

Assembly Bill No. 1461

CHAPTER 729

An act to amend Sections 2100 and 2102 of, and to add Chapter 4.5 (commencing with Section 2260) to Division 2 of the Elections Code, relating to elections.

[Approved by Governor October 10, 2015. Filed with
Secretary of State October 10, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1461, Gonzalez. Voter registration: California New Motor Voter Program.

Existing law, the federal National Voter Registration Act of 1993, requires a state to, among other things, establish procedures to register a person to vote by application made simultaneously with an application for a new or renewal of a motor vehicle driver's license. The federal act requires the motor vehicle driver's license application to serve as an application for voter registration with respect to an election for federal office, unless the applicant fails to sign the application, and requires the application to be considered as updating the applicant's previous voter registration, if any. The federal act defines "motor vehicle driver's license" to include any personal identification document issued by a state motor vehicle authority.

Under existing state law, a person may not be registered to vote except by affidavit of registration. Existing law requires a properly executed affidavit of registration to be deemed effective upon receipt of the affidavit by the county elections official if the affidavit is submitted to the Department of Motor Vehicles on or before the 15th day before the election. Existing state law requires the Department of Motor Vehicles and the Secretary of State to develop a process and the infrastructure to allow a person who is qualified to register to vote in the state to register to vote online.

Existing law requires the Department of Motor Vehicles to issue driver's licenses and state identification cards to applicants who meet specified criteria and provide the department with the required information. Existing law generally requires an applicant for an original driver's license or state identification card to submit satisfactory proof to the department that the applicant's presence in the United States is authorized under federal law.

This bill would require the Secretary of State and the Department of Motor Vehicles to establish the California New Motor Voter Program for the purpose of increasing opportunities for voter registration by any person who is qualified to be a voter. Under the program, after the Secretary of State certifies that certain enumerated conditions are satisfied, the Department of Motor Vehicles would be required to electronically provide to the Secretary of State the records of each person who is issued an original or renewal of

a driver's license or state identification card or who provides the department with a change of address, as specified. The person's motor vehicle records would then constitute a completed affidavit of registration and the person would be registered to vote, unless the person affirmatively declined to be registered to vote during a transaction with the department, the department did not represent to the Secretary of State that the person attested that he or she meets all voter eligibility requirements, as specified, or the Secretary of State determines that the person is ineligible to vote. The bill would require the Secretary of State to adopt regulations to implement this program, as specified.

Under existing law, the willful, unauthorized disclosure of information from a Department of Motor Vehicles record to any person, or the use of any false representation to obtain information from a department record or any use of information obtained from any department record for a purpose other than the one stated in the request or the sale or other distribution of the information to a person or organization for purposes not disclosed in the request is a misdemeanor, punishable by a fine not exceeding \$5,000 or by imprisonment in the county jail not exceeding one year, or both fine and imprisonment.

This bill would provide that disclosure of information contained in the records obtained from the Department of Motor Vehicles pursuant to the California New Motor Voter Program is a misdemeanor, punishable by a fine not exceeding \$5,000 or by imprisonment in the county jail not exceeding one year, or both fine and imprisonment. By creating a new crime, this bill would impose a state-mandated local program.

Existing law, the Information Practices Act of 1977, authorizes every state agency to maintain in its records only personal information that is relevant and necessary to accomplish a purpose of the agency, or is required or authorized by state or federal law. That act specifies the situations in which disclosure is permissible and also specifies the manner in which agencies must account for disclosures of personal information, including those due to security breaches, among other provisions.

This bill would require the Secretary of State to establish procedures to safeguard the confidentiality of information acquired from the Department of Motor Vehicles pursuant to the California New Motor Voter Program and would state that the provisions of the Information Practices Act of 1977 govern disclosures pursuant to the program.

Existing law makes it a crime for a person to willfully cause, procure, or allow himself or herself or any other person to be registered as a voter, knowing that he or she or that other person is not entitled to registration. Existing law also makes it a crime to fraudulently vote or attempt to vote.

This bill would provide that if a person who is ineligible to vote becomes registered to vote by operation of the California New Motor Voter Program in the absence of a violation by that person of the crime described above, that person's registration shall be presumed to have been effected with official authorization and not the fault of that person. The bill would also provide that if a person who is ineligible to vote becomes registered to vote

by operation of this program, and that person votes or attempts to vote in an election held after the effective date of the person's registration, that person shall be presumed to have acted with official authorization and is not guilty of fraudulently voting or attempting to vote, unless that person willfully votes or attempts to vote knowing that he or she is not entitled to vote.

