



August 31, 2022

The Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

**Re: AB 2841 (Low)
COSPONSOR
REQUEST FOR SIGNATURE**

Dear Governor Newsom:

The American Civil Liberties Union California Action (ACLU) and League of Women Voters of California (LWVC) are proud to co-sponsor AB 2841 (Low), a non-controversial measure that would advance voting rights by preventing erroneous registration purges of eligible voters and protecting the rights of people with disabilities under conservatorship. We respectfully urge you to sign this important legislation into law.

AB 2841 will: (1) ensure voters are notified and have an opportunity to cure errors before they are removed from voter registration rolls; and (2) protect voters under conservatorship by standardizing reporting procedures, increasing statewide transparency, and helping counties comply with existing law. The ACLU and LWVC have a long history of fighting to make our democracy fairer and more inclusive. We believe that the fundamental right to vote is denied and our democracy is weakened any time an eligible voter is incorrectly purged from registration rolls. AB 2841 will protect eligible – and disproportionately underrepresented – voters from disenfranchisement caused by erroneous registration cancellation. Although progress has been made in recent years toward this goal, more must be done to remove unnecessary barriers to electoral participation caused by errors in the voter registration cancellation process and by misinformation about who has the right to vote in California elections. This bill is an important step to protect eligible voters – Californians who are more likely to be people with disabilities, people of color, or low-income – from inaccurate registration purges and to empower more of these underrepresented voters to exercise their rights.

Registration Cancellation Errors Disenfranchise Eligible California Voters. Under existing law, California voters are required to be removed from voter registration rolls by county elections officials if the elections official has reason to believe that: (1) the voter was sentenced to state or federal prison for the conviction of a

felony, (2) the voter was found “mentally incompetent” to vote by a court, or (3) the voter is ineligible due to death or change of residence.¹ Unfortunately, errors in the existing reporting systems that inform these voter registration cancellations can result in false matches between different agencies’ records or cause elections officials to rely on over-inclusive lists that include the names of individuals who are in fact eligible to vote.²

Because current law does not require elections officials to provide California voters with any form of notice at the time their registration is cancelled, incorrectly flagged voters usually do not know that they have been removed from registration rolls until they attempt to vote during the next election. While regular and responsible list maintenance is of course important for maintaining accurate voter registration rolls, overly aggressive voter removal based on faulty data provided to county elections officials can disenfranchise eligible voters. Studies show that these erroneous cancellations disproportionately impact voters who are already underrepresented, including those who are Black, Brown, Indigenous, or other people of color, low-income, and young people.³

Outdated and Inconsistent Reporting Systems Undermine Protections for Voters with Disabilities. Voters with disabilities are also underrepresented in our democracy. During the last national election, voters with disabilities were about 6% less likely to vote than the overall eligible voter population.⁴ In 2015, California passed SB 589 (Block) to address the alarmingly high rates at which Californians with disabilities were being disenfranchised in conservatorship cases, as well as to bring California into compliance with federal disability nondiscrimination laws. The provisions of SB 589 are intended to help protect the rights of voters with disabilities under conservatorship by presuming that otherwise-eligible individuals are competent to vote unless a court determines otherwise. SB 589 also mandates that the revocation of the right to vote should not be based on whether a person can fill

¹ 52 U.S.C. § 20507; CAL. ELEC. CODE, §§ 2201-2012.

² For example, erroneous cancellations have resulted in the disenfranchisement of thousands of eligible California voters and have spawned legal action in some counties. “[I]n L.A. County alone, more than 3,000 eligible voters were dropped in 2017.” SUZANNE POTTER, PUBLIC NEWS SERVICE, GROUPS CLAIM THOUSANDS IMPROPERLY REMOVED FROM CA VOTING ROLLS (2018), publicnewsservice.org/index.php?/content/article/62096-1.

³ “In big states like California [] multiple individuals can have the same name and date of birth, making it hard to be sure that the right voter is being purged when perfect data are unavailable. Troublingly, minority voters are more likely to share names than white voters, potentially exposing them to a greater risk of being purged.” BRENNAN CENTER FOR JUSTICE, VOTER PURGE RATES REMAIN HIGH ANALYSIS FINDS (2019), brennancenter.org/our-work/analysis-opinion/voter-purge-rates-remain-high-analysis-finds.

⁴ RUTGERS, FACT SHEET: DISABILITY AND VOTER TURNOUT IN THE 2020 ELECTIONS (2021), smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/FactSheet_Disability_Voter_Turnout_2020.pdf. For voters with a mental or cognitive disability, specifically, the turnout gap was almost 17%. *Id.*

out a voter registration form, but instead on whether they can express a desire to participate in the voting process.

