

A close-up portrait of a young woman with long, dark hair, smiling warmly. She is wearing a blue patterned top and a thin gold necklace. The background is a soft-focus outdoor setting with green foliage and sunlight filtering through the leaves.

“At the end of the day, list maintenance is a good thing. We want clean, accurate voter rolls but we need to make sure that safeguards are in place to prevent the removal of qualified voters who are eligible to vote in Virginia...”

–Tram Nguyen, co-executive director of Virginia Majority, testifying about Virginia’s planned use of the Department of Homeland Security immigrant database to verify voter registration addresses.

SECTION 1: Voter Registration

Recent decades have seen significant efforts to make the voter registration process more accessible. The National Voter Registration Act of 1993 (NVRA) requires states to provide widespread access to registration applications at Departments of Motor Vehicles and public assistance agencies. The law also requires states to make registration forms available to community organizations and accept the forms used by those organizations in voter registration drives. More recently, voters have benefitted from an increasing number of states taking steps to modernize and streamline their voter registration processes. Today, 46 states and the District of Columbia have implemented some aspect of voter registration modernization.¹ Allowing voters to register when they vote—same day registration—and giving voters the ability to register and update their information online are just two examples of these reforms. In addition, many states are encouraging early civic participation by permitting 16- and 17-year-olds to “pre-register” and have their registration automatically activated when they reach voting age.

Yet despite these efforts, approximately 51 million eligible citizens are not registered to vote.² While some portion of this population may have made the affirmative choice not to register, many potential voters are not registered because of obstacles created by state action and inaction, including conduct by state election officials and the passage of laws that restrict access. For example, the NCVR described in its first report the myriad ways in which state election officials have manipulated voter registration to disenfranchise minority voters. These include restrictions on voter registration drives, failure to comply with the public agency provisions of the NVRA, and purges of the registration rolls in ways that disproportionately affect minorities.³

NCVR hearing testimony highlighted in the following section illustrates both the positive developments in voter registration as well as the ongoing challenges that eligible citizens still face when registering to vote.

SAME DAY REGISTRATION ENCOURAGES TURNOUT AND PARTICIPATION

Same day registration (SDR) is a one-stop process for registering and voting during a state's early voting period. In some states, same day registration is also available on Election Day and is known as Election Day Registration. As of January of this year, 14 states and the District of Columbia⁴ had enacted SDR. Numerous benefits have been attributed to SDR, including remedying inaccurate voter rolls, reducing the need for provisional ballots and eliminating arbitrary deadlines that cut off registration when voters are most interested.⁵ And while several studies have shown inconclusive results about the impact of SDR on voter turnout rates⁶ due to the complexity of factors in play in a given state, additional research points to meaningful increases in turnout,⁷ and of the greater likelihood of an impact when SDR is combined with other administrative reforms.⁸ Furthermore, an analysis of 2012 Census data shows that, on average, voter turnout in states with SDR is four percent higher than in states without.⁹

At the NCVR Minneapolis regional hearing, Neil Albrecht, the Executive Director for the City of Milwaukee Election Commission testified about election administration programs implemented by Wisconsin that have boosted voter turnout and participation. These programs include SDR.:

“Wisconsin celebrates one of the highest voter participation rates in the nation in presidential elections, second only to Minnesota. An examination of the registration and voting opportunities in these two states, in comparison to other states, demonstrates that diverse points of access to voting is critical to strong and consistent rates of voter participation. Examples of these include same-day registration...”¹⁰

In testimony before the NCVR, Executive Director of Democracy North Carolina Bob Hall summarized the popularity of SDR- available during early voting until 2013- amongst African American and young voters.:

“Same day registration. African-Americans, again, 22 percent of registered voters—they were 34 percent who used same day registration. Young people ages 18-25, 12 percent of the registered voters but thirty-three percent of those who use same day registration.”¹¹

Hall and many other North Carolina advocates spoke out against the state legislature's elimination of same day registration, which was part of a package of cutbacks and restrictive voting laws passed by the legislature in 2013.



Bob Hall, Executive Director of Democracy North Carolina (seated at left), testified about the negative impact of the state's repeal of same day registration at the NCVR North Carolina state hearing. Also pictured are North Carolina Representative Evelyn Terry and Anita Earls, Executive Director of the Southern Coalition for Social Justice.

