

Expanding Voter Registration for Low-Income Virginians: The Impact of the National Voter Registration Act

As in many states, voter registration among Virginia's low-income citizens lags far behind that of other citizens. One key to overcoming this disparity is state compliance with the National Voter Registration Act (NVRA), which Congress enacted 15 years ago to ensure more widespread access to registration. Research and investigations conducted by Dēmos and its partners have shown that many states, including Virginia, have been failing to follow the NVRA's requirement to provide voter registration services through state agencies, particularly public assistance offices. This report outlines how, once informed of its inadequate performance, the state of Virginia immediately implemented a plan to bring its Department of Social Services offices into compliance with the law. Within days of meeting with Dēmos staff to discuss how to fix the problem, state actors agreed to implement a number of "best practices" to ensure that all covered clients were being offered the opportunity to register to vote. Because of Virginia's enthusiastic response, and ongoing commitment to follow the law, registrations through its public assistance offices have increased eight-fold, with over 2,400 low-income citizens registering each month, compared to fewer than 300 per month before Virginia stepped up its compliance efforts.



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The NVRA's History and Requirements

Seeking to reduce barriers to voter registration and promote broader participation in our democracy, Congress passed the NVRA in 1993 to combat “unfair registration laws and procedures” and promote the “fundamental right” to vote.¹ Toward that end, the NVRA requires states to offer voter registration services at several of their state agencies, including those that provide public assistance benefits.² Specifically, these agencies must provide voter registration services to anyone who applies for public assistance, seeks to recertify eligibility, or updates his or her address in relation to benefits. The opportunity to register must be provided whether the services are offered in-person at the agency or remotely by telephone, mail, or the Internet.³

States Struggle to Implement the Act

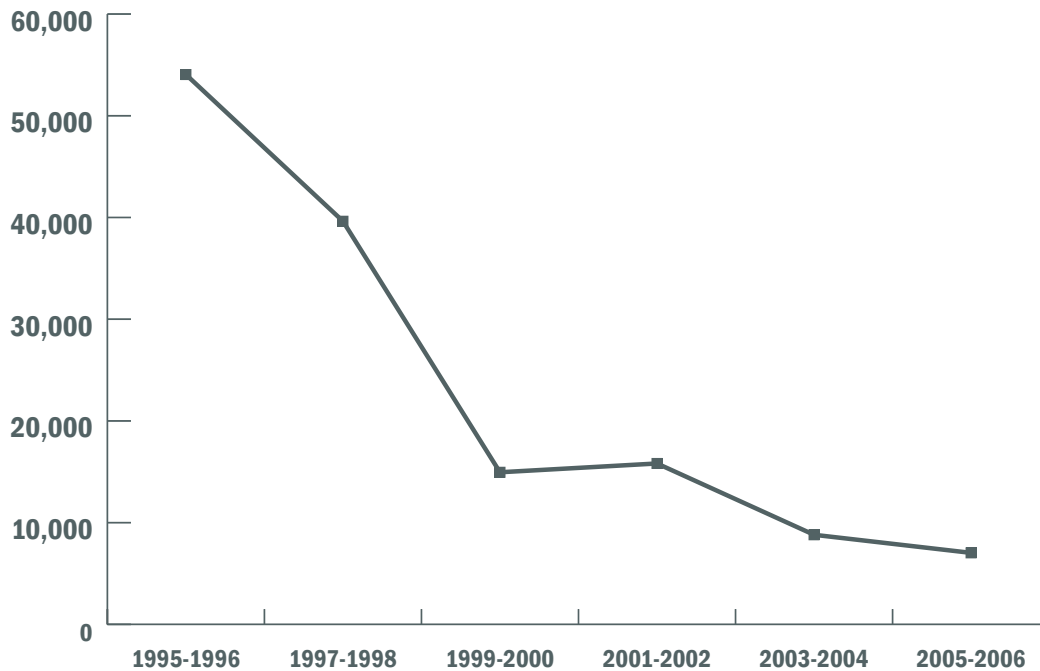
Research by Dēmos and our partners has shown that many states have failed to adequately implement Section 7 of the NVRA. According to federal data, between 1995-1996, when the law first went into effect, and 2005-2006, states' public assistance agencies showed a 79 percent decline in registrations from their offices.⁴ Field investigations in states throughout the country indicate that clients are simply not being provided the opportunity to register.⁵

As part of our mission to encourage a more robust and inclusive democracy, the Democracy Program at Dēmos works to improve adherence to the NVRA, through negotiation or litigation, in poor-performing states. Michigan, North Carolina, and West Virginia have all worked cooperatively with us and have implemented, with our assistance, “best practices” to bring their states into compliance with the law. Most recently, Virginia joined their ranks. When Dēmos—along with our partners, Virginia Organizing Project, Democracy South, the Virginia State Conference of the NAACP, and the ACLU of Virginia—brought our findings of noncompliance in Virginia's public assistance offices to the attention of the State Board of Elections, the entity tasked by the state with NVRA enforcement, and the Virginia Department of Social Services (VDSS), representatives from both bodies agreed to meet with Dēmos staff and their partners to discuss ways in which to improve their registration services.

