

Laws Affecting Voting Rights

Protective Federal Laws Supersede Offending State Laws and Judicial Practices.



The Voting Rights Act of 1965 prohibits states from using a literacy test to determine eligibility for voting. A literacy test includes any method that requires a person to show that he or she can read, write, interpret, or understand any matter. Spectrum Institute’s complaint to the DOJ alleged that California used an illegal literacy test in conservatorship cases.



The Americans with Disabilities Act requires public entities, including courts, to modify procedures in order to give access to their services to people with disabilities. The ADA applies to the voting process. Spectrum Institute’s new complaint alleges that the courts are not giving conservatees timely access to the voting rights restoration process. Pro-active measures are needed.



Former California Elections and Probate Codes contained provisions that required judges in conservatorship cases to disqualify people with disabilities from voting if they were “unable to complete an affidavit of voter registration.” Some judges said people had to register on their own and without assistance. Tens of thousands of conservatees lost the right to vote under this provision. Spectrum Institute alleged this procedure violated the Voting Rights Act and the ADA. We want the DOJ to require the state to restore voting rights immediately.



In 2015, Senator Marty Block introduced SB 589 to amend the provisions of the California Elections and Probate Codes that violated federal voting rights laws. People with disabilities will no longer lose the right to vote when new conservatorship cases are filed if they can express a desire to vote. But the new law – effective Jan. 1, 2016 – entrusted the restoration of voting rights to the California courts. Each county court can adopt its own restoration plan or not have a plan at all. Last year, Spectrum Institute asked the DOJ to press the judiciary for an efficient, effective, and timely restoration plan. We are still waiting to see one.



Using the Los Angeles Superior Court as an example, judges are acting in an unreasonably slow and inefficient manner to restore the voting rights of thousands of conservatees – rights taken away in violation of federal law. Judge Maria Stratton (photo) told lawyers last year that the court is relying on court investigators to handle the problem during biennial reviews. Unfortunately, investigators have huge caseloads and are backlogged in doing these reviews. Some counties are years behind in doing biennial reviews. The DOJ should require the courts to do more.