

**Introduced by Senator Block**

February 26, 2015

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An act to amend ~~Section 1826~~ Sections 2102, 2150, 2208, and 2209 of the Elections Code, and to amend Sections 1823, 1826, 1828, 1851, and 1910 of the Probate Code, relating to ~~conservatorships~~ voting.

LEGISLATIVE COUNSEL'S DIGEST

SB 589, as amended, Block. ~~Conservatorships~~—Voting: voter registration: individuals with disabilities and conservatees.

(1) Existing law requires that a person be registered as a voter by affidavit of registration and provides that a properly executed registration is deemed effective if it is received on or before the 15th day before an election to be held in the registrant's precinct. Existing law requires the affidavit of registration to show certain information of the affiant and requires the affiant to certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with the signature of the affiant's name and the date of signing, except that if the affiant is unable to write, a mark or cross must be used to sign the affidavit.

This bill would authorize an individual with a disability who is otherwise qualified to vote to complete an affidavit of registration with reasonable accommodations as needed. The bill would also authorize an individual with a disability who is under a conservatorship to be registered to vote if he or she has not been disqualified from voting. The bill would authorize an affiant who is an individual with a disability to complete the affidavit of registration with reasonable accommodations as needed. The bill would find and declare that by explicitly adding the

*concept of reasonable accommodation to state laws on voter qualification, the bill brings the state into compliance with federal standards.*

*(2) Existing law deems a person mentally incompetent, and therefore disqualified from voting if, during certain proceedings including conservatorship proceedings, the court finds that the person is incapable of completing an affidavit of voter registration. Existing law, 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. 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, existing law requires the court to forward the order and determination to the county elections official of the person's county of residence. Existing law, during the yearly or biennial review of certain conservatorships, requires the court investigator to 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 would instead require that a person be presumed competent to vote, regardless of his or her conservatorship status, and would require that a person be deemed mentally incompetent, and therefore disqualified from voting if, during certain proceedings including conservatorship proceedings, the court finds by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process. In certain conservatorship proceedings heard by a jury, the bill would require the jury to instead unanimously find by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process before the person is disqualified from voting. The bill would also require an order establishing a conservatorship to instead find by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process before the court is required to forward the order and determination to the county elections official of the person's county of residence. The bill, during the yearly or biennial review of certain conservatorships, would instead require the court investigator to review the person's capability of communicating, with*

*or without reasonable accommodations, a desire to participate in the voting process, and if the conservatee's capability of communicating that desire has changed, would require the court investigator to inform the court and the court to hold a hearing regarding that capability.*

*(3) Existing law regulates the terms and conditions of conservatorships and requires a court clerk, if a conservatorship petition is filed by a person other than the proposed conservatee, to issue a citation to the proposed conservatee that includes, among other things, a statement that the proposed conservatee may be disqualified from voting if he or she is incapable of completing an affidavit of voter registration, and a statement that the proposed conservatee will not be disqualified from voting if he or she would need to complete the affidavit by signing it with a mark, cross, or signature stamp, or with the assistance of another person. Existing law requires a court hearing on a petition for the appointment of a conservator and requires a court investigator, before the court hearing and as part of periodic review after the appointment of the conservator to, among other things, determine if the proposed conservatee is incapable of completing an affidavit of voter registration, as specified, and may be disqualified from voting. Existing law provides that a conservatee is not disqualified from voting on the basis that he or she would need to complete the affidavit by signing it with a mark, cross, or signature stamp, or with the assistance of another person.*

*This bill would require the court clerk's citation to the proposed conservatee, as described above, to instead include a statement that the proposed conservatee may be disqualified from voting if he or she is incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process, and a statement that the proposed conservatee will not be disqualified from voting if he or she would also need to complete the affidavit with reasonable accommodations. The bill would require the court investigator, before the court hearing and as part of periodic reviews after the appointment of a conservator to, among other things, instead determine whether the proposed conservatee is incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process, and may be disqualified from voting. The bill would also provide that a conservatee is not disqualified from voting on the basis that he or she would need to complete the affidavit with reasonable accommodations. By requiring local officials to perform additional duties, the bill would impose a state-mandated local program.*

(4) *This bill would also make technical, nonsubstantive changes to these provisions.*

(5) *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 with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

~~Existing law regulates the terms and conditions of conservatorships and requires a court investigator, among other things, to determine whether the proposed conservatee is not capable of completing an affidavit of voter registration, as specified, and may be disqualified from voting.~~

~~This bill would further specify that the court investigator is required to determine whether the proposed conservatee is not capable of completing an affidavit of voter registration with or without appropriate assistance.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

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

1     *SECTION 1. The Legislature finds and declares that federal*  
 2     *disability nondiscrimination laws, including Title II of the federal*  
 3     *American with Disabilities Act, entitle people with disabilities to*  
 4     *reasonable accommodations, as needed, to participate in public*  
 5     *activities such as voting. The Legislature further finds and declares*  
 6     *that by explicitly adding the concept of reasonable accommodation*  
 7     *to California laws on voter qualification, this act brings the state*  
 8     *into compliance with federal standards.*

9     *SEC. 2. Section 2102 of the Elections Code, as amended by*  
 10    *Section 5 of Chapter 909 of the Statutes of 2014, is amended to*  
 11    *read:*

12    2102. (a) A person ~~may~~ *shall* not be registered as a voter except  
 13    by affidavit of registration. The affidavit shall be mailed or  
 14    delivered to the county elections official and shall set forth all of