PHOTO CREDIT: ERIC PRESTON

Additional research estimates that voter turnout could be nearly six percent higher if SDR were implemented nationally, and that among historically disenfranchised groups, including Latino, Asian American and African American voters, the increase could be even greater.¹²

Rollback of SDR Legislation: Making it Harder for Voters

Unfortunately, North Carolina is one of several states that repealed SDR, arguing that it creates the potential for fraud, an allegation demonstrated to be unfounded by academic research.¹³ Chris Brook, Legal Director of the ACLU of North Carolina, voiced concern about the impact of the elimination of SDR on African American voters, who in the 2012 election cycle were:

“45 percent of same-day registrants who were changing their address via same-day registration. We see similar impacts in the photo ID provisions that are in the Bill... So, the numbers don't lie here. It's very plain that the disproportionate impact is going to be felt from these changes in communities of color.”¹⁴

In another example of recent cutbacks to SDR, Ohio lawmakers repealed “Golden Week” in February 2014. Golden Week refers to the period when voter registration and absentee voting are both available, and this five-day overlap allowed Ohio citizens to register and cast an in-person absentee ballot on the same day.¹⁵ Addressing the argument that SDR imposed unreasonable administrative burdens on election officials, attorney Ellis Jacobs said this at the NCVR Columbus regional hearing in May 2014:

“The one thing that was said is that some boards of election have said that they have administrative issues with managing registration and voting on the same day. I called two of the boards of election near where I live and spoke to directors, and both of them had the exact same response. They both laughed when I put that to them. They said, ‘Are you kidding? This is what we do. We manage voters who need to register and need to vote. We don’t break a sweat doing it. It causes us no problems.’”¹⁶

Cuyahoga County Board of Elections member Sandy McNair, who testified as a private citizen, agreed with Ellis, adding, “I would echo that we didn’t have any problem administering either registration or people voting during that period.”¹⁷

In response to the early voting cuts, Ohio civil rights groups, churches and community organizations sued Ohio’s Secretary of State Jon Husted. The district court found that Husted’s cuts to early voting were unconstitutional and violated Section 2 of the Voting Rights Act, and the Sixth Circuit Court affirmed this ruling.¹⁸ Yet on appeal, the U.S. Supreme Court granted a stay on the lower court’s injunction, thus allowing early voting and Golden Week to be eliminated for the November 2014 general election.¹⁹ Advocates and voters won a partial victory in April 2015, with the state’s agreeing to a settlement that includes restoring one day of Sunday voting and extended weekday evening hours for voting. In a similar case regarding North Carolina’s same day registration, the Supreme Court also overruled a Fourth Circuit Court of Appeals decision, thus allowing the state’s elimination of same day registration.²⁰ In

Attorney Ellis Jacobs argued that same day voter registration does not impose unreasonable burdens on election officials at the NCVR Columbus regional hearing. PHOTO CREDIT: JIMMY MCEACHERN



July 2015, a federal trial opened challenging the 2013 North Carolina law that cut SDR and other expansive voting programs. As of this report's publication date, the presiding judge had not yet issued a ruling.

In addition, in 2014, Nebraska imposed new requirements for SDR during early voting. These requirements include verifying an early-voter's residence by mail after the ballot is cast, but before the ballot is counted. In Montana, voters rejected a ballot measure in November 2014 that would have repealed SDR. And in July 2015, the governor of New Hampshire—where SDR has been in effect since 1993—vetoed a bill that would have imposed a 30-day residency requirement for prospective voters in that state.

ONLINE REGISTRATION: COST EFFECTIVE AND CONVENIENT

Allowing individuals to fill out and submit voter registration forms online is another step that many states are taking to increase voter participation. According to the National Conference of State Legislatures, “[a]s of May 2015, 20 states offer online registration and another seven states plus the District of Columbia have passed but not yet implemented legislation to create online voter registration systems.”²¹ Not only does it provide greater ease and convenience to voters, online registration also has the added benefit of providing significant cost savings to states as well as producing more accurate voter lists.²²

The NCVR heard optimistic predictions for the implementation of online voter registration in the states. At the NCVR Virginia state hearing, Secretary of the Virginia Board of Elections Donald Palmer spoke of future cost savings and administrative efficiencies:

“We’ve had reductions of budgets for years going on almost a decade now, every year more cuts. And so what do we do in an environment where we want to increase access and the integrity of our system while we’re having reductions of resources? ... We try to use technology to make it easier for voters, to make our systems more accurate... One of the things we’ve done is online registration and we hope that it will ... increase the access to the voter, it increases integrity of the system, and it will have savings.”²³

On a similar note, former Nevada Secretary of State Ross Miller spoke at length about the benefits of online registration, which was rolled out in all of the state's counties in 2012. Over 1.17 million voters registered during that election cycle, compared to 965,000 in 2008,²⁴ a jump that Miller attributed to the combination of the online system and a robust statewide public education campaign:

“We averaged 470 registration transactions per day in the two weeks preceding our educational campaign. In the final three weeks of online registration, the same period as our campaign, we averaged nearly 2400 transactions per day, an increase of more than 500 percent of daily activity.”²⁵

At the NCVR Baltimore regional hearing last April, Deputy Administrator for the Maryland State Board of Elections Nikki Charlson reported on her state’s successful implementation of online registration and other web-based tools. “In 2012 which rolled out online voter registration and expanded online voter services, hugely popular in 2012, over 180,000 Marylanders used online registration to register and update registration information,” said Charlson.²⁶ According to Mary Cramer Wagner, Director of the Maryland Board of Elections’ Voter Registration and Petition Division, the main benefit of this online system has been the improvement in the “quality of information” in the State’s voter database.

One significant concern heard at the NCVR hearings and raised by some voting rights organizations is that most online voter registration programs are available only to citizens who have signatures on file with the Department of Motor Vehicles. In other words, only people who have driver’s licenses or state issued-identification can take advantage of online voter registration. As was described at the hearings and in the first NCVR report, over 20 million Americans of voting age do not have driver’s licenses, and those without them tend to be disproportionately minority and low-income.²⁷ According to Norman Robbins, Research Director of the Northeast Ohio Voter Advocates, “twenty percent of Ohioans with incomes

Ross Miller, former Nevada Secretary of State, spoke about the positive effects of Nevada’s online registration system at the NCVR Las Vegas regional hearing. PHOTO CREDIT: GETACHEW KASSA





Lori Schellenberger (seated at left), Director of the ACLU of California's Voting Rights Project, testified about online registration challenges and progress at the NCVR California state hearing. PHOTO CREDIT: ANDRIA LO

less than the poverty level for a family of four do not have even a vehicle. So we have a lot of low-income people who have no driver's license, and probably no state ID, who cannot take advantage of methods of online updating of registration.”²⁸

Expanding language accessibility to online voter registration was also a concern raised among advocates. At the NCVR California state hearing held in San Francisco in January 2014, Lori Schellenberger, Director of the ACLU of California's Voting Rights Project, spoke about ongoing efforts by community-based groups to gain greater access to online registration.

“Online voter registration is one example where we have had to fight very hard, and we have successfully fought that battle ... to have online voter registration be available in Spanish, be available in the languages that Section 203 of the Voting Rights Act requires that the counties offer... In addition, the system-wide launch was not accessible to people with disabilities. That is being changed... One of the caveats is that one has to have an ID to use it, and are we disproportionately impacting people who don't have access to state-issued identification... [T]he Secretary of State has made significant changes to the system so that now that system will be available to people without identification, will be accessible in those languages, and is more accessible to people with disabilities. That was only done through hard-fought and advocacies by civil rights groups.”²⁹

PRE-REGISTRATION: ENCOURAGING YOUNG PEOPLE TO VOTE

Another electoral reform that has gained momentum in many states is the pre-registration of young people at the age of 16 or 17. Under these policies, young people submit registration applications and then become automatically eligible to vote upon reaching voting age, ideally also receiving notification that their registration is active. Today, 22 states allow young people to register before they reach the voting age of 18 years.³⁰

A number of studies, including an often-cited analysis of young voters in Florida³¹ have shown pre-registration to positively impact youth voting. More recently, Duke University researchers John B. Holbein and D. Sunshine Hillygus found that, “[s]tates that implement pre-registration laws see an average 13 percentage point increase in the probability of voting among 18-22 year olds compared to states without preregistration,” and that, “along with having the virtue of raising overall turnout, preregistration has the advantage of doing so for a diverse set of young voters” across political affiliations, genders and races.³²

At the March 2014 NCVR Boston regional hearing, Sara Brady of Mass Vote spoke optimistically about the inclusion of pre-registration for 16- and 17-year-olds in an election reform package and its possibilities for increasing turnout. That package was later passed and signed by the Governor two months after the hearing.

Student Madison Gimmery highlighted the benefits of pre-registration programs at the North Carolina state hearing.