This bill would also make conforming changes.

This bill would incorporate additional changes to Section 2102 of the Elections Code, proposed by SB 589, that would become operative only if SB 589 and this bill are both chaptered and become effective on or before January 1, 2016, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 2100 of the Elections Code is amended to read:

2100. A person shall not be registered except as provided in this chapter or Chapter 4.5, except upon the production and filing of a certified copy of a judgment of the superior court directing registration to be made.

SEC. 2. Section 2102 of the Elections Code, as amended by Section 6.5 of Chapter 909 of the Statutes of 2014, is amended to read:

2102. (a) Except as provided in Chapter 4.5, a person shall not be registered as a voter except by affidavit of registration. The affidavit shall be mailed or delivered to the county elections official and shall set forth all of the facts required to be shown by this chapter. A properly executed registration shall be deemed effective upon receipt of the affidavit by the county elections official if received on or before the 15th day prior to an election to be held in the registrant's precinct. A properly executed registration shall also be deemed effective upon receipt of the affidavit by the county elections official if any of the following apply:

(1) The affidavit is postmarked on or before the 15th day prior to the election and received by mail by the county elections official.

(2) The affidavit is submitted to the Department of Motor Vehicles or accepted by any other public agency designated as a voter registration agency pursuant to the federal National Voter Registration Act of 1993 (52 U.S.C. 20501 et seq.) on or before the 15th day prior to the election.

(3) The affidavit is delivered to the county elections official by means other than those described in paragraph (1) and (2) on or before the 15th day prior to the election.

(4) The affidavit is submitted electronically on the Internet Web site of the Secretary of State pursuant to Section 2196 on or before the 15th day prior to the election.

(b) For purposes of verifying a signature on a recall, initiative, or referendum petition or a signature on a nomination paper or any other election petition or election paper, a properly executed affidavit of registration shall be deemed effective for verification purposes if both of the following conditions are satisfied:

(1) The affidavit is signed on the same date or a date prior to the signing of the petition or paper.

(2) The affidavit is received by the county elections official on or before the date on which the petition or paper is filed.

(c) Notwithstanding any other law to the contrary, the affidavit of registration required under this chapter shall not be taken under sworn oath, but the content of the affidavit shall be certified as to its truthfulness and correctness, under penalty of perjury, by the signature of the affiant.

(d) A person who is at least 16 years of age and otherwise meets all eligibility requirements to vote may submit his or her affidavit of registration as prescribed by this section. A properly executed registration made pursuant to this subdivision shall be deemed effective as of the date the affiant will be 18 years of age, if the information in the affidavit of registration is still current at that time. If the information provided by the affiant in the affidavit of registration is not current at the time that the registration would otherwise become effective, for his or her registration to become effective, the affiant shall provide the current information to the proper county elections official as prescribed by this chapter.

SEC. 2.5. Section 2102 of the Elections Code, as amended by Section 6.5 of Chapter 909 of the Statutes of 2014, is amended to read:

2102. (a) Except as provided in Chapter 4.5, a person shall not be registered as a voter except by affidavit of registration. The affidavit of registration shall be mailed or delivered to the county elections official and shall set forth all of the facts required to be shown by this chapter. A properly executed affidavit of registration shall be deemed effective upon receipt of the affidavit by the county elections official if received on or before the 15th day before an election to be held in the registrant's precinct. A properly executed affidavit of registration shall also be deemed effective upon receipt of the affidavit by the county elections official if any of the following apply:

(1) The affidavit is postmarked on or before the 15th day before the election and received by mail by the county elections official.

(2) The affidavit is submitted to the Department of Motor Vehicles or accepted by any other public agency designated as a voter registration agency pursuant to the federal National Voter Registration Act of 1993 (52 U.S.C. Sec. 20501 et seq.) on or before the 15th day before the election.

(3) The affidavit is delivered to the county elections official by means other than those described in paragraphs (1) and (2) on or before the 15th day before the election.

(4) The affidavit is submitted electronically on the Internet Web site of the Secretary of State pursuant to Section 2196 on or before the 15th day before the election.

