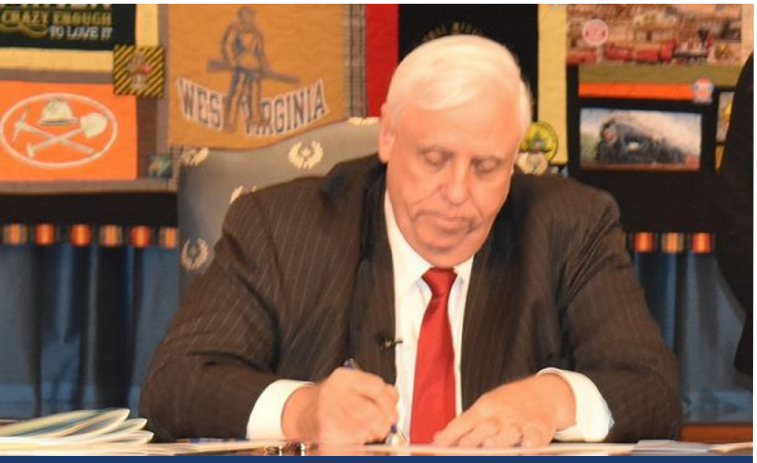
March 2020

NEWSLETTER

Disability Rights of West Virginia



Improvements in Voting Accessibility

By: Jeremiah J. Underhill, Legal Director

Voting Accessibility for West Virginians just took a giant step forward. The West Virginia Legislature recently passed legislation (Senate Bill 94) that will vastly improve voting accessibility for West Virginians with a physical disability.

This bill allows a person with a physical disability that renders them unable to vote in person at the polls without assistance the ability to cast an absentee ballot electronically. *(continued on next page)*

DRWV Staff with Governor, Jim Justice after signing of bill.

Protection and Advocacy for Voting Access

One of the nine federal programs at DRWV is Protection and Advocacy for Voting Access. (PAVA).

The Help America Vote Act (HAVA) was passed by Congress in 2002. A portion of the law was aimed at helping individuals with disabilities overcome the unique barriers they encounter in the voting process.

HAVA specifically authorizes the funding for PAVA. The U.S. Department of Health *(continued on next page)*

Improvements in Voting Accessibility *(cont'd)*

This bill is a major improvement in the voting process for all West Virginians with a physical disability who previously faced barriers to voting. The requirements for eligibility for electronic absentee voting are:

1) Applicant is a registered voter;
2) Applicant satisfies the requirements for absentee voting (e.g. will not/cannot vote in person due to a disability);
3) Applicant is "physically disabled" as defined under Senate Bill 94; and
4) Applicant selects "electronic transmission" on the absentee ballot application form.

Disability Rights of West Virginia (DRWV), along with the Washington Lawyers Committee and the Sheppard Mullins law firm, worked tirelessly with the WV Secretary of State's Office to ensure that West Virginians with a physical disability could full participate in the electoral process.

Electronic voting will be available in the 2020 primary and general election. The WV Secretary of State has two options to choose from: electronic absentee voting or an online ballot marking tool.

The electronic absentee voting system will allow eligible voters to access an accessible ballot through an online delivery system. The system will securely deliver the electronic ballot to the voter for the proper voting jurisdiction. The ballot will be fully complaint with the Federal Americans with Disabilities Act. The voter will be able mark their electronic absentee ballot without requiring assistance. The system is audio-enabled, compatible with all major screen readers, tactile switches, closed captioning and sip and puff systems. This system gives all voters equal access to balloting information with privacy and independence.

The online ballot marking tool is another electronic voting option. This system allows a voter to access a blank ballot through the Internet; electronically mark the ballot with the voter's selections; and print a paper copy of the marked ballot for mailing to a local board. The online ballot marking tool does not include a system that is capable of storing, tabulating, or transmitting votes or voted ballots by electronic or electromagnetic means through the Internet.

Whether WV goes with the online ballot marking tool or electronic mobile voting, the end result will be a vast improvement in voting accessibility for West Virginians with a physical disability.

Protection and Advocacy for Voting Access *(cont'd)*

and Human Services and the Administration on Intellectual and Developmental Disabilities in the Administration on Community Living administer the PAVA program.

The fifty-seven Protection and Advocacy systems like DRWV, have advocates on the ground in local communities helping to educate individuals on their rights and ensuring that voting officials are following the law. PAVA advocates provide technical assistance, community outreach, and direct representation to their constituents. They also offer training to state/local election officials regarding voting accessibility requirements.

PAVA advocates help to tear down the barriers that impede the ability of a person with a disability to vote. The PAVA program is essential to ensuring that all Americans with a disability can fully participate in the electoral process.

Any barriers to voting for individuals with disabilities should be reported to DRWV by calling 800-950-5250.