

AMENDED IN ASSEMBLY JUNE 18, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 589**

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**Introduced by Senator Block**

February 26, 2015

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An act to amend 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 voting.

LEGISLATIVE COUNSEL'S DIGEST

SB 589, as amended, Block. 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: 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, Act of 1990 (Public Law 101-336),  
 4 entitle people with disabilities to reasonable accommodations, as  
 5 needed, to participate in public activities such as voting. The  
 6 Legislature further finds and declares that by explicitly adding the  
 7 concept of reasonable accommodation to California laws on voter  
 8 qualification, this act brings the state into compliance with federal  
 9 standards.

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

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

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

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

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

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

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

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

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

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

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

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

32 SEC. 3. Section 2102 of the Elections Code, as amended by  
33 Section 6.5 of Chapter 909 of the Statutes of 2014, is amended to  
34 read:

35 2102. (a) A person shall not be registered as a voter except by  
36 affidavit of registration. The affidavit *of registration* shall be mailed  
37 or delivered to the county elections official and shall set forth all  
38 of the facts required to be shown by this chapter. A properly  
39 executed affidavit of registration shall be deemed effective upon  
40 receipt of the affidavit by the county elections official if received

1 on or before the 15th day before an election to be held in the  
2 registrant's precinct. A properly executed affidavit of registration  
3 shall also be deemed effective upon receipt of the affidavit by the  
4 county elections official if any of the following apply:

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

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

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

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

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

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

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

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

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

1 registration to become effective, the affiant shall provide the current  
2 information to the proper county elections official as prescribed  
3 by this chapter.

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

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

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

12 2150. (a) The affidavit of registration shall show:

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

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

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

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

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

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

33 (7) (A) In the case of an ~~applicant~~ *affiant* who has been issued  
34 a current and valid driver's license, the ~~applicant's~~ *affiant's* driver's  
35 license number.

36 (B) In the case of any other ~~applicant~~, *affiant*, other than an  
37 ~~applicant~~ *affiant* to whom subparagraph (C) applies, the last four  
38 digits of the ~~applicant's~~ *affiant's* social security number.

39 (C) If ~~an applicant~~ for a voter registration *affiant* has not been  
40 issued a current and valid driver's license or a social security

1 number, the state shall assign the applicant a number that will serve  
2 to identify the ~~applicant~~ *affiant* for voter registration purposes. If  
3 the state has a computerized list in effect under this paragraph and  
4 the list assigns unique identifying numbers to registrants, the  
5 number assigned under this subparagraph shall be the unique  
6 identifying number assigned under the list.

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

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

10 (10) A prior registration portion indicating if the affiant has  
11 been registered at another address, under another name, or as  
12 preferring another party. If the affiant has been so registered, he  
13 or she shall give an additional statement giving that address, name,  
14 or party.

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

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

26 (d) If a person, including a deputy registrar, assists the affiant  
27 in completing the affidavit of registration, that person shall sign  
28 and date the affidavit below the signature of the affiant.

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

31 (f) The Secretary of State may continue to supply existing  
32 affidavits of registration to county elections officials before printing  
33 new or revised forms that reflect the changes made to this section  
34 by Chapter 508 of the Statutes of 2007.

35 SEC. 5. Section 2150 of the Elections Code, as amended by  
36 Section 3 of Chapter 619 of the Statutes of 2014, is amended to  
37 read:

38 2150. (a) The affidavit of registration shall show:

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

1 (2) The affiant's name at length, including his or her given  
2 name, and a middle name or initial, or if the initial of the given  
3 name is customarily used, then the initial and middle name. The  
4 affiant's given name may be preceded, at *the* affiant's option, by  
5 the designation of Miss, Ms., Mrs., or Mr. A person shall not be  
6 denied the right to register because of his or her failure to mark a  
7 prefix to the given name and shall be so advised on the voter  
8 registration card. This subdivision shall not be construed as  
9 requiring the printing of prefixes on an affidavit of registration.

10 (3) The affiant's place of residence, residence telephone number,  
11 if furnished, and email address, if furnished. A person shall not be  
12 denied the right to register because of his or her failure to furnish  
13 a telephone number or email address, and shall be so advised on  
14 the voter registration card.

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

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

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

23 (7) (A) In the case of an ~~applicant~~ *affiant* who has been issued  
24 a current and valid driver's license, the ~~applicant's~~ *affiant's* driver's  
25 license number.

26 (B) In the case of any other ~~applicant~~, *affiant*, other than an  
27 ~~applicant~~ *affiant* to whom subparagraph (C) applies, the last four  
28 digits of the ~~applicant's~~ *affiant's* social security number.