The Virginia Story

Data provided over a ten-year period by Virginia to the Federal Election Commission and the Election Assistance Commission strongly indicated that the state's Department of Social Services was not in compliance with the NVRA. The number of registrations from Virginia's public assistance agencies declined by at least 87 percent since initial implementation of the law, from 54,051 in 1995-1996 to only 7,030 in 2005-2006.⁶ This steep decline occurred even though the average monthly participation in the state's Food Stamps program in 2006 was similar to participation in 1996.⁷ Partially as a result, there remains a large income gap in voter registration rates among Virginians: in 2006, only 58 percent of Virginia citizens in households making less than \$25,000 a year were registered to vote compared to 81 percent of those in households making \$100,000 or more.⁸

Voter Registrations in Virginia Public Assistance Agencies, 1995-2006



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

Field investigations conducted by Democracy South confirmed widespread noncompliance with the law. In early 2008, investigators visited nine DSS offices in some of Virginia's most highly populated counties.⁹ Seven of the nine offices did not even have voter registration applications on site, a clear violation of the NVRA. At several of these locations, office staff indicated that they were completely unaware of any obligation to provide voter registration to clients, instead suggesting that such services should be obtained at the DMV, library, or city hall. Furthermore, of 90 clients interviewed outside seven DSS offices after conducting an NVRA-covered transaction, only eight had been asked verbally about voter registration during their visit and many did not recall seeing the required "declination" question in their application materials.

Finally, Virginia DSS' voter registration materials themselves ran afoul of the law. Section 7 of the NVRA contains specific requirements on the content of forms that must be provided to each client engaging in a covered transaction, to ensure that clients understand their rights. DSS' forms did not comply in several important respects, the effect of which was likely to be confusion or discouragement on the part of a client wishing to register.

In mid-April Dēmos, along with our partners, sent a letter to Virginia officials documenting our findings and asking for a meeting with DSS officials. Because various groups (Equality Virginia, Virginia AFL-CIO, Virginia Organizing Project) had solid working relationships with the Virginia Board of Elections, the Governor's office, and the Commissioner of DSS, they were able to help push for a meeting within a few short weeks. In early May 2008, staff from Dēmos and its partner organizations¹⁰ met with key representatives¹¹ from the Virginia State Board of Elections and Department of Social Services in Richmond

to create a plan to help bring the state's 120 local public assistance offices into full compliance with the NVRA. During the meeting, Tom Steinhauser, the agency's Director of Benefit Programs, expressed a commitment to take quick, affirmative steps to remedy the problem and to make voter registration services a priority at VDSS. Indeed, within days, all had agreed that VDSS would institute the following practices:

- » Circulate an immediate bulletin to all VDSS employees reminding them of their obligations to provide voter registration services to all clients who apply for, recertify, or change an address related to benefits.
- » Identify an NVRA Site Coordinator for each local office, with responsibility for maintaining an adequate supply of voter registration applications, reporting to state VDSS officials the number of voter registration applications transmitted to election officials, and training staff on their NVRA duties.
- » Commit to providing voter registration applications online and through the mail for statute-covered transactions conducted on the Internet and over the telephone.
- » Re-train all relevant VDSS employees on their responsibilities under the NVRA by June 2008, within a month of the meeting's date. All new employees, moreover, will be trained on NVRA duties at orientations.
- » Institute monthly reporting by local office VDSS staff to a state-level supervisor on the numbers of voter registration applications submitted by each office to local election officials.
- » Institute monthly comparisons by a state-level employee of the number of completed voter registrations to the total number of applications for TANF, Food Stamps, and Medicaid received by each local office.
- » Revise language in its "declination"—the NVRA-required form asking a client whether he or she would like to register to vote at the agency—so that it complies with the statute's requirements.
- » Incorporate the provision of voter registration services into its federal Food Stamp Management Evaluation reviews.
- » Revise the agency's voter registration training manual and power point presentation to accurately convey to employees the requirements of the law.
- » Make voter registration applications available in office lobbies and ensure that receptionists offer assistance to clients in completing the forms.
- » Provide information in each office's waiting room on how to restore voting rights for those with past felony convictions.