Unfortunately, research by the ACLU raises concerns as to whether eligible California voters with disabilities in every county are actually receiving SB 589's protections when they need them. This research indicates that counties track and report conservatorship voting rights changes in an inconsistent and unclear manner, and the findings suggest that some counties may not be fully complying with the requirements of SB 589.⁵ The dramatic variations in county practice, along with a widespread lack of transparency, point to an urgent need for improved state-level support in implementing SB 589. There has recently been an increase in national public awareness about the importance of protecting the rights of people with disabilities who are placed under conservatorship,⁶ and now is the time to ensure that the promise of SB 589 is fulfilled and that eligible California voters under conservatorship are no longer wrongly excluded from the ballot box.

AB 2841 Will Enact Best Practices for Preventing Faulty Registration Purges. AB 2841 will help protect eligible voters from faulty purges by requiring county elections officials to notify affected voters before cancelling their registration and to give those voters an opportunity to stop erroneous cancellations before they happen. Experts have long recommended notifying voters of an intended registration cancellation as a best practice for preventing disenfranchisement caused by inaccurate data or procedural errors,⁷ and several states already provide similar notice to their voters prior to removing them from registration rolls.⁸ AB 2841's notice and cure procedures for voter registration cancellations also mirror those already in place under existing California law to ensure that voters have an opportunity to fix any signature issues on their vote-by-mail ballot envelope before their ballot is rejected.⁹

AB 2841 will also provide greater statewide oversight and consistency by standardizing and modernizing procedures for reporting voting- rights

⁵ Problematic data management was a common observation across counties. For instance, almost half of courts were not using a standardized conservatorship voting rights modification form created by the Secretary of State and Judicial Council of California. Public records also showed that thousands of the conservatorship voting rights modification notices received by the Secretary of State since reporting began in 2016 were missing or unclear on critical information like the case number or whether the rights modification was a disqualification or a restoration.

⁶ See, e.g., Jocelyn Weiner, *The Britney effect: How California is grappling with conservatorship*, CALMATTERS, updated Dec. 13, 2021.

⁷ "Before a voter is removed from the voter registration list for any reason, she should be individually notified and given the opportunity to correct any errors or omissions, or demonstrate eligibility." BRENNAN CENTER FOR JUSTICE, VOTER PURGES 27 (2008), brennancenter.org/sites/default/files/legacy/publications/Voter.Purges.no%20app.pdf.

⁸ These states include Florida, New York, and Pennsylvania. FLA. STAT. ANN. § 98.075(3); N.Y. ELEC. LAW § 5-402(2); 25 PA.C.S.A. § 1203.

⁹ CAL. ELEC. CODE. § 3019(d)-(e).

modifications for people in conservatorships, requiring a monthly website post with aggregated data showing the number of conservatorship voting-rights disqualifications and restorations by county, and creating training resources for relevant staff from county courts and election offices on their existing duties under SB 589. By requiring that voters under conservatorship be informed that their voting rights are restored if they are found by a court to have regained the ability to communicate a desire to vote, AB 2841 will also help combat misinformation about voter eligibility rules. Finally, the reporting improvements and rights restoration notices in AB 2481 will align California's registration clean-up practices for voters under conservatorship with those recently passed by the legislature for voters impacted by the criminal legal system.¹⁰

Assemblymember Low and we have worked with stakeholders throughout the legislative process, including the California Association of Clerks and Elections Officials, the California Judicial Council, and the California Secretary of State's office on this bill. Most recently we have engaged with the Secretary of State in particular over the course of the past several weeks, and have clarified several staff questions. The Secretary of State requested a two-year implementation delay, and Assemblymember Low compromised with a one-year implementation delay, to January 1, 2024. We hope you will agree that this is a reasonable compromise, providing a pathway for successful implementation and in consideration of the foundational right at issue.

Voting is a fundamental right, and that right is denied and our democracy is weakened any time an eligible voter is incorrectly purged from registration rolls. AB 2481 will protect eligible – and disproportionately underrepresented – voters from disenfranchisement caused by erroneous registration cancellation. For these reasons, our organizations are proud to co-sponsor and support AB 2841 (Low). Thank you for your consideration of this important measure.

Sincerely,



Ruth Dawson
Legislative Attorney
ACLU California Action



Dora Rose
Deputy Director
League of Women Voters of California

cc. Assemblymember Low

¹⁰ SB 504 (Becker, 2021-22).