

Digital-Age Discrimination: The Voting Rights Act, Language-Minorities, and Online Voter Registration

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Online Voter Registration, a new and exciting advancement in election administration, conveniently allows individuals to register to vote on the Internet. However, Online Voter Registration also highlights deficiencies within the United States election system. Specifically, many states' Online Voter Registration websites are only available in English, despite the fact that citizens in those states have a federally guaranteed right to access all of their election materials in a different language. This right comes from the minority-language provisions of the Voting Rights Act, which require certain states and counties to provide all election materials in specific languages other than English that are common within their jurisdictions. Unfortunately, these provisions often go unenforced or under-enforced. States and counties have been especially slow to come into compliance with the minority-language provisions with regards to their online election materials, like their Online Voter Registration websites. Due to the under-enforcement of this section of the Voting Rights Act, there is little legal precedent on which to base future litigation. This Note argues that all Online Voter Registration systems provided by states containing minority-language covered jurisdictions must be provided to voters in all covered languages. It also provides both a litigation and legislative strategy to ensure full compliance with the minority-language provisions on the Internet. Achieving full compliance with the VRA is critical to ensure that non-English-speaking voters have equal access to the ballot.

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I. INTRODUCTION

Peggy Phillips lives in a tiny town in Utah called Olijato; she is a United States citizen and a registered voter.¹ Ms. Phillips is also a member of the Navajo Nation, and Navajo is her first language.² In the past, Ms. Phillips voted in federal, state, and tribal elections.³ That all changed in November 2014, when San Juan County, Utah, changed to a mail-ballot-only election system and eliminated all in-person polling locations.⁴ San Juan County voters who wanted to vote in person were required to travel to the county seat in Monticello, Utah.⁵ Before 2014, Ms. Phillips voted in person and relied on bilingual Navajo translators to assist her in casting an informed ballot.⁶ On Election Day in November 2014, Ms. Phillips was unaware the county switched to a mail-ballot system, did not receive a mail ballot in her P.O. Box, and was unable to make the over four hour round trip from her home in Olijato to Monticello.⁷ Even if Ms. Phillips had driven to Monticello, there was no guarantee she would have received the Navajo translation assistance she needed.⁸

This situation raises the question of how San Juan County, Utah, is allowed to make this change and effectively disenfranchise Ms. Phillips. The short answer is that the County is not allowed to do this under current law. The County's failure to provide Ms. Phillips with adequate translation assistance and access to the ballot is a direct violation of the Voting Rights Act (VRA) language-minority provisions. The more complicated answer is that the language-minority provisions are often misunderstood and under-enforced, and there is little case law to review because this portion of the VRA has never been litigated to a final judgment. Thus, Ms. Phillips and her seven fellow plaintiffs have filed suit in Utah Federal District Court seeking a preliminary injunction before the November 2016 elections.⁹

1. Complaint at 5, Navajo Nation Human Rights Comm'n v. San Juan County, No. 2:16-cv-00154-JNP (D. Utah Feb. 25, 2016).

2. *Id.*

3. *Id.*

4. *See id.* at 1–5.

5. *Id.*

6. *See id.* at 5.

7. *See id.*

8. *See id.*

9. *Id.* at 1.

Ms. Phillips is an example of just one voter whose right to translation assistance has been violated. The language-minority provisions are of critical importance to the more than twenty-five million people in the United States categorized as limited-English proficient.¹⁰ Many of these individuals were born citizens, including Puerto Ricans, Hawaiians, Native Americans, Alaska Natives, and inhabitants of Guam.¹¹ Congress added the language-minority provisions to the VRA in 1975 to improve protections for language-minority citizens after numerous civil rights groups and limited English proficient (LEP) voters testified that these protections were necessary.¹² One of these crucial provisions is section 203, which mandates that certain states and counties provide bilingual election materials.¹³ While the section 203 requirements seem straightforward, county and state compliance is inconsistent, and Department of Justice (DOJ) monitoring efforts are ongoing.¹⁴ For all the litigation under the VRA since 1965, there have been comparatively few cases brought to enforce sec-

10. Limited-English Proficiency is defined as speaking English less than “very well.” CAMILLE RYAN, U.S. DEPT OF COMMERCE, LANGUAGE USE IN THE UNITED STATES: 2011 AMERICAN COMMUNITY SURVEY REPORTS 11 (2013), <https://www.census.gov/prod/2013pubs/acs-22.pdf> [<https://perma.cc/E3YY-F46X>].

11. See James Thomas Tucker, *Enfranchising Language Minority Citizens: The Bilingual Election Provisions of the Voting Rights Act*, 10 N.Y.U. J. LEGIS. & PUB. POL’Y 195, 198 (2007).

12. Voting Rights Act of 1965 Amendments, Pub. L. No. 94–73, 89 Stat. 400 (codified as amended at 52 U.S.C. §§ 10101, 10301–10702 (Supp. II 2015)); see *infra* Part II.B. The VRA was formerly codified in various sections of Title 42, but all of its provisions have been moved to the new Title 52 as part of an editorial reclassification. *Editorial Reclassification Title 52, U.S. Code*, H.R., OFFICE OF THE LAW REVISION COUNSEL, <http://uscode.house.gov/editorialreclassification/t52/index.html> [<http://perma.cc/W9DQ-HMBJ>] (last visited Apr. 22, 2017).

13. See 52 U.S.C. § 10503(c) (“Whenever any State or political subdivision subject to . . . this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group . . .”).

14. See *infra* Part III.B (outlining current non-compliance of state online voter registration portals) and Part II.B (discussing DOJ’s eighteen enforcement actions against non-compliant counties just since 2006); see also Michael Jones-Correa & Israel Waismel-Manor, *Verifying Implementation of Language Provisions in the Voting Rights Act, in VOTING RIGHTS ACT REAUTHORIZATION OF 2006: PERSPECTIVES ON DEMOCRACY, PARTICIPATION, AND POWER* 170–78 (Ana Henderson ed. 2007) (discussing compliance research finding “levels of compliance ranged widely across states”); Glenn D. Magpantay, *The Second Generation of Enforcement of the Language Assistance Provision (Section 203) of the Voting Rights Act*, 80 BROOK. L. REV. 63, 82–94 (2014) (describing ongoing compliance issues including failures to provide multilingual ballots, transliteration of candidate names, and failures to target language assistance).

tion 203 compliance.¹⁵ The lack of litigation translates into limited legal precedent outlining what constitutes compliance and which materials are covered, and little attention drawn to the plight of LEP voters.¹⁶ Unlike other provisions of the VRA, section 203 is primarily enforced by the Department of Justice.¹⁷ Aside from the case discussed above, none of the well-known civil rights impact litigation non-profits have brought section 203 cases.¹⁸ Meanwhile, Congress has made no effort to update the language-minority provisions or to improve the ability of individual voters or interest groups to bring enforcement suits.¹⁹ In addition, aside from a few scholars (most of whom focus on the impact of section 203 on specific language-minorities), the academic community has mostly ignored section 203 and its relative under-enforcement.²⁰ This is notable considering the outcry following the Supreme Court's decision in *Shelby County v. Holder*, and the numerous pieces of legal scholarship attempting to save the VRA that were written in the decision's wake.²¹ A few minority-rights groups have tried to draw awareness to the lack of language assistance for voters by publishing reports and giving press inter-

15. Compare 2749 Westlaw case citing references for the VRA section 2, 52 U.S.C. § 10301 (Supp. II 2015) with 59 Westlaw case citing references for the VRA section 203, 52 U.S.C. § 10503 (Supp. II 2015). See 52 U.S.C.A. § 10301 (West 2015) (search 52 U.S.C.A. § 10301 (West 2015), select "citing references," select "cases"); 52 U.S.C.A § 10503 (West 2015) (search 52 U.S.C.A § 10503, select "citing references," select "cases").

16. See *infra* Part II.D (discussing DOJ language-minority provision settlements and their limited precedential value); see also *infra* Part II.C (discussing limited section 203 case law).

17. See *infra* Part II.D.

18. The Lawyers' Committee for Civil Rights Under Law was instrumental in the *Navajo Nation Human Rights Comm'n* litigation. It is the first time the Lawyers' Committee has sued for section 203 violations. Neither the American Civil Liberties Union nor the NAACP Legal Defense Fund has ever brought a section 203 case.

19. Since the 2006 reauthorization of the VRA, which made no substantive changes to the language-minority provisions, there has only been one proposal to fix the VRA. Voting Rights Advancement Act of 2015, H.R. 2867, 114th Cong. (2015). This proposed bill did not include any updates to the language-minority provisions, except to increase federal election monitoring. *Id.*

20. Based on a Westlaw search of law review articles published in the last three years, only twenty-three cite the language minority provisions, only eight substantively discuss the provisions, and none draw significant attention to the compliance problem or provide proposals to combat it.

21. See, e.g., Gilda R. Daniels, *Unfinished Business: Protecting Voting Rights in The Twenty-First Century*, 81 GEO. WASH. L. REV. 1928, 1935 (2013); Christopher S. Elmendorf & Douglas M. Spencer, *Administering Section 2 of the Voting Rights Act After Shelby County*, 115 COLUM. L. REV. 2143, 2147 (2015).

views.²² Unfortunately, awareness of this issue has not permeated the larger civil rights community or academic scholarship. There is significant reliance on DOJ enforcement, but DOJ involvement varies under each presidential administration. More importantly, without increased awareness, congressional action, and greater legal intervention, the section 203 compliance problem will only get worse.

As section 203 compliance lags at the voting booth,²³ little attention is paid to unequal access for language-minority voters on the Internet.²⁴ Prior scholarship has not considered section 203's application to new technologies and implications in the digital age.²⁵ This Note seeks to draw attention to the importance of section 203 by highlighting one key gap in compliance, language assistance on the Internet, and providing two proposals for remedying this problem, a legislative update and a litigation strategy. The goal of this Note is to ensure that, as voting rights advocates try to fix the problems created by *Shelby County*, language-minority voters are not left behind. To achieve this goal, this Note focuses on one element of the electoral process that is quickly moving online: voter registration.

Online Voter Registration (OVR) is an increasingly popular tool because this systems allows eligible voters to register by filling out voter registration forms on the Internet.²⁶ This process supplements the traditional method of registering to vote using a paper form that is then submitted to election officials by mail or in person.²⁷ OVR is more convenient because it does not require a voter to obtain a form, fill it out, pay for postage, and follow up to ensure that it was received. OVR allows voters to register from the privacy of their own homes, reducing interactions with elec-

22. See, e.g., *Language Rights in Voting*, ASIAN AMERICANS ADVANCING JUSTICE, <http://advancingjustice-aaajc.org/language-rights-voting> [https://perma.cc/H6MD-GMMY] (last visited Apr. 22, 2017).

23. See *infra* Section III.A.2 (discussing section 203 compliance gap).

24. As evidenced by the lack of scholarship addressing this issue. In the process of writing this Note, no research was available on states' failure to translate OVR systems.

25. Based on strictly defining "digital age" to mean Internet resources.

26. See *Online Voter Registration*, NAT'L CONFERENCE OF STATE LEGISLATURES (Jan. 31, 2017), <http://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx> [https://perma.cc/7Y4G-3RGZ] [hereinafter NCSL Website] (discussing states' increased adoption and use of OVR).

27. *Id.*

tion officials.²⁸ Of the twenty-five states with some section 203 coverage, more than half currently offer OVR,²⁹ but half of those systems are not offered in all languages covered by section 203 at the county level in those states.³⁰ This sets a troubling precedent for states in the process of adopting or implementing OVR.³¹ It is possible states are not providing bilingual or multilingual OVR systems because section 203 generally only applies to individual counties,³² and therefore states believe its requirements do not apply to state-provided systems.³³

Pursuant to the goal of improving section 203 compliance, especially on the Internet, this Note argues that all online materials should be provided in every language section 203 requires at the state *and* county levels.³⁴ If a state chooses to provide OVR, it should not be able to do so unfairly.³⁵ To prevent this unjust provision of resources, this Note proposes two solutions. First, this Note outlines arguments that could be made in a hypothetical case against a non-compliant state. Second, this Note provides language for further protections that could be included in congressional proposals to amend the VRA.

This Note progresses as follows. First, Part II provides the first comprehensive overview of what constitutes section 203 compliance according to each branch of the federal government.³⁶ This Part outlines the federal courts' broad statutory construction of section 203, analyzes all of the DOJ settlements that include references to online election materials, and summarizes the legis-

28. *Id.* This may be an attractive option for LEP voters who have encountered discrimination when interacting with election officials or poll workers. *See infra* note 147 (recounting voter's unpleasant experiences with election officials).

29. *See infra* Appendix (listing section 203 covered jurisdictions with OVR).

30. *See infra* Section III.B (outlining non-compliant state OVR systems).

31. It is possible states do not consider this service a "provided material" for the purposes of section 203, because section 203 does not include any references to materials provided on the Internet. States may argue that as long as paper voter registration forms are available in all covered languages, OVR is a convenience, not a requirement. States may also believe section 203 compliance governs county action, not state-level action, thus exempting state-provided OVR systems from section 203 compliance.

32. *See* Determinations Under Section 203, 81 Fed. Reg. 87,532 (Dec. 5, 2016) (listing coverage for 245 counties but only three states). California has statewide coverage for Spanish and does provide Spanish language OVR. *See infra* Appendix at 491–93.

33. *See* NCSL Website, *supra* note 26.

34. For example, a state that includes a county covered under section 203 for Spanish would have to provide its OVR system in both English and Spanish.

35. *See infra* Section II.A (explaining section 203's mandate materials are provided in all covered languages); *infra* Section III.B (discussing unequal access that will be created by discounting importance of access to translated materials on the Internet).

36. *See infra* Part II.

lative history of the VRA language-minority provisions.³⁷ Second, Part III surveys every section-203-covered jurisdiction and provides an analysis of online section 203 compliance. This Part describes the present-day OVR landscape and explains the access problems minority-language voters face when trying to participate in the electoral process. Third, Part IV proposes two solutions to the online section 203 compliance gap: (1) hypothetical litigation that provides arguments for why existing understandings of section 203 compliance suggest OVR is covered under section 203;³⁸ and (2) possible language that could be included in congressional amendments to the VRA.³⁹ This final Part also explains the broader implication that equal access for language-minority speakers online is essential as more components of election administration move to the Internet.⁴⁰

II. OUR CURRENT LANDSCAPE: SECTION 203, LANGUAGE-MINORITY SPEAKERS, AND ELECTIONS

This Part provides a comprehensive analysis of what information exists regarding how the legislative, judicial, and executive branches have interpreted section 203 in the past. To effectively make the arguments that (1) OVR is covered by section 203, and (2) it is possible to bring a case to that effect, it is necessary to understand what Congress considered when crafting section 203, courts' statutory interpretation of the provision, and how the DOJ enforces section 203. This information provides historical context explaining Congress' goals in enacting section 203 and how the DOJ has interpreted Congress' intent.

A. SECTION 203 COMPLIANCE: PLAIN TEXT INTERPRETATION

Section 203 differs from other VRA provisions in that it applies only to certain states and counties, and coverage is updated when new census data is available.⁴¹ Section 203 mandates that

37. See *infra* Part III.

38. See *infra* Part IV.A.

39. See *infra* Part IV.B.

40. See *infra* Part IV.D.

41. New section 203 determinations are made at least every five years coinciding with the release of American Community Survey data. See JAMES THOMAS TUCKER, *THE BATTLE OVER BILINGUAL BALLOTS: LANGUAGE MINORITIES AND POLITICAL ACCESS UNDER THE VOTING RIGHTS ACT 89* (David Schultz ed. 2009) [hereinafter TUCKER, *THE BATTLE*]

a state or political subdivision (usually a county) provide language assistance to voters if it meets the coverage formula.⁴² Jurisdictions are covered if more than five percent of their voting-age citizens are members of a single-language-minority group,⁴³ do not “speak or understand English adequately enough to participate in the electoral process,⁴⁴” and the rate of language-minority citizens⁴⁵ who have not completed the fifth grade is higher than the national average.⁴⁶ In addition to this main formula, coverage includes jurisdictions where “more than 10,000 of the voting age citizens are members of a single-language-minority group, do not ‘speak or understand English adequately enough to participate in the electoral process,⁴⁷’ and the rate of those citizens who have not completed the fifth grade [is higher than the national average].”⁴⁸ In a nod to the ongoing racial discrimination against Native American voters, a special coverage provision was also added for political subdivisions that include Indian Reservations.⁴⁹ These criteria are based on balancing efficiency with

(describing determination criteria and process). This means section 203 differs from the fixed section 4 coverage formula recently struck down by the Supreme Court. *See Shelby County v. Holder*, 133 S. Ct. 2612, 2627 (2013) (describing problem with “coverage today” based on “decades-old data”). Congress has significantly amended and extended section 203 coverage twice. Section 203 was amended in 1992 and 2006. Voting Rights Language Assistance Act of 1992, Pub. L. No. 102-344, 106 Stat. 921 (codified as amended at 52 U.S.C. §§ 10101, 10501-10503 (Supp. II 2015)); Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization of 2006, Pub. L. No. 109-246, 120 Stat. 577 (codified as amended at 52 U.S.C. § 10301 (Supp. II 2015)). With each update, the coverage is more responsive to available population data. The most recent determinations were made in 2016 using 2015 American Community Survey Data. Determinations Under Section 203, 81 Fed. Reg. 87,532 (Dec. 5, 2016). The 1992 VRA Amendments created an updated coverage formula to ensure that section 203 remedies are narrowly tailored to areas that include populations that need bilingual resources. H.R. REP. NO. 102-655, at 3-4 (1992).