29 (C) If ~~an applicant~~ for a voter registration *affiant* has not been  
30 issued a current and valid driver's license or a social security  
31 number, the state shall assign the ~~applicant~~ *affiant* a number that  
32 will serve to identify the ~~applicant~~ *affiant* for voter registration  
33 purposes. If the state has a computerized list in effect under this  
34 paragraph and the list assigns unique identifying numbers to  
35 registrants, the number assigned under this subparagraph shall be  
36 the unique identifying number assigned under the list.

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

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

1 (10) A prior registration portion indicating whether the affiant  
2 has been registered at another address, under another name, or as  
3 preferring another party. If the affiant has been so registered, he  
4 or she shall give an additional statement giving that address, name,  
5 or party.

6 (b) The affiant shall certify the content of the affidavit of  
7 registration as to its truthfulness and correctness, under penalty of  
8 perjury, with the signature of his or her name and the date of  
9 signing. If the affiant is unable to write he or she shall sign with  
10 a mark or cross. An affiant who is an individual with a disability  
11 may complete the affidavit with reasonable accommodations as  
12 needed.

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

17 (d) If a person, including a deputy registrar, assists the affiant  
18 in completing the affidavit of registration, that person shall sign  
19 and date the affidavit below the signature of the affiant.

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

22 (f) The Secretary of State may continue to supply existing  
23 affidavits of registration to county elections officials before printing  
24 new or revised forms that reflect the changes made to this section  
25 by Chapter 508 of the Statutes of 2007.

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

27 2208. (a) A person is presumed competent to vote regardless  
28 of his or her conservatorship status. A person shall be deemed  
29 mentally incompetent, and therefore disqualified from voting, if,  
30 during the course of any of the proceedings set forth below, the  
31 court finds by clear and convincing evidence that the person cannot  
32 communicate, with or without reasonable accommodations, a desire  
33 to participate in the voting process, and any of the following apply:

34 (1) A conservator for the person or the person and estate is  
35 appointed pursuant to Division 4 (commencing with Section 1400)  
36 of the Probate Code.

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

1 (3) A conservator is appointed for the person pursuant to  
2 proceedings initiated under Section 5352.5 of the Welfare and  
3 Institutions Code, the person has been found not competent to  
4 stand trial, and the person's trial or judgment has been suspended  
5 pursuant to Section 1370 of the Penal Code.

6 (4) A person has ~~plead~~ *pleaded* not guilty by reason of insanity,  
7 has been found to be not guilty pursuant to Section 1026 of the  
8 Penal Code, and is deemed to be gravely disabled at the time of  
9 judgment as defined in paragraph (2) of subdivision (h) of Section  
10 5008 of the Welfare and Institutions Code.

11 (b) If the proceeding under the Welfare and Institutions Code  
12 is heard by a jury, the jury shall unanimously find by clear and  
13 convincing evidence that the person cannot communicate, with or  
14 without reasonable accommodations, a desire to participate in the  
15 voting process before the person shall be disqualified from voting.

16 (c) If an order establishing a conservatorship is made and in  
17 connection with the order it is found by clear and convincing  
18 evidence that the person cannot communicate, with or without  
19 reasonable accommodations, a desire to participate in the voting  
20 process, the court shall forward the order and determination to the  
21 county elections official of the person's county of residence.

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

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

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

29 (3) Completes the affidavit of voter registration with the  
30 assistance of another person pursuant to subdivision (d) of Section  
31 2150.

32 (4) Completes the affidavit of voter registration with reasonable  
33 accommodations.

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

35 2209. (a) For conservatorships established pursuant to Division  
36 4 (commencing with Section 1400) of the Probate Code, the court  
37 investigator shall, during the yearly or biennial review of the  
38 conservatorship as required by Chapter 2 (commencing with  
39 Section 1850) of Part 3 of Division 4 of the Probate Code, review  
40 the person's capability of communicating, with or without

1 reasonable accommodations, a desire to participate in the voting  
2 process.

3 (b) ~~(1)~~ If the person had been disqualified from voting by reason  
4 of being incapable of communicating, with or without reasonable  
5 accommodations, a desire to participate in the voting process, or  
6 by reason of being incapable of completing an affidavit of voter  
7 registration, the court investigator shall determine if the person is  
8 ~~capable~~ *continues to be incapable* of communicating, with or  
9 without reasonable accommodations, a desire to participate in the  
10 voting process, and the investigator shall so inform the court. *If*  
11 *the investigator determines that the person continues to be*  
12 *incapable of communicating, with or without reasonable*  
13 *accommodations, a desire to participate in the voting process, a*  
14 *court hearing on the issue is unnecessary. If the investigator finds*  
15 *that the person is not incapable of communicating, with or without*  
16 *reasonable accommodations, a desire to participate in the voting*  
17 *process, the court shall hold a hearing to determine if, by clear*  
18 *and convincing evidence, the person cannot communicate, with*  
19 *or without reasonable accommodations, a desire to participate in*  
20 *the voting process. Unless the person is found incapable of*  
21 *communicating that desire, the person's right to register to vote*  
22 *shall be restored, and the court shall so notify the county elections*  
23 *official.*

