SENATE COMMITTEE ON PUBLIC SAFETY
Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No:	SB 504	**Hearing Date:**	April 20, 2021	
Author:	Becker			
Version:	February 17, 2021			
Urgency:	No		**Fiscal:**	Yes
Consultant:	SJ			

Subject: *Elections: voter registration*

HISTORY

Source: California Association of Clerks and Elections Officials

Prior Legislation: Proposition 17, as approved by the voters on November 3, 2020
AB 787 (Gipson), held in Senate Appropriations 2019
AB 1344 (Weber), Ch. 796, Stats. 2017
AB 2566 (Weber), Ch. 757, Stats. 2016
AB 2252 (Ting), Ch. 75, Stats. 2016
SB 1063 (Block), Ch. 624, Stats. 2014
AB 2243 (Weber), Ch. 899, Stats. 2014
AB 149 (Weber), Ch. 580, Stats. 2013
AB 1929 (Gorell), Ch. 694, Stats. 2012
AB 1805 (Huffman), Ch. 744, Stats. 2012
AB 188 (Maze), Ch. 347, Stats. 2003

Support: California Public Defenders Association; Election Integrity Project (Support if Amended); New Approach Advocacy

Opposition: None known

PURPOSE

The purposes of this bill are to: 1) require the Department of Corrections and Rehabilitation (CDCR) to provide the Secretary of State (SOS) with identifying information for persons imprisoned in a state prison for the conviction of a felony as well as persons on parole or post-release community supervision (PRCS); 2) require county elections officials to cancel the affidavit for registration for a person imprisoned in state prison for a felony conviction and notify persons on parole and PRCS that their voting rights have been restored after receiving specified identifying information for those categories of persons from the SOS; and 3) require county elections officials to make conditional voter registration available to military and overseas voters.

Existing law permits a person who is a U.S. citizen, a resident of California, not imprisoned for the conviction of a felony, and at least 18 years of age at the time of the next election, to register to vote and to vote. (Cal. Const., art. II, § 2; Elec. Code, § 2000.)

Existing law requires the Legislature to provide for the disqualification of electors while mentally incompetent or serving a state or federal prison term for the conviction of a felony. (Cal. Const., art. II, § 4.)

Existing law defines "imprisoned" to mean currently serving a state or federal prison term. Provides that "conviction" does not include a juvenile adjudication made pursuant to existing law. (Elec. Code, § 2101, subd. (c).)

Existing law requires the county elections official to cancel the affidavits of registration upon proof that the person is presently imprisoned for the conviction of a felony. (Elec. Code, § 2212.)

Existing law requires the clerk of the superior court of each county to furnish to the SOS and the county elections official, not less than the first day of every month, a statement showing the names, addresses, and dates of birth of all persons who have been committed to state prison as the result of a felony conviction, as specified. Requires the SOS or the county elections official to cancel the affidavits of registration of those persons who are currently imprisoned for the conviction of a felony. (Elec. Code, § 2212.)

Existing law permits any voter to apply for and receive a vote by mail (VBM) ballot from the voter's elections official. (Elec. Code, § 3003.)

Existing law defines "remote accessible vote by mail system" (RAVBM) to mean a mechanical, electromechanical, or electronic system and its software that is used for the sole purpose of marking an electronic VBM ballot for a voter with disabilities or a military or overseas voter who prints the paper cast vote record to be submitted to the elections official. Prohibits an RAVBM system from being connected to a voting system at any time. (Elec. Code, § 303.3.)

Existing law prohibits the SOS from certifying or conditionally approving a RAVBM system, or part of a RAVBM system, unless it fulfills specified requirements and the regulations of the SOS. (Elec. Code, § 19280.)

Existing law requires a county elections official to permit a voter with a disability or a military or overseas voter to use a certified RAVBM system, as specified. (Elec. Code, §§ 3016.5, subd. (a), 3116.5, subd. (a).)

Existing law requires a county elections official to permit any voter to cast a ballot using a certified RAVBM system, regardless of whether the voter is a voter with disabilities or a military or overseas voter, for the statewide general election held on November 3, 2020. (Elec. Code, § 3016.7.)

Existing law defines "conditional voter registration" to mean a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on Election Day and which may be deemed effective after the elections official processes the affidavit, determines the registrant's eligibility to register, and validates the registrant's information, as specified. (Elec. Code, § 2170, subd. (a).)

Existing law provides that a conditional voter registration is deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the Department

of Motor Vehicles or the federal Social Security Administration. Requires, if the information provided by the registrant on the registration affidavit cannot be verified this way but the registrant is otherwise eligible to vote, the registrant to be issued a unique identification number, as specified, and the conditional voter registration is deemed effective. (Elec. Code, § 2170, subd. (c).)

Existing law requires the elections official to provide conditional voter registration and voting at all permanent and satellite offices of the county elections official and all polling places in the county. (Elec. Code, § 2170, subd. (d).)