42. Determinations Under Section 203, 81 Fed. Reg. 87,532 (Dec. 5, 2016).

43. A single-language-minority group is a group of individuals whose first language is not English and who speak the same language. For example, a group of Native Americans who all speak Navajo or a group of individuals whose first language is Spanish are each considered single-language-minority groups.

44. As measured by self-identification on the United States Census.

45. This group refers to United States Citizens who do not speak English or speak only limited English.

46. Determinations Under Section 203, 81 Fed. Reg. 87,532 (Dec. 5, 2016) (footnote not in original).

47. This terminology refers to individuals who self-identify on the census as speaking English “less than very well.” In most cases, these are individuals whose first language is not English and who would be more comfortable filling out a ballot in their first language.

48. Determinations Under Section 203, 81 Fed. Reg. 87,532 (Dec. 5, 2016).

49. H.R. REP. NO. 102-655, at 1-4 (1992) (“[T]he 10 year period since 1982 revealed that the American Indian and Alaska Native populations were not receiving the type of assistance they needed.”); 76 Fed. Reg. 63,602 (Oct. 13, 2011) (describing Native American

access. Thus, a single-language-minority population must be large enough to warrant holding bilingual elections and the VRA's focus is only on populations affected by LEP.⁵⁰ These criteria are responsive to new data, which helps to preserve section 203's constitutionality.⁵¹

Although section 203 gets little attention and covers relatively few United States political jurisdictions, it fits into the larger VRA scheme as a significant protection that ensures full political participation for all, including voters who are the most vulnerable to intimidation by poll workers.⁵² In contrast to some VRA provisions, the burden of proof for showing a section 203 violation is arguably lower than the plaintiff's substantial burden of proof for establishing a section 2 violation.⁵³ A covered jurisdiction's failure to provide materials is a violation of section 203;⁵⁴ thus, Plaintiffs need only show materials are not available in the required languages.⁵⁵

and Alaska Native specific population and LEP criteria stating "any political subdivision . . . which contains all or any part of that Indian Reservation, is covered by . . . Section 203").

50. See S. REP. NO. 102-315, at 10-12 (1992) (explaining LEP requirement was included to ensure help goes to those who need it and discussing amendments to coverage formula to ensure adequate coverage where critical mass of language-minority voters live).

51. Contrast section 203 determinations, reissued every five years based on census data, with the VRA section 4 coverage formula struck down in *Shelby County*. *Shelby County v. Holder*, 133 S. Ct. 2612, 2631 (2013). The court found the coverage formula unconstitutional because it failed to accurately reflect "current conditions" and relied too much on "40-year-old facts . . ." See *id.* at 2617. Section 203 determinations are instead issued every five to ten years based on the most recent American Community Survey data. *Determinations Under Section 203*, 81 Fed. Reg. 87,532 (Dec. 5, 2016).

52. See *infra* note 147 and accompanying text.

53. See NAACP LDF, *THE COST (IN TIME, MONEY, AND BURDEN) OF SECTION 2 OF THE VOTING RIGHTS ACT LITIGATION 1, 2* (Oct. 10, 2016), http://www.naacpldf.org/files/case_issue/Section%202%20Costs%20%2812.9.16%29.pdf [<https://perma.cc/CTL7-PZ2A>] ("Courts have recognized that Section 2 litigation is 'an extremely complex and intimidating area of the law.' Section 2 litigation . . . is resource-intensive. . . . Section 2 litigation is also labor-intensive."). Compare section 2, which is a bar on voting practices or procedures that discriminate on the basis of race, color, or membership, 52 U.S.C. § 10301 (Supp. II 2015), with section 203, which requires positive action on the part of the covered jurisdiction. 52 U.S.C. § 10503.

54. 52 U.S.C. § 10503.

55. *Cases Raising Claims Under the Language Minority Provisions of the Voting Rights Acts*, DEPT OF JUSTICE, <http://www.justice.gov/crt/cases-raising-claims-under-language-minority-provisions-voting-rights-act> [<https://perma.cc/5DFU-QKP9>] [hereinafter DOJ Settlements Website] (last visited Apr. 22, 2017) (describing DOJ negotiated settlements where complaint and settlements were filed concurrently, showing presumed violation for failure to provide translated materials).

B. LEGISLATIVE INTERPRETATIONS OF SECTION 203: THE
LEGISLATIVE HISTORY OF THE VRA LANGUAGE-MINORITY
PROVISIONS

The VRA was passed in its original form in 1965.⁵⁶ This incarnation included the preclearance provisions⁵⁷ known as section 5 (rendered purposeless by *Shelby County v. Holder*⁵⁸) and the nationwide ban on voting discrimination known as section 2.⁵⁹ In 1975 Congress amended the VRA to reauthorize and expand voting protections for minority groups.⁶⁰ These amendments expanded section 4 coverage to ban English-only elections in covered jurisdictions.⁶¹ Congress also added section 203, which requires bilingual election assistance be provided in political subdivisions that meet a coverage formula separate from that in section 4 and less prone to attack on Fourteenth Amendment grounds.⁶²

Ten years after passing the VRA, Congress determined additional voting protections were needed.⁶³ There was a clear protection gap that left language-minority voters without the ability to cast an informed ballot.⁶⁴ The 1965 incarnation of the VRA banned literacy tests, which benefitted non-English-speaking voters.⁶⁵ However, this proved inadequate for protecting language-minority voters who needed translated election material,

56. Voting Rights Act of 1965, Pub. L. 89-110, 79 Stat. 445 (codified as amended at 52 U.S.C. §§ 10101, 10301-10702).

57. *Shelby County* struck down the preclearance formula known as section 4, which is codified at 52 U.S.C. § 10303, effectively striking down the preclearance requirements known as section 5, which is codified at 52 U.S.C. § 10304. *Shelby County v. Holder*, 133 S. Ct. 2612, 2625 (2013).

58. *Shelby County*, 133 S. Ct. at 2625.

59. 52 U.S.C. § 10301.

60. Voting Rights Amendments of 1975, Pub. L. No. 91-285, 84 Stat. 314 (codified as amended at 52 U.S.C. §§ 10101, 10301-10702).

61. 52 U.S.C. § 10303.

62. 52 U.S.C. § 10503. Unlike the coverage formula that the Supreme Court struck down in *Shelby County v. Holder*, the section 203 coverage formula is responsive to new data and is updated on a regular basis. It is also based on population statistics rather than a "history" of discrimination. *Id.*

63. See S. REP. NO. 94-295, at 24 (1975) (explaining language-minority amendments were added following reports of discrimination against language-minority citizens).

64. See *id.* (outlining amendments as broadening coverage to capture groups previously unprotected by VRA).

65. See *id.* at 21-23 (describing that the intention of the VRA of 1965's suspension of tests and devices was meant to aid African-Americans); TUCKER, THE BATTLE, *supra* note 41, at 51 (discussing secondary benefits of banning literacy tests; preventing disenfranchisement of former slaves also aided non-English speakers).

in-person voting services, and bilingual voting assistance to fully participate in elections.⁶⁶ It seemed clear to the Senate Judiciary Committee, which was tasked with marking up the new amendments, that the language-minority provisions were a necessity; that committee's report stated, "meaningful assistance to allow the voter to cast an effective ballot is implicit in the granting of the franchise."⁶⁷ However, Congressional debate during the 1975 VRA amendment process was extensive and contentious.⁶⁸ Eventually, the language-minority protections were codified in sections 4(f)(4) and 203.⁶⁹ When combined, these provisions protect "persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage."⁷⁰ Congress picked these four language-minority groups, because these groups in particular suffered from discrimination that resulted in relatively low levels of voter registration and voter participation.⁷¹ Hearings in support of the 1975 Amendments directly linked language with low voter participation, which motivated Congress to address the problem immediately.⁷² Critically, Congress intervened on behalf of the four language groups, because state and local election officials had been "disturbingly unresponsive to the problems of these minorities."⁷³ The failure of public education, at both the national and state levels, to remedy LEP among language minorities was also a major justification for these provisions.⁷⁴

In 1992, advocates presented substantial evidence of language-minority voters' inability to effectively participate in elec-

66. By adding the language-minority provisions in 1975, Congress acknowledged that more was required to put language-minority citizens "on an equal footing with other citizens." See S. REP. NO. 94-295, at 30-32 (1975).

67. *Id.* at 32.

68. See TUCKER, THE BATTLE, *supra* note 41, at 75 (discussing legislative history of 1975 amendments and noting "[d]ebates during the 1975 reauthorization were marked by parochial efforts to block coverage of jurisdictions with records of discrimination[,] . . . attempts to render the VRA unconstitutional, and amendments to curtail enforcement of the Act").

69. 52 U.S.C. § 10503 (Supp. II 2015).

70. Initially for fifteen years. *Id.*

71. See S. REP. NO. 94-295, at 24-31 (1975) (summarizing evidence presented showing these four language-minority groups face substantial discrimination and low voter participation).

72. See *id.* at 24-34 (explaining language-minority provisions are stop-gap measure allowing full participation now giving Bilingual Education Amendments of 1974 and other measures to take effect).

73. *Id.* at 39.

74. See *id.* at 33-34 (explaining "prohibition of English-only elections in certain areas is necessary to fill that hiatus until genuinely equal education opportunities are afforded language minorities").

tions because of discrimination and a lack of English-language-education opportunities.⁷⁵ Thus, Congress decided to extend section 203 protections for an additional 15 years.⁷⁶ The 1992 Act also liberalized the section 203 coverage formula, allowing it to reach more language-minority speakers.⁷⁷

In 2006, Congress extended section 203 protections to 2032. Congress cited substantial evidence of ongoing discrimination against language-minority voters, significant voter-participation gaps, and testimony regarding the need for bilingual ballots.⁷⁸ This long reauthorization was also considered necessary because of persistent educational disparities.⁷⁹ The 2006 findings illuminate the significant need for the availability of bilingual election materials and suggest Congress intended broad statutory construction for section 203 coverage.⁸⁰

C. JUDICIAL INTERPRETATIONS OF SECTION 203 COMPLIANCE

As noted above, relatively few cases have been brought under section 203 of the VRA. Arguably, there are few cases because what constitutes compliance is fairly clear based on a plain text reading of the statute. However, courts have been involved in interpreting what election materials must be translated by covered jurisdictions to achieve section 203 compliance. Section 203 requires that, “whenever any [covered] State or political subdivision . . . provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group.”⁸¹ Three main

75. See S. REP. NO. 102-315, at 4-8 (1992) (“The [Judiciary] committee recognizes the strong correlation between limited English Proficiency and low voter participation.”).

76. See *id.* at 4 (1992) (“[T]he committee finds that the four language minority groups covered by section 203 . . . continue to experience educational inequities, high illiteracy rates and low voting participation.”); *id.* at 2 (explaining purpose of amendments included “extend[ing] section 203 (bilingual election requirements) of the Voting Rights Act of 1965 until 2007”).

77. See *id.* at 16-19 (explaining two proposed changes intended to capture language-minority citizens in “highly populated metropolitan areas” and improve coverage for Native American voters).

78. Determinations Under Section 203, 81 Fed. Reg. 87,532 (Dec. 5, 2016).

79. See H.R. REP. NO. 109-478, at 5-6, 58-61 (2006) (explaining ongoing need for section 203 due to discrimination and educational inequality).

80. See, e.g., H.R. HEARING NO. 109-83, at 9-10, 12-15 (2005) (advocating reauthorization and expansion because of ongoing discrimination and need for assistance among language-minority voters); H.R. HEARING NO. 109-78, at 3-5, 199 (2005) (same).

81. 52 U.S.C. § 10503(c) (Supp. II 2015).

cases interpret the text of the section 203 and discuss the meaning of “other materials”: *United States v. Berks County*,⁸² *Padilla v. Lever*,⁸³ and *United States v. Metropolitan Dade County*.⁸⁴ These cases provide sufficient analysis to glean important principles outlining the federal courts’ interpretation of section 203 compliance.

In 1993, the DOJ challenged Metropolitan Dade County’s publication of a special election pamphlet exclusively in English, arguing it was a covered material under section 203⁸⁵ and requesting a temporary restraining order that required the county to translate, publish, and distribute the pamphlet in Spanish-language newspapers in advance of the election.⁸⁶ In response, the county argued the pamphlet was “not a *necessary* procedural document issued prior to and during an election.”⁸⁷ The court soundly rejected this argument,⁸⁸ reading the plain text of section 203 to clearly encompass the pamphlet.⁸⁹ The court also cited DOJ section 203 guidance,⁹⁰ which encourages courts and covered jurisdictions to “broadly construe[]” what is covered by Section 203.⁹¹ The court acknowledged the guidance as non-binding but found its interpretation of the VRA “consistent with the central purpose of Section 203.”⁹²

In 2003, the DOJ sued Berks County for failing to provide *all* of its written election materials in Spanish.⁹³ The court agreed with the DOJ, finding clear VRA violations because the county’s ballot sheets, sample ballots, absentee ballots, voting instruc-

82. *United States v. Berks County*, 277 F. Supp. 2d 570 (E.D. Pa. 2003). This case was brought under Section 4(e) rather than Section 203 but the court’s reasoning is applicable for both provisions.

83. *Padilla v. Lever*, 463 F.3d 1046 (9th Cir. 2006).

84. *United States v. Metropolitan Dade County*, 815 F. Supp. 1475 (S.D. Fla. 1993).

85. *See id.* at 1477 (noting the pamphlet outlined the special election procedures and listed the candidates, and thereby was necessary for voters to cast an educated vote).

86. *Id.*

87. *Id.* at 1478 (emphasis added) (noting the county tried to distinguish the pamphlet from a notice of polling place or sample ballot, arguing unlike those documents, the pamphlet is not a necessary procedural document for the voting process).

88. *See id.* at 1478–79 (explaining “the pamphlet is covered under the plain language of Section 203 as ‘assistance or other materials or information relating to the electoral process’”). The full requested injunction was not granted because the court did not have sufficient facts to determine whether all of the relief was necessary. *See id.* at 1479.

89. *See id.* at 1478.

90. *Id.*

91. *Id.* (citing 28 C.F.R. § 55.14 (1987)).

92. *Id.*

93. *United States v. Berks County*, 277 F. Supp. 2d 570, 570 (E.D. Pa. 2003).

tions, and declarations of assistance were not available in Spanish.⁹⁴ In its decision, the court specifically highlighted that the right to vote is not just the ability to physically access the ballot, but also to “have the opportunity to comprehend the registration and election forms and the ballot itself to cast an informed and effective vote.”⁹⁵ Notably, the court considered all of the election materials, not just the voter registration forms or ballots.⁹⁶ The court held that *all* the provided election materials needed to be translated, not just the materials directly related to voting.⁹⁷ For example, the court ruled that electronic voting machine instructions — one step removed from the actual ballot — sufficiently related to voting so as to constitute covered materials.⁹⁸ Even when considering the expense to the county of producing bilingual election materials, the court held the costs were justified because the importance of the right to vote outweighed the burdens on the county.⁹⁹ In its rulings, the court noted that the federal courts have *broadly interpreted* the text of the VRA to prohibit “the explicit conditioning of the right to vote on the ability to speak English, and the conduct of English-only elections.”¹⁰⁰

In *Padilla v. Lever*, Spanish-speaking voters sued county officials for failing to provide Spanish-language recall petitions during a 2006 recall election.¹⁰¹ Recall petitions are checked by the State to ensure they comply with state requirements.¹⁰² Plaintiffs argued that such state involvement qualified the petitions for section 203 coverage.¹⁰³ In this instance, the court disagreed, stating, “[t]hese regulations do not mean that the petitions are *provided* by the State or subdivision.”¹⁰⁴ The court’s analysis fo-

94. *Id.* at 576. The “other materials” included posters explaining how to use the electronic voting machines and the declaration of assistance. *United States v. Berks County*, 250 F. Supp. 2d 525, 530 (E.D. Pa. 2003). The court also found insufficient bilingual assistance at the polls. *Berks County*, 277 F. Supp. 2d at 576.