Within a month, VDSS had enacted, or was well on its way to enacting, each of the agreed-to improvements. Dēmos and its partners are particularly pleased that the agency agreed to include within its Management Evaluation reviews the performance of voter registration services. Just as staff members are evaluated on whether they perform all duties required under, say, the Food Stamps program, VDSS employees and offices will now be evaluated on whether they fulfill their responsibilities under the NVRA. Like the

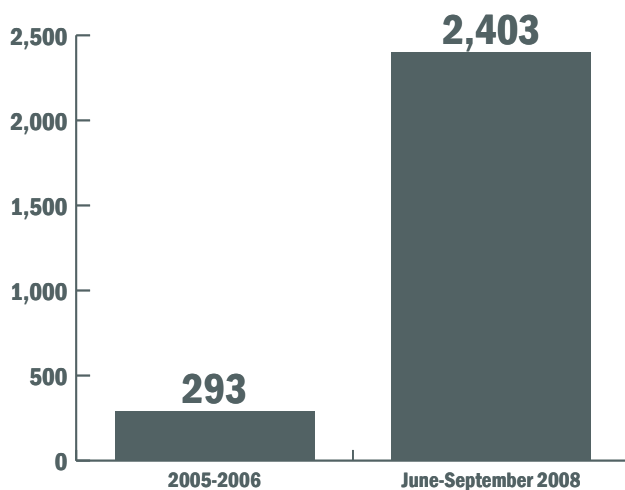
rules governing Food Stamps, the obligations under the NVRA are not optional; they are mandatory under federal law and must be followed. Evaluating offices' performances helps ensure that all employees, in all offices, are complying with their voter registration responsibilities. If an office review shows poor performance, the agency may then take appropriate action to prevent ongoing failures and bring that office back into compliance.

Each office's NVRA Site Coordinator, moreover, is tasked with the duty of ensuring that employees have the resources they need to do their jobs. Coordinators are responsible for not only maintaining a steady supply of voter registration applications in the office but also training staff on their NVRA duties; also, they must maintain a line of communication with a state agency official on NVRA matters. This kind of supervision, coupled with the coordinator's duty to report numbers of voter registration applications submitted to the local county clerk, provides the agency with a clear picture of how each office is performing its duties. Review of the registration numbers, assessment of office evaluations, and communication with local coordinators helps the agency guarantee NVRA compliance by all its offices.

Virginia's Success

The experience of Virginia is proof that effective NVRA implementation in public assistance agencies can dramatically increase the number of low-income citizens registering to vote in these agencies. Between implementation of the new procedures in June 2008 through the end of September 2008, Virginia's Department of Social Services registered 9,612 voters, an average of 2,403 per month. In contrast, the state had registered only 7,030 voters at public assistance agencies *in all of 2005 and 2006 combined*, an average of only 293 per month. Thus, the initial data suggest an eight-fold increase in the average number of voters registering as a result of DSS's implementation plan.

Average Monthly Voter Registrations in Virginia Public Assistance Agencies



Source: U.S. Federal Election Commission, U.S. Election Assistance Commission and Virginia State Board of Elections.

Some of Virginia's localities are able to register a significant percentage of those clients interacting with their offices. For example, Norfolk City, one of the more populous localities in the state, registered over 16 percent of those clients applying for Food Stamps in August.¹² Twenty-seven jurisdictions were able to register over 20 percent of those applying for Food Stamps in August, a powerful testament to the importance of the NVRA in reaching low-income citizens.

The dramatic results in Virginia are consistent with those seen in other states that have made the effort to improve their compliance with the law. North Carolina, for example, registered over 63,000 low-income citizens in its public assistance agencies in a year and a half after State Board of Elections Executive Director Gary

Bartlett worked with advocates to create a comprehensive plan for improvement.¹² Similarly, Michigan's Department of Human Services has registered over 21,400 voters in the past seven months after implementing a comprehensive program that includes public service announcements by local Michigan celebrities and Voter Registration Fairs in which voting machine demonstrations and sample ballots are brought to local public assistance offices.¹³

Conclusion

Within weeks of being presented with evidence that its offices were out of compliance with the NVRA, the Virginia Department of Social Services worked cooperatively with Dēmos and our partners to design and implement an effective voter registration program. Success, in the form of thousands of additional low-income citizens registering to vote and becoming part of the democratic process, has followed. The state's re-implementation plan offers a compelling model for the many other states across the country that have fallen behind in their responsibilities under Section 7 of the NVRA. Tom Steinhauer and the staff of VDSS should be commended for their efforts to empower their clients and to help create an electorate more representative of our diverse population.