(b) For purposes of verifying a signature on a recall, initiative, or referendum petition or a signature on a nomination paper or any other election petition or election paper, a properly executed affidavit of registration shall be deemed effective for verification purposes if both of the following conditions are satisfied:

(1) The affidavit is signed on the same date or a date before the signing of the petition or paper.

(2) The affidavit is received by the county elections official on or before the date on which the petition or paper is filed.

(c) Notwithstanding any other law to the contrary, the affidavit of registration required under this chapter shall not be taken under sworn oath, but the content of the affidavit shall be certified as to its truthfulness and correctness, under penalty of perjury, by the signature of the affiant.

(d) A person who is at least 16 years of age and otherwise meets all eligibility requirements to vote may submit his or her affidavit of registration as prescribed by this section. A properly executed affidavit of registration made pursuant to this subdivision shall be deemed effective as of the date the affiant will be 18 years of age, if the information in the affidavit of registration is still current at that time. If the information provided by the affiant in the affidavit of registration is not current at the time that the affidavit of registration would otherwise become effective, for his or her registration to become effective, the affiant shall provide the current information to the proper county elections official as prescribed by this chapter.

(e) An individual with a disability who is otherwise qualified to vote may complete an affidavit of registration with reasonable accommodations as needed.

(f) 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.

SEC. 3. Chapter 4.5 (commencing with Section 2260) is added to Division 2 of the Elections Code, to read:

CHAPTER 4.5. CALIFORNIA NEW MOTOR VOTER PROGRAM

2260. This chapter shall be known and may be cited as the California New Motor Voter Program.

2261. The Legislature finds and declares all of the following:

(a) Voter registration is one of the biggest barriers to participation in our democracy.

(b) In 1993, Congress enacted the federal National Voter Registration Act of 1993 (52 U.S.C. Sec. 20501 et seq.), commonly known as the “Motor Voter Law,” with findings recognizing that the right of citizens to vote is a fundamental right; it is the duty of federal, state, and local governments to promote the exercise of the right to vote; and the primary purpose of the act is to increase the number of eligible citizens who register to vote.

(c) It is the intent of the Legislature to enact the California New Motor Voter Program to provide California citizens additional opportunities to participate in democracy through exercise of their fundamental right to vote.

2262. (a) The Secretary of State and the Department of Motor Vehicles shall establish the California New Motor Voter Program for the purpose of increasing opportunities for voter registration by any person who is qualified to be a voter under Section 2 of Article II of the California Constitution.

(b) This chapter shall not be construed as requiring the Department of Motor Vehicles to determine eligibility for voter registration and voting. The Secretary of State is solely responsible for determining eligibility for voter registration and voting.

2263. (a) The Department of Motor Vehicles, in consultation with the Secretary of State, shall establish a schedule and method for the department to electronically provide to the Secretary of State the records specified in this section.

(b) (1) The department shall provide to the Secretary of State, in a manner and method to be determined by the department in consultation with the Secretary of State, the following information associated with each person who submits an application for a driver's license or identification card pursuant to Section 12800, 12815, or 13000 of the Vehicle Code, or who notifies the department of a change of address pursuant to Section 14600 of the Vehicle Code:

(A) Name.

(B) Date of birth.

(C) Either or both of the following, as contained in the department's records:

(i) Residence address.

(ii) Mailing address.

(D) Digitized signature, as described in Section 12950.5 of the Vehicle Code.

(E) Telephone number, if available.

(F) Email address, if available.

(G) Language preference.

(H) Political party preference.

(I) Whether the person chooses to become a permanent vote by mail voter.

(J) Whether the person affirmatively declined to become registered to vote during a transaction with the department.

(K) A notation that the applicant has attested that he or she meets all voter eligibility requirements, including United States citizenship, specified in Section 2101.

(L) Other information specified in regulations implementing this chapter.

(2) (A) The department may provide the records described in paragraph (1) to the Secretary of State before the Secretary of State certifies that all of the conditions set forth in subdivision (e) of this section have been satisfied. Records provided pursuant to this paragraph shall only be used

for the purposes of outreach and education to eligible voters conducted by the Secretary of State.

(B) The Secretary shall provide materials created for purposes of outreach and education as described in this paragraph in languages other than English, as required by the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503).

(c) The Secretary of State shall not sell, transfer or allow any third party access to the information acquired from the Department of Motor Vehicles pursuant to this chapter without approval of the department, except as permitted by this chapter and Section 2194.