1 the facts required to be shown by this chapter. A properly executed  
2 *affidavit of registration* shall be deemed effective upon receipt of  
3 the affidavit by the county elections official if received on or before  
4 the 15th day ~~prior to~~ *before* an election to be held in the registrant's  
5 precinct. A properly executed *affidavit of registration* shall also  
6 be deemed effective upon receipt of the affidavit by the county  
7 elections official if any of the following apply:

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

11 (2) The affidavit is submitted to the Department of Motor  
12 Vehicles or accepted by any other public agency designated as a  
13 voter registration agency pursuant to the federal National Voter  
14 Registration Act of 1993 (~~42 U.S.C. Sec. 1973gg~~ (52 U.S.C. Sec.  
15 20501 et seq.) on or before the 15th day ~~prior to~~ *before* the election.

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

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

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

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

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

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

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

1 (e) An individual with a disability who is under a  
 2 conservatorship may be registered to vote if he or she has not been  
 3 disqualified from voting.

4 SEC. 3. Section 2102 of the Elections Code, as amended by  
 5 Section 6.5 of Chapter 909 of the Statutes of 2014, is amended to  
 6 read:

7 2102. (a) A person shall not be registered as a voter except by  
 8 affidavit of registration. The affidavit shall be mailed or delivered  
 9 to the county elections official and shall set forth all of the facts  
 10 required to be shown by this chapter. A properly executed *affidavit*  
 11 *of* registration shall be deemed effective upon receipt of the  
 12 affidavit by the county elections official if received on or before  
 13 the 15th day ~~prior to~~ *before* an election to be held in the registrant's  
 14 precinct. A properly executed *affidavit of* registration shall also  
 15 be deemed effective upon receipt of the affidavit by the county  
 16 elections official if any of the following apply:

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

20 (2) The affidavit is submitted to the Department of Motor  
 21 Vehicles or accepted by any other public agency designated as a  
 22 voter registration agency pursuant to the federal National Voter  
 23 Registration Act of 1993 (~~42 U.S.C. Sec. 1973gg~~ *52 U.S.C. Sec.*  
 24 *20501* et seq.) on or before the 15th day ~~prior to~~ *before* the election.

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

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

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

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

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

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

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

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

21 (f) *An individual with a disability who is under a conservatorship*  
22 *may be registered to vote if he or she has not been disqualified*  
23 *from voting.*

24 *SEC. 4. Section 2150 of the Elections Code, as amended by*  
25 *Section 8 of Chapter 1 of the Statutes of 2009, is amended to read:*

26 2150. (a) The affidavit of registration shall show:

27 (1) The facts necessary to establish the affiant as an elector.

28 (2) The affiant's name at length, including his or her given  
29 name, and a middle name or initial, or if the initial of the given  
30 name is customarily used, then the initial and middle name. The  
31 affiant's given name may be preceded, at affiant's option, by the  
32 designation of Miss, Ms., Mrs., or Mr. A person shall not be denied  
33 the right to register because of his or her failure to mark a prefix  
34 to the given name and shall be so advised on the voter registration  
35 card. This subdivision shall not be construed as requiring the  
36 printing of prefixes on an affidavit of registration.

37 (3) The affiant's place of residence, residence telephone number,  
38 if furnished, and ~~e-mail~~ *email* address, if furnished. ~~No~~ A person  
39 shall *not* be denied the right to register because of his or her failure

1 to furnish a telephone number or ~~e-mail~~ *email* address, and shall  
2 be so advised on the voter registration card.

3 (4) The affiant's mailing address, if different from the place of  
4 residence.

5 (5) The affiant's date of birth to establish that he or she will be  
6 at least 18 years of age on or before the date of the next election.

7 (6) The state or country of the affiant's birth.

8 (7) (A) In the case of an applicant who has been issued a current  
9 and valid driver's license, the applicant's driver's license number.

10 (B) In the case of any other applicant, other than an applicant  
11 to whom subparagraph (C) applies, the last four digits of the  
12 applicant's social security number.

13 (C) If an applicant for voter registration has not been issued a  
14 current and valid driver's license or a social security number, the  
15 state shall assign the applicant a number that will serve to identify  
16 the applicant for voter registration purposes. ~~To the extent that~~ *If*  
17 the state has a computerized list in effect under this ~~subdivision~~  
18 *paragraph* and the list assigns unique identifying numbers to  
19 registrants, the number assigned under this subparagraph shall be  
20 the unique identifying number assigned under the list.

21 (8) The affiant's political party preference.

22 (9) That the affiant is currently not imprisoned or on parole for  
23 the conviction of a felony.

24 (10) A prior registration portion indicating ~~whether~~ *if* the affiant  
25 has been registered at another address, under another name, or as  
26 preferring another party. If the affiant has been so registered, he  
27 or she shall give an additional statement giving that address, name,  
28 or party.

29 (b) The affiant shall certify the content of the affidavit *of*  
30 *registration* as to its ~~truth~~ *truthfulness* and correctness, under  
31 penalty of perjury, with the signature of his or her name and the  
32 date of signing. If the affiant is unable to write he or she shall sign  
33 with a mark or cross. *An affiant who is an individual with a*  
34 *disability may complete the affidavit with reasonable*  
35 *accommodations as needed.*

36 (c) The affidavit of registration shall also contain a space that  
37 would enable the affiant to state his or her ethnicity or race, or  
38 both. An affiant may not be denied the ability to register because  
39 he or she declines to state his or her ethnicity or race.

