



Millions to the Polls

PRACTICAL POLICIES TO FULFILL THE FREEDOM
TO VOTE FOR ALL AMERICANS

**VOTER
REGISTRATION DRIVES**

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VOTER REGISTRATION DRIVES

- Third party voter registration drives are a critical component to ensuring eligible voters are registered.
- States should permit third party registration drives without restrictive limitations.
- Boards of elections should provide materials on voter registration to registration drives.

The National Voter Registration Act substantially increased the number of places where eligible voters could register. Now, voter registration is available at motor vehicle offices, public assistance agencies, and various other sites. The NVRA also required that states accept mail-in forms, which helps facilitate third party voter registration drives, where outside organizations help eligible voters register to vote.

Third party registration drives are a common sight—tables set up outside a grocery store, volunteers standing outside during public events, and door to door registration drives are just a few examples. These efforts help bring voter registration opportunities to people who many not have had the time or opportunity to go to a motor vehicle office or other offices where registration is available. Through third-party drives, eligible voters complete a registration form and the third party sends in the completed form to the Board of Elections.

Unfortunately, too many states have enacted restrictions that unnecessarily burden the ability of third party groups to conduct voter registration drives. These include prohibitions on paying registration workers per registration application, requiring organizations that conduct drives to register with the state, imposing training requirements, limiting the number of applications available to persons not registered with the state, time limits for submitting completed forms, and imposing high penalties for violations.¹ Many of these steps, and certainly in combination, create unnecessary hurdles that burden efforts to bring more American citizens into the process to have their voice heard.

States like Florida and Texas have made headlines with the passage of burdensome and restrictive legislation aimed at curtailing third party voter registration.² In 2011, Florida enacted such harsh restrictions on voter registration programs that traditional leaders in fostering civic participation, such as the League of Women Voters, were forced to cancel their programs.³

Many of these restrictions were found by the courts to be unduly restrictive and were struck down because they imposed an “onerous,

perhaps virtually impossible burden.”⁴ A federal judge in Florida, for example, found that certain restrictions, “could have no purpose other than to discourage voluntary participation [in] constitutionally protected activities.”⁵

In Texas, a court found that the state “now imposes more burdensome regulations on those engaging in third-party voter registration than the vast majority of, if not all, other states” and granted a preliminary injunction enjoining laws that prohibited those conducting voter registration drives from submitting applications by mail, banned non-Texans from being able to participate in registration drives, and limited third party voter registrars to work only in their home county, among other onerous and unnecessary provisions.⁶ Unfortunately, these laws are currently in effect after the 5th Circuit reversed the injunction⁷ and denied plaintiff’s petition for a rehearing by the full 5th Circuit panel.

POLICY **RECOMMENDATIONS**

The states that have the best policies in this regard tend to allow third party registration without restrictive regulations: Alabama, Connecticut, District of Columbia, Idaho, Kansas, Montana, New York, North Dakota, South Carolina, Tennessee, and Vermont.⁸ In addition:

- Policies should be established that enable groups that have registered voters to follow through and contact those they registered to encourage voter participation in elections.
- Boards of elections should provide

Accepting the Federal Voter Registration Form

Recently, Arizona passed a law requiring voters to present documentary proof of citizenship when submitting their voter registration forms. The Supreme Court struck down the law because it violated the National Voter Registration Act’s requirement that all states accept the federal registration form and unnecessarily required further identification.⁹

Not to be deterred, Arizona and Kansas are seeking a court order to compel the U.S. Election Assistance Commission to amend voter registration forms to require registrants prove that they are United States citizens.¹⁰ While the case is being considered, both Kansas and Arizona announced plans to create a two-tiered voter registration system that implements separate registration systems for state and federal elections.¹¹ For state elections, proof of citizenship could be required to complete registration.

Already, these two-tiered systems are costing people their right to vote. As of November 2013, 18,000 Kansas residents have had their registrations “suspended” because they registered with the state form but did not show proof of citizenship.¹²

There is no need for Arizona and Kansas’s additional barrier to voter registration. The National Voter Registration Act (NVRA) already requires that voters attest, under penalty of law, that they are U.S. citizens. Adding additional requirements only works to create another layer of red tape to voter registration.

materials readily, and assist with training those who volunteer to register voters when possible to increase successful registrations.

With the continuing transition to online registration, states should partner with third party registration groups to facilitate registration, allowing trusted partners to provide a secure direct portal to the state's election site, so that when voters register through these trusted partners' websites their voter registration file is immediately updated. ■

ENDNOTES

1. State Legislatures Magazine, *Putting Election Laws to the Test*, (2012), available at <http://www.ncsl.org/documents/elections/top12--elections.pdf>.
2. Fair Elections Legal Network, *Attacks on Voting Rights*, (2013), available at <http://www.fairelectionsnetwork.com/attacks-voting-rights>.
3. Ryan Reilly, *Federal Judge Blocks, Skewers Florida's Third-Party Voter Registration Restrictions*, (May 31, 2012), available at <http://talkingpointsmemo.com/muckraker/federal-judge-blocks-skewers-florida-s-third-party-voter-registration-restrictions>.
4. *League of Women Voters of Florida v. Browning*, 863 F. Supp. 2d 1155, 1168 (N.D. Fla. 2012); Lizette Alvarez, *Judge to Toss out Changes in Florida Voter Registration*. (August 29, 2012) available at http://www.nytimes.com/2012/08/30/us/judge-to-block-changes-in-florida-voter-registration.html?_r=1&.
5. *League of Women Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1167 (N.D. Fla. 2012).
6. *Voting for Am., Inc. v. Andrade*, 888 F. Supp. 2d 816 (S.D. Tex. 2012).
7. *Voting for Am., Inc. v. Steen*, 732 F.3d 382 (5th Cir, 2013).
8. Diana Kasdan, *State Restrictions on Voter Registration Drives*, (2012), available at <http://www.brennancenter.org/sites/default/files/legacy/publications/State%20Restrictions%20on%20Voter%20Registration%20Drives.pdf>.
9. *Arizona v. Intertribal Council of Arizona*, 133 S.Ct 2247 (2013).
10. *Kobach v. U.S. Election Assistance Commission*, available at <http://www.scribd.com/doc/162225207/Complaint-Kobach-v-The-United-States-Election-Assistance-Commission>; Andrew Harris, *Arizona, Kansas Sue U.S. Over Voters Proof of Citizenship*, Bloomberg (Aug. 22, 2013), available at <http://www.bloomberg.com/news/2013-08-22/kansas-arizona-sue-u-s-over-voters-proof-of-citizenship.html>.
11. Don Lefler, *Kris Kobach Laying Groundwork for Two-Tier System in Kansas*, (Oct. 5, 2013), available at <http://www.kansas.com/2013/10/04/3038825/kobach-laying-groundwork-for-two.html>; Mary Jo Pitzl, *Arizona Plans Dual System for Voting*, (Oct. 8, 2013), available at <http://www.usatoday.com/story/news/nation/2013/10/08/ariz-plans-dual-system-for-voting/2944703/>.
12. The Canvass, *Dual Voting in Three States*, (Nov. 2013), available at http://www.ncsl.org/documents/legismgt/elect/Canvass_Nov_2013_No_43.pdf