

National Network on State Election Reform



IMPLEMENTATION OF THE NATIONAL VOTER REGISTRATION ACT (NVRA)

The National Voter Registration Act was passed by Congress in 1993 and mandated state implementation in 1995. Its advocates envisioned the Act as building on the work of the Voting Rights Act of 1965. In general, the VRA forbids the states from erecting racially discriminatory barriers to voting while the NVRA requires states to affirmatively offer voter registration services.¹ The Voting Section of the Civil Rights Division of the United States Department of Justice has the responsibility for enforcement of the NVRA, which also contains a private right of action.

What are the MAJOR PROVISIONS of the NVRA?

- Motor vehicle departments are required to offer simultaneous application for voter registration and driver's license, the so-called "motor voter" provision (Section 5).
- States must accept the federal mail-in voter registration application and may choose to design and offer their own mail-in voter registration form (Section 6).
- Public assistance agencies, state disability offices, and other offices serving the public must offer voter registration to clients (Section 7).
- Jurisdictions must adhere to a set of procedures and safeguards for the maintenance of voter registration lists (Section 8).

WHAT KINDS OF PROBLEMS OCCUR IMPLEMENTING NVRA?

Failure To Offer Voter Registration Services At Public Assistance Agencies: All offices that provide public assistance and all offices that provide state-funded services to people with disabilities must be designated as voter registration agencies, which in turn must distribute voter registration applications --either the federal mail-in form, a similar form of the state's design or the agency's own form-- assist applicants with completing the application forms, and accept and transmit the application. In addition, agency forms used to apply for benefits, recertification, renewal or change of address must either (1) incorporate the question, "If you are not registered to vote where you live, would you like to apply to register to vote here today?" or (2) be part of a packet of forms that also includes that question as well as a voter registration application. Common violations of these provisions include the failure to provide any voter registration services to public assistance clients, the failure to provide registration at all points of contact, and the failure to use the language prescribed by the NVRA on (or with) agency forms. A recent study found that, due to these and other similar NVRA violations, registration applications from

¹ Idaho, Minnesota, New Hampshire, Wisconsin, Wyoming, and North Dakota are exempt because, as of March 11, 1993, each allowed election day registration at the polls or did not require voter registration.

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public assistance agencies nationwide have fallen by 59.6% since the NVRA's implementation while applications from all other NVRA sources rose 22.4%.²

Failure To Timely Transmit Voter Registration Applications From Voter Registration

Agencies: Under the NVRA, officials have 10 days from the date an application is signed to transmit the form to the appropriate election officials. Frequently, voter registration agencies do not meet this deadline and therefore properly registered voters do not appear on the voter list.

Refusal To Accept The National Mail Voter Registration Form: *Recently, both the Election Assistance Commission and the United States Court of Appeals for the Eleventh Circuit have made clear that states must accept the federal mail-in voter registration application form, with no additional requirements, for elections for Federal office. Both Georgia's refusal to accept bundled mail-in forms and Florida's proposal to treat the federal mail-in form as an incomplete registration application were rejected as illegal under the NVRA.*

Impermissible Purging of Voters: A voter may NOT be removed from the voter list unless (1) S/he has requested removal; (2) State law requires removal by reason of criminal conviction or mental incapacity; (3) S/he has confirmed in writing that s/he has moved outside the jurisdiction maintaining the specific voter list; or (4) S/he BOTH (a) has failed to respond to a very particular notice described by the statute and (b) has not voted or appeared to vote in the two federal general elections following the date of that notice. The NVRA Notice required by the statute must be a postage pre-paid, pre-addressed return card, sent by forwardable mail, on which the registrant may state his/her current address and the Notice must also include instruction that the completed card needs to be returned if the voter is still in the jurisdiction and information about how to stay eligible to vote if s/he has moved outside the jurisdiction. Some states have removed voters from the voter list without sending the required Notice to voters who have changed their address or have placed voters on the inactive voter list (thereby initiating the voter removal process) after *non-forwardable* mail has been returned as undeliverable to the voter's address.

Failure To Honor "Failsafe" Voting Requirements For Voters Who Have Changed Their Address But Go To Their Original Polling Places To Vote: *A voter who has moved within the registrar's jurisdiction (usually the county) and also within the congressional district must be permitted to update address information and vote, even if s/he has failed to return a Notice received as part of a voter removal program, upon oral or written affirmation of his or her current address before an election official at the original or central polling place within the jurisdiction. If permitted under State law, at the voter's option, the voter may instead vote at the new polling place. Even if not permitted to vote at the new polling place under State law, the voter must be allowed to correct the voter records for purposes of voting in future elections at that location.*

² Demos, ACORN & Project Vote, *A Promise Unfulfilled: The National Voter Registration Act in Public Assistance Agencies, 1995-2005* 5 (July 2005).

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HOW CAN STATES BETTER IMPLEMENT NVRA?

In addition to correcting problems of non-compliance identified above, states can improve their NVRA implementation with the following measures:

Integrate NVRA agencies into the HAVA-required statewide database: Voter registration agencies—motor vehicle departments, public assistance agencies, state-funded agencies that serve people with disabilities and others as designated by the states—should be fully and electronically integrated into the HAVA-required computerized statewide registration databases to ensure the prompt processing of applicants who submit voter registration applications at those agencies.

Use of Databases in Favor of Registration: When information is missing from a voter registration application, there should be clear procedures for using information provided by other state databases, such as DMV data, to supplement the information provided by the voter and correct the application. That way, an application can be processed and accepted rather than rejected.

Improve agency registration procedures. The NVRA Implementation Project has developed a series of “best practices” recommendations for effective voter registration services at public assistance agencies.³ Those practices include verbally offering to register the client to vote, asking the voter registration question at the beginning of the client interview, offering registration in office waiting rooms, ensuring agency staff receive regular NVRA training, integrating voter registration into the core mission of the agency, and closer monitoring of agency performance.

³ *Id.* at 8-13.