter registration pursuant to Section 7 of the NVRA).

Project Vote is a national nonpartisan, non-profit 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.

For More Information

contact:

Sarah Brannon
Director
Public Agency Voter Registration Program
202.546.4173 ext. 303
sbrannon@projectvote.org

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