95. *Berks County*, 277 F. Supp. 2d at 579 (citing *Arroyo v. Tucker*, 372 F. Supp. 764 (E.D. Pa. 1974)).

96. *Id.* at 576.

97. *Id.* at 582.

98. *Id.*

99. *Id.*

100. *Id.* at 579 (discussing broad interpretation of VRA by prior federal courts) (emphasis added); see *United States v. Berks County*, 250 F. Supp. 2d 525, 535 (E.D. Pa. 2003) (“Federal courts, including this Court, have broadly interpreted Section 4(e) . . .”).

101. *Padilla v. Lever*, 463 F.3d 1046, 1049 (9th Cir. 2006).

102. *Id.* at 1051.

103. *Id.* at 1049.

104. *Id.* at 1051.

cused on what constitutes a “reasonable” understanding of the VRA.¹⁰⁵ The court explained that “[i]t is not reasonable to hold that this regulatory process transforms petitions privately initiated, drafted, and circulated by the proponents into petitions ‘provided’ by the County for purposes of the [VRA].”¹⁰⁶ The court was careful to draw a distinction between materials provided by the State and those provided by private parties, explaining this reasoning aligned with precedent in the Tenth and Eleventh Circuits.¹⁰⁷ *Padilla* is important because it, along with analogous cases in other circuits, set the outer bounds of what courts have been willing to define as “other materials” for the purposes of VRA coverage.¹⁰⁸ Most important is the standard of interpretation *Padilla* sets out: “the ultimate determination is what Congress meant by imposing requirements on materials ‘provided’ by the State or its subdivision.”¹⁰⁹

D. EXECUTIVE BRANCH UNDERSTANDING OF SECTION 203 COMPLIANCE: DOJ-NEGOTIATED SETTLEMENTS

The DOJ has brought the majority of section 203 enforcement actions through election monitoring and entering into consent decrees with covered jurisdictions. Examining the substance of the consent decrees is helpful for understanding what the DOJ requires for jurisdictions to come into compliance, and thus, how the DOJ interprets Section 203. While, legally, DOJ settlements are not controlling precedent, they do help to highlight what materials and level of access the DOJ considers required by section 203.¹¹⁰

105. *Id.*

106. *Id.*

107. *See id.* at 1052.

108. *See id.* (rejecting recall petitions as VRA section 203 covered materials); *Montero v. Meyer*, 861 F.2d 603, 609–10 (10th Cir. 1988) (Tenth Circuit sister case ruling initiative petitions are not covered materials for section 203); *Delgado v. Smith*, 861 F.2d 1489, 1496 (11th Cir. 1988) (Eleventh Circuit sister case deciding same).

109. *Padilla*, 463 F.3d at 1052.

110. DOJ settlements can signal the DOJ’s interpretation of the law for similarly situated organizations. *See* Meredith Manning et al., *DOJ Settles Two Major Off-Label Cases: Recent Settlements Highlight Array of DOJ Enforcement Inquiries*, HEALTH L. WKLY. (Feb. 24, 2006), <https://www.hoganlovells.com/en/publications/doj-settles-two-major-off-label-cases-recent-settlements-highlight-array-of-doj-enforcement-inquiries> [https://perma.cc/7T4W-VJZQ] (describing how in healthcare context “DOJ has signaled — via its most recent settlements — how its choices to use . . . enforcement tools will change the way companies promote and market therapeutic products in the future”). It is common among

Since the VRA was reauthorized in 2006, the DOJ has initiated eighteen enforcement actions under the language-minority provisions,¹¹¹ the terms of which are substantially similar to one another.¹¹² In many of these enforcement actions, the defendant counties were in complete non-compliance with the VRA,¹¹³ meaning they did not provide any bilingual ballots or sufficient bilingual poll workers.¹¹⁴ All eighteen of the settlements are comprehensive, meaning they require providing bilingual materials, bilingual poll workers, and follow-up reporting to ensure continued compliance.¹¹⁵ The consent decrees particularly inform the application of section 203 to the Internet because they include requirements that jurisdictions translate online election resources.¹¹⁶ This is notable because the 2015 DOJ language-minority provisions guidance does not address online materials.¹¹⁷

Restricting consideration to the eighteen consent decrees and settlements since the 2006 reauthorization of the VRA, several interesting patterns arise. First, sixteen of the agreements explicitly require making translated materials available “on the

legal practitioners to watch DOJ settlements as a signal for the DOJ’s policy preferences. See, e.g., Richard M. Alexander et al., *First DOJ CFPB Joint Redlining Settlement Signals Major Changes for Fair Lending Enforcement*, ARNOLD & PORTER LLP (Oct. 2015), <http://www.arnoldporter.com/resources/documents/ADV06Oct2015FirstDojCfpbJointRedliningSettlement.pdf> [<https://perma.cc/9ER3-DTAU>] (encouraging “all institutions . . . take note of the novel policy positions taken by DOJ . . . when evaluating their own fair lending risk” in 2015 DOJ consent order); Benjamin P. Saul, *DOJ Settlement May Signal Expanded Liability and Aggressive Enforcement*, AM. BAR ASS’N (Feb. 1, 2011), <http://apps.americanbar.org/litigation/committees/consumer/articles/winter2011-doj-expanded-lender-liability.html> [<https://perma.cc/E457-K4SK>] (describing significance of 2010 fair-lending law DOJ settlement broadening liability for third parties). These examples involve sophisticated financial institutions with the ability to monitor the DOJ’s legal actions. Whether covered states and counties would take notice of a DOJ settlement for translated OVR systems is unclear. Regardless, DOJ taking a strong stance on OVR coverage is persuasive precedent.

111. See DOJ Settlements Website, *supra* note 55.

112. Compare Consent Decree, United States v. Orange County, No. 7:12-cv-3071 (S.D.N.Y. Apr. 18, 2012) with Consent Decree, United States v. Colfax County, No. 8:12-cv-00084 (D. Neb. Feb. 27, 2012) and Consent Decree, United States v. Lorain County, No. 1:11-cv-02122 (N.D. Ohio Oct. 7, 2011) (including similar settlement terms requiring translated ballots and additional bilingual poll workers).

113. See *infra* note 118 (listing non-compliant counties sued by the DOJ).

114. See *infra* note 118 (listing counties that fail to supply sufficient written materials under VRA).

115. See *infra* note 118 (outlining all eighteen DOJ enforcement actions since 2006).

116. See *infra* note 118 and accompanying text (discussing consent decrees’ inclusion of internet resources).

117. 28 C.F.R. §§ 55.1–55.21 (2015).

Internet.”¹¹⁸ This provision was included in every settlement since 2007.¹¹⁹ In one case the DOJ specifically observes that the county “has failed to translate and disseminate all written election material and information . . . including information published on its website” as part of its complaint alleging a VRA violation.¹²⁰ While the complaint did not explain the DOJ’s decision to cite the county’s failure to translate its website, this citation provides persuasive precedence for future legal challenges to section 203 compliance for failing to translate online materials. The DOJ is the federal agency tasked with interpreting and enforcing the VRA so its interpretation of compliance provides support for similar judicial interpretations.

Three of the consent decrees include a clause specifically requiring the county to ensure online resources are equally available in English and Spanish.¹²¹ The requirement includes both a list of resources that should be included, and that the Spanish version of the resources should be “easily visible and identifia-

118. See Consent Decree at 2, *United States v. Orange County*, No. 7:12-cv-03071 (S.D.N.Y. Apr. 18, 2012); Consent Decree at 5, *United States v. Colfax County*, No. 8:12-cv-00084 (D. Neb. Feb. 27, 2012); Memorandum of Agreement at 7, *United States v. Lorain County*, No. 1:11-cv-02122 (N.D. Ohio Oct. 7, 2011); Consent Decree at 3, *United States v. Alameda County*, No. 3:11-cv-03262 (N.D. Cal. Oct. 19, 2011); Settlement Agreement at 6, *United States v. Cuyahoga County*, No. 1:10-cv-01949 (N.D. Ohio Sept. 3, 2010); Memorandum of Agreement at 3, *United States v. Riverside County*, No. 2:10-cv-01059 (C.D. Cal. Feb. 12, 2010); Consent Decree at 5, *United States v. Fort Bend County*, No. 4:09-cv-01058 (S.D. Tex. Apr. 13, 2009); Settlement Agreement at 3, *United States v. Salem County*, No. 1:08-cv-03276 (D.N.J. July 29, 2008); Memorandum of Agreement at 2, *United States v. Kane County*, No. 1:07-cv-05451 (N.D. Ill. Sept. 26, 2007); Consent Decree at 3, *United States v. City of Earth*, No. 5:07-cv-00144 (N.D. Tex. Sept. 4, 2007); Consent Decree at 3, *United States v. Littlefield ISD*, No. 5:07-cv-00145 (N.D. Tex. Sept. 4, 2007); Consent Decree at 3, *United States v. Post ISD*, No. 5:07-cv-00146 (N.D. Tex. Sept. 4, 2007); Consent Decree at 3, *United States v. City of Seagraves ISD*, No. 5:07-cv-00147 (N.D. Tex. Sept. 4, 2007); Consent Decree at 3, *United States v. Smyer ISD*, No. 5:07-cv-00148 (N.D. Tex. Sept. 4, 2007); Consent Decree at 4, *United States v. Galveston County*, No. 3:07-cv-00377 (S.D. Tex. July 20, 2007); Settlement Agreement at 6, *United States v. City of Springfield*, No. 3:06-cv-30123 (D. Mass. Sept. 15, 2006). Each of these consent decrees or memorandums of understanding includes an explicit reference to the Internet or resources available “online.”

119. See *supra* note 118 (describing DOJ settlements including references to online materials).

120. Consent Decree at 3, *United States v. Alameda County*, No. 3:11-cv-03262 (N.D. Cal. Oct. 19, 2011).

121. Consent Decree at 3, *United States v. Orange County*, No. 7:12-cv-3071 (S.D.N.Y. Apr. 18, 2012); Consent Decree at 7, *United States v. Lorain County*, No. 1:11-cv-02122 (N.D. Ohio Oct. 7, 2011); Settlement Agreement at 6, *United States v. Cuyahoga County*, No. 1:10-cv-01949 (N.D. Ohio Sept. 3, 2010).

ble.”¹²² It is unclear why these provisions appear in only three of the consent decrees. This more detailed explanation of what is required for Internet resources seems to be a recent development and is present only in consent decrees from the last five years.¹²³ Even though the DOJ has made considerable efforts to enforce section 203 in recent years, there are a still significant number of compliance gaps, including and especially on the Internet, to be further discussed below.

The legislative branch’s explicit goal in enacting section 203 of the VRA was to increase language-minority voter participation.¹²⁴ To ensure this goal, Congress has broadened section 203’s coverage rather than limiting its applicability.¹²⁵ The DOJ has required bilingual-Internet resources in its consent decrees with non-compliant counties. The judiciary has been deferential to Congress’ broad purpose and favorable to interpretations that favor the promotion of bilingual elections. Overall the legislative, executive, and judicial branches seem united in their understanding of what constitutes section 203 compliance — the statute should be broadly construed to achieve the purposes of the act.¹²⁶

III. THE SECTION 203 COMPLIANCE GAP: WHERE IT IS AND WHY IT MATTERS

This Part describes the different ways in which section-203-covered jurisdictions fail to provide adequate bilingual and multi-lingual election resources and how that negatively impacts the LEP populations section 203 was created to protect. In addition, this Part provides the first complete survey of every covered jurisdiction’s website, which reviews each website’s language resources and the effectiveness of the translations.

122. Consent Decree at 7, *United States v. Lorain County*, No. 1:11-cv-02122 (N.D. Ohio Oct. 7, 2011).

123. *See supra* note 121 and accompanying text (outlining the three settlements that occurred in 2012, 2011, and 2010). *Compare* Consent Decree at 3, *United States v. Orange County*, No. 7:12-cv-3071 (S.D.N.Y. Apr. 18, 2012) (discussing what information must be provided in Spanish on the Bureau of Elections Website and that Spanish-language links must be easily visible and identifiable) with Consent Decree at 3, *United States v. Littlefield ISD*, No. 5:07-cv-00145 (N.D. Tex. Sept. 4, 2007) (describing required county dissemination of Spanish-language information and merely including the Internet as one recommended mechanism).

124. *See* S. REP. NO. 94–295, at 24–31 (1975).

125. *See* S. REP. NO. 102–315, at 16–19 (1992).

126. *See infra* Section II.D.

A. THE IMPORTANCE OF LANGUAGE ACCESS

This Section justifies the importance of section 203 by tying together the American ideal that more voter participation is desirable with academic research demonstrating that section 203 improves voter participation, especially among historically underrepresented groups. Secondly, this Section advocates that any comprehensive plan to improve the rights of minority groups, voter participation, and the integrity of federal elections, must include proposals to improve voter access to language assistance.

1. *The Importance of Voter Participation*

The struggle for the universal franchise was long-fought and hard-won.¹²⁷ The right to vote was not explicitly listed in the original text of the Constitution,¹²⁸ yet every branch of the United States government has lent its voice to protecting the vote.¹²⁹ Congress has stated that “the right to vote is the most fundamental right in our democratic system of government because its effective exercise is preservative of all others.”¹³⁰ The language-minority provisions have increased minority voter participation,¹³¹ which has led directly to higher numbers of minority rep-

127. Even after the enactment of the Fifteenth Amendment, the VRA was required to ensure it was enforced. See, e.g., H.R. REP. NO. 89-439, at 6 (1965) (“The historic struggle for the realization of this constitutional guarantee [the vote] indicates clearly that our national achievements in this area have fallen far short of our aspirations.”); ARI BERMAN, GIVE US THE BALLOT: THE MODERN STRUGGLE FOR VOTING RIGHTS IN AMERICA (2015) (“The adoption of the . . . VRA enfranchised millions of Americans and is widely regarded as the crowning achievement of the civil rights movement . . . yet fifty years later we are still fighting heated battles over race, representation, and political power — over the right to vote”).

128. Tom Kertscher, *U.S. Constitution is Not Explicit on the Right to Vote*, *Wisconsin Rep. Mark Pocan Says*, POLITIFACT (May 30, 2013, 9:00 AM), <http://www.politifact.com/wisconsin/statements/2013/may/30/mark-pocan/us-constitution-not-explicit-right-vote-wisconsin/> [https://perma.cc/XTD90ZE8E].

129. See NAT’L COMM’N ON VOTING RIGHTS, PROTECTING MINORITY VOTERS: OUR WORK IS NOT DONE 23 (2014), <http://votingrightstoday.org/nevr/resources/discriminationreport> [https://perma.cc/4JYW-6997] [hereinafter NAT’L COMM’N, OUR WORK IS NOT DONE] (“Congress, the Executive Branch, and the federal courts joined together . . . to vigorously enforce the VRA and give life to the 15th Amendment’s guarantee that the right to vote shall not be denied . . .”).

130. H.R. REP. NO. 109-478, at 6 (2006) (citing *Reynolds v. Sims*, 377 U.S. 533 (1964); *Yick Wo v. Hopkins*, 118 U.S. 356 (1886)).

131. *Id.* at 18-20 (“A recent Memorandum of Agreement between the Department of Justice and Harris County, Texas helped double Vietnamese voter turnout . . .”).

representatives.¹³² Put another way, increased minority participation can swing important elections.¹³³ Ensuring minority-voter participation was one of Congress's explicit goals in enacting the language-minority provisions because it was seen as necessary to fulfill the promise of the Fifteenth Amendment.¹³⁴

2. *The Section 203 Compliance Gap*

Section 203 compliance is spotty and its requirements can go unenforced.¹³⁵ While it is clear from the few studies that exist that compliance is not universal, there are no studies or articles that survey every covered county for compliance.¹³⁶ In addition, states and counties may not understand what section 203 requires.¹³⁷ This is especially problematic when covered jurisdictions are left to determine what constitutes compliance for their elections.¹³⁸ While a combination of DOJ enforcement, private litigation, and state initiatives have been extremely effective in implementing other provisions of the VRA; the language-minority provisions continue to be under-enforced in comparison to the high number of cases brought under section 2 of the VRA.¹³⁹ It is

132. *Id.* at 19 (explaining increased Vietnamese voter turnout “allow[ed] the first Vietnamese candidate in history to be elected to the Texas legislature — defeating the incumbent chair of the Appropriations Committee by 16 votes out of 40,000 cast”).