1 (d) If ~~any~~ a person, including a deputy registrar, assists the  
2 affiant in completing the ~~affidavit~~, *affidavit of registration*, that  
3 person shall sign and date the affidavit below the signature of the  
4 affiant.

5 (e) The affidavit of registration shall also contain a space to  
6 permit the affiant to apply for permanent vote by mail status.

7 (f) The Secretary of State may continue to supply existing  
8 affidavits of registration to county elections officials ~~prior to~~ *before*  
9 printing new or revised forms that reflect the changes made to this  
10 section by ~~the act that added this subdivision. Chapter 508 of the~~  
11 *Statutes of 2007.*

12 *SEC. 5. Section 2150 of the Elections Code, as amended by*  
13 *Section 3 of Chapter 619 of the Statutes of 2014, is amended to*  
14 *read:*

15 2150. (a) The affidavit of registration shall show:

16 (1) The facts necessary to establish the affiant as an elector.

17 (2) The affiant's name at length, including his or her given  
18 name, and a middle name or initial, or if the initial of the given  
19 name is customarily used, then the initial and middle name. The  
20 affiant's given name may be preceded, at affiant's option, by the  
21 designation of Miss, Ms., Mrs., or Mr. A person shall not be denied  
22 the right to register because of his or her failure to mark a prefix  
23 to the given name and shall be so advised on the voter registration  
24 card. This subdivision shall not be construed as requiring the  
25 printing of prefixes on an affidavit of registration.

26 (3) The affiant's place of residence, residence telephone number,  
27 if furnished, and ~~e-mail~~ *email* address, if furnished. A person shall  
28 not be denied the right to register because of his or her failure to  
29 furnish a telephone number or ~~e-mail~~ *email* address, and shall be  
30 so advised on the voter registration card.

31 (4) The affiant's mailing address, if different from the place of  
32 residence.

33 (5) The affiant's date of birth to establish that he or she will be  
34 at least 18 years of age on or before the date of the next election.  
35 In the case of an affidavit of registration submitted pursuant to  
36 subdivision (d) of Section 2102, the affiant's date of birth to  
37 establish that he or she is at least 16 years of age.

38 (6) The state or country of the affiant's birth.

39 (7) (A) In the case of an applicant who has been issued a current  
40 and valid driver's license, the applicant's driver's license number.

1 (B) In the case of any other applicant, other than an applicant  
2 to whom subparagraph (C) applies, the last four digits of the  
3 applicant's social security number.

4 (C) If an applicant for voter registration has not been issued a  
5 current and valid driver's license or a social security number, the  
6 state shall assign the applicant a number that will serve to identify  
7 the applicant for voter registration purposes. ~~To the extent that~~ *If*  
8 the state has a computerized list in effect under this ~~subdivision~~  
9 *paragraph* and the list assigns unique identifying numbers to  
10 registrants, the number assigned under this subparagraph shall be  
11 the unique identifying number assigned under the list.

12 (8) The affiant's political party preference.

13 (9) That the affiant is currently not imprisoned or on parole for  
14 the conviction of a felony.

15 (10) A prior registration portion indicating whether the affiant  
16 has been registered at another address, under another name, or as  
17 preferring another party. If the affiant has been so registered, he  
18 or she shall give an additional statement giving that address, name,  
19 or party.

20 (b) The affiant shall certify the content of the affidavit *of*  
21 *registration* as to its ~~truth~~ *truthfulness* and correctness, under  
22 penalty of perjury, with the signature of his or her name and the  
23 date of signing. If the affiant is unable to write he or she shall sign  
24 with a mark or cross. *An affiant who is an individual with a*  
25 *disability may complete the affidavit with reasonable*  
26 *accommodations as needed.*

27 (c) The affidavit of registration shall also contain a space that  
28 would enable the affiant to state his or her ethnicity or race, or  
29 both. An affiant shall not be denied the ability to register because  
30 he or she declines to state his or her ethnicity or race.

31 (d) If a person, including a deputy registrar, assists the affiant  
32 in completing the ~~affidavit~~, *affidavit of registration*, that person  
33 shall sign and date the affidavit below the signature of the affiant.

34 (e) The affidavit of registration shall also contain a space to  
35 permit the affiant to apply for permanent vote by mail status.

36 (f) The Secretary of State may continue to supply existing  
37 affidavits of registration to county elections officials ~~prior to~~ *before*  
38 printing new or revised forms that reflect the changes made to this  
39 section by ~~the act that added this subdivision~~. *Chapter 508 of the*  
40 *Statutes of 2007.*

1     *SEC. 6. Section 2208 of the Elections Code is amended to read:*

2     2208. (a) *A person is presumed competent to vote regardless*  
3 *of his or her conservatorship status. A person shall be deemed*  
4 *mentally incompetent, and therefore disqualified from voting, if,*  
5 *during the course of any of the proceedings set forth below, the*  
6 *court finds that the person is not capable of completing an affidavit*  
7 *of voter registration in accordance with Section 2150 by clear and*  
8 *convincing evidence that the person cannot communicate, with or*  
9 *without reasonable accommodations, a desire to participate in the*  
10 *voting process, and any of the following apply:*

11     (1) *A conservator for the person or the person and estate is*  
12 *appointed pursuant to Division 4 (commencing with Section 1400)*  
13 *of the Probate Code.*