Existing law declares it is the intent of the Legislature that voter registration be maintained at the highest possible level. Requires the SOS to adopt regulations requiring each county elections official to design and implement programs intended to identify qualified electors who are not registered to vote, and to register those person to vote, as specified. (Elec. Code, § 2105.)

This bill requires an elections official to make conditional voter registration and voting available to military and overseas voters through a certified RAVBM system, as specified.

This bill repeals the provision of law that requires the clerk of the superior court of each county to furnish the SOS and the county elections official, not less than the first day of every month, a statement showing the names, addresses, and dates of birth of all persons who have been committed to state prison as the result of a felony conviction.

This bill requires CDCR to provide to the SOS, on a weekly basis and in a format prescribed by the SOS, specified identification information for all of the following persons:

- Persons imprisoned for the conviction of a felony and under the jurisdiction of CDCR.
- Persons on parole or released from imprisonment for the conviction of a felony and no longer under the jurisdiction of CDCR.

This bill requires the personal identification information that CDCR must provide to SOS to include all of the following:

- All known first and last names.
- Last known address.
- Date of birth.
- Last four digits of the person's social security number, if available.
- Driver's license or state-issued identification number, if available.

This bill defines the following terms:

- Provides that "conviction" does not include a juvenile adjudication pursuant to existing law.
- "Department" to mean CDCR.
- "Imprisoned" to mean currently serving a state or federal prison term.
- "Parole" to mean a term of supervision by CDCR.

This bill requires the SOS to provide the information specified by this bill to county elections officials within three days of receipt of the information from CDCR.

This bill requires a county elections official, upon receipt of information from the SOS, to do all of the following:

- Cancel the affidavit of registration of any person imprisoned for the conviction of a felony and under the jurisdiction of CDCR whose registration information matches a unique identifier provided by the SOS to the county used in the statewide voter registration database developed in compliance with the requirements of the federal Help America Vote Act of 2002.

- Notify individuals on parole or individuals released from imprisonment for the conviction of a felony and no longer under the jurisdiction of CDCR, and whose last known address is within the county, as specified, that the individual's voting rights are restored and advise the individual that if the individual is otherwise entitled to register to vote, the individual may register to vote. Requires the county elections official to provide the individual with information regarding the procedure for registering to vote.

This bill provides that a county or county elections official is not liable for erroneously adding, canceling, or failing to cancel the affidavit of registration of any person based on information provided by the SOS or CDCR. Provides that a county or county elections official is not liable for taking or failing to take the specified actions described when the county or county elections official have received incomplete information from the SOS or CDCR.

COMMENTS

1. Need for This Bill

According to the author:

> SB 504 improves two election processes by: 1) ensuring justice-involved individuals are granted the right to register to vote with more accurate voter rolls, and 2) grants UOCAVA voters the ability to "Conditionally" or "Same Day" register to vote.
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> Current law does not require an exact match between a person's current felony incarceration record and their voter registration record before an election official is obliged to remove a voter's ability to vote. Incomplete or inaccurate information leaves election officials making educated guesses as they attempt to fulfill their legal obligation to cancel voter registration records. Additionally, a person on parole is permitted to vote but required to re-register to vote if they have been removed from voting rolls due to their parole status prior to the passage of Prop 17 (2020).
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> If a UOCAVA voter misses the 15-day deadline before Election Day to register to vote, the voter is unable to register and vote in the election utilizing the Same Day (Conditional) Voter Registration provisions that domestic voters can use.

2. Background

Justice-Involved Voters

Article II, Section 4 of the California Constitution states that "[the] Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or serving a state or federal prison term for the conviction of a felony." Elections Code section 2101 implements Article II, Section 4 of the California Constitution and provides that "[a] person entitled to register to vote shall be a United States citizen, a resident of California, not imprisoned for the conviction of a felony, and at least 18 years of age at the time of the next election." In order to maintain an updated and current voter file, elections officials are required to cancel the voter registrations of individuals who are imprisoned for the conviction of a felony. However, a person who is on parole or probation is permitted to register to vote and vote.

Over the years, various bills have been signed into law to educate individuals with a criminal history about their voting rights. AB 149 (Weber), Chapter 580, Statutes of 2013, required a county probation department to either establish a hyperlink on its website to the SOS's voting rights guide for persons with a criminal history or to post a notice that contains the SOS's website where the voting rights guide can be found. In 2014, two bills were enacted to further this effort. AB 2243 (Weber), Chapter 899, Statutes of 2014, required CDCR to establish and maintain on its website a link to the SOS voting rights guide for incarcerated individuals or post in each parole office a notice with the website address of the SOS voting rights guide for incarcerated individuals. SB 1063 (Block), Chapter 624, Statutes of 2014, required state and local juvenile detention facilities to identify individuals housed in those facilities who are eligible to register to vote and provide assistance in completing affidavits of registration and returning the completed voter registration cards.

