

Date of Hearing: April 25, 2018

**ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING**

Marc Berman, Chair

AB 3115 (Gipson) – As Amended March 19, 2018

**SUBJECT:** Jails: voter education program.

**SUMMARY:** Requires each county jail to allow at least one organization to provide a voter education program in the county jail, as specified. Specifically, **this bill** requires the voter education program to include, but not be limited to, the following:

- 1) Providing written and verbal information about voting rights upon release from jail;
- 2) Providing eligible voters with affidavits of registration; and,
- 3) Assisting eligible voters with completing and returning affidavits of registration to county elections officials.

**EXISTING LAW:**

- 1) Specifies that in order to be eligible to vote, an individual must be a United States citizen, a resident of California, not in prison or on parole for the conviction of a felony, not deemed mentally incompetent, and at least 18 years of age at the time of the next election.
- 2) Requires the California Department of Corrections and Rehabilitation (CDCR) to establish and maintain a hyperlink on its Internet Web site to the Secretary of State's (SOS) voting rights guide for incarcerated persons, and to post a notice that contains the Internet Web site address where the voting rights guide for incarcerated persons may be found in each parole office where parolees are seen.
- 3) Requires CDCR to provide each parolee under the jurisdiction of CDCR upon the completion of his or her parole, upon the parolee's request, information provided by the SOS regarding voting rights for persons with a criminal history.
- 4) Requires each county probation department to establish and maintain a hyperlink on its Internet website to the SOS's voting rights guide for incarcerated persons, and to post a notice that contains the SOS Internet Web site address where the voting rights guide may be found in each probation office where probationers are seen.
- 5) Encourages each county probation department to notify persons that a printed version of information regarding voting rights for persons with a criminal history who are under the department's supervision is available upon request.
- 6) Requires each county probation department to provide each person under the department's supervision, upon the person's request, information provided by the SOS regarding voting rights for persons with a criminal history.
- 7) Requires the Legislature to provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony.

- 8) Requires the facility administrator of a local detention facility to develop written policies and procedures whereby the county registrar of voters allows qualified voters to vote in local, state, and federal elections, pursuant to election codes.

**FISCAL EFFECT:** Unknown. State-mandated local program: contains reimbursement direction.

**COMMENTS:**

- 1) **Purpose of the Bill:** According to the author:

California incarcerates 80,000 people in its jails and more than half of the people have not been convicted or are un-sentenced. This is a large community that has historically been excluded from civic engagement and participation. There is often an assumption by many people that if one has been incarcerated, that they have lost their right to vote, when this is not the case. Due to either misinformation or lack of information, many who are behind bars do not know that they can register to vote. There are systemic barriers in place that make it difficult for people to exercise their right to vote while in jail. Current law requires state and local juvenile detention facilities to assist in voter registration for individuals who are of age and are not serving a felony sentence. AB 3115 seeks to educate those who are currently incarcerated in county jails on voter registration and voting rights in hopes of helping them feel more connected to their communities.

- 2) **Which Persons with a Criminal History are Eligible to Vote?** AB 109 (Budget Committee), Chapter 15, Statutes of 2011, otherwise known as the Criminal Justice Realignment Act (Realignment), among other things provides that low-level felons be sentenced to county jail and/or supervision by the county probation department instead of state prison, and permits the CDCR to make agreements with local governments to house felons in a county jail or correctional facility as specified. Realignment has caused some confusion about voting rights among people who have criminal convictions.

Persons with a criminal history who *are* eligible to register and vote include those who are incarcerated in a county jail and are serving a misdemeanor sentence (a misdemeanor never affects an individual's right to vote); are jailed as a condition of probation (misdemeanor or felony); are serving a felony jail sentence; and, those who are jailed while awaiting trial. Others who are entitled to vote include those who are on probation; under mandatory supervision; individuals who are on a federal supervised release; and, an individual with a juvenile wardship adjudication. Once an individual has completed parole their right to vote is restored and they can re-register to vote.

Persons with a criminal history who *are not* eligible to register and vote include: an individual who is currently imprisoned in a state or federal prison, an individual serving a state prison felony sentence in a county jail or other correctional facility, and an individual currently on parole with the CDCR.