24 ~~(2) If the investigator finds that the person is incapable of~~  
25 ~~communicating, with or without reasonable accommodations, a~~  
26 ~~desire to participate in the voting process, the court shall hold a~~  
27 ~~hearing to determine if, by clear and convincing evidence, the~~  
28 ~~person cannot communicate, with or without reasonable~~  
29 ~~accommodations, a desire to participate in the voting process.~~  
30 ~~Unless the person is found incapable of communicating that desire,~~  
31 ~~the person's right to register to vote shall be restored, and the court~~  
32 ~~shall so notify the county elections official.~~

33 (c) If the person has not been found incapable of communicating,  
34 with or without reasonable accommodations, a desire to participate  
35 in the voting process, and the court investigator determines that  
36 the person is no longer capable of communicating that desire, the  
37 investigator shall so notify the court. The court shall hold a hearing  
38 to determine if, by clear and convincing evidence, the person  
39 cannot communicate, with or without reasonable accommodations,  
40 a desire to participate in the voting process. If the court determines

1 that the person cannot communicate that desire, the court shall  
2 order the person to be disqualified from voting pursuant to Section  
3 2208, and the court shall so notify the county elections official.

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

5 1823. (a) If the petition is filed by a person other than the  
6 proposed conservatee, the clerk shall issue a citation directed to  
7 the proposed conservatee setting forth the time and place of  
8 hearing.

9 (b) The citation shall ~~include a statement of~~ *state* the legal  
10 standards by which the need for a conservatorship is adjudged as  
11 stated in Section 1801 and shall state the substance of all of the  
12 following:

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

17 (2) Such adjudication may affect or transfer to the conservator  
18 the proposed conservatee's right to contract, in whole or in part,  
19 to manage and control property, to give informed consent for  
20 medical treatment, and to fix a residence.

21 (3) (A) The proposed conservatee may be disqualified from  
22 voting pursuant to Section 2208 of the Elections Code if he or she  
23 is incapable of communicating, with or without reasonable  
24 accommodations, a desire to participate in the voting process.

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

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

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

32 (iii) Completes the affidavit of voter registration with the  
33 assistance of another person pursuant to subdivision (d) of Section  
34 2150 of the Elections Code.

35 (iv) Completes the affidavit of voter registration with reasonable  
36 accommodations.

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

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

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

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

11 SEC. 9. Section 1826 of the Probate Code is amended to read:

12 1826. (a) Regardless of whether the proposed conservatee  
13 attends the hearing, the court investigator shall do all of the  
14 following:

15 (1) Conduct the following interviews:

16 (A) The proposed conservatee personally.

17 (B) All petitioners and all proposed conservators who are not  
18 petitioners.

19 (C) The proposed conservatee's spouse or registered domestic  
20 partner and relatives within the first degree. If the proposed  
21 conservatee does not have a spouse, registered domestic partner,  
22 or relatives within the first degree, to the greatest extent possible,  
23 the proposed conservatee's relatives within the second degree.

24 (D) To the greatest extent practical and taking into account the  
25 proposed conservatee's wishes, the proposed conservatee's relatives  
26 within the second degree not required to be interviewed under  
27 subparagraph (C), neighbors, and, if known, close friends.

28 (2) Inform the proposed conservatee of the contents of the  
29 citation, of the nature, purpose, and effect of the proceeding, and  
30 of the right of the proposed conservatee to oppose the proceeding,  
31 to attend the hearing, to have the matter of the establishment of  
32 the conservatorship tried by jury, to be represented by legal counsel  
33 if the proposed conservatee so chooses, and to have legal counsel  
34 appointed by the court if unable to retain legal counsel.

35 (3) Determine if it appears that the proposed conservatee is  
36 unable to attend the hearing and, if able to attend, whether the  
37 proposed conservatee is willing to attend the hearing.

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

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

5 (B) Consider, to the extent practicable, whether he or she  
6 believes the proposed conservatee suffers from any of the mental  
7 function deficits listed in subdivision (a) of Section 811 that  
8 significantly impairs the proposed conservatee's ability to  
9 understand and appreciate the consequences of his or her actions  
10 in connection with any of the functions described in subdivision  
11 (a) or (b) of Section 1801 and identify the observations that support  
12 that belief.

13 (5) Determine if the proposed conservatee wishes to contest the  
14 establishment of the conservatorship.