133. *Id.*

134. *See supra* Section II.B (discussing congressional intent to increase language-minority voter participation).

135. *See* Matthew Higgins, Note, *Language Accommodations and Section 203 of the Voting Rights Act: Reporting Requirements as a Potential Solution to the Compliance Gap*, 67 STAN. L. REV. 917, 937–43 (2015) (describing and citing multiple, significant section 203 non-compliance issues).

136. *See* James Thomas Tucker & Rodolfo Espino, *Government Effectiveness and Efficiency? The Minority Language Assistance Provisions of the VRA*, 12 Tex. J.C.L. & C.R. 163, 195 (2007) (finding only forty percent of surveyed jurisdictions had oral language assistance for voter registration). This study is the only one cited in this Note because no other major survey of Section 203 compliance exists.

137. *See* Higgins, *supra* note 135, at 941 (citing studies showing “the primary causes of noncompliance with Section 203 are election officials’ ignorance of the law’s basic requirements”); *see also* Tucker & Espino, *supra* note 136, at 188 (finding only about sixty percent of surveyed covered jurisdictions supplied both written and oral language assistance).

138. *See* 28 C.F.R. § 55.19(a) (2006) (“The determination of what is required for compliance with section 4(f)(4) and section 203(c) is the responsibility of the affected jurisdiction.”). The guidance specifically puts the burden on the affected jurisdiction explaining the DOJ guidance should not be used as a substitute. *Id.*; *see also* Higgins, *supra* note 135, at 921 (highlighting the compliance gap is “rooted in the law’s vague mandates”).

139. *See supra* note 15 and accompanying text (discussing comparatively few section 203 cases).

notable that the language-minority provisions have been in place since 1975, yet compliance still lags. This illustrates that it is unlikely OVR compliance will happen independently. While providing a full solution to the under-enforcement of section 203 is not within the purview of this Note, one benefit of enforcing section 203 compliance for state OVR systems includes raising section 203's profile nationwide, which could lead to increased investment in enforcement.

3. *Language Access and Language-Minority Voter Participation*

One goal of the VRA was to ensure that access to the vote was not predicated on the ability to read, write, or speak English.¹⁴⁰ The second was to increase voter registration and voter participation for historically underrepresented groups, including Hispanic and Native American voters. The inclusion of section 203 in the 1975 amendments to the VRA has directly furthered these goals. Providing in-person translation assistance and translated election materials has paid dividends in the covered jurisdictions, where it has been implemented effectively.¹⁴¹ Numerous groups testified to this during the 2006 VRA reauthorization hearings.¹⁴² Statistical data also support the notion that when bilingual language access is improved, LEP voter participation increases significantly. According to studies done in advance of the 2006 VRA reauthorization, “[i]n many places, American Indian registration and turnout is up between 50% and 150% because of the availability of language assistance.”¹⁴³ Similarly large gains have been made among Latino voters.¹⁴⁴ On the other hand, where compli-

140. S. REP. NO. 94-295, at 30 (1975) (explaining purpose of language-minority provisions was to “insure their free access to the franchise”).

141. See, e.g., *supra* note 131 (explaining importance of DOJ intervention for increasing Vietnamese voter participation).

142. See Voting Rights Act: Section 203 — Bilingual Election Requirements (Part II): Hearing Before the H. Comm. on the Judiciary, 109th Cong. 199, 259 (2005) (including testimony of representatives from the National Congress of American Indians, the National Association of Latino Elected and Appointed Officials Education Fund, and Native Vote).

143. RUSS LEHMAN ET AL., NATIVE VOTE 2004 NATIONAL REPORT 7 (2005), <http://www.nativevote-mn.org/news/NativeVote2004NationalReport.pdf> [https://perma.cc/B44G-4LFC].

144. Voting Rights Act: Section 203 — Bilingual Election Requirements (Part II): Hearing Before the H. Comm. on the Judiciary, 109th Cong. 203 (2005) (“U.S. Census data for the November 2004 Presidential election indicate that 7.6 million Latinos voted, an increase of 145% since 1984.”).

ance has lagged, so has voter participation.¹⁴⁵ Misunderstandings with poll workers, whether due to language barriers or outright discrimination, can prevent minority-language speakers from exercising their right to vote.¹⁴⁶ Whether stemming from ignorance of section 203 requirements or because of willful attempts to discourage minority-language voters, language-access problems can be a significant hurdle for LEP voter participation.¹⁴⁷

B. OVR COMPLIANCE GAPS

This Note uses OVR as one example of the types of critical voter resources available on the Internet that states and counties fail to translate. As of January 27, 2017, thirty-four states offer online voter registration and another four have passed legislation to implement OVR systems.¹⁴⁸ Of these states, twenty-five include at least one jurisdiction covered by section 203.¹⁴⁹ That is a significant increase since the 2011 section 203 determinations. As of February 12, 2017, Illinois, Maryland, Nebraska, Pennsylvania, Rhode Island, and Wisconsin have implemented compliant OVR systems.¹⁵⁰ This means that their statewide OVR systems provide OVR in every section 203 language covered statewide, or

145. Turnout for Alaska Natives in the 2008 presidential election was twenty percent lower than the statewide average. See TUCKER, *THE BATTLE*, *supra* note 41, at 257 (comparing statistics presented during congressional hearings on VRA reauthorization with U.S. Census data on overall turnout rates). Alaska recently settled a section 203 case after a federal court found it in violation of the VRA. See Settlement Agreement at 6, *Toyukak v. Treadwell*, No. 3:13-cv-00137 (D. Alaska Sept. 30, 2015).

146. See H.R. REP. NO. 109-478, at 45, 50-52 (2006) (outlining findings of discrimination against LEP voters); Glenn D. Magpantay & Nancy W. Yu, *Asian Americans and Reauthorization of the Voting Rights Act*, 19 NAT'L BLACK L.J. 1, 3-6 (2005) (describing multiple instances of hostile poll workers threatening or intimidating LEP voters).

147. See Glenn D. Magpantay, *Asian American Access to the Vote: The Language Assistance Provisions (Section 203) of the Voting Rights Act and Beyond*, 11 ASIAN L.J. 31, 41 (2004) ("For example, in Los Angeles, the [translated] materials were hidden, left in boxes under stables, and altogether unavailable to voters."); *id.* at 42 ("An alarmingly high number of poll workers had no idea that any form of language assistance was available for voters or even how to provide them with assistance.").

148. See NCSL Website, *supra* note 26.

149. Alaska, Arizona, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Maryland, Massachusetts, Nebraska, Nevada, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Utah, Virginia, and Wisconsin all have OVR systems or are in the process of implementing them and include at least one section 203 covered county. *Id.*; Determinations Under Section 203, 81 Fed. Reg. 87,532 (Dec. 5, 2016).

150. See *infra* Appendix at 495, 497, 499-500, 505 (evaluating state OVR compliance).

at the county level. These systems do not seem to use online translation systems to provide these services,¹⁵¹ and it is easy to locate the translated versions of the systems on the state webpage.¹⁵² Unfortunately, not every state that includes a section-203-covered jurisdiction has been so willing to comply, as shown in the table below.

151. Online translation systems include Google Translate and Microsoft Translator. These free web services can be embedded into a web page as a drop down box. After choosing a language the entire website is translated verbatim. *E.g.* CTY. OF DUPAGE, ILL., ELECTION COMM'N WEBSITE (2016), <http://www.dupageco.org/Election/Voting/37059/> [<https://perma.cc/KH22-54U5>] (last visited Apr. 22, 2017). The quality of these translations can vary because humans do not check them for accuracy rather it is a “statistical machine translation.” *See Google Seeks World of Instant Translations*, ABC NEWS (Mar. 28, 2007), <http://www.abc.net.au/news/2007-03-29/google-seeks-world-of-instant-translations/2229046> [<https://perma.cc/V4H9-GLEJ>] (explaining new Google approach “forgoes language experts” and “quality is not perfect”). For something as important as voter registration or a ballot, using online translators should not be viewed as VRA-compliant. For example, in a recent section 203 case, the court required the state to hire and train bilingual poll workers who could provide complete and accurate translations. *See Order Re Interim Remedies* at 8, *Toyukak v. Treadwell*, No. 13-cv-137 (D. Alaska Sept. 22, 2014). It does not seem possible for online translation systems to satisfy the requirement that translations be “complete and accurate.” *Id.*

152. This means a user can go to the English version of the page and not have to click through multiple landing pages with only English links. Ideally, the translate option should be immediately visible to a non-English speaking voter. This aligns with the requirements in recent DOJ VRA settlements. *See supra* note 122 and accompanying text (explaining Spanish version of online resources should be “easily visible and identifiable”).

Table 1: Non-Compliant OVR State Systems			
State	OVR Languages Available	Covered Languages	Number of covered jurisdictions
Alaska	English	Alaskan Athabascan, Aleut, Filipino, Inupiat, Yup'ik Spanish, Tagalog,	Fifteen
Arizona ¹⁵³	English, Spanish	Spanish, Navajo, Apache, Quechan	Ten
California	Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, Vietnamese	American Indian, Cambodian, Chinese, Korean, Vietnamese	Twenty-Seven
Colorado	English, Spanish	Spanish, Ute	Six
Hawaii	English, Chinese, Illocano	Chinese, Filipino	One
Georgia	English	Spanish	One
Iowa	English	Spanish, American Indian	Two
Kansas ¹⁵⁴	English	Spanish	Five
Massachusetts ¹⁵⁵	English	Cambodian, Chinese, Spanish	Thirteen
New Mexico	English, Spanish	Apache, Navajo, Spanish	Twenty
New York ¹⁵⁶	English	Asian Indian, Spanish, Chinese, Korean	Seven
Utah	English	Navajo, Ute	One
Virginia ¹⁵⁷	English	Spanish, Vietnamese	Two

153. See *infra* Appendix at 490–91. There are no materials or information on the Arizona Secretary of State's election website regarding Native American language assistance. See *Register to Vote or Update Your Current Voter Information*, ARIZ. SEC'Y. OF ST., <https://www.azsos.gov/elections/voting-election/register-vote-or-update-your-current-voter-information> [<https://perma.cc/2TUH-EVBP>] (last visited Apr. 22, 2017).

154. See *infra* Appendix at 495 (evaluating state OVR compliance).

155. See *infra* Appendix at 495–96.

156. See *infra* Appendix at 499 (evaluating state OVR compliance).

157. See *infra* Appendix at 505 (evaluating state OVR compliance).

In addition to the states highlighted in the above table, there are several others of concern. Florida is covered statewide under section 203 for Spanish.¹⁵⁸ Florida has passed legislation approving the development of an OVR system,¹⁵⁹ although it is unclear when this system will be available. However, as of February 2017, Florida relies entirely on Google Translate, which is a notoriously unreliable service,¹⁶⁰ to provide Spanish translation of its elections website.¹⁶¹ Michigan does not have an OVR system yet, but it does have an English-only voter registration verification website.¹⁶² Oklahoma and Idaho have authorized the use of OVR systems and contain counties covered for Spanish. The attached Appendix includes links to each of the states' OVR systems as well as the covered counties' websites, many of which link to these systems.¹⁶³ It is clear that significant numbers of LEP voters are being shut out from the ability to register to vote online, as well as numerous other election resources to which they should, ideally, have access.

IV. SECTION 203 GETTING TO FULL COVERAGE AND COMPLIANCE

The purpose of section 203 and the VRA more broadly is to improve ballot access for historically underrepresented groups facing state and locally enacted barriers to voting. However, as outlined above, the goal of making elections accessible for LEP has not yet been fully realized. This Part provides two possible solutions to ensure OVR systems are compliant with section 203. The first option is an outline for a hypothetical impact litigation lawsuit that would set the legal precedent that when states provide OVR systems, they must translate the system into all section 203 required languages covered at the county level. The second option is a proposal for language that could be included in the proposed amendments to the VRA. Ultimately, the second pro-

158. Determinations Under Section 203, 81 Fed. Reg. 87,532 (Dec. 5, 2016). It also has ten individually covered counties for Spanish. *Id.*

159. See NAT'L COMM'N, OUR WORK IS NOT DONE, *supra* note 129, at 23.

160. See *supra* note 151 (discussing issues with online translation services).

161. FLA. DIV. OF ELECTIONS, <http://dos.myflorida.com/elections/> [<https://perma.cc/HC58-6D2J>] (Apr. 18, 2017).

162. MICH. VOTER INFO. CTR., <https://vote.michigan.gov/MVIC/> [<https://perma.cc/4YRP-6GGP>] (Apr. 18, 2017).

163. See *infra* Appendix.

posals is more efficient and would create a better scheme for compliance than litigating against individual states. A change to the VRA language has the added benefit of removing any reluctant state's legal counterarguments. However, in this age of congressional gridlock,¹⁶⁴ impact litigation may ultimately be the quickest way to protect and ensure the rights of vulnerable populations.¹⁶⁵

A. ACHIEVING COMPLIANCE THROUGH LITIGATION

This section proposes a hypothetical lawsuit against the State of Kansas for violating section 203 of the VRA for failing to provide OVR in Spanish. The suit would be filed in the Federal District Court of Kansas against the State of Kansas and the Kansas Secretary of State in his official capacity.¹⁶⁶ This hypothetical lawsuit is modeled after two recent section 203 cases brought by the Lawyers' Committee for Civil Rights Under Law and the Native American Rights Fund.¹⁶⁷

1. *Drafting the Complaint*

The first step in bringing suit against Kansas is to draft a complaint that sufficiently alleges English-only OVR violates the VRA. Section 203 creates an affirmative duty for any covered jurisdiction,¹⁶⁸ which means that once the duty is triggered by the

164. See Christopher Ingraham, *Congressional Gridlock Has Doubled Since the 1950s*, WASH. POST (May 28, 2014), <https://www.washingtonpost.com/news/wonk/wp/2014/05/28/congressional-gridlock-has-doubled-since-the-1950s/> [<https://perma.cc/N28P-6SVM>].

165. The 2015 effort to amend the VRA stalled in committee and efforts to move the bill out of committee via discharge petition failed. See U.S. H.R., MOTION TO DISCHARGE A COMMITTEE FROM THE CONSIDERATION OF A BILL (June 15, 2016), <http://clerk.house.gov/114/lrc/pd/petitions/DisPet0004.xml> [<https://perma.cc/U5WC-RETA>].

166. See, e.g., Complaint at 1, *Toyukak v. Treadwell*, No. 3:13-cv-00137 (D. Alaska July 19, 2013).

167. Complaint, *Navajo Nation Human Rights Comm'n v. San Juan County, Utah*, No. 2:16-cv-00154-JNP (D. Utah Feb. 25, 2016); Order Re Interim Remedies at 1–6, *Toyukak v. Treadwell*, No. 3:13-cv-00137 (D. Alaska Sept. 22, 2014).

168. Section 203's obligation is affirmative, because, once covered, a political subdivision is required to provide translated materials. This differs, for example, from Section 2, which is a negative prohibition on discriminatory policies. 52 U.S.C. § 10301(b) (Supp. II 2015) (outlining elements that must be established to prove Section 2 violation). Section 2 places the burden on plaintiffs to show a violation has occurred. The burden is lower for section 203 claims because parties seeking enforcement need only show translated materials have not been provided. This is perhaps why the DOJ enforcement actions for section 203 move so quickly from complaint to settlement. See *infra* notes 247–251 and accompanying text (outlining DOJ settlement timelines).

coverage formula, the requirements to provide bilingual election materials follow.¹⁶⁹ The State of Kansas's OVR system is only available in English.¹⁷⁰ Five counties in Kansas are covered for Spanish-language voters: Finney, Ford, Grant, Haskell, and Seward.¹⁷¹ The census determination of coverage indicates that, of each county's voting age population, at least five percent speak Spanish, speak English "less than very well," and the percentage of those citizens who have not completed the fifth grade is higher than the national rate of citizens not completing the fifth grade.¹⁷² Meeting these three requirements triggers section 203 requirements.¹⁷³ Thus, each of these counties is required to provide Spanish-language voting materials for every election held in the respective county.¹⁷⁴ In addition to these basic facts, non-profit organizations often include statistical data in their complaints detailing that the minority population experiences high rates of poverty and unemployment, low rates of access to a vehicle, low rates of voter registration and voter turnout, and long travel distances to register to vote in person.¹⁷⁵ While these elements are not necessary to proving a section 203 claim, they are helpful to demonstrate to the court why finding for plaintiffs would further the goals of the VRA.¹⁷⁶ At the complaint stage, plaintiffs usually seek relief in the form of a preliminary injunction.¹⁷⁷ In this hypothetical case, the relief sought would be a preliminary injunction requiring the state provide Spanish-language OVR and setting a deadline for compliance.