PHOTO CREDIT: ERIC PRESTON



“It’s actually been found that one of the biggest barriers to participation for young people is actually the registration process. It’s just getting on that list in the first place. So we think that preregistration will go a long way in helping with that specific demographic... It’s also important to highlight that voter participation is habit forming, right? So if you get these young people to be able to come out and vote that first time, when they’re 18 or 19 years old, the chances of them continuing to vote dramatically increase.”³³

Discussing the impact of losing the ability to pre-register young people, Madison Gimmery, a student who testified at the NCVR North Carolina state hearing, voiced concern about the State’s elimination of pre-registration which was part of a package of restrictive voting changes implemented in September 2014:

“(Pre-registration) was granted by a bill that passed with overwhelming bipartisan support and went into effect in 2010... The program was essentially cost-free and information on the pending applications was not available to the public. Over 160,000 teenagers preregistered here in North Carolina when they went to the DMV to get a driver’s license or through programs in their high schools. In 2012, 30 percent registered as Democrats, 30 percent as Republicans, and 40 percent as Independents. 18-24 year olds have the lowest voter registration rate out of any group in North Carolina and a much lower rate of voter turnout. The Commission on Youth Voting and Civic Knowledge recently issued a report in which they looked at how to increase civic engagement among youth. One of their recommendations was voting reforms that allowed preregistration and tying this with civics lessons in schools. This is what North Carolina was doing before September 1st of this year.”³⁴

In 2013, Colorado also passed legislation allowing 16-year-olds to pre-register. At the NCVR Denver regional hearing, President of the NAACP Colorado, Montana, and Wyoming state conference Rosemary Harris Lytle lauded pre-registration as a vehicle for early engagement with young voters:

“In Colorado we’re proud to have been a strong advocate of legislation last year that enabled 16 and 17 year olds to register to vote, pre-register, pre-registration to vote. We believe that early engagement, as in my grandmother’s model, makes for a better and stronger democracy.”³⁵

As discussed by NCVR hearing witnesses in the section above, the most effective and efficient voter registration programs are those that expand access and create opportunities for participation across diverse groups and ages. Same day registration, online registration

Aren't Voting...and What We Should Be Doing About It



Rosemary Harris Lytle (seated at left) of the NAACP applauded Colorado's pre-registration laws at the NCVR Denver regional hearing. Also pictured are Dr. Lonna Atkeson of the University of New Mexico; John Zakhem, President of Zakhem Law LLC; and Dede Feldman, former New Mexico State Senator. PHOTO CREDIT: CHRIS FIELDS

and allowing young people to pre-register are among the reforms that have yielded positive results for voters. And as experience in North Carolina and Ohio illustrates, future attempts by states to restrict access to voter registration will likely be met with opposition by voters and advocates.

ISSUE SPOTLIGHT

NVRA Settlements: Positive Impact But More Enforcement Needed

The NVRA was passed specifically in response to the low percentage of eligible citizens registered to vote. The first NCVR report described the widespread failure of States to implement Section 7 of the NVRA, the provision designed to improve the voter registration rates of low-income Americans by requiring public agencies to offer their clients the opportunity to register to vote. The Commission noted that the lack of enforcement has led to far fewer voters of color being offered the opportunity to register to vote than if the law was being followed.³⁶

In response, a number of voting rights organizations, along with the Department of Justice in some instances, filed litigation against non-complying states, which resulted in significant increases in voter registration. The Ohio Department of Jobs and Family Services, for instance, reported that over the more than three years since it entered into a settlement agreement its public assistance offices averaged close to 15,000 voter registration applications submitted per month – compared to a monthly average of 1,775 prior to the intervention.³⁷ Settlement agreements (with or without litigation) in the following state have shown similar results: Alabama, Georgia, Indiana, Missouri, New Mexico and Pennsylvania.

As a result of these settlements and cooperative work in other states, almost two million additional people applied to register to vote through public assistance agencies between 2006 and 2013.³⁸ Data from the Election Assistance Commission reflect the impact of these interventions: half of the top ten states were ones that had been subject to pressure by voting rights groups.³⁹

While there are many success stories, continued vigilance is clearly needed. The potential for backsliding remains. As Norman Robbins pointed out at the NCVR Columbus regional hearing, “after the 2012 election, the registrations coming in from the largest public assistance agency, the Ohio Department of Jobs and Family Services, dropped and has stayed to about 50 percent of what it used to be...this amounts to about 90,000 fewer registrations per year coming from this low income population that is on various forms of public assistance in Ohio.”⁴⁰

Most recently, voting rights organizations, including Project Vote, Demos and the Lawyers’ Committee for Civil Rights Under Law, have together sent notice letters to the authorities in Oklahoma, New Jersey, Arkansas, Arizona, North Carolina, and South Carolina advising them of findings that they are not complying with the NVRA and if not remedied, they could be subject to litigation.⁴¹