Endnotes

1. 42 U.S.C. § 1973gg(a)(1), (3)
2. Several states are exempt from the requirements of the NVRA because they offered Election Day registration at the polling place at the time the Act was passed. Those states are Idaho, New Hampshire, Minnesota, Wisconsin, and Wyoming. North Dakota is also exempt from the NVRA because it has no statewide voter registration requirement.
3. See 42 U.S.C. § 1973gg-5(a)(4)(A) & (a)(6)(A)
4. Douglas R. Hess and Scott Novakowski, "Unequal Access: Neglecting the National Voter Registration Act, 1995-2006" (February 2008), available at <http://www.demos.org/pub1531.cfm>.
5. See "Unequal Access," *supra*.
6. It should be noted that the state provided the FEC with incomplete data in 1995-1996, suggesting that the reported 54,051 registrations may actually be an undercount.
7. Figures are based on data reported in the Virginia Department of Social Services Information Resource Book, available at http://www.dss.state.va.us/geninfo/reports/agency_wide/annual_statistical.cgi. Food Stamps is just one of the programs covered by the NVRA but provides a conservative baseline for estimating the number of persons receiving covered services.
8. U.S. Census Bureau Current Population Survey, Voting and Registration Supplement of November 2006, analysis by Dēmos.
9. The nine offices visited were: two in Norfolk, and one each in Chesapeake, Hampton, Henrico County, Newport News, Portsmouth, Richmond (City), and Virginia Beach.
10. Alongside representatives from Dēmos, Winnett Hagens from Democracy South, Joe Szakos from Virginia Organizing Project, King Salim Khalfani from the Virginia State Conference of the NAACP, and Adisa Muse from the ACLU of Virginia all attended the meeting. Dēmos thanks them, and Courtney Daniels—who conducted office investigations and client interviews at VDSS offices—for their work and dedication to this project.
11. Representing Virginia at the meeting were Tom Steinhauer, Director of Benefits at VDSS; Walter Burton, Assistant Director of Benefits at VDSS; and Gary Ellis, NVRA Coordinator at the State Board of Elections.
12. Food Stamp application data for the month of September was unavailable at the time of publication.
13. For more information on North Carolina and their improvements in public assistance voter registration see Lisa J. Danetz and Scott Novakowski, Dēmos: A Network for Ideas & Action, "Expanding Voter Registration for Low-Income Citizens" (updated April 2008), available at <http://www.demos.org/pub1446.cfm>.
14. For more information on Michigan's NVRA program see "Testimony of Catherine Truss, Michigan Department of Human Services," *Hearing on National Voter Registration Act, Section 7: The Challenges that Public Assistance Agencies Face*, Committee on House Administration Subcommittee on Elections, April 1, 2008, available at http://cha.house.gov/UserFiles/93_testimony.pdf.

About Dēmos

Dēmos is a non-partisan public policy research and advocacy organization. Headquartered in New York City, Dēmos works with advocates and policymakers around the country in pursuit of four overarching goals: a more equitable economy; a vibrant and inclusive democracy; an empowered public sector that works for the common good; and responsible U.S. engagement in an interdependent world.

Dēmos was founded in 2000.

Miles S. Rapoport, President

Tamara Draut, Vice President of Policy and Programs

About the Democracy Program

The Democracy Program works to strengthen democracy in the United States by reducing barriers to voter participation and encouraging civic engagement. Dēmos supports state and national reform efforts by conducting research on current and long-range issues; advancing a broad agenda for election reform; providing advocates and policymakers with technical support; and strengthening reform networks. Through our recent alliance with the National Voting Rights Institute, we are now able to utilize complementary channels of policy, advocacy and litigation to achieve our goals.

Stuart Comstock-Gay, Director of the Democracy Program

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Allegra recently joined Dēmos to work on voting rights, with an emphasis on National Voter Registration Act litigation. Before joining the organization, she worked for the Mental Health Law Project at MFY Legal Services, Inc., where she engaged in class-action litigation under the Americans with Disabilities Act. Prior to that, at Lansner and Kubitschek, Allegra both defended mothers at child-removal hearings and conducted class-action litigation in the area of family constitutional rights. Right after law school, she clerked for the Hon. Michael L. Rankin, of the District of Columbia Superior Court, for two years. And before pursuing her law degree, Allegra worked for the South Korean Embassy in Washington, D.C. as a researcher and speechwriter. She received her B.A. in philosophy from McGill University and her J.D. from Emory University.

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Scott Novakowski joined Dēmos in September 2005. For the last three years he has been working on a national campaign to improve state compliance with the National Voter Registration Act, in addition to extensive research and writing on election administration and voting rights concerns in the U.S. He holds a Master of Social Work degree with a concentration in Policy Practice from the University of Connecticut School of Social Work and a B.A. in Sociology, also from the University of Connecticut.

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