2. District Court Statutory Interpretation

Once the complaint and answer are filed, the district court will analyze the facts to determine whether the state is violating section 203. Its first step will likely be pure statutory analysis of

169. See *supra* note 168.

170. See *infra* Appendix at 495.

171. See *infra* Appendix at 495.

172. Determinations Under Section 203, 81 Fed. Reg. 87,532 (Dec. 5, 2016).

173. *Id.*

174. 52 U.S.C. § 10503 (Supp. II 2015).

175. See, e.g., Complaint at 5–9, Navajo Nation Human Rights Comm'n v. San Juan County, No. 2:16-cv-00154-JNP (D. Utah Feb. 25, 2016).

176. See, e.g., Order Denying Motion to Dismiss at 4–6, Poor Bear v. Jackson County, No. 5:14-cv-05059-KES (D.S.D. May 1, 2015).

177. See *id.* at 1–2.

section 203.¹⁷⁸ The court is likely to note that, on its face, section 203 does not include any explicit references to “online,” “electronic” materials, or “the Internet.”¹⁷⁹ However, that does not necessarily mean that section 203 does not cover OVR.¹⁸⁰ The statute does include the phrase “other materials or information relating to the electoral process” which, if read broadly, could be read to encompass materials or information on the Internet as no particular medium is specified.¹⁸¹ Arguably, voting activities are not different when they happen online instead of in print. Indeed, when PDF versions of voter registration forms are made available on covered county websites, they are usually available in English and any covered language(s).¹⁸² Even states that do not provide bilingual OVR systems usually at least provide translated downloadable registration forms.¹⁸³ The court might find that it would be asymmetrical to hold that, while voter registration forms and ballots are specified as required, a political subdivision could get around translating them by putting them on the Internet.

3. *District Court Analysis of Existing Case Law*

In addition to the text of the statute, the district court will analyze any relevant case law. As discussed in Section II.C, current case law provides some insight into what courts include in the term “voting materials.”¹⁸⁴ The court would likely read *United States v. Berks County*,¹⁸⁵ *United States v. Metropolitan Dade*

178. See WILLIAM ESKRIDGE JR. ET AL., *CASES AND MATERIALS ON LEGISLATION AND REGULATION: STATUTES AND THE CREATION OF PUBLIC POLICY* 1195 (5th ed. 2014).

179. 52 U.S.C. § 10503 (Supp. II 2015) (explaining “voting materials” means registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots” but not specifying what format is required).

180. There are a number of theories of legislative interpretation the court might employ to determine whether OVR falls within the list of materials in section 203 including *expressio unius, noscitur a sociis*, or *eiusdem generis*. See ESKRIDGE JR. ET AL., *supra* note 178, at 1195-96.

181. 52 U.S.C. § 10503. The *Oxford English Dictionary* defines “materials” as “text or images in printed or electronic form.” *Material*, OXFORD ENGLISH DICTIONARY (3d ed. 2001), <http://www.oed.com/view/Entry/114923> [<https://perma.cc/X75C-F797>] (emphasis added).

182. See *infra* Appendix.

183. See *infra* Appendix.

184. See *supra* Part II.C.

185. *United States v. Berks County*, 277 F. Supp. 2d 570 (E.D. Pa. 2003) (issuing preliminary injunction finding Berks County violated the VRA by failing to provide bilingual election materials).

County,¹⁸⁶ and *Padilla v. Lever*¹⁸⁷ to stand for the proposition that the VRA should be read broadly to encompass all materials related to the voting process.¹⁸⁸ *Berks County* speaks directly to the idea that the courts have broadly interpreted the VRA to effectuate the ambitious congressional intent of ensuring the vote for all.¹⁸⁹ One possible reading of *Padilla* is that it sets the outer bounds of what materials are covered by rejecting the argument that Congress intended the VRA to go so far as to cover private conduct.¹⁹⁰ The court may find that it is a reasonable interpretation to hold that state OVR systems fall within this coverage range. In the hypothetical case, for example, the Finney County website links to the State of Kansas's OVR system.¹⁹¹ Finney County does not directly provide the OVR Service, but a government entity (the state), is providing this service on behalf of the county.¹⁹² Thus, when the county links to the state OVR systems, it is outsourcing its responsibility to register voters to the state.¹⁹³ *Berks County* and *Metropolitan Dade* both suggest this would be considered a voter resource that is directly related to voter registration and therefore closely connected to the ability to effectively cast a ballot.¹⁹⁴

Kansas could argue that *Padilla* suggests the state should not have to provide compliant OVR systems for county-level compli-

186. *United States v. Metropolitan Dade County*, 815 F. Supp. 1475 (S.D. Fla. 1993) (granting temporary restraining order requiring Metropolitan Dade County translate election pamphlet as failure to do so violated the VRA).

187. *Padilla v. Lever*, 463 F.3d 1046 (9th Cir. 2006) (holding state was not required to translate recall petitions into Spanish because they were not "provided" by the state).

188. See *supra* Part II.C (discussing these cases and outlining important takeaways for OVR). It is important to note *Berks County* and *Metropolitan Dade* are district court decisions and therefore are not binding nationwide. *Padilla* is a Ninth Circuit decision and is only binding on courts within its circuit. However, these cases are still persuasive precedent and are the only court guidance available at this time.

189. See *Berks County*, 250 F. Supp. 2d at 526, 535 ("Expansion of the right to vote has been steady: today it often falls upon the courts to enforce the will of Congress.").

190. See *Padilla*, 463 F.3d at 1052 (explaining extending VRA this far would be unreasonable interpretation). See *supra* notes 101–110 and accompanying text (same).

191. See *infra* Appendix at 495.

192. OVR websites are hosted on states' secretary of state websites or election sites. See, e.g., *Online Voter Registration*, NEV. SEC'Y OF ST., <https://nvsos.gov/sosvoterservices/Registration/step1.aspx> [<https://perma.cc/UKR2-TXWU>] (last visited Apr. 22, 2017).

193. For example, Apache County links to the Arizona State OVR system, and Fresno County links to the California State OVR system. See *infra* Appendix at 490–91.

194. Consider in *Metropolitan Dade* the court found an election pamphlet describing the process of voting in a special election sufficiently connected to the voting process to be covered. *United States v. Metropolitan Dade County*, 815 F. Supp. 1475, 1478 (S.D. Fla. 1993). OVR is more directly connected to the voting process as it directly facilitates citizens registering to vote.

ance with section 203.¹⁹⁵ Specifically, the state could argue that *Padilla* stands for the proposition that, as long as OVR is a state system, not operated by Finney County, OVR is not “provided” by the regulated entity and therefore should not be included as a covered material.¹⁹⁶ However, the facts in *Padilla* are distinguishable from this hypothetical. First, the *Padilla* court was very concerned about the possible chilling effect section 203 requirements would have on private petition initiatives.¹⁹⁷ Second, the *Padilla* court noted several times that *neither* the state *nor* the county provided the petitions.¹⁹⁸ It was the involvement of the private parties that led the *Padilla* court to find the VRA did not apply.¹⁹⁹ This suggests that if the state had a real role in the petitions, the decision might have come out differently. If the court chose to read *Padilla* this way, the case suggests that whenever *any* government entity furnishes election materials in a covered county, those materials must be section 203 compliant.

There is an alternative way to read *Padilla*, which is less helpful to this Note’s hypothetical case. The majority of section-203-covered jurisdictions are counties, because few states have large enough language-minority populations to meet the coverage trigger.²⁰⁰ The trigger was meant to ensure jurisdictions would only be covered when there is a critical mass of language-minority voters, thus making it reasonable to provide translated materials.²⁰¹ Although the *Padilla* court focuses on the fact that Orange County is a “covered” subdivision,²⁰² California became a covered jurisdiction statewide for Spanish-language compliance under new section 203 designations during the life of the case.²⁰³ There

195. See *Padilla*, 463 F.3d at 1048.

196. See *id.* at 1048 (“[Section 203] does not apply to such recall petitions because they are not ‘provided’ by the state or its subdivision.”).

197. See *id.* at 1052–53.

198. See *id.* at 1048, 1050.

199. See *id.* at 1052 (holding “the ultimate determination is what Congress meant by imposing requirements on materials ‘provided’ by the State or its subdivision. That term simply cannot reasonably be construed to apply to recall petitions initiated, draft and circulated by private citizens.”).

200. See Determinations Under Section 203, 81 Fed. Reg. 87,532 (Dec. 5, 2016). There is statewide coverage in California, Florida, and Texas for Spanish. *Id.*

201. See H.R. REP. NO. 94–295 at 31–32 (1975) (explaining coverage triggers were designed knowing “problems were not uniform in their severity across the nation” and triggers are meant to “apply the Act’s special remedies to jurisdictions where language minorities reside in the greatest concentration”).

202. See *Padilla*, 463 F.3d at 1050.

203. Voting Rights Act Amendments of 1992, Determinations Under Section 203, 67 Fed. Reg. 48,871, 48,872 (July 26, 2002).

is no indication that this statewide coverage influenced the court's decision, making it unclear whether *Padilla* stands for the proposition that when *any* level of government provides materials within a section-203-covered jurisdiction, the materials should be provided in all covered languages.²⁰⁴

It may also be important to the court that the aforementioned cases focus on effectuating congressional intent.²⁰⁵ It is notable, then, that Congress never included explicit references to a specific resource medium in the text of any of the language-minority provisions.²⁰⁶ The court could interpret this in at least two ways. First, that Congress omitted references to the Internet because it meant to exclude online resources from VRA coverage. Or second, that Congress wrote these sections using broad language in an attempt to capture all resources provided by covered jurisdictions and to provide flexibility to those jurisdictions in their election administration. The latter interpretation seems more logical when considering (1) the purpose of the VRA was, broadly, to ensure access to the ballot,²⁰⁷ (2) courts have adopted a broad interpretation of this congressional purpose,²⁰⁸ and (3) DOJ encourages broad interpretation of the language-minority provision coverage in its guidance.²⁰⁹ In addition, the inclusion of online resources is an issue because the Internet has only recently become a household tool. Thus, the 1975 and 1992 reauthorizations of the VRA could not have considered online resources and even in 2006 reauthorization, OVR was not a factor.²¹⁰

The court may also look to prior administrative regulation to aid its own statutory interpretation,²¹¹ which could include a re-

204. See *Padilla*, 463 F.3d at 1048–64 (containing no references to updated statewide coverage).

205. See *supra* notes 55, 92, 189 and accompanying text (describing each court's focus on congressional intent in its discussion of the merits).

206. See 52 U.S.C. §§ 10303, 10503 (Supp. II 2015).

207. See Section II.B (discussing legislative intent and broad congressional goals of increasing ballot access).

208. See *United States v. Berks County*, 277 F. Supp. 2d 570, 579 (E.D. Pa. 2003) (explaining the text of the VRA “has been interpreted broadly by federal courts”).

209. 28 C.F.R. § 55.19 (2015).

210. See NSCL Website, *supra* note 26 (describing timeline of OVR first implemented by the State of Washington in 2008).

211. See Katharine Clark & Matthew Connolly, *A Guide to Reading, Interpreting and Applying Statutes* (2006), <https://www.law.georgetown.edu/academics/academic-programs/legal-writing-scholarship/writing-center/upload/statutoryinterpretation.pdf> [<https://perma.cc/6HQ2-8BLJ>] (describing sources for statutory interpretation).

view of the DOJ settlements discussed above.²¹² Plaintiffs could urge that the court acknowledge the DOJ's evolving interpretation — moving towards including the provision of translated Internet materials in consent decrees.²¹³ In the past, the DOJ consent decrees have required services, similar in their complexity to OVR, to be provided in the covered language, correctly translated, and available via clearly identifiable links.²¹⁴ Plaintiffs should argue that the court use these consent decrees as models for what constitutes compliance during both the fact-finding phase and when asking for relief, as they are helpful guideposts created by the enforcing agency.

Taken together, the legislative history, case law, and settlements should guide the court's understanding of what the language-minority provisions are meant to cover and what compliance should look like. Overall, these sources of statutory interpretation seem to weigh in Plaintiffs' favor. However, there is one more legal issue the court would need to rule on before ruling for Plaintiffs that is addressed in the next section.

4. *Making The Argument That Section 203 Covers Kansas*

A pure textualist reading of section 203 suggests that it applies at the county but not the state level in Kansas.²¹⁵ Therefore, in order to make a successful claim, Plaintiffs must present a legal argument that would convince the court that by offering OVR services Kansas triggered section 203 compliance. This Note provides three legal theories Plaintiffs could use to argue that Kansas's OVR system is covered by section 203.

First, plaintiffs could argue that the VRA regulates the product, not the producer.²¹⁶ Put another way, when states provide OVR systems, they are assisting counties by providing a conven-

212. See *supra* note 118 (listing DOJ consent decrees).

213. The most notable of these are the three that include clauses outlining specific services that must be available in the covered language for VRA compliance. See *supra* note 121 (listing settlements including references to the Internet).

214. These services include the ability to check your voter registration status and to determine your voting locations. See *supra* note 121 (listing settlements including references to the Internet).

215. Determinations Under Section 203, 81 Fed. Reg. 87,532 (Dec. 5, 2016).

216. With the caveat that this logic applies to government entities and their affiliates, but not private parties. Per *Padilla*, private parties' recall petitions are not covered. See *Padilla v. Lever*, 463 F.3d 1046, 1050 (9th Cir. 2006).

ient service for county residents.²¹⁷ The state is also taking on the responsibility of collecting voter registration information, checking for voter eligibility, and then sharing that information with localities.²¹⁸ In so doing, the state is providing a service within and to the county, and section 203 arguably regulates materials or voter registration provided to voters within covered jurisdictions.²¹⁹ It would be inconsistent to apply section 203 requirements to voter registration when a county is facilitating the process, but not when the county receives assistance in that process from the state.

In addition, DOJ guidance has recommended that section 203 be construed “broadly” to encompass all stages of the voting process.²²⁰ When read broadly, it seems reasonable that section 203 applies to all voter registrations *regardless of what level of government is facilitating the process*. If state services provided to counties were not covered, counties would be able to avoid section 203 compliance by outsourcing all voter services to the state. The DOJ foresaw this kind of problem when proposing negotiated settlements. Almost all of the DOJ consent decrees discussed in Part II.D include a clause to ensure that if the defendant county should enter into an election services contract with any “other entity,” that entity has to comply with the decree as well.²²¹ In the hypothetical Kansas case, Finney County is effectively contracting out its voter registration duties to the State of Kansas. It would be problematic if states and counties could frustrate the will of Congress by outsourcing county voter services to the state and then claiming those services are not covered by the VRA. Moreover, it is unlikely that counties will provide their own OVR

217. See THE PEW CHARITABLE TRUSTS, UNDERSTANDING ONLINE VOTER REGISTRATION 3 (2014), http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes_assets/2013/understandingonlinevoterregistrationpdf.pdf [<https://perma.cc/LL5V-E76F>] [hereinafter “PEW CHARITABLE TRUSTS”].

218. See *id.* at 3–4. This is similar to the model created by the National Voter Registration Act (NVRA), which requires that social service agencies and state departments of motor vehicles collect voter registration information and report the information to the relevant counties.

219. See 52 U.S.C. § 10503 (Supp. II 2015).

220. Implementation of the provisions of the VRA regarding language-minority groups, 28 C.F.R. §§ 55.1–55.24 (2012). The DOJ issued this guidance to assist counties and states come into compliance with section 203 requirements.

221. See *supra* Section II.D (describing consent decree provisions).

systems when they are already offered at the state level.²²² Therefore, if states are not required to implement OVR in compliance with the VRA for all covered languages within its bounds, language-minority voters are likely to go without OVR access. Over time, if this type of loophole is allowed to persist, the more likely that, as resources move online, two entirely separate election systems will develop — an online system for English-speaking voters and a paper system for LEP voters. The two-system model could impede participation, create confusion and further perpetuate the inequality Congress was attempting to remedy in passing the language-minority provisions.²²³

Second, Plaintiffs can argue that the section 203 requirement is parallel to the requirements in the VRA section 5 preclearance provision. Section 5 and section 203 were written with similar structures. Section 5 requires that section-4-covered jurisdictions pre-clear any change to voting schemes with the Attorney General of the United States.²²⁴ Like section 203, section 4 covered some states statewide and some only at the county level.²²⁵ States that contained section-4-covered counties were required to comply with the preclearance requirements when statewide election administration changes would affect the section-4-covered counties.²²⁶ Before *Shelby County*, states pushed back on this preclearance requirement as a violation of their state sovereignty,²²⁷ but the Supreme Court rejected this argument.²²⁸ Eventually, states not covered statewide but that had individual covered counties understood and accepted the preclearance require-

222. At this point no individual county in the United States has developed an independent online voter registration system. Based on Google searches for online voter registration.

