
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 3115 **Hearing Date:** June 26, 2018
Author: Gipson
Version: June 18, 2018
Urgency: No **Fiscal:** Yes
Consultant: EC

Subject: *Jails: Voter Education Program*

HISTORY

Source: California State Conference of the NAACP

Prior Legislation: AB 1344 (Weber), Chapter 796, Statutes of 2017
AB 2243 (Weber) Chapter 899, Statutes of 2014
AB 149 (Weber), Chapter 580, Statutes of 2013

Support: American Civil Liberties Union; California Attorneys for Criminal Justice;
California Public Defenders Association; California State Conference of the
NAACP; Center on Juvenile and Criminal Justice

Opposition: California State Sheriffs' Association

Assembly Floor Vote: 45 - 29

PURPOSE

The purpose of this bill is to require each county jail to allow at least one organization to provide a voter education program in the county jail.

Existing law requires the California Department of Corrections and Rehabilitation (CDCR) to do both of the following:

- 1) Establish and maintain on CDCR's website a hyperlink to the Secretary of State's website containing a voting rights guide for incarcerated persons; and
- 2) Post, in each parole office where parolees are seen, a notice that contains the Secretary of State's website containing a voting rights guide for incarcerated persons. (Elec. Code, § 2105.5, subd. (a).)

Existing law requires each county probation department to do both of the following:

- 1) Establish and maintain on CDCR's website a hyperlink to the Secretary of State's website containing a voting rights guide for incarcerated persons; and
- 2) Post, in each parole office where parolees are seen, a notice that contains the Secretary of State's website containing a voting rights guide for incarcerated persons. (Elec. Code, § 2105.5, subd. (b).)

Existing law requires CDCR to provide each parolee under the jurisdiction of the department upon the completion of their parole, upon the parolee's request information provided by the Secretary of state regarding voting rights for persons with a criminal history. (Elec. Code, § 2105.6, subd. (a).)

Existing law 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. (Elec. Code § 2105.6, subd. (b).)

Existing law requires each county probation department to provide each person under the department's supervision upon the person's request, information provided by the Secretary of State regarding voting rights for persons with a criminal history. (Elec. Code § 2105.6, subd. (c).)

Existing law requires the Legislature to provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony. (Cal. Const., Article II, § 4.)

Existing law requires that a person be a U.S. citizen, California resident, not in prison or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election to be entitled to register to vote in this state. (Elec. Code, § 2101.)

Existing law 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. (Cal. Code of Regulations, Title 15, § 1071.)

This bill requires each county jail to allow at least one organization to provide a voter education program in the county jail.

The bill requires that the program includes, but is not limited to, the following:

- 1) Providing both written and verbal information about voting rights upon release from jail;
- 2) Providing affidavits of registration to eligible voters;
- 3) Assisting eligible voters with completion of the affidavits of registration; and
- 4) Assisting eligible voters in returning the completed voter registration cards to the county elections official.

This bill states that the program shall not be construed to compromise the existing security protocols of a jail facility.

COMMENTS

1. Need for This Bill

The author states:

Many African-American and Latino voters have been confused at some point about their eligibility to vote due to a criminal conviction because the individuals' status is continuously changing and are not given adequate information about their rights at each stage of the process or at least complete information from the start.

By ensuring that incarcerated people who have the right to register and vote as well as have the support they need to make educated choices and about issues that directly affect them and their communities, we can empower them to feel in control of their futures in a new way and create an incentive for improved behavior while in jail as well as reduce recidivism.

2. Voting Rights and Persons with a Criminal History

Prior to 2016, any person who was imprisoned or on parole for a felony conviction was prohibited from voting and elections officials were required to cancel the voter registrations of such individuals. In September of 2016, Governor Jerry Brown signed AB 2466 (Weber), a bill that allowed convicted felons serving time in county jails the ability to vote within jail. Thus, the following individuals with a criminal history may register to vote:

- 1) Those in county jail serving a misdemeanor jail sentence;
- 2) Those in county jail serving a felony jail sentence (per realignment);
- 3) Those in county jail serving a felony on probation for a misdemeanor or felony;
- 4) Those in county jail awaiting trial;
- 5) Those on probation;
- 6) Those on mandatory supervision;
- 7) Those on post-release community supervision;
- 8) Those on federal supervised release; and
- 9) A person with a juvenile wardship adjudication.¹

Those individuals with a criminal history who cannot register and vote:

- 1) Those imprisoned in state prison and federal prison;
- 1) Those serving a state prison felony sentence in county jail or other correction facility;
- 2) Those in county jail awaiting transfer to a state or federal prison for a felony conviction
- 3) Those in county jail for a parole violation; and
- 4) Those currently on parole with CDCR.²

¹ "Voting Rights: Persons with a Criminal History | California Secretary of State," accessed June 15, 2018, <http://www.sos.ca.gov/elections/voting-resources/voting-california/who-can-vote-california/voting-rights-californians/>.

² "Voting Rights: Persons with a Criminal History | California Secretary of State."

This bill requires each county jail to allow at least one organization to provide a voter education program in the jail.

3. Civic Participation and the Criminal Justice System

Only two states in the United States, Maine and Vermont, do not remove a person's right to vote when they are sent to prison. All other states enact a range of voting disenfranchisement while and/or after incarcerated.

The rationale for felony voting restrictions is the longstanding principle that once an offender has "paid their debt," they should be able to rejoin the community. Exclusion from the electoral processes insinuates that the "debt" could never be paid in full and felony voting disenfranchisement is a lifelong sentence. More than 95% of offenders sentenced to prison will return to the community and encouraging these individuals to civically engage fosters a sense of responsibility.³

In 2016, 29% of the California male prison population was Black and Latinx individuals made up 43% of the California male prison population.⁴ Many incarcerated people of color are uninformed about voter eligibility and voter registration. This is due to continuous changes to an individuals' status, not given adequate or accurate information about their rights from the time they are involved in the criminal justice system.

Many individuals are now allowed to civically participate; however, those involved in the criminal justice system are not informed of their voting rights. Inaccurate information about voter registration laws and eligibility requirements, a lack of transparency about voting rights and generally, a lack of knowledge about elections and the voting process confuse the community, create greater distrust in government and mistrust of government officials.

4. Argument in Support

According to the California State Conference of the NAACP:

California incarcerates 80,000 people in its jails and more than half of the people have not been convicted or un-sentenced. This is a large community that has been historically 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 or there are systemic barriers in place that do allow people to exercise their right to vote.

California can take a major step forward by having a plan to provide civic education and voter registration for incarcerated communities. AB 3115 would help make sure that more people who have the right to register and vote have the

³ Marc Mauer, "Felon Voting Disenfranchisement: A Growing Collateral Consequence of Mass Incarceration Collateral Sentencing Consequences," *Federal Sentencing Reporter* 12 (2000 1999): 248–51.

⁴ "California's Changing Prison Population," *Public Policy Institute of California* (blog), accessed June 18, 2018, <http://www.ppic.org/publication/californias-changing-prison-population/>.

support they need to make educated choices and decisions that directly affect them and their communities while they are incarcerated.

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.

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.

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