- 3) **States and Felon Disenfranchisement:** According to the Sentencing Project's 2016 report entitled "State-Level Estimates of Felony Disenfranchisement, 2016," 48 states prohibit

inmates from voting while incarcerated for felony offense. Only Maine and Vermont permit inmates who are incarcerated for a felony offense to vote. California is one of 34 states that prohibit felons from voting while they are on parole, and 2016 legislation restored voting rights to people convicted of a felony offense housed in jail, but not in prison. Individuals imprisoned in the county jail for misdemeanor offenses are eligible to vote in California. Furthermore, once an individual completes his or her term of imprisonment and any period of parole for a felony conviction, that person is allowed to register to vote again in California.

4) **Argument in Support:** According to California Attorneys for Criminal Justice:

In recent years there has been a welcome and justified increase in attention paid to ensuring effective re-entry services to individuals leaving incarceration. Studies repeatedly confirm that education, job training, and housing assistance reap significant dividends in the lives of those who are returning to the community with long-lasting improvements in their quality of lives and in the reduction of recidivism rates.

Rediscovering the right to vote can be a very empowering tool in transitioning to full participation in the community life. Feeling vested in the well-being of the larger community and society fortifies a broad world view that often leads individuals to more productive participation in community events and a greater responsibility for the overall community.

5) **Argument in Opposition:** According to the California State Sheriffs' Association:

While we understand the desire to increase inmates' participation in the electoral process, this bill largely ignores any efforts that may be already ongoing within a jail facility. Counties across the state offer inmates assistance with voter registration and the casting of ballots. They often provide registration and ballot materials and assist with the delivery of completed registration cards and ballots.

Additionally, AB 3115 fails to consider appropriate security measures for the safety of inmates, staff, and the facility. Under the unambiguous language of the bill, "each county jail shall allow at least one organization to provide a voter education program in the county jail." In the potential scenario where only a single organization comes forward to undertake the actions contemplated by the bill, AB 3115 seems to mandate that this organization must be allowed access to inmates and the facility, irrespective of any other consideration. Even if this particular organization or persons within it were deemed to be a safety risk, it appears the bill would mandate their access to a jail. The safety and security of a correctional facility should not be exposed to this type of ambiguous but possible threat.

6) **Previous Legislation:** AB 1344 (Weber), Chapter 796, Statutes of 2017, requires the CDCR and county probation departments to provide voting rights information and affidavits of registration to persons under their jurisdiction.

AB 2243 (Weber), Chapter 899, Statutes of 2014, requires the CDCR to make specified information relating to voting rights of incarcerated persons available to the public, and

parolees under their jurisdiction.

AB 149 (Weber), Chapter 580, Statutes of 2013, requires each county probation department, where probationers are seen, to establish and maintain a hyperlink on the department's website to the SOS's voting rights guide for incarcerated persons, or to post a notice that contains the SOS's Internet Web site address where the voting rights guide may be found.

- 7) **Double-Referral:** On April 10, 2018, this bill was approved by the Assembly Public Safety Committee on a 5-2 vote.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Alliance for Boys and Men of Color  
 American Civil Liberties Union of California (ACLU)  
 American Muslim Council for Prisoners  
 Asian Americans Advancing Justice – California (Advancing Justice-CA)  
 California Attorneys for Criminal Justice (CACJ)  
 California Calls  
 California State Conference of the NAACP  
 Center on Juvenile and Criminal Justice (CJCJ)  
 Council on American-Islamic Relations, California (CAIR-CA)  
 Criminal Justice Clinic of UC Irvine School of Law  
 Demos  
 Ella Baker Center for Human Rights  
 Indivisible East Bay  
 Korean American Coalition (KAC)  
 League of Women Voters of California  
 Los Angeles County Supervisor Mark Ridley-Thomas  
 Los Angeles County Supervisor Sheila Kuehl  
 Los Angeles Regional Reentry Partnership (LAARP)  
 Mexican American Legal Defense and Educational Fund (MALDEF)  
 Mi Familia Vota  
 NAACP Legal Defense & Educational Fund, Inc. (LDF)  
 National Association of Social Workers, California Chapter (NASW-CA)  
 OCCORD  
 Resilience Orange County  
 Returning Home Foundation  
 Rock the Vote  
 Root & Rebound  
 Rubicon Programs  
 San Francisco Public Defender Jeff Adachi  
 Santa Ana Unidos

### **Opposition**

California State Sheriffs' Association (CSSA)

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