14     (2) *A conservator for the person or the person and estate is*  
15 *appointed pursuant to Chapter 3 (commencing with Section 5350)*  
16 *of Part 1 of Division 5 of the Welfare and Institutions Code.*

17     (3) *A conservator is appointed for the person pursuant to*  
18 *proceedings initiated under Section 5352.5 of the Welfare and*  
19 *Institutions Code, the person has been found not competent to*  
20 *stand trial, and the person's trial or judgment has been suspended*  
21 *pursuant to Section 1370 of the Penal Code.*

22     (4) *A person has plead not guilty by reason of insanity, has been*  
23 *found to be not guilty pursuant to Section 1026 of the Penal Code,*  
24 *and is deemed to be gravely disabled at the time of judgment as*  
25 *defined in paragraph (2) of subdivision (h) of Section 5008 of the*  
26 *Welfare and Institutions Code.*

27     (b) *If the proceeding under the Welfare and Institutions Code*  
28 *is heard by a jury, the jury shall unanimously find that the person*  
29 *is not capable of completing an affidavit of voter registration by*  
30 *clear and convincing evidence that the person cannot communicate,*  
31 *with or without reasonable accommodations, a desire to participate*  
32 *in the voting process before the person shall be disqualified from*  
33 *voting.*

34     (c) *If an order establishing a conservatorship is made and in*  
35 *connection with the order it is found by clear and convincing*  
36 *evidence that the person is not capable of completing an affidavit*  
37 *of voter registration, cannot communicate, with or without*  
38 *reasonable accommodations, a desire to participate in the voting*  
39 *process, the court shall forward the order and determination to the*  
40 *county elections official of the person's county of residence.*

1 (d) A person shall not be disqualified from voting pursuant to  
 2 this section on the basis that he or she does, or would need to do,  
 3 any of the following to complete an affidavit of voter registration:

4 (1) Signs the affidavit of voter registration with a mark or a  
 5 cross pursuant to subdivision (b) of Section 2150.

6 (2) Signs the affidavit of voter registration by means of a  
 7 signature stamp pursuant to Section 354.5.

8 (3) Completes the affidavit of voter registration with the  
 9 assistance of another person pursuant to subdivision (d) of Section  
 10 2150.

11 (4) *Completes the affidavit of voter registration with reasonable*  
 12 *accommodations.*

13 *SEC. 7. Section 2209 of the Elections Code is amended to read:*

14 2209. (a) For conservatorships established pursuant to Division  
 15 4 (commencing with Section 1400) of the Probate Code, the court  
 16 investigator shall, during the yearly or biennial review of the  
 17 conservatorship as required by Chapter 2 (commencing with  
 18 Section 1850) of Part 3 of Division 4 of the Probate Code, review  
 19 the person’s capability of ~~completing an affidavit of voter~~  
 20 ~~registration in accordance with Section 2150; communicating, with~~  
 21 ~~or without reasonable accommodations, a desire to participate in~~  
 22 ~~the voting process.~~

23 (b) (1) If the person had been disqualified from voting *by reason*  
 24 *of being incapable of communicating, with or without reasonable*  
 25 *accommodations, a desire to participate in the voting process, or*  
 26 *by reason of being incapable of completing an affidavit of voter*  
 27 *registration, the court investigator shall determine whether if the*  
 28 *person has become capable of completing the affidavit in*  
 29 *accordance with Section 2150 and subdivision (d) of Section 2208,*  
 30 *is capable of communicating, with or without reasonable*  
 31 *accommodations, a desire to participate in the voting process, and*  
 32 *the investigator shall so inform the court.*

33 (2) If the investigator finds that the person is ~~capable of~~  
 34 ~~completing the affidavit in accordance with Section 2150 and~~  
 35 ~~subdivision (d) of Section 2208, incapable of communicating, with~~  
 36 ~~or without reasonable accommodations, a desire to participate in~~  
 37 ~~the voting process, the court shall hold a hearing to determine~~  
 38 ~~whether the person is in fact capable of completing the affidavit.~~  
 39 ~~If~~ *if, by clear and convincing evidence, the person cannot*  
 40 *communicate, with or without reasonable accommodations, a*

1 *desire to participate in the voting process. Unless the person is*  
2 ~~found to be capable of completing the affidavit, incapable of~~  
3 *communicating that desire, the person’s right to register to vote*  
4 *shall be restored, and the court shall so notify the county elections*  
5 *official.*

6 ~~(c) If the person had not been found to be incapable of~~  
7 ~~completing an affidavit of voter registration, and the court~~  
8 ~~investigator determines that the person is no longer capable of~~  
9 ~~completing the affidavit in accordance with Section 2150 and~~  
10 ~~subdivision (d) of Section 2208, has not been found incapable of~~  
11 *communicating, with or without reasonable accommodations, a*  
12 *desire to participate in the voting process, and the court*  
13 *investigator determines that the person is no longer capable of*  
14 *communicating that desire, the investigator shall so notify the*  
15 *court. The court shall hold a hearing to determine whether the*  
16 *person is capable of completing an affidavit of voter registration*  
17 *in accordance with Section 2150 and subdivision (d) of Section*  
18 *2208: if, by clear and convincing evidence, the person cannot*  
19 *communicate, with or without reasonable accommodations, a*  
20 *desire to participate in the voting process. If the court determines*  
21 *that the person is not so able, cannot communicate that desire, the*  
22 *court shall order the person to be disqualified from voting pursuant*  
23 *to Section 2208, and the court shall so notify the county elections*  
24 *official.*

25 *SEC. 8. Section 1823 of the Probate Code is amended to read:*

26 1823. (a) If the petition is filed by a person other than the  
27 proposed conservatee, the clerk shall issue a citation directed to  
28 the proposed conservatee setting forth the time and place of  
29 hearing.