223. See *supra* Section II.B (explaining legislative intent of section 203).

224. 52 U.S.C. § 10304 (Supp. II 2015).

225. See *Jurisdictions Previously Covered by Section 5*, DEPT OF JUSTICE (Aug. 6, 2015), <http://www.justice.gov/crt/jurisdictions-previously-covered-section-5> [https://perma.cc/9JCC-RFVT] (listing states covered as a whole and covered counties within states). Section 4 coverage, however, was determined by a significantly different formula. 52 U.S.C. § 10303(e) (outlining coverage of counties and states because of past incidences of racial discrimination and voting tests).

226. See *Lopez v. Monterey County*, 525 U.S. 266, 279 (1999), *abrogated on other grounds by Shelby County v. Holder*, 133 S. Ct. 2612 (2013) (explaining logic that “legislation from a partially covered State must be precleared to the extent that it affects covered counties”).

227. See *id.* at 284–85.

228. See *id.*

ment.²²⁹ The federal courts' support for state compliance with county requirements under sections 4 and 5 aligns with Plaintiffs' argument that the natural, logical reading of the VRA is to avoid loopholes and that counties should not be able to avoid VRA compliance by outsourcing election administration to the state. Plaintiffs should adopt this same reasoning and argue that state-provided OVR systems should be treated the same way.

Kansas may push back on the application of section 203 at the state level by citing *Shelby County v. Holder*, which struck down the section 4 coverage formula rendering section 5 meaningless.²³⁰ However, the Court struck down section 4 because the coverage formula was not narrowly tailored and unfairly constrained states' abilities to pursue election administration.²³¹ The Court did not overrule its prior support for holding states accountable for coverage at the county level.²³² Thus, the applicability of section 203 is still presumptively constitutional.

Third, Plaintiffs can argue that commonly understood principles of federalism support the application of section 203 to the State of Kansas. In its most basic form, federalism describes the relationship between the federal government and the states.²³³ Cooperative federalism is when federal and state governments recognize each other's powers while working together to perform "certain governmental functions."²³⁴ Elections are one example of cooperative federalism in that the federal, state, *and* county governments work together to administer elections.²³⁵ In the OVR context, states and counties work together to administer voter registration,²³⁶ a governmental function directly regulated by the

229. See *Bone Shirt v. Hazeltine*, 200 F. Supp. 2d 1150, 1152 (D.S.D. 2002) ("South Dakota concedes, *as it must*, that if redistricting caused a voting change in [covered counties], that voting change must be precleared." (emphasis added)).

230. *Shelby County v. Holder*, 133 S. Ct. 2612, 2631 (2013). The court found the coverage formula unconstitutional because it failed to accurately reflect "current conditions" and relied too much on "40-year-old facts . . ." See *id.* at 2617.

231. See *id.* at 2622–26.

232. See *id.*

233. *Cooperative Federalism*, BLACK'S LAW DICTIONARY (10th ed. 2014).

234. *Id.*

235. For example, the federal government created and now provides the National Mail Voter Registration form. See *National Mail Voter Registration Form*, U.S. ELECTION ASSISTANCE COMM'N, http://www.eac.gov/voter_resources/register_to_vote.aspx [<https://perma.cc/4EHE-MQN3>] (last visited Apr. 22, 2017). In doing so, the federal government coordinates with state election offices. *Id.* Voters can then use these forms to register with their county. *Id.*

236. See PEW CHARITABLE TRUSTS, *supra* note 217 (describing states and counties sharing voter information).

federal government.²³⁷ Cooperative federalism supports the proposition that, when cooperating with the federal government, state and local governments “may be required to adhere to standards prescribed by federal law.”²³⁸ Section 203 is a federal standard that requires translated materials to be provided in covered counties.²³⁹ Thus, when states provide OVR and work with counties to register voters and share information, states should be held accountable to section 203.

Of the three arguments, the first is likely to be the most persuasive to the court, because accepting the alternative interpretation could result in an inequitable election system in which there are greater barriers to participation for non-English speaking voters. In such an election system, it would be easier, more convenient, and faster for English-speaking voters to register to vote than non-English-speaking voters. This kind of unequal access is what Congress was working to combat when it passed the VRA.

Overall, the goal of this hypothetical litigation is to illustrate that litigation to improve section 203 is possible. However, this Note also acknowledges that the legal arguments the court would have to accept for this suit to be successful are complex and do not provide a guaranteed victory under the current statute. It is likely that the easiest way to ensure section 203 compliance online is to amend the VRA to reflect changes to election administration. Recognizing this, the next section of this Note provides model language that could be added to future VRA amendment proposals.

237. The federal government regulates voter registration through the VRA, the Help America Vote Act, and the National Voter Registration Act. 52 U.S.C. § 10503 (Supp. II 2015); 52 U.S.C. § 20901; 52 U.S.C. § 20507.

238. 81A C.J.S. States § 59 (2015). For example, in the Medicaid context, another area of cooperative federalism, once a state chooses to participate in the Medicaid scheme it must follow federal law. *See Doe v. Rose*, 499 F.2d 1112, 1115 (10th Cir. 1974) (explaining “once a state elects to participate in a federal welfare program, it must follow federal statutes and regulations and must also administer the program in a constitutional manner”).

239. 52 U.S.C. § 10503.

B. ACHIEVING SECTION 203 COMPLIANCE THROUGH LEGISLATION

In 2015 Representative Terri Sewell and Senator Patrick Leahy introduced companion bills that proposed several amendments to the VRA.²⁴⁰ The amendments were offered primarily to fix the damage done by *Shelby County* and included a new coverage formula that would reactivate the requirement that certain covered jurisdictions preclear election changes through the DOJ.²⁴¹ The bill also included amendments to improve access on Indian Reservations and to provide the Attorney General with additional authority to order election observation.²⁴² Unlike in prior amendments, there were numerous references to the Internet.²⁴³ The amendments also included updates to the language minority provisions.²⁴⁴ Unfortunately, these updates do not address this Note's main concern because there is no update that addresses election administration advancements, nor would the amendment require online election materials be provided in all section-203-covered languages, at both the state and the county level.²⁴⁵

This problem could be remedied by amending section 203 of the VRA. The following language would address that concern: section 203(c) of the Voting Rights Act of 1965 (52 U.S.C. 10503(c)) is amended by inserting "including on the Internet" and "in states that contain covered political subdivisions, state-provided online election materials must be provided in all languages required by section 203, regardless of whether section 203 applies to the state or its political subdivisions." Thus, section 203 would read as follows:

240. Voting Rights Advancement Act of 2015, H.R. 2867, 114th Cong. (2015); Voting Rights Act Advancement Act of 2014, S.1659, 114th Cong. (2015). The two bills include near-identical language so will be discussed as a singular proposal.

241. *See id.* at §§ 4, 5.

242. *See id.* at §§ 2, 7, 12.

243. *See, e.g., id.* at § 6.

244. *See id.* at § 10 ("Section 203(c) of the Voting Rights Act of 1965 (52 U.S.C. 10503(c)) is amended by striking 'or in the case of Alaskan natives and American Indians, if the predominant language is historically unwritten' and inserting '(as of the date on which the materials or information is provided)'").

245. *See id.* The proposed amendments to section 203 do nothing to address the problem of state-provided materials not being offered in languages covered at the county level. *See id.*

Whenever any State or political subdivision subject to the prohibition of subsection (b) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, [*including on the Internet,*] it shall provide them in the language of the applicable minority group as well as in the English language[, *and in states that contain covered political subdivisions, state-provided online election materials must be provided in all languages required by section 203, regardless of whether section 203 applies to the state or its political subdivisions*].

This language fits in well with the rest of the proposed amendments, as it brings the VRA into the Internet age and adds further improvements to the language-minority provisions. Considering the 2014 VRA amendments themselves advocate providing voter notices on the Internet, it seems an oversight not to clarify that section 203 applies to online materials.²⁴⁶

C. ACHIEVING SECTION 203 COMPLIANCE THROUGH EXECUTIVE BRANCH INTERVENTION

Finally, there is the option to have executive branch agencies act to improve section 203 compliance. In recent years, the DOJ has taken a larger role in enforcing section 203.²⁴⁷ DOJ enforcement action results in comprehensive reform within the covered jurisdiction and includes reporting requirements to ensure ongoing compliance.²⁴⁸ These enforcement actions have also been relatively efficient; several enforcement actions included simultaneous filing of the DOJ's complaint and proposed consent decree.²⁴⁹ Even in cases where the complaint and settlement were not filed simultaneously, there was no extensive litigation and the courts

246. See Voting Rights Advancement Act of 2015, H.R. 2867, 114th Cong. § 6 (2015).

247. Compare eighteen enforcement actions brought since August 2006 (post VRA reauthorization) with 21 brought, in total, from 1988 to 2006. See DOJ Settlements Website, *supra* note 55 (listing DOJ section 203 enforcement actions).

248. See, e.g., Consent Order at 13–14, *United States v. Colfax County*, No. 8:12-cv-00084 (D. Neb. Feb. 27, 2012) (requiring Colfax County maintain written records of action taken to comply with agreement to be shared with DOJ).

249. See, e.g., *United States v. Fort Bend County*, No. 4:09-cv-01058 (S.D. Tex. Apr. 13, 2009); *United States v. Salem County*, No. 1:08-cv-03726 (D.N.J. July 29, 2008).

never had to issue a final judgment.²⁵⁰ Counties were willing to negotiate with and come to an agreement with the DOJ.²⁵¹ Increased section 203 enforcement is possible if the DOJ Civil Rights Division and the Voting Section choose to increase the number of enforcement actions taken against noncompliant counties. However, that may not be enough if the DOJ is unwilling to interpret section 203 to cover the Internet or state-provided OVR.²⁵²

The DOJ is not the only executive branch entity charged with improving how United States elections are run. Therefore, coordination within the executive branch is critical. For example, the Presidential Commission on Election Administration specifically called for increased use of online voter registration in its 2014 report.²⁵³ The Commission also provides open-source voter-registration software.²⁵⁴ However, the Commission does not provide information about ensuring equal language access and the open-source software is only available in English.²⁵⁵ This is a missed opportunity to improve language access.

D. BROADER IMPLICATIONS FOR MODERN VOTING RIGHTS ISSUES

Online voter resources are not limited to OVR. This Note argues OVR should be included in covered materials for the purposes of section 203. However, there is a broader implication: language-minority speakers should also be able to access tools for

250. None of these settlements took longer than a year to settle. See DOJ Settlements Website, *supra* note 55 (outlining claims and when settlements were filed or approved).

251. Contrast this with recent private litigation under section 203 in Alaska. *Nick v. Bethel* and *Toyukak v. Treadwell* were both brought on behalf of Native American Voters in Alaska. Both cases took almost two years to settle. Complaint, *Nick v. Bethel*, 2010 WL 4225563 (D. Alaska May 22, 2008); Joint Motion for Settlement, *Nick v. Bethel*, 2010 WL 4225563 (D. Alaska Feb. 4, 2010); Complaint, *Toyukak v. Treadwell*, No. 3:13-cv-00137 (D. Alaska July 22, 2013); Joint Motion for Settlement, *Toyukak v. Treadwell*, No. 3:13-cv-00137 (D. Alaska Sept. 8, 2015). While this comparison is limited in its scope because Alaska seemed particularly loath to settle these cases, it does point to the fact that significant steps towards compliance are more easily won when the DOJ steps in.

252. In addition, the DOJ's enforcement priorities can shift from administration to administration. In the current political climate, non-governmental organizations need to be prepared to push back against a DOJ that is unfriendly to broad voting rights policies.

253. See PRESIDENTIAL COMM'N ON ELECTION ADMIN., THE AMERICAN VOTING EXPERIENCE 23 (2014), <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf> [<https://perma.cc/GAD6-EFWT>] (describing significant benefits, for voters and states, from OVR).

254. *Open Source Voter Registration Software*, ROCK THE VOTE, <http://web.mit.edu/vtp/ovr3.html> [<https://perma.cc/23LZ-6BNK>] (last visited Apr. 22, 2017).

255. See *id.*

locating one's polling place, state division of elections' websites with up-to-the-minute election information, and online voting. It seems unlikely counties will shift to full online elections without state support. State-level resources are provided more efficiently²⁵⁶ and they are more common.²⁵⁷ Moving forward, there are at least two options: first, insisting that tools available at the state level are VRA-compliant, and, second, insisting covered counties provide equivalent services when online resources are provided by states. So long as one of these options is available, language-minority voters can participate. However, it would be more efficient to provide these resources at the state level than at the county level.²⁵⁸ The earlier states are made aware of this requirement, the earlier they can build translations into their systems.

OVR is just one step towards moving election administration onto the Internet. In 2014, the Presidential Commission on Election Administration issued a report that included recommendations for modernizing elections.²⁵⁹ The Commission strongly advocated increased use of OVR.²⁶⁰ The Commission highlighted helpful Internet resources used in some states and advocated that other states implement them to increase efficiency and reduce Election Day wait times.²⁶¹ Election administration will continue to move online.²⁶² Unless something is done to ensure Internet resources are VRA-compliant, section 203 will become an increasingly meaningless protection for language-minority voters.²⁶³

256. States have voter information available through statewide databases like driver records.

257. As evidenced by the fact that no individual county has OVR, while more than twenty states do.

258. States that built OVR systems report an average cost of \$249,005. See PEW CHARITABLE TRUSTS, *supra* notes 217, 236. States also reported recouping much of their investment. *Id.* Many of these systems rely on using Dept. of Motor Vehicles registration information to check voter's identities. *Id.* This information is on file with the state. *Id.* It is unclear if this information would be available to counties that wanted to create their own OVR systems.

259. See PRESIDENTIAL COMM'N ON ELECTION ADMIN., *supra* note 253.

260. See *id.* at 3.

261. See *id.* at 37 (describing benefits of Internet feeds listing wait times at polling places on Election Day).

262. See Andrea Peterson, *Online voting could be really convenient. But it's still probably a terrible idea*, WASH. POST (Aug. 18, 2016), https://www.washingtonpost.com/news/the-switch/wp/2016/08/18/online-voting-could-be-really-convenient-but-its-still-probably-a-terrible-idea/?postshare=151471631032447&tid=ss_mail [<https://perma.cc/WZ8Q-TS27>].

263. Native American voters who speak traditionally unwritten languages have few resources. See *infra* Appendix. As OVR becomes more sophisticated it may be possible to include audio prompts recorded in traditional Native American languages.

Signaling the shift now, by litigation or legislation, will increase awareness that section 203 covers state-provided online materials and will ensure that VRA compliance keeps up with technological advancements.²⁶⁴

V. CONCLUSION

Section 203 was designed to ensure language-minority voters could effectively participate in elections, but as the importance of the Internet in elections increases, language-minority voters are being left behind. Portable voter files,²⁶⁵ online voter registration, and online voting²⁶⁶ are already a reality and remain, in many states, inaccessible to LEP voters. However, states, rather than counties, have the ability to create and manage these election websites, as counties often lack the requisite capacity and expertise.²⁶⁷ The more that states use the Internet to assist counties in administering elections, the more important it becomes that section 203 protections are enforced online. In order to safeguard the legal integrity and spirit of the VRA, language-minority voters must be able to participate fully in elections, even when that participation is via the Internet.

264. This Note focuses on access for language minorities. However, its arguments for ensuring compliance with federal voting laws on the Internet reach beyond section 203. Similar arguments can be made about the Americans with Disabilities Act. 42 U.S.C. § 12132 (2012). OVR systems can be made accessible for people who are blind or have dyslexia by including audio prompts. See *Accessible Technology*, UNIV. OF WASH., <http://www.washington.edu/accessibility/web/> [<https://perma.cc/HC8M-RDVE>] (last visited Apr. 22, 2017) (explaining ways to improve website accessibility for individuals with disabilities).

265. See J. Mijin Cha & Liz Kennedy, *Millions to the Polls: Permanent & Portable Voter Registration*, DEMOS (Feb. 18, 2014), <http://www.demos.org/publication/millions-polls-permanent-portable-voter-registration> [<https://perma.cc/XD2T-ELBW>].

