

---

UNFINISHED BUSINESS

---

Bill No: SB 589  
Author: Block (D), et al.  
Amended: 8/20/15  
Vote: 21

---

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 4/21/15  
AYES: Allen, Hancock, Hertzberg, Liu  
NOES: Anderson

SENATE JUDICIARY COMMITTEE: 5-1, 4/28/15  
AYES: Jackson, Hertzberg, Leno, Monning, Wieckowski  
NOES: Anderson  
NO VOTE RECORDED: Moorlach

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 27-10, 5/22/15  
AYES: Allen, Beall, Block, De León, Galgiani, Hall, Hancock, Hernandez,  
Hertzberg, Hill, Hueso, Jackson, Lara, Leno, Leyva, Liu, McGuire, Mendoza,  
Mitchell, Monning, Nguyen, Pan, Pavley, Roth, Vidak, Wieckowski, Wolk  
NOES: Anderson, Bates, Berryhill, Fuller, Gaines, Huff, Moorlach, Morrell,  
Nielsen, Stone  
NO VOTE RECORDED: Cannella, Runner

ASSEMBLY FLOOR: 62-11, 8/27/15 - See last page for vote

---

**SUBJECT:** Voting: voter registration: individuals with disabilities and  
conservatees

**SOURCE:** American Civil Liberties Union

---

**DIGEST:** This bill authorizes an individual with a disability who is otherwise  
qualified to vote to complete an affidavit of registration with reasonable  
accommodations as needed and requires that a person be presumed mentally

competent to vote, regardless of his or her conservatorship status, if the court finds that the person can communicate, with or without reasonable accommodations, a desire to participate in the voting process.

*Assembly Amendments* make technical, conforming changes and add double-jointing language to avoid chaptering problems with AB 1020 (Ridley-Thomas) of the current legislative session and AB 1461 (Gonzalez) of the current legislative session.

## **ANALYSIS:**

Existing law:

- 1) Permits prospective voters to receive assistance from another person when completing an affidavit of registration. If any person assists the affiant in completing the affidavit, that person must sign and date the affidavit below the signature of the affiant.
- 2) Requires an affiant to certify the content of the affidavit of voter registration as to its truth and correctness, under penalty of perjury, with a signature and the date of signing. If the affiant is unable to write he or she may instead sign with a mark or cross or use a signature stamp, as specified.
- 3) Provides, pursuant to the federal Voting Rights Act (42 U.S.C. 1973aa) that no citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any federal, state, or local election conducted in any state or political subdivision of a state. The term “test or device” includes, among other things, any requirement that a person demonstrate the ability to read, write, understand, or interpret any matter.
- 4) Provides, pursuant to the California Constitution, that the Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony.
- 5) Regulates the terms and conditions of conservatorships and creates various requirements for a court and a court investigator with regard to informing a proposed conservatee that he or she may be disqualified from voting if he or she is not capable of completing an affidavit of voter registration. If a court finds that a person is not capable of completing an affidavit of voter registration, as

specified, existing law provides that the person shall be deemed mentally incompetent and disqualified from voting.

- 6) Prohibits a person, including a conservatee, from being disqualified from voting on the basis that the person signs the affidavit of voter registration with a mark or a cross, signs the affidavit of voter registration with a signature stamp, or completes the affidavit of voter registration with the assistance of another person.
- 7) Provides that in certain conservatorship proceedings heard by a jury, requires the jury to unanimously find that the person is incapable of completing an affidavit of registration before the person is disqualified from voting.
- 8) Requires, if an order establishing a conservatorship is made and in connection with the order it is found that the person is incapable of completing an affidavit of voter registration, the court to forward the order and determination to the county elections official of the person's county of residence.
- 9) Provides that during the yearly or biennial review of certain conservatorships, the court investigator must review the person's capability of completing an affidavit of voter registration and, if the conservatee's capability of completing the affidavit of voter registration changes, requires the court investigator to inform the court and the court to hold a hearing regarding that capability.

This bill:

- 1) Contains findings and declarations that federal disability nondiscrimination laws, including Title II of the federal Americans with Disabilities Act, entitle people with disabilities to reasonable accommodations, as needed, to participate in public activities such as voting. Contains further findings and declarations that by explicitly adding the concept of reasonable accommodation to California law on voter qualification, this bill brings the state into compliance with federal standards.
- 2) Provides expressly that an individual with a disability who is otherwise qualified to vote may complete an affidavit of registration with reasonable accommodations as needed.

- 3) Provides expressly that an individual with a disability who is under a conservatorship may be registered to vote if he or she has not been disqualified from voting.
- 4) Provides that a person is presumed competent to vote regardless of his or her conservatorship status.
- 5) Deletes provisions of law that require a person to be deemed mentally incompetent, and therefore disqualified from voting, if a court or jury, as specified, finds that the person is not capable of completing an affidavit of voter registration in accordance with existing law, and instead requires a person to be deemed mentally incompetent, and therefore disqualified from voting, if a court or jury, as specified, finds by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process.
- 6) Prohibits a person from being disqualified from voting on the basis that the person completed the affidavit of voter registration with reasonable accommodations.
- 7) Makes other technical, conforming changes.
- 8) Contains double-jointing language to avoid chaptering problems with AB 1020 (Ridley-Thomas) of the current legislative session and AB 1461 (Gonzalez) of the current legislative session.