30 (b) The citation shall include a statement of the legal standards  
31 by which the need for a conservatorship is adjudged as stated in  
32 Section 1801 and shall state the substance of all of the following:

33 (1) The proposed conservatee may be adjudged unable to  
34 provide for personal needs or to manage financial resources and,  
35 by reason thereof, a conservator may be appointed for the person  
36 or estate, or both.

37 (2) Such adjudication may affect or transfer to the conservator  
38 the proposed conservatee’s right to contract, in whole or in part,  
39 to manage and control property, to give informed consent for  
40 medical treatment, and to fix a residence.

1 (3) (A) The proposed conservatee may be disqualified from  
 2 voting pursuant to Section 2208 of the Elections Code if he or she  
 3 ~~is not capable of completing an affidavit of voter registration in~~  
 4 ~~accordance with Section 2150 of the Elections Code.~~ *incapable of*  
 5 *communicating, with or without reasonable accommodations, a*  
 6 *desire to participate in the voting process.*

7 (B) The proposed conservatee shall not be disqualified from  
 8 voting on the basis that he or she does, or would need to do, any  
 9 of the following to complete an affidavit of voter registration:

10 (i) Signs the affidavit of voter registration with a mark or a cross  
 11 pursuant to subdivision (b) of Section 2150 of the Elections Code.

12 (ii) Signs the affidavit of voter registration by means of a  
 13 signature stamp pursuant to Section 354.5 of the Elections Code.

14 (iii) Completes the affidavit of voter registration with the  
 15 assistance of another person pursuant to subdivision (d) of Section  
 16 2150 of the Elections Code.

17 (iv) *Completes the affidavit of voter registration with reasonable*  
 18 *accommodations.*

19 (4) The court or a court investigator will explain the nature,  
 20 purpose, and effect of the proceeding to the proposed conservatee  
 21 and will answer questions concerning the explanation.

22 (5) The proposed conservatee has the right to appear at the  
 23 hearing and to oppose the petition, and in the case of an alleged  
 24 developmentally disabled adult, to oppose the petition in part, by  
 25 objecting to any or all of the requested duties or powers of the  
 26 limited conservator.

27 (6) The proposed conservatee has the right to choose and be  
 28 represented by legal counsel and has the right to have legal counsel  
 29 appointed by the court if unable to retain legal counsel.

30 (7) The proposed conservatee has the right to a jury trial if  
 31 desired.

32 **SECTION 1.**

33 *SEC. 9.* Section 1826 of the Probate Code is amended to read:  
 34 1826. (a) Regardless of whether the proposed conservatee  
 35 attends the hearing, the court investigator shall do all of the  
 36 following:

37 ~~(a)~~

38 (1) Conduct the following interviews:

39 ~~(1)~~

40 (A) The proposed conservatee personally.

1     ~~(2)~~

2     (B) All petitioners and all proposed conservators who are not  
3 petitioners.

4     ~~(3)~~

5     (C) The proposed conservatee’s spouse or registered domestic  
6 partner and relatives within the first degree. If the proposed  
7 conservatee does not have a spouse, registered domestic partner,  
8 or relatives within the first degree, to the greatest extent possible,  
9 the proposed conservatee’s relatives within the second degree.

10    ~~(4)~~

11    (D) To the greatest extent practical and taking into account the  
12 proposed conservatee’s wishes, the proposed conservatee’s relatives  
13 within the second degree not required to be interviewed under  
14 ~~paragraph (3)~~; *subparagraph (C)*, neighbors, and, if known, close  
15 friends.

16    ~~(b)~~

17    (2) Inform the proposed conservatee of the contents of the  
18 citation, of the nature, purpose, and effect of the proceeding, and  
19 of the right of the proposed conservatee to oppose the proceeding,  
20 to attend the hearing, to have the matter of the establishment of  
21 the conservatorship tried by jury, to be represented by legal counsel  
22 if the proposed conservatee so chooses, and to have legal counsel  
23 appointed by the court if unable to retain legal counsel.

24    ~~(c)~~

25    (3) ~~Determine whether~~ *if* it appears that the proposed conservatee  
26 is unable to attend the hearing and, if able to attend, whether the  
27 proposed conservatee is willing to attend the hearing.

28    ~~(d)~~

29    (4) Review the allegations of the petition as to why the  
30 appointment of the conservator is required and, in making his or  
31 her determination, do the following:

32    ~~(1)~~

33    (A) Refer to the supplemental information form submitted by  
34 the petitioner and consider the facts set forth in the form that  
35 address each of the categories specified in paragraphs (1) to (5),  
36 inclusive, of subdivision (a) of Section 1821.

