

**THE JUSTICE DEPARTMENT CIVIL RIGHTS DIVISION:
PROTECTING THE RIGHT TO VOTE 50 YEARS AFTER THE VOTING RIGHTS ACT**

The right to vote is the bedrock of our democracy. Fifty years ago when President Lyndon Johnson signed the Voting Rights Act (VRA), he declared that, “Millions of Americans are denied the right to vote because of their color. This law will ensure them the right to vote. The wrong is one which no American, in his heart, can justify. The right is one which no American, true to our principles, can deny.”

EQUAL ACCESS TO THE BALLOT BOX

Since 2009, the Department of Justice has closely monitored state laws that would significantly change how elections are conducted and has worked to ensure that state practices and procedures comply with federal law. Following the Supreme Court’s 2013 decision in the *Shelby County* case, which essentially halted enforcement of the Section 5 preclearance mechanism that barred certain states from implementing discriminatory voting laws and practices, the Attorney General has taken steps under the remaining sections of the VRA to protect the right to vote. Additionally, the department has provided technical assistance to Congress on a variety of legislative proposals to restore the VRA. In 2014 and 2015, the department conducted preliminary injunction hearings and trials on the merits in statewide cases enforcing the non-discrimination requirements of Section 2 of the VRA. The department’s efforts to ensure equal access to the ballot box by enforcing the remaining tools in the VRA include:

- In 2014, the department litigated multi-week trials in Texas in two cases enforcing Section 2 of the VRA. In one case, the department challenged Texas’ SB 14 (2011) – which adopts a strict photo identification requirement for voting. In a second case, the department challenged Texas’s 2011 redistricting plans for the Texas congressional delegation and the Texas House of Representatives. The district court in the Texas photo identification case ruled for the United States on both its claim that Texas’ law violates Section 2 because it results in discrimination against minority voters and its claim that the law violates Section 2 because it intentionally discriminates against minority voters. The Fifth Circuit recently affirmed the district court’s finding with respect to the violation of Section 2’s results test and remanded the case for further proceedings with respect to the question whether the law was also purposefully discriminatory. The department is awaiting a decision by the district court in the Texas redistricting case.
- In July 2015, the department litigated a three-week trial in North Carolina enforcing Section 2 of the VRA. The department challenged several provisions in North Carolina’s HB 589 (2013), which eliminated the first week of early voting, eliminated same-day voter registration during the early voting period and prohibited counting certain provisional ballots. The department is awaiting a ruling. The United States’ challenge to the voter ID provisions of the North Carolina law has been deferred in light of the state’s recent amendment to those provisions.
- The department sent monitors or observers to 28 jurisdictions in 18 states for the November 2014 general election to gather information on, among other things, whether voters are subject to different voting qualifications or procedures on the basis of race, color or membership in a language minority group; whether jurisdictions are complying with the minority language provisions of the VRA; whether jurisdictions permit voters to receive assistance by a person of his or her choice if the voter is blind, has a disability or is unable to read or write; whether jurisdictions allow voters with disabilities to cast a private and independent ballot; whether jurisdictions comply with the voter registration list requirements of the National Voter Registration Act (NVRA); and whether jurisdictions comply with the provisional ballot requirements of the Help America Vote Act.
- The department has filed statements of interest or amicus briefs in a range of significant VRA lawsuits brought by private parties involving challenges to restrictive voting laws or the use of election systems that dilute minority voting strength, including in cases challenging restrictive laws in both Ohio and Wisconsin.

DEFENDING THE RIGHT FOR UNIFORMED SERVICES PERSONNEL AND THEIR FAMILIES AND OVERSEAS U.S. CITIZENS TO VOTE

The department protects the rights of our absent uniformed services members and their families, and U.S. citizens living overseas, to vote in elections for federal office no matter where they are stationed or reside in the world through aggressive enforcement of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

- Since 2009, the department has brought 16 lawsuits and entered into nine additional out-of-court agreements to enforce UOCAVA and to protect the voting rights of military and overseas citizens in elections for federal office.
- In 2015, the department successfully resolved a UOCAVA lawsuit in Illinois to ensure military and overseas citizens would have sufficient time to vote in special elections to fill vacancies in the U.S. House of Representatives. The consent decree resulted in a court-approved remedy for a 2015 special congressional election in Illinois and a permanent legislative change in the state election calendar to ensure UOCAVA compliance for future special congressional elections.
- Also, in 2015, the department successfully defended on appeal its victories in two UOCAVA cases involving the date for federal runoff primaries in Georgia and Alabama.
- In 2014, the department obtained a successful decision in litigation in West Virginia to ensure UOCAVA voters in that state benefitted from the protections of the Act.
- The department has proposed new federal legislation to further strengthen UOCAVA and further protect the voting rights of absent uniformed services voters, their families and U.S. citizens residing overseas.

PROTECTING THE VOTING RIGHTS OF ALASKA NATIVES AND AMERICAN INDIANS

Since 2009, the department has taken significant steps to protect the voting rights of American Indians and Alaska Natives.

- In 2015, following a consultation with Alaska Natives and American Indian tribal governments, the department proposed to Congress legislation providing for the designation of polling places in Native villages and on tribal lands.
- In 2013 and 2014, the department filed amicus briefs/statement of interest briefs in *Toyukak v. Treadwell* (D. Alaska) and *Wandering Medicine v. McCulloch* (D. Mont.) and (9th Cir.), two cases brought by Alaska Native and American Indian private plaintiffs under the VRA. *Toyukak* involves a challenge under the language minority provisions of Section 203 of the Act regarding the translation of election information into the Alaska Native languages in the Dillingham, Wade Hampton and Yukon-Koyukuk Census Areas in Alaska. The *Wandering Medicine* plaintiffs alleged that the lack of early voting and late registration opportunities for Native American voters in Big Horn, Blaine, and Rosebud Counties in Montana was a violation of Section 2 of the Act.
- For the November 2014 general election, the department monitored elections in three counties where there are significant populations of Native American voters: Cibola County, New Mexico; Charles Mix County, South Dakota; and Shannon County, South Dakota.

ENSURING ACCESS TO THE ABILITY TO REGISTER TO VOTE

Since 2009, the department has brought and defended lawsuits and filed amicus briefs to enforce the voter registration protections of the NVRA.

- The department has successfully defended the U.S. Election Assistance Commission (EAC) in a suit brought by two states seeking to impose additional, burdensome requirements on citizens who use the Federal Form provided pursuant to the NVRA to register to vote. After the 10th Circuit ruled in favor of the EAC, the Supreme Court declined to hear the case in 2015.
- The department brought NVRA enforcement actions and filed amicus briefs in several states. The department's lawsuit against Rhode Island resulted in a successful settlement, while the department's lawsuit against Louisiana continues in litigation. The department has also filed amicus briefs (in the Supreme Court, courts of appeals and districts courts) in cases brought by private parties to enforce the NVRA in several states, including Louisiana, Georgia, Nevada, Arizona, New Mexico and Virginia.