266. Online voting is already a reality in the United States. See Peterson, *supra* note 262.

267. County websites are often out of date and are rarely user friendly. See *infra* Appendix (highlighting non-compliance of section 203 covered counties' websites).

APPENDIX

<i>State/County</i>	<i>OVR & Languages</i>	<i>Covered Language(s)</i>	<i>Full Website Translation Available</i>	<i>Website*</i>
Alaska	English		No	https://voterregistration.alaska.gov/
Aleutians East Borough		Spanish, Tagalog, Yup'ik	No	http://www.aleutianseast.org/
Aleutians West Census Area		Aleut, Filipino		
Bethel Census Area		Inupiat, Yup'ik	No	http://www.cityofbethel.org/index.asp?Type=B_BASIC&SEC={164C5DA8-89E6-4D2B-A666-BC72BBE94C64}
Bristol Bay Borough		Yup'ik	No	http://www.bristolbayboroughak.us/about/links.php
Dillingham Census Area		Yup'ik		
Kenai Peninsula Borough		Yup'ik	No	http://www.kpb.us/assembly-clerk/elections/about-us
Kodiak Island Borough		Yup'ik	No	http://www.kodiakak.us/234/Elections
Lake and Peninsula Borough		Yup'ik	No	http://www.lakeandpen.com/cms/one.aspx?pageId=1881927
Nome Census Area		Inupiat, Yup'ik		
North Slope Borough		Inupiat	No	http://www.north-slope.org/
Northwest Arctic Borough		Inupiat	No	http://www.nwabor.org/
Southeast Fairbanks Census Area		Alaskan Athabascan		
Valdez-Cordova Census Area		Alaskan Athabascan		
Wade Hampton Census Area		Inupiat, Yup'ik		
Yukon-Koyukuk Census Area		Alaskan Athabascan, Inupiat		
Arizona	English, Spanish		No	http://www.azsos.gov/elections/voting-election/register-vote-or-update-your-current-voter-information https://servicearizona.com/webapp/evoter/selectLanguage

* All websites last visited April 18, 2017.

<i>State/County</i>	<i>OVR & Languages</i>	<i>Covered Language(s)</i>	<i>Full Website Translation Available</i>	<i>Website*</i>
Apache County	Links to state	Navajo	No	http://www.co.apache.az.us/Departments/Elections/Elections.htm
Coconino County	Links to state	Navajo	No	http://www.coconino.az.gov/index.aspx?nid=808
Gila County	Links to state	Apache	No	http://www.gilacountyaz.gov/government/elections/index.php
Graham County	Links to state	Apache	No	http://www.graham.az.gov/elections/
Maricopa County	Links to state	Spanish	Partial Spanish	http://recorder.maricopa.gov/elections/registrationform.aspx
Navajo County	Links to state	Navajo	No	http://www.navajocountyaz.gov/Government/Official-Government-Sites
Pima County	Links to state	Spanish	Spanish	http://www.recorder.pima.gov/default.aspx
Pinal County	Links to state	Apache	No	http://www.pinalcountyaz.gov/Pages/Elections.aspx
Santa Cruz County	Links to state	Spanish	Google Translate	http://www.santacruzcountyaz.gov/287/Recorder
Yuma County	Links to state	Spanish, Quechan	Partial Spanish	http://www.yumacountyaz.gov/government/recorder/voter-information
California	English, Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, Vietnamese	Spanish		http://registertovote.ca.gov/
Alameda County	Links to state	Chinese, Filipino, Spanish, Vietnamese	Spanish, Chinese, Tagalog, Vietnamese	http://www.acgov.org/rov/registration.htm
Colusa County	Links to state	Spanish	Google Translate	http://www.countyofcolusa.org
Contra Costa County	Links to state	Chinese, Spanish	Spanish	http://www.cocovote.us/
Del Norte County		American Indian	No	http://www.co.del-norte.ca.us/departments/clerk-recorder/elections
Fresno County	Links to state	Spanish	Google Translate	http://www.co.fresno.ca.us/DepartmentPage.aspx?id=14199
Glenn County	Links to state	Spanish	No	http://www.countyofglenn.net/govt/departments/elections/

<i>State/County</i>	<i>OVR & Languages</i>	<i>Covered Language(s)</i>	<i>Full Website Translation Available</i>	<i>Website*</i>
Imperial County	Links to state	Spanish	Spanish	http://www.co.imperial.ca.us/spanishindex.asp
Kern County	Links to state	Spanish	Partial Spanish	http://elections.co.kern.ca.us/elections
Kings County	Links to state	Spanish	Google Translate	http://www.countyofkings.com/departments/assessor/elections
Los Angeles County	Links to state	Cambodian, Chinese, Filipino, Spanish, Korean, Vietnamese	Spanish, Chinese, Tagalog, Japanese, Korean, Vietnamese, Thai	http://lavote.net/home/voting-elections/voter-registration/register-to-vote/register
Madera County	Links to state	Spanish	No	http://madera-county.com/index.php/electionsdept
Merced County	Links to state	Spanish	Spanish	http://www.co.merced.ca.us/index.aspx?nid=225
Monterey County	Links to state	Spanish	Spanish	http://www.montereycountyelections.us/
Orange County	Links to state	Chinese, Spanish, Korean, Vietnamese	Spanish, Chinese, Korean, Vietnamese	http://www.ocvote.com/
Riverside County	Links to state	Spanish	No	http://www.election.co.riverside.ca.us/
Sacramento County	Links to state	Spanish, Chinese	Google Translate	http://www.elections.saccounty.net/Pages/default.aspx
San Benito County	Links to state	Spanish	Google Translate	http://sbcvote.us/registrar-of-voters/
San Bernardino County	Links to state	Spanish	Google Translate	http://www.sbcountyelections.com/Elections.aspx
San Diego County	Links to state	American Indian, Chinese, Filipino, Spanish, Vietnamese	Spanish, Filipino, Chinese	http://www.sdvote.com/
San Francisco County	Links to state	Chinese, Spanish	Chinese, Spanish, Filipino	http://www.sfgov2.org/index.aspx?page=862
San Joaquin County	Links to state	Spanish	No	http://www.sjcrov.org/registration.html
San Mateo County	Links to state	Spanish, Chinese	No	http://www.smcare.org/
Santa Barbara County	Links to state	Spanish	Spanish	http://www.sbcvot.com/Elections/Elections.aspx
Santa Clara County	Links to state	Chinese, Filipino, Spanish, Vietnamese	Chinese, Spanish, Filipino, Vietnamese	http://www.sccgov.org/sites/rov/Register/Pages/Online.aspx
Stanislaus County	Links to state	Spanish	Spanish	http://www.stanvote.com/

<i>State/County</i>	<i>OVR & Languages</i>	<i>Covered Language(s)</i>	<i>Full Website Translation Available</i>	<i>Website*</i>
Tulare County	Links to state	Spanish	Google Translate	http://tularecounty.ca.gov/registrarofvoters/
Ventura County	Links to state	Spanish	Google Translate	http://recorder.countyofventura.org/elections/
Colorado	English, Spanish		Spanish	https://www.sos.state.co.us/voter-classic/pages/pub/home.xhtml
Conejos County	Links to state	Spanish	No	http://www.conejoscounty.org/departments/elected/clerk
Costilla County		Spanish	Google Translate	https://www.colorado.gov/pacific/costillacounty/costillacounty-clerk-recorder
Denver County	Links to state	Spanish	Spanish	http://www.denvergov.org/content/denvergov/en/denver-elections-divison/voter-election-information.html
La Plata County	Links to state	Ute	No	http://co.laplata.co.us/government/departments/elections
Montezuma County		Ute		http://montezumacounty.org/web/departments/elections/
Saguache County	Links to State	Spanish	No	http://www.saguachecounty.net/index.php/departments/clerk-and-recorder
Connecticut	English, Spanish		Spanish	https://voterregistration.ct.gov/OLVR/welcome.do
Bridgeport Town	Links to state	Spanish	Google Translate	http://www.bridgeportct.gov/content/89019/89851/default.aspx
East Hartford Town		Spanish	Google Translate	http://www.easthartfordct.gov/registrars-of-voters/pages/voter-registration
Hartford Town	Links to state	Spanish	Google Translate	http://www.hartford.gov/registrar-of-voters
Kent Town	Links to state	American Indian	No	http://www.townofkentct.org/registrars-of-voters
Meriden Town		Spanish	No	http://www.cityofmeriden.org/Content/Elections/
New Britain Town		Spanish	No	http://www.newbritainct.gov/services/registrar_of_voters/default.htm
New Haven Town		Spanish	No	http://www.cityofnewhaven.com/TownClerk/Candidates.asp
New London Town	Links to state	Spanish	No	http://ci.new-london.ct.us/content/7429/7431/7467/default.aspx
Waterbury Town	Links to state	Spanish	No	http://waterburyct.org/content/9569/9605/9636/default.aspx

<i>State/County</i>	<i>OVR & Languages</i>	<i>Covered Language(s)</i>	<i>Full Website Translation Available</i>	<i>Website*</i>
Windham Town		Spanish	Google Translate	http://www.windhamct.com/departement.htm?id=2cwurluv&m=boards
Florida	Not yet implemented	Spanish	Spanish	http://election.dos.state.fl.us/voter-registration/voter-reg.shtml
Broward County		Spanish	Microsoft Translate	http://www.browardsoe.org/
DeSoto County		Spanish	No	http://www.votedesoto.com/
Hardee County		Spanish	Microsoft Translate	http://www.hardeecountyelections.com/Voter-Information/Register-to-Vote
Hendry County		Spanish	Microsoft Translate	http://www.hendryelections.org
Hillsborough County		Spanish	Microsoft Translate	http://www.votehillsborough.org/Home/id/14
Lee County		Spanish	Google Translate	http://www.leeelections.com/content.php?l=234
Miami-Dade County		Spanish	Google Translate	http://www.miamidade.gov/elections/voter-registration.asp
Orange County		Spanish	No	http://ocfelections.com/Pre_Voter_Registration.asp
Osceola County		Spanish	Spanish	http://voteosceola.com/en/register-to-vote/
Palm Beach County		Spanish	Spanish	http://www.pbcelections.org/items.aspx?id=18&language=english
Pinellas County		Spanish	Microsoft Translate	http://www.votepinellas.com/
Polk County		Spanish	Microsoft Translate	http://polkelections.com/content.asp?c=13#howvote
Seminole County		Spanish	Microsoft Translate	http://voteseminole.org/
Georgia	English		No	https://registertovote.sos.ga.gov/GAOLVR/welcometoga.do#no-back-button
Gwinnett County	Links to state	Spanish	No	https://www.gwinnettcounty.com/portal/gwinnett/Departments/Elections
Hawaii	English, Chinese, Ilocano		Chinese, Illocano	https://olvr.hawaii.gov/ http://hawaii.gov/elections/voters/registration.htm
Honolulu County		Chinese, Filipino	Google Translate	http://www.honoluluelections.org/
Idaho	Not yet implemented		No	http://www.idahovotes.gov/voter_info.shtml

<i>State/County</i>	<i>OVR & Languages</i>	<i>Covered Language(s)</i>	<i>Full Website Translation Available</i>	<i>Website*</i>
Lincoln County	No	Spanish	No	http://www.lincolncountyid.us/page13.php
Illinois	English, Chinese, Hindi, Spanish		Chinese, Hindi, Spanish	https://ova.elections.il.gov/
Cook County	Links to state	Asian Indian, [†] Chinese, Spanish	Chinese, Hindi, Polish, Spanish	http://www.cookcountyclerk.com/elections/register tovote/Pages/default.aspx
Kane County	Links to state	Spanish	Spanish	http://www.kanecountyelections.org/VoterRegistration/Registration.aspx
Lake County	Links to state	Spanish	Google Translate	https://countyclerk.lakecountyi1.gov/ElectionInfo/Voter-Services/Pages/Voter-Registration.aspx
Iowa	English		No	https://sos.iowa.gov/elections/voterinformation/voterregistration.html
Buena Vista County	Links to state	Spanish	No	http://www.bvcountyiowa.com/index.php/auditor/election_information
Tama County		American Indian	No	http://www.tamacounty.org/
Kansas	English		No	https://www.kdor.ks.gov/Apps/VoterReg/Default.aspx
Finney County	Links to state	Spanish	Spanish	http://www.finneycounty.org/index.aspx?NID=443
Ford County	Links to state	Spanish	Google Translate	http://www.fordcounty.net/clerk/votinginfo.html
Grant County		Spanish	Google Translate	http://www.grantcoks.org/index.aspx?NID=177
Haskell County		Spanish	No	http://www.haskellcounty.org/Election/tabid/10153/Default.aspx
Seward County	Links to state	Spanish	Spanish	http://www.sewardcountyks.org/index.aspx?nid=72
Maryland	English, Spanish		Spanish	http://www.elections.state.md.us/voter_registration/
Montgomery County	Links to state	Spanish	Google Translate	http://www.montgomerycounty.md.gov/index.aspx

[†] The terminology “Asian Indian” refers to the largest Asian Indian language groups in a particular jurisdiction, but the determination as to which languages will be included in OVR systems is left to the discretion of that jurisdiction.

<i>State/County</i>	<i>OVR & Languages</i>	<i>Covered Language(s)</i>	<i>Full Website Translation Available</i>	<i>Website*</i>
Massachusetts	English		No	https://www.sec.state.ma.us/OVR/Pages/MinRequirements.aspx?RMVId=True http://www.sec.state.ma.us/ele/elevf/howreg.htm
Boston City		Spanish	No	http://www.cityofboston.gov/elections/vote/
Chelsea City		Spanish	Google Translate	http://www.chelseama.gov/city-clerk/pages/elections-voting-campaign-finance
Holyoke City		Spanish	No	http://www.holyoke.org/departments/registrar-of-voters/
Lawrence City	Links to state	Spanish	Google Translate	http://www.cityoflawrence.com/election-division.aspx
Lowell City	Links to state	Cambodian, Spanish	No	https://www.lowellma.gov/294/Election-Census
Lynn City	Links to state	Spanish	No	http://www.ci.lynn.ma.us/citydepartments_clerk_elections.shtml
Malden City	Links to state	Chinese	No	http://www.cityofmalden.org/content/voting-malden
Quincy City	Links to state	Chinese	Google Translate	https://www.quincyma.gov/govt/depts/city_clerk/election/default.htm
Revere City	Links to state	Spanish	Google Translate	http://www.revere.org/departments/election-commission
Southbridge Town		Spanish	Google Translate	http://www.ci.southbridge.ma.us/town-clerk/pages/voting-elections
Springfield City	Broken links	Spanish	Google Translate	http://www3.springfield-ma.gov/elections/
Worcester City	Links to state	Spanish	Google Translate	http://www.worcesterma.gov/city-clerk/elections
Michigan	No		No	http://michigan.gov/sos/0,1607,7-127-1633_8716_8726_47669-175879--,00.html
Colfax Township		Spanish	No	http://www.colfaxtownship.org/index.html
Fennville City		Spanish	No	http://www.fennville.com/city_of_fennville/voting.htm
Hamtramck City		Bangladeshi	No	http://www.hamtramck.us/clerk/vote.php
Mississippi	No		No	http://www.sos.ms.gov/Elections-Voting/Pages/Voter-Registration-Information.aspx

<i>State/County</i>	<i>OVR & Languages</i>	<i>Covered Language(s)</i>	<i>Full Website Translation Available</i>	<i>Website*</i>
Attala County		Choctaw	No	http://www.attalacounty.net/index.php
Jackson County		Choctaw	No	http://www.co.jackson.ms.us/officials/election-commission.php
Jones County		Choctaw	No	https://jonescounty.com/our-organization/jones-county-government/
Kemper County		Choctaw	No	http://www.kempercounty.com/about-kemper-county-ms/government/
Leake County		Choctaw	No	http://www.leakecountymms.org/county-departments
Neshoba County		Choctaw	No	http://www.neshobacounty.net/
Newton County		Choctaw	No	http://newtoncountymms.net/elected-offices/election-commission
Nouxubee County		Choctaw		
Scott County		Choctaw		
Winston County		Choctaw	No	http://www.winstonms.com/p/election-commissioners.html
Nebraska	English, Spanish		Spanish	https://www.nebraska.gov/apps-sos-voter-registration/
Colfax County	Links to state website	Spanish	No	http://colfaxne.com/webpages/election/election.html
Dakota County	Provides downloadable forms	Spanish	Partial Spanish	http://www.dakotacountyne.org/webpages/election/election.html
Dawson County	Links to state website	Spanish	No	http://www.dawsoncountyne.org/administrative/clerk/forms/index.php#revize_document_center_rz55
Nevada	English, Spanish		Possibly Google Translate	https://nvsos.gov/sosvoterservices/Registration/step1.aspx
Clark County	Links to state	Spanish, Filipino	No	http://www.clarkcountynv.gov/Depts/election/Pages/RegisterToVote.aspx
New Jersey	No		No	http://www.state.nj.us/state/elections/voting-information.html
Bergen County		Spanish, Korean		http://www.co.bergen.nj.us/index.aspx?nid=861
Camden County		Korean		http://www.camdencounty.com/service/voting-and-elections/register-to-vote/
Cumberland County		Spanish	Google Translate	http://ccclerknj.com/election-information/