## **Background**

*Voting rights of conservatees.* In California, if an adult is unable to manage his or her medical and personal decisions, a conservator of the person may be appointed. While a conservator of the person has charge of the care, custody and control of the conservatee, that power is not absolute. According to a form adopted by the Judicial Council entitled *Notice of Conservatee's Rights*, when a person becomes a conservatee, he or she does not necessarily lose the right to take part in important decisions affecting his or her property and way of life. After appointment of a conservator, the conservatee keeps specified rights including the right to vote unless the court has limited or taken that right away.

Last year the Disability and Abuse Project of Spectrum Institute filed a formal complaint with the United States Department of Justice's Civil Rights Division

against the Los Angeles Superior Court regarding their application of existing state law deeming conservatees ineligible to register to vote if they are not capable of completing an affidavit of voter registration. The complaint asserted that this practice constitutes a violation of the federal Voting Rights Act's prohibition on use of a test or device as a prerequisite for voter registration.

That complaint was the impetus for AB 1311 (Bradford, Chapter 591, Statutes of 2014), which prohibited a person, including a conservatee, from being disqualified from voting on the basis that he or she signs the affidavit of voter registration with mark or a cross, signs the affidavit of voter registration with a signature stamp, or completes the affidavit of registration with the assistance of another person.

## **Comments**

- 1) According to the author, under existing law, adults with developmental disabilities under conservatorships are routinely being disenfranchised at extremely high levels. A review of 61 conservatorship cases involving adults with developmental disabilities in Los Angeles County found that close to 90% of conservatees in those cases had been disqualified from voting due to their actual or perceived inability to complete the voter registration affidavit. Furthermore, this review found that probate attorneys are being trained to disqualify adults under conservatorships from voting when he or she are not able to sign a registration affidavit.

SB 589 will allow disabled individuals under conservatorship to retain their right to vote unless it is shown by clear and convincing evidence that the individual cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process. This is the standard recommended by the American Bar Association and adopted in Nevada and Maryland. This crucial shift will improve the protections of these adults to maintain their voting rights in California.

Under federal disability nondiscrimination laws people with disabilities are entitled to reasonable accommodations as needed to participate in public activities such as voting. While a recent law listed some types of accommodations available to adults under conservatorships to complete a voter registration form, SB 589 conforms California law to federal law by stating that people with disabilities are entitled to reasonable accommodations. This change will help protect the voting rights of adults with developmental disabilities who often fall through the cracks in our democracy.

Protecting the rights of adults with developmental disabilities is critical in maintaining and encouraging an inclusive and diverse electorate. If an adult under conservatorship can convey their desire to engage in the elections system, we should do everything in our power to ensure that they keep their voting rights. SB 589 will be a significant step forward in ensuring that adults under conservatorships don't slip through the cracks in our democracy.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, there are likely minor costs to the courts and to county elections officials.

**SUPPORT:** (Verified 8/28/15)

American Civil Liberties Union (source)  
 AIDS Legal Referral Panel  
 Association of Regional Center Agencies  
 California Association of Clerks and Elections Officials  
 Cal-TASH  
 Disability Rights California  
 Shasta County, County Clerk/Registrar of Voters  
 Spectrum Institute  
 State Council on Developmental Disabilities  
 The Arc and United Cerebral Palsy California Collaboration

**OPPOSITION:** (Verified 8/28/15)

None received

**ASSEMBLY FLOOR:** 62-11, 8/27/15

**AYES:** Achadjian, Alejo, Baker, Bloom, Bonilla, Bonta, Brown, Burke, Calderon, Campos, Chau, Chávez, Chiu, Chu, Cooley, Cooper, Dababneh, Daly, Dodd, Eggman, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Roger Hernández, Holden, Irwin, Jones-Sawyer, Lackey, Levine, Linder, Lopez, Low, Maienschein, McCarty, Medina, Melendez, Mullin, Nazarian, O'Donnell, Olsen, Perea, Quirk, Rendon, Ridley-Thomas, Rodriguez, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Weber, Williams, Wood, Atkins

**NOES:** Travis Allen, Bigelow, Brough, Beth Gaines, Gallagher, Harper, Jones, Mathis, Mayes, Obernolte, Wagner

NO VOTE RECORDED: Chang, Dahle, Frazier, Kim, Patterson, Waldron, Wilk

Prepared by: Darren Chesin / E. & C.A. / (916) 651-4106

8/28/15 14:05:47

\*\*\*\* **END** \*\*\*\*