(d) The department shall not electronically provide records of a person who applies for or is issued a driver's license pursuant to Section 12801.9 of the Vehicle Code because he or she is unable to submit satisfactory proof that his or her presence in the United States is authorized under federal law.

(e) The Department of Motor Vehicles shall commence implementation of this section no later than one year after the Secretary of State certifies all of the following:

(1) The State has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Section 20901 et seq.).

(2) The Legislature has appropriated the funds necessary for the Secretary of State and the Department of Motor Vehicles to implement and maintain the California New Motor Voter Program.

(3) The regulations required by Section 2270 have been adopted.

(f) The Department of Motor Vehicles shall not electronically provide records pursuant to this section that contain a home address designated as confidential pursuant to Section 1808.2, 1808.4, or 1808.6 of the Vehicle Code.

2264. (a) The willful, unauthorized disclosure of information obtained from the Department of Motor Vehicles pursuant to Section 2263 to any person, or the use of any false representation to obtain any of that information or the use of any of that information for a purpose other than as stated in Section 2263, is a misdemeanor punishable by a fine not exceeding five thousand dollars (\$5,000) or imprisonment in the county jail not exceeding one year, or both fine and imprisonment.

(b) The Secretary of State shall establish procedures to protect the confidentiality of the information acquired from the Department of Motor Vehicles pursuant to Section 2263. The disclosure of this information shall be governed by the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), and the Secretary of State shall account for any disclosures, including those due to security breaches, in accordance with that act.

2265. (a) The records of a person designated in paragraph (1) of subdivision (b) of Section 2263 shall constitute a completed affidavit of registration and the Secretary of State shall register the person to vote, unless any of the following conditions is satisfied:

(1) The person's records, as described in Section 2263, reflect that he or she affirmatively declined to become registered to vote during a transaction with the Department of Motor Vehicles.

(2) The person's records, as described in Section 2263, do not reflect that he or she has attested to meeting all voter eligibility requirements specified in Section 2101.

(3) The Secretary of State determines that the person is ineligible to vote.

(b) (1) If a person who is registered to vote pursuant to this chapter does not provide a party preference, his or her party preference shall be designated as "Unknown" and he or she shall be treated as a "No Party Preference" voter.

(2) A person whose party preference is designated as "Unknown" pursuant to this subdivision shall not be counted for purposes of determining the total number of voters registered on the specified day preceding an election, as required by subdivision (b) of Section 5100 and subdivision (c) of Section 5151.

2266. A person registered to vote under this chapter may cancel his or her voter registration at any time by any method available to any other registered voter.

2267. This chapter does not affect the confidentiality of a person's voter registration information, which remains confidential pursuant to Section 2194 of this code and Section 6254.4 of the Government Code and for all of the following persons:

(a) A victim of domestic violence, sexual assault, or stalking pursuant to Section 2166.5.

(b) A reproductive health care service provider, employee, volunteer, or patient pursuant to Section 2166.5.

(c) A public safety officer pursuant to Section 2166.7.

(d) A person with a life-threatening circumstance upon court order pursuant to Section 2166.

2268. If a person who is ineligible to vote becomes registered to vote pursuant to this chapter in the absence of a violation by that person of Section 18100, that person's registration shall be presumed to have been effected with official authorization and not the fault of that person.

2269. If a person who is ineligible to vote becomes registered to vote pursuant to this chapter and votes or attempts to vote in an election held after the effective date of the person's registration, that person shall be presumed to have acted with official authorization and shall not be guilty of fraudulently voting or attempting to vote pursuant to Section 18560, unless that person willfully votes or attempts to vote knowing that he or she is not entitled to vote.

2270. The Secretary of State shall adopt regulations to implement this chapter, including regulations addressing both of the following:

(a) A process for canceling the registration of a person who is ineligible to vote, but became registered under the California New Motor Voter Program in the absence of any violation by that person of Section 18100.

(b) An education and outreach campaign informing voters about the California New Motor Voter Program that the Secretary of State will conduct to implement this chapter. The Secretary may use any public and private funds available for this and shall provide materials created for this outreach and education campaign in languages other than English, as required by the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503).

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 2102 of the Elections Code, as amended by Section 6.5 of Chapter 909 of the Statutes of 2014, proposed by both this bill and Senate Bill 589. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 2102 of the Elections Code, as amended by Section 6.5 of Chapter 909 of the Statutes of 2014, and (3) this bill is enacted after Senate Bill 589, in which case Section 2 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.