37    ~~(2)~~

38    (B) Consider, to the extent practicable, whether he or she  
39 believes the proposed conservatee suffers from any of the mental  
40 function deficits listed in subdivision (a) of Section 811 that

- 1 significantly impairs the proposed conservatee’s ability to  
 2 understand and appreciate the consequences of his or her actions  
 3 in connection with any of the functions described in subdivision  
 4 (a) or (b) of Section 1801 and identify the observations that support  
 5 that belief.
- 6 ~~(e)~~
- 7 (5) Determine ~~whether~~ *if* the proposed conservatee wishes to  
 8 contest the establishment of the conservatorship.
- 9 ~~(f)~~
- 10 (6) Determine ~~whether~~ *if* the proposed conservatee objects to  
 11 the proposed conservator or prefers another person to act as  
 12 conservator.
- 13 ~~(g)~~
- 14 (7) Determine ~~whether~~ *if* the proposed conservatee wishes to  
 15 be represented by legal counsel and, if so, whether the proposed  
 16 conservatee has retained legal counsel and, if not, the name of an  
 17 attorney the proposed conservatee wishes to retain.
- 18 ~~(h) (1)~~
- 19 (8) (A) Determine ~~whether~~ *if* the proposed conservatee is ~~not~~  
 20 ~~capable of completing an affidavit of voter registration in~~  
 21 ~~accordance with Section 2150 of the Elections Code, with or~~  
 22 ~~without appropriate assistance, incapable of communicating, with~~  
 23 ~~or without reasonable accommodations, a desire to participate in~~  
 24 ~~the voting process, and may be disqualified from voting pursuant~~  
 25 ~~to Section 2208 of the Elections Code.~~
- 26 ~~(2)~~
- 27 (B) The proposed conservatee shall not be disqualified from  
 28 voting on the basis that he or she does, or would need to do, any  
 29 of the following to complete an affidavit of voter registration:
- 30 ~~(A)~~
- 31 (i) Signs the affidavit of voter registration with a mark or a cross  
 32 pursuant to subdivision (b) of Section 2150 of the Elections Code.
- 33 ~~(B)~~
- 34 (ii) Signs the affidavit of voter registration by means of a  
 35 signature stamp pursuant to Section 354.5 of the Elections Code.
- 36 ~~(C)~~
- 37 (iii) Completes the affidavit of voter registration with the  
 38 assistance of another person pursuant to subdivision (d) of Section  
 39 2150 of the Elections Code.

1 (iv) Completes the affidavit of voter registration with reasonable  
2 accommodations.

3 ~~(i)~~

4 (9) If the proposed conservatee has not retained legal counsel,  
5 determine ~~whether~~ if the proposed conservatee desires the court  
6 to appoint legal counsel.

7 ~~(j)~~

8 (10) Determine whether the appointment of legal counsel would  
9 be helpful to the resolution of the matter or is necessary to protect  
10 the interests of the proposed conservatee in ~~any~~ a case where the  
11 proposed conservatee does not plan to retain legal counsel and has  
12 not requested the appointment of legal counsel by the court.

13 ~~(k)~~

14 (11) Report to the court in writing, at least five days before the  
15 hearing, concerning all of the foregoing, including the proposed  
16 conservatee's express communications concerning both of the  
17 following:

18 ~~(1)~~

19 (A) Representation by legal counsel.

20 ~~(2) Whether~~

21 (B) If the proposed conservatee is not willing to attend the  
22 hearing, does not wish to contest the establishment of the  
23 conservatorship, and does not object to the proposed conservator  
24 or ~~prefer~~ prefers that another person act as conservator.

25 ~~(3)~~

26 (12) Mail, at least five days before the hearing, a copy of the  
27 report referred to in ~~subdivision (k)~~ paragraph (11) to all of the  
28 following:

29 ~~(1)~~

30 (A) The attorney, if any, for the petitioner.

31 ~~(2)~~

32 (B) The attorney, if any, for the proposed conservatee.

33 ~~(3)~~

34 (C) The proposed conservatee.

35 ~~(4)~~

36 (D) The spouse, registered domestic partner, and relatives within  
37 the first degree of the proposed conservatee who are required to  
38 be named in the petition for appointment of the conservator, unless  
39 the court determines that the mailing will result in harm to the  
40 conservatee.

1 ~~(5)~~

2 (E) Any other persons as the court orders.

3 ~~(m)~~

4 (b) The court investigator has discretion to release the report  
5 required by this section to the public conservator, interested public  
6 agencies, and the long-term care ombudsman.

7 ~~(n)~~

8 (c) The report required by this section is confidential and shall  
9 be made available only to parties, persons described in ~~subdivision~~  
10 ~~(t)~~, *paragraph (12) of subdivision (a)*, persons given notice of the  
11 petition who have requested this report or who have appeared in  
12 the proceedings, their attorneys, and the court. The court has  
13 discretion at any other time to release the report, if it would serve  
14 the interests of the conservatee. The clerk of the court shall provide  
15 for the limitation of the report exclusively to persons entitled to  
16 its receipt.

17 ~~(o)~~

18 (d) This section does not apply to a proposed conservatee who  
19 has personally executed the petition for conservatorship, or ~~one a~~  
20 *proposed conservatee* who has nominated his or her own  
21 conservator, if he or she attends the hearing.

22 ~~(p)~~

23 (e) If the court investigator has performed an investigation  
24 within the preceding six months and furnished a report thereon to  
25 the court, the court may order, upon good cause shown, that another  
26 investigation is not necessary or that a more limited investigation  
27 may be performed.

28 ~~(q) Any~~

29 (f) An investigation by the court investigator related to a  
30 temporary conservatorship also may be a part of the investigation  
31 for the general petition for conservatorship, but the court  
32 investigator shall make a second visit to the proposed conservatee  
33 and the report required by this section shall include the effect of  
34 the temporary conservatorship on the proposed conservatee.