AB 1344 (Weber), Chapter 796, Statutes of 2017, required CDCR and county probation departments to provide specified voting rights information to persons under their jurisdiction upon request. Finally, in 2020, ACA 6 (McCarty), Resolution Chapter 24, Statutes of 2020, proposed to amend the state Constitution to allow individuals who are on parole for the conviction of a felony to vote if they otherwise meet all other eligibility requirements. This measure appeared on the ballot for the November 2020 statewide election as Proposition 17 and was approved by the voters.

Conditional Voter Registration

Conditional voter registration permits eligible citizens who need to register or re-register to vote within 14 days of an election to register and vote at their county elections office, polling place, or vote center. Their ballots are processed and counted once the county elections office has completed the voter registration verification process.

Military and Overseas Voters

Under existing law, an individual is permitted to register to vote electronically. When registering to vote as a military or overseas voter, a voter can choose to have their ballot mailed, faxed, or emailed to them. County elections officials begin sending ballots to military and overseas voters 60 days before Election Day. The voter may return the completed ballot to their county elections

official by mail or, in certain circumstances, by fax. If returning a voted ballot by fax, then the voter must fax an "Oath of Voter" form waiving the voter's right to a confidential ballot.

In 2009, President Obama signed into law the Military and Overseas Voter Empowerment (MOVE) Act to expand the 1986 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The UOCAVA was established to protect the rights of service members to vote in federal elections regardless of where they are stationed. The MOVE Act builds on UOCAVA to provide greater protections for service members, their families, and other overseas citizens.

In addition to being compliant with all provisions in the MOVE Act, California law also makes other accommodations to facilitate voting by military voters and other California residents who are outside of the U.S. Specifically, current law provides that an application for a VBM ballot by an overseas voter is deemed to be a request for voter registration (if the voter was not already registered to vote) and an application for permanent VBM voter status. In addition, California makes all overseas voters permanent VBM voters, thereby eliminating the need for overseas military voters and other overseas voters to request a VBM ballot for each election.

In 2012, the Legislature passed and Governor Brown signed AB 1805 (Huffman), Chapter 744, Statutes of 2012, which established new voting procedures for military and overseas voters to comply with the UOCAVA as well as the Uniform Military & Overseas Voter Act adopted by the National Conference of Commissioners on Uniform State Laws. Among other provisions, AB 1805 expanded the definition of military or overseas voters and expanded the use of the Federal Write-In Absentee Ballot by allowing use by military or overseas voters in non-federal elections to ensure continuity and uniformity across state lines.

AB 1929 (Gorell), Chapter 694, Statutes of 2012, established processes and procedures for the review and approval of ballot marking systems, as defined, for use in California elections. A ballot marking system speeds up the amount of time it takes for a military or overseas voter to cast a ballot by allowing a military or overseas voter to electronically obtain a ballot specific to the precinct in which they reside and electronically mark their ballot. The information marked on the voter's ballot is formatted onto a document that the voter may print out and mail or fax to their county elections official. Finally, AB 2252 (Ting), Chapter 75, Statutes of 2016, allowed a military or overseas voter or a voter with disabilities to electronically receive and mark their VBM ballot using a RAVBM system.

3. Effect of This Bill

Justice-Involved Individuals

This bill repeals the provision of law that requires the clerk of the superior court of each county to furnish the SOS and the county elections official with a statement showing the names, addresses, and dates of birth of all persons who have been committed to state prison as the result of a felony conviction. Instead, this bill requires CDCR to provide to the SOS, on a weekly basis and in a format prescribed by the SOS, specified identification information for all of the following persons:

- Persons imprisoned for the conviction of a felony and under the jurisdiction of CDCR (i.e., incarcerated in a state prison)
- Persons on parole or released from imprisonment for the conviction of a felony and no longer under the jurisdiction of CDCR (i.e., individuals on PRCS)

This bill specifies the personal identification information that CDCR must provide to SOS, and requires the SOS to provide the information specified by this bill to county elections officials within three days of receipt of the information from CDCR. A county elections official is then required, upon receipt of information from the SOS, to: cancel the affidavit of registration of any person imprisoned in a state prison for the conviction of a felony, and notify individuals on parole or individuals released from imprisonment for the conviction of a felony and no longer under the jurisdiction of CDCR, and whose last known address is within the county, that the individual's voting rights are restored and advise the individual that if the individual is otherwise entitled to register to vote, the individual may register to vote. The county elections official is additionally required to provide the individual with information regarding the procedure for registering to vote.

Finally, this bill includes immunity provisions. Specifically, a county or county elections official is not liable for erroneously adding, canceling, or failing to cancel the affidavit of registration of any person based on information provided by the SOS or CDCR, and a county or county elections official is not liable for taking or failing to take the specified actions when the county or county elections official has received incomplete information from the SOS or CDCR.

Military and Overseas Voters

This bill requires an elections official to make conditional voter registration and voting available to military and overseas voters through a certified RAVBM system.

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