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Essex County		Spanish	Google Translate	http://essexboardofelections.com/register-to-vote/
Hudson County		Spanish	No	http://www.hudsoncountyclerk.org/elections/default.htm
Middlesex County		Asian Indian, Spanish	No	http://www.co.middlesex.nj.us/Government/Departments/Admin/Pages/VoterForms.aspx
Passaic County		Spanish	Partial Spanish	http://www.passaiccountynj.org/Index.aspx?NID=134
Union County		Spanish	No	http://ucnj.org/county-clerk/elections/voter-registration/
New Mexico	English, Spanish		Spanish	https://voterview.state.nm.us/VoterView/RegistrantSearch.do
Bernalillo County		Spanish, Navajo	Google Translate	http://www.bernco.gov/clerk/bureau-of-elections-overview.aspx
Chaves County		Spanish	No	http://co.chaves.nm.us/162/Elections-Voting
Cibola County	Links to state	Navajo	No	http://www.co.cibola.nm.us/clerk.html
Dona Ana County		Spanish	May be Google Translate	https://www.donaanacounty.org/elections
Guadalupe County		Spanish	Google Translate	http://guadalupecounty-nm.com/departments/clerk/
Hidalgo County	Links to state	Spanish	Partial Spanish	http://www.hidalgocounty.org/index.php/government/county-departments/county-clerk/county-elections/
Lea County	Links to state	Spanish	Google Translate	http://www.leacounty.net/p/Elected-Officials/Lea-County-Clerk/203
Lincoln County	Links to state	Apache	No	http://www.lincolncountynm.gov/county_offices/clerk/county_offices/voter_registration.php
Luna County		Spanish	No	http://www.lunacountynm.us/voter-registration-and-elections/
McKinley County	Links to state	Navajo	No	http://www.co.mckinley.nm.us/151/Bureau-of-Elections
Mora County		Spanish	No	http://countyofmora.com/
Otero County		Apache	No	http://ocwebserver7.co.otero.nm.us/Main_Page.php?Dept=clerk&Page=election_info#MoveNearTop
Rio Arriba County	Links to state	Navajo	No	http://www.rio-arriba.org/departments_and_divisions/clerk%27s_office/clerk_.html
San Juan County		Navajo, Ute	No	http://sjcclerk.net/index.php/electdept

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San Miguel County		Spanish	No	http://www.smcounty.net/Clerk.html
Sandoval County		Navajo, Pueblo	Google Translate	http://www.sandovalcounty.com/administration/elected-officials/county-clerk/bureau-of-elections/voting-frequently-asked-questions
Santa Fe County		Pueblo	No	http://www.santafecountynm.gov/clerk/elections_information
Socorro County	Links to state	Spanish	No	http://www.socorrocounty.net/elected/clerk#TOC-Voter-Registration
Union County	Links to state	Spanish	No	http://www.unionnm.us/
Valencia County	Links to state	Spanish, Pueblo	No	http://www.co.valencia.nm.us/239/Bureau-of-Elections
New York	English		Google Translate	http://dmv.ny.gov/mydmv/mydmv
Bronx County	Links to State	Spanish	Maybe Google Translate	http://vote.nyc.ny.us/html/voters/voters.shtml
Kings County	Links to State	Spanish, Chinese	Google Translate	http://vote.nyc.ny.us/html/voters/voters.shtml
Nassau County	Links to State	Spanish	No	http://www.nassaucountyny.gov/agencies/BOE/index.html
New York County	Links to State	Chinese, Spanish	Google Translate	http://vote.nyc.ny.us/html/voters/voters.shtml
Queens County	Links to State	Asian Indian, Chinese, Spanish, Korean	Google Translate	http://vote.nyc.ny.us/html/voters/voters.shtml
Suffolk County		Spanish	Google Translate	http://www.suffolkcountyny.gov/Departments/BoardofElections.aspx
Westchester County		Spanish	Partial Spanish	http://citizenparticipation.westchestergov.com/register-to-vote
Oklahoma	Not yet implemented		No	https://www.ok.gov/elections/Online_Voter_Registration.html
Texas County		Spanish	No	https://texascountyok.org/
Pennsylvania	English, Spanish		Spanish	http://www.votespa.com/en-us/voting-and-elections/Pages/default.aspx
Berks County	Links to state	Spanish	Google Translate	http://www.co.berks.pa.us/Dept/Elections/Pages/Forms%20Applications.aspx

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Lehigh County		Spanish	Google Translate	https://www.lehighcounty.org/Departments/VoterRegistration/AbsenteeBallot/tabid/453/Default.aspx
Philadelphia County	Links to state	Spanish	No	http://www.phila.gov/Pages/default.aspx
Rhode Island	English, Spanish		Spanish	https://vote.sos.ri.gov/
Central Falls City		Spanish	No	http://www.centrfallsri.us/voting_information
Pawtucket City		Spanish	No	http://www.pawtucketri.com/
Providence City		Spanish	Google Translate	http://council.providenceri.com/faqs/how-do-i-register-vote
Texas	No	Spanish	Spanish	http://www.votetexas.gov/
Andrews County		Spanish	No	http://www.co.andrews.tx.us/index.php
Atascosca County		Spanish	No	http://www.atascosacountytexas.net/
Bailey County	Links to state website	Spanish	No	http://www.co.bailey.tx.us/default.aspx?Bailey_County/County.Clerk
Bee County	Links to state website	Spanish	No	http://www.co.bee.tx.us/default.aspx?Bee_County/County.Clerk
Bexar County		Spanish	No	http://gov.bexar.org/dc/
Brooks County		Spanish	No	http://www.co.brooks.tx.us/default.aspx?Brooks_County/County.Clerk
Caldwell County		Spanish	No	http://www.co.caldwell.tx.us/default.aspx?Caldwell_County/County.Clerk
Calhoun County	Links to state website	Spanish	No	http://www.calhouncotx.org/electinfo.html
Cameron County	Links to state website	Spanish	Partial Spanish	http://www.co.cameron.tx.us/administration/elections_voter_registration/index.php
Castro County	Links to state website	Spanish	No	http://www.co.castro.tx.us/default.aspx?Castro_County/County.Clerk
Cochran County	Links to state website	Spanish	No	http://www.co.cochran.tx.us/default.aspx?Cochran_County/Elections
Crane County	Links to state website	Spanish	No	http://www.co.crane.tx.us/
Crockett County	Links to state website	Spanish	No	http://www.co.crockett.tx.us/default.aspx?Crockett_County/County.Clerk

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Crosby County	Links to state website	Spanish	No	http://www.co.crosby.tx.us/default.aspx?Crosby_County/County.Clerk
Culberson County	Links to state website	Spanish	No	http://www.co.culberson.tx.us/default.aspx?Culberson_County/County.Clerk
Dallam County		Spanish	No	http://www.dallam.org/county/clerk.shtml
Dallas County		Spanish	Partial Spanish	http://www.dallascountyvotes.org/
Dawson County	Links to state website	Spanish	No	http://www.co.dawson.tx.us/default.aspx?Dawson_County/County.Clerk
Deaf Smith County	Links to state website	Spanish	No	http://www.co.deaf-smith.tx.us/default.aspx?Deaf-Smith_County/County.Clerk
Dimmit County		Spanish	No	http://www.dimmitcounty.org/
Duval County		Spanish	No	http://courthouse.duval-county.net/defaultFF.htm
Ector County		Spanish	No	http://www.co.ector.tx.us/default.aspx?Ector_County/Elections
Edwards County		Spanish	No	http://www.edwardscountytexas.us/
El Paso County		Spanish, Pueblo	Spanish	http://www.epcountyvotes.com/
Floyd County		Spanish	No	http://www.co.floyd.tx.us/default.aspx?Floyd_County/County.Clerk
Fort Bend County		Spanish	Google Translate	http://www.fortbendcountytexas.gov/index.aspx?page=338
Frio County		Spanish	Partial Spanish	http://www.co.frio.tx.us/default.aspx?Frio_County/Elections
Gaines County		Spanish	Partial Spanish	http://tools.cira.state.tx.us/default.aspx?Gaines_County/elections2
Garza County		Spanish	Partial Spanish	http://www.garzacounty.net/id36.html
Glasscock County		Spanish	Google Translate	http://www.co.guadalupe.tx.us/elections/
Hale County		Spanish	No	http://www.halecounty.org/county_offices/election_information.php
Hansford County		Spanish	No	http://www.co.hansford.tx.us/default.aspx?Hansford_County/County.Clerk
Harris County		Chinese, Spanish, Vietnamese	Google Translate	http://www.hctax.net/Voter/Registration

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Hidalgo County		Spanish	Partial Spanish	http://tx-hidalgocounty.civicplus.com/index.aspx?nid=105
Hockley County		Spanish	No	http://www.co.hockley.tx.us/default.aspx?Hockley_County/County.Clerk
Hudspeth County		Spanish	No	http://www.hudspethcountytexas.us/County_Officials/County_and_District_Clerk.htm
Jeff Davis		Spanish	No	http://www.co.jeff-davis.tx.us/default.aspx?Jeff-Davis_County/County.Clerk
Jim Hogg County		Spanish	No	http://jimhoggcounty.net/index.php/departments/county-clerk-s-office
Jim Wells County		Spanish	No	http://www.co.jim-wells.tx.us/default.aspx?name=co.elections.administration
Karnes County		Spanish	No	http://www.co.karnes.tx.us/default.aspx?Karnes_County/County.Clerk
Kenedy County		Spanish	No	http://www.co.kenedy.tx.us/default.aspx?Kenedy_County/County.Clerk
Kinney County		Spanish	No	http://www.co.kinney.tx.us/default.aspx?Kinney_County/County.Clerk
Kleberg County		Spanish	No	http://www.co.kleberg.tx.us/default.aspx?Kleberg_County/Elections
Knox County		Spanish	No	http://www.knoxcountytexas.org/offices.htm
La Salle County		Spanish	No	http://www.co.la-salle.tx.us/index.php?option=com_content&view=category&layout=blog&id=102&Itemid=483
Lamb County		Spanish	No	http://www.co.lamb.tx.us/default.aspx?Lamb_County/Elections
Live Oak County		Spanish	No	http://www.co.live-oak.tx.us/default.aspx?Live-Oak_County/County.Clerk
Lynn County		Spanish	No	http://www.co.lynn.tx.us/default.aspx?Lynn_County/County.Clerk
Martin County		Spanish	No	http://www.martincountytexas.us/
Matagorda County		Spanish	No	http://www.co.matagorda.tx.us/

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Maverick County		Spanish, American Indian	No	http://www.co.maverick.tx.us/default.aspx?Maverick_County/Elections
McMullen County		Spanish		N/A
Medina County		Spanish	No	http://www.medinacountytexas.org/default.aspx?Medina_County/Elections
Menard County	Links to state website	Spanish	No	http://co.menard.tx.us/default.aspx?Menard_County/County.Clerk
Midland County	Links to state website	Spanish	Partial Spanish	http://www.co.midland.tx.us/departments/elections/Pages/default.aspx
Moore County	Links to state website	Spanish	Partial Spanish	http://www.co.moore.tx.us/default.aspx?Moore_County/Elections
Nolan County	Links to state website	Spanish	No	http://www.co.nolan.tx.us/default.aspx?Nolan_County/County.Clerk
Nueces County		Spanish	Google Translate	http://www.nuecesco.com/county-services/county-clerk/elections-department
Ochiltree County		Spanish	No	http://www.co.ochiltree.tx.us/default.aspx?Ochiltree_County/County.Clerk
Parmer County		Spanish	No	http://parmercounty.org/county-courts/county-clerk/
Pecos County		Spanish	No	http://12.227.48.139/member/countyclerk/
Presidio County	Links to state website	Spanish	No	http://co.presidio.tx.us/default.aspx?Presidio_County/County.Clerk
Reagan County		Spanish	No	http://www.reagancountytexas.us/County_Officials/Clerk.htm
Reeves County		Spanish	No	http://reevescountytx.net/
Refugio County		Spanish	Partial Spanish	http://www.co.refugio.tx.us/default.aspx?Refugio_County/Elections
San Patricio County	Links to state website	Spanish	No	http://www.co.san-patricio.tx.us/default.aspx?San-Patricio_County/County.Clerk
Schleicher County		Spanish	No	http://www.schleichercountytx.us/County_Officials/officials.htm
Scurry County		Spanish	Partial Spanish	http://www.co.scurry.tx.us/default.aspx?Scurry_County/Elections

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Sherman County		Spanish	No	http://www.co.sherman.tx.us/default.aspx?Sherman_County/County.Clerk
Starr County	Links to state website	Spanish	No	http://www.co.starr.tx.us/default.aspx?Starr_County/County.Clerk
Sterling County	Links to state website	Spanish	No	http://www.co.sterling.tx.us/default.aspx?Sterling_County/County.Clerk
Sutton County		Spanish	No	http://www.co.sutton.tx.us/default.aspx?Sutton_County/Elections
Swisher County		Spanish	No	http://www.co.swisher.tx.us/default.aspx?Swisher_County/County.Clerk
Tarrant County		Spanish, Vietnamese	Partial Spanish	http://access.tarrantcounty.com/en/elections.html
Titus County		Spanish	No	http://www.co.titus.tx.us/
Travis County		Spanish	Google Translate	http://www.traviscountyclerk.org/eclerk/Content.do?code=Elections
Upton County		Spanish	No	http://www.co.upton.tx.us/default.aspx?Upton_County/County.Clerk
Uvalde County		Spanish	No	http://www.uvaldecounty.com/index.php/county/county-clerk
Val Verde County		Spanish	No	http://valverdecounty.texas.gov/270/Elections
Ward County		Spanish	No	http://www.co.ward.tx.us/default.aspx?Ward_County/County.Clerk
Webb County		Spanish	Partial Spanish	http://www.webbcounty.com/ElectionsAdministration/
Willacy County	Links to state website	Spanish	No	http://www.co.willacy.tx.us/default.aspx?Willacy_County/County.Clerk
Winkler County		Spanish	No	http://www.co.winkler.tx.us/default.aspx?Winkler_County/County.Clerk
Yoakum County	Links to state website	Spanish	No	http://www.co.yoakum.tx.us/default.aspx?Yoakum_County/Elections
Zapata County		Spanish	No	http://www.co.zapata.tx.us/default.aspx?Zapata_County/County.Clerk
Zavala County		Spanish	No	http://www.co.zavala.tx.us/page/County%20Clerk
Utah	English		No	https://secure.utah.gov/voterreg/index.html

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San Juan County		Navajo, Ute	No	http://www.sanjuancounty.org/elections_voting.htm
Virginia	English		No	http://elections.virginia.gov/index.php/registration/how-to-register/
Fairfax County		Spanish, Vietnamese	No	http://www.fairfaxcounty.gov/elections/vregis.htm
Washington	Spanish, Chinese, Vietnamese		Spanish, Chinese, Vietnamese	http://www.sos.wa.gov/elections/
Adams County	Links to state	Spanish	Spanish	https://wei.sos.wa.gov/county/adams/en/Elections/Pages/default.aspx
Franklin County	Links to state	Spanish	No	https://wei.sos.wa.gov/county/FRANKLIN/EN/ELECTIONS/Pages/default.aspx
King County	Links to state	Chinese, Vietnamese	Chinese, Korean, Spanish, Vietnamese	http://www.kingcounty.gov/elections/register.aspx
Yakima County	Links to state	Spanish	Google Translate	http://www.yakimacounty.us/
Wisconsin	English, Spanish		Spanish	https://myvote.wi.gov/en-us/RegisterToVote
Arcadia City		Spanish	No	http://cityofarcadiawi.com/index.asp?SEC=B9156C4D-FD91-47E9-A670-C9861EB44860&Type=B_LIST
Madison Town		Spanish	No	http://www.cityofmadison.com/clerk/elections-voting
Milwaukee City		Spanish	Google Translate	http://city.milwaukee.gov/vote#.VXHcBUZW2t8