35 ~~(r)~~

36 (g) The Judicial Council shall, on or before January 1, 2009,  
37 adopt rules of court and Judicial Council forms as necessary to  
38 implement an expedited procedure to authorize, by court order, a  
39 proposed conservatee's health care provider to disclose confidential  
40 medical information about the proposed conservatee to a court

1 investigator pursuant to federal medical information privacy  
2 regulations promulgated under the *federal* Health Insurance  
3 Portability and Accountability Act of ~~1996~~. *1996 (Public Law*  
4 *104-191)*.

5 (s)

6 (h) A superior court shall not be required to perform any duties  
7 imposed pursuant to the amendments to this section enacted by  
8 Chapter 493 of the Statutes 2006 until the Legislature makes an  
9 appropriation identified for this purpose.

10 *SEC. 10. Section 1828 of the Probate Code is amended to read:*

11 1828. (a) Except as provided in subdivision (c), ~~prior to before~~  
12 the establishment of a conservatorship of the person or estate, or  
13 both, the court shall inform the proposed conservatee of all of the  
14 following:

15 (1) The nature and purpose of the proceeding.

16 (2) The establishment of a conservatorship is a legal adjudication  
17 of the conservatee's inability properly to provide for the  
18 conservatee's personal needs or to manage the conservatee's own  
19 financial resources, or both, depending on the allegations made  
20 and the determinations requested in the petition, and the effect of  
21 such an adjudication on the conservatee's basic rights.

22 (3) (A) The proposed conservatee may be disqualified from  
23 voting pursuant to Section 2208 of the Elections Code if he or she  
24 is ~~not capable of completing an affidavit of voter registration in~~  
25 ~~accordance with Section 2150 of the Elections Code.~~ *incapable of*  
26 *communicating, with or without reasonable accommodations, a*  
27 *desire to participate in the voting process.*

28 (B) The proposed conservatee shall not be disqualified from  
29 voting on the basis that he or she does, or would need to do, any  
30 of the following to complete an affidavit of voter registration:

31 (i) Signs the affidavit of voter registration with a mark or a cross  
32 pursuant to subdivision (b) of Section 2150 of the Elections Code.

33 (ii) Signs the affidavit of voter registration by means of a  
34 signature stamp pursuant to Section 354.5 of the Elections Code.

35 (iii) Completes the affidavit of voter registration with the  
36 assistance of another person pursuant to subdivision (d) of Section  
37 2150 of the Elections Code.

38 (iv) *Completes the affidavit of voter registration with reasonable*  
39 *accommodations.*

40 (4) The identity of the proposed conservator.

1 (5) The nature and effect on the conservatee's basic rights of  
 2 any order requested under Chapter 4 (commencing with Section  
 3 1870), and in the case of an allegedly developmentally disabled  
 4 adult, the specific effects of each limitation requested in such order.

5 (6) The proposed conservatee has the right to oppose the  
 6 proceeding, to have the matter of the establishment of the  
 7 conservatorship tried by jury, to be represented by legal counsel  
 8 if the proposed conservatee so chooses, and to have legal counsel  
 9 appointed by the court if unable to retain legal counsel.

10 (b) After the court so informs the proposed conservatee and  
 11 ~~prior to~~ *before* the establishment of the conservatorship, the court  
 12 shall consult the proposed conservatee to determine the proposed  
 13 conservatee's opinion concerning all of the following:

14 (1) The establishment of the conservatorship.

15 (2) The appointment of the proposed conservator.

16 (3) Any order requested under Chapter 4 (commencing with  
 17 Section 1870), and in the case of an allegedly developmentally  
 18 disabled adult, of each limitation requested in such order.

19 (c) This section does not apply where both of the following  
 20 conditions are satisfied:

21 (1) The proposed conservatee is absent from the hearing and is  
 22 not required to attend the hearing under subdivision (a) of Section  
 23 1825.

24 (2) Any showing required by Section 1825 has been made.

25 *SEC. 11. Section 1851 of the Probate Code is amended to read:*

26 1851. (a) (1) If court review is required pursuant to Section  
 27 1850, the court investigator shall, without prior notice to the  
 28 conservator except as ordered by the court for necessity or to  
 29 prevent harm to the conservatee, visit the conservatee. The court  
 30 investigator shall inform the conservatee personally that the  
 31 conservatee is under a conservatorship and shall give the name of  
 32 the conservator to the conservatee. The court investigator shall  
 33 determine all of the following:

34 (A) ~~Whether~~ *If* the conservatee wishes to petition the court for  
 35 termination of the conservatorship.

36 (B) ~~Whether~~ *If* the conservatee is still in need of the  
 37 conservatorship.

38 (C) ~~Whether~~ *If* the present conservator is acting in the best  
 39 interests of the conservatee. In determining ~~whether~~ *if* the  
 40 conservator is acting in the best interests of the conservatee, the

1 court investigator’s evaluation shall include an examination of the  
2 conservatee’s placement, the quality of care, including physical  
3 and mental treatment, and the conservatee’s finances. To the extent  
4 practicable, the investigator shall review the accounting with a  
5 conservatee who has sufficient capacity. To the greatest extent  
6 possible, the court investigator shall interview individuals set forth  
7 in *paragraph (1) of subdivision (a) of Section 1826*, in order to  
8 determine if the conservator is acting in the best interests of the  
9 conservatee.

10 (D) (i) ~~Whether the conservatee is not capable of completing~~  
11 ~~an affidavit of voter registration in accordance with Section 2150~~  
12 ~~of the Elections Code—If the conservatee is incapable of~~  
13 ~~communicating, with or without reasonable accommodations, a~~  
14 ~~desire to participate in the voting process and may be disqualified~~  
15 ~~from voting pursuant to Section 2208 or 2209 of the Elections~~  
16 ~~Code.~~

17 (ii) The conservatee shall not be disqualified from voting on  
18 the basis that he or she does, or would need to do, any of the  
19 following to complete an affidavit of voter registration:

20 (I) Signs the affidavit of voter registration with a mark or a cross  
21 pursuant to subdivision (b) of Section 2150 of the Elections Code.

22 (II) Signs the affidavit of voter registration by means of a  
23 signature stamp pursuant to Section 354.5 of the Elections Code.

24 (III) Completes the affidavit of voter registration with the  
25 assistance of another person pursuant to subdivision (d) of Section  
26 2150 of the Elections Code.

27 (IV) *Completes the affidavit of voter registration with reasonable*  
28 *accommodations.*

29 (2) If the court has made an order under Chapter 4 (commencing  
30 with Section 1870), the court investigator shall determine ~~whether~~  
31 *if* the present condition of the conservatee is such that the terms  
32 of the order should be modified or the order revoked.

33 (3) Upon request of the court investigator, the conservator shall  
34 make available to the court investigator during the investigation  
35 for inspection and copying all books and records, including receipts  
36 and any expenditures, of the conservatorship.

37 (b) (1) The findings of the court investigator, including the  
38 facts upon which the findings are based, shall be certified in writing  
39 to the court not less than 15 days ~~prior to~~ *before* the date of review.

40 A copy of the report shall be mailed to the conservator and to the

1 attorneys of record for the conservator and conservatee at the same  
2 time it is certified to the court. A copy of the report, modified as  
3 set forth in paragraph (2), also shall be mailed to the conservatee's  
4 spouse or registered domestic partner, the conservatee's relatives  
5 in the first degree, and if there are no such relatives, to the next  
6 closest relative, unless the court determines that the mailing will  
7 result in harm to the conservatee.

8 (2) Confidential medical information and confidential  
9 information from the California Law Enforcement  
10 Telecommunications System shall be in a separate attachment to  
11 the report and shall not be provided in copies sent to the  
12 conservatee's spouse or registered domestic partner, the  
13 conservatee's relatives in the first degree, and if there are no such  
14 relatives, to the next closest relative.

15 (c) In the case of a limited conservatee, the court investigator  
16 shall make a recommendation regarding the continuation or  
17 termination of the limited conservatorship.

18 (d) The court investigator may personally visit the conservator  
19 and other persons as may be necessary to determine ~~whether~~ *if* the  
20 present conservator is acting in the best interests of the conservatee.

21 (e) The report required by this section shall be confidential and  
22 shall be made available only to parties, persons described in  
23 subdivision (b), persons given notice of the petition who have  
24 requested the report or who have appeared in the proceeding, their  
25 attorneys, and the court. The court shall have discretion at any  
26 other time to release the report if it would serve the interests of  
27 the conservatee. The clerk of the court shall ~~make provision for~~  
28 ~~limiting~~ *limit* disclosure of the report exclusively to persons entitled  
29 ~~thereto to the report~~ under this section.

30 ~~(f) The amendments made to this section by the act adding this~~  
31 ~~subdivision shall become operative on July 1, 2007.~~

32 ~~(g)~~

33 (f) A superior court shall not be required to perform any duties  
34 imposed pursuant to the amendments to this section enacted by  
35 Chapter 493 of the Statutes 2006 until the Legislature makes an  
36 appropriation identified for this purpose.

37 *SEC. 12. Section 1910 of the Probate Code is amended to read:*

38 1910. (a) If the court determines the conservatee is ~~not capable~~  
39 ~~of completing an affidavit of voter registration in accordance with~~  
40 ~~Section 2150 of the Elections Code, incapable of communicating,~~

1 *with or without reasonable accommodations, a desire to participate*  
2 *in the voting process, the court shall by order disqualify the*  
3 *conservatee from voting pursuant to Section 2208 or 2209 of the*  
4 *Elections Code.*

5 (b) The conservatee shall not be disqualified from voting on the  
6 basis that he or she does, or would need to do, any of the following  
7 to complete an affidavit of voter registration:

8 (1) Signs the affidavit of voter registration with a mark or a  
9 cross pursuant to subdivision (b) of Section 2150 of the Elections  
10 Code.

11 (2) Signs the affidavit of voter registration by means of a  
12 signature stamp pursuant to Section 354.5 of the Elections Code.

13 (3) Completes the affidavit of voter registration with the  
14 assistance of another person pursuant to subdivision (d) of Section  
15 2150 of the Elections Code.

16 (4) *Completes the affidavit of voter registration with reasonable*  
17 *accommodations.*

18 *SEC. 13. No reimbursement is required by this act pursuant*  
19 *to Section 6 of Article XIII B of the California Constitution for*  
20 *certain costs that may be incurred by a local agency or school*  
21 *district because in that regard this act implements a federal law*  
22 *or regulation and results only in costs mandated by the federal*  
23 *government, within the meaning of Section 17556 of the*  
24 *Government Code.*

25 *However, if the Commission on State Mandates determines that*  
26 *this act contains other costs mandated by the state, reimbursement*  
27 *to local agencies and school districts for those costs shall be made*  
28 *pursuant to Part 7 (commencing with Section 17500) of Division*  
29 *4 of Title 2 of the Government Code.*