15 (6) Determine if the proposed conservatee objects to the  
16 proposed conservator or prefers another person to act as  
17 conservator.

18 (7) Determine if the proposed conservatee wishes to be  
19 represented by legal counsel and, if so, whether the proposed  
20 conservatee has retained legal counsel and, if not, the name of an  
21 attorney the proposed conservatee wishes to retain.

22 (8) (A) Determine if the proposed conservatee is incapable of  
23 communicating, with or without reasonable accommodations, a  
24 desire to participate in the voting process, and may be disqualified  
25 from voting pursuant to Section 2208 of the Elections Code.

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

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

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

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

36 (iv) Completes the affidavit of voter registration with reasonable  
37 accommodations.

38 (9) If the proposed conservatee has not retained legal counsel,  
39 determine if the proposed conservatee desires the court to appoint  
40 legal counsel.

1 (10) Determine ~~whether~~ *if* the appointment of legal counsel  
2 would be helpful to the resolution of the matter or is necessary to  
3 protect the interests of the proposed conservatee in a case where  
4 the proposed conservatee does not plan to retain legal counsel and  
5 has not requested the appointment of legal counsel by the court.

6 (11) Report to the court in writing, at least five days before the  
7 hearing, concerning all of the foregoing, including the proposed  
8 conservatee's express communications concerning both of the  
9 following:

10 (A) Representation by legal counsel.

11 (B) If the proposed conservatee is not willing to attend the  
12 hearing, does not wish to contest the establishment of the  
13 conservatorship, and does not object to the proposed conservator  
14 or prefers that another person act as conservator.

15 (12) Mail, at least five days before the hearing, a copy of the  
16 report referred to in paragraph (11) to all of the following:

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

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

19 (C) The proposed conservatee.

20 (D) The spouse, registered domestic partner, and relatives within  
21 the first degree of the proposed conservatee who are required to  
22 be named in the petition for appointment of the conservator, unless  
23 the court determines that the mailing will ~~result in harm to~~ *harm*  
24 the conservatee.

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

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

29 (c) The report required by this section is confidential and shall  
30 be made available only to parties, persons described in paragraph  
31 (12) of subdivision (a), persons given notice of the petition who  
32 have requested this report or who have appeared in the proceedings,  
33 their attorneys, and the court. The court has discretion at any other  
34 time to release the report, if it would serve the interests of the  
35 conservatee. The clerk of the court shall provide for the limitation  
36 of the report exclusively to persons entitled to its receipt.

37 (d) This section does not apply to a proposed conservatee who  
38 has personally executed the petition for conservatorship, or a  
39 proposed conservatee who has nominated his or her own  
40 conservator, if he or she attends the hearing.

1 (e) If the court investigator has performed an investigation  
2 within the preceding six months and furnished a report thereon to  
3 the court, the court may order, upon good cause shown, that another  
4 investigation is not necessary or that a more limited investigation  
5 may be performed.

6 (f) An investigation by the court investigator related to a  
7 temporary conservatorship also may be a part of the investigation  
8 for the general petition for conservatorship, but the court  
9 investigator shall make a second visit to the proposed conservatee  
10 and the report required by this section shall include the effect of  
11 the temporary conservatorship on the proposed conservatee.

12 (g) The Judicial Council shall, on or before January 1, 2009,  
13 adopt rules of court and Judicial Council forms as necessary to  
14 implement an expedited procedure to authorize, by court order, a  
15 proposed conservatee's health care provider to disclose confidential  
16 medical information about the proposed conservatee to a court  
17 investigator pursuant to federal medical information privacy  
18 regulations promulgated under the federal Health Insurance  
19 Portability and Accountability Act of 1996 (Public Law 104-191).

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

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

25 1828. (a) Except as provided in subdivision (c), before the  
26 establishment of a conservatorship of the person or estate, or both,  
27 the court shall inform the proposed conservatee of all of the  
28 following:

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

30 (2) The establishment of a conservatorship is a legal adjudication  
31 of the conservatee's inability ~~properly to~~ *to properly* provide for  
32 the conservatee's personal needs or to manage the conservatee's  
33 own financial resources, or both, depending on the allegations  
34 made and the determinations requested in the petition, and the  
35 effect of such an adjudication on the conservatee's basic rights.

36 (3) (A) The proposed conservatee may be disqualified from  
37 voting pursuant to Section 2208 of the Elections Code if he or she  
38 is incapable of communicating, with or without reasonable  
39 accommodations, a desire to participate in the voting process.

1 (B) The proposed conservatee shall not be disqualified from  
 2 voting on the basis that he or she does, or would need to do, any  
 3 of the following to complete an affidavit of voter registration:  
 4 (i) Signs the affidavit of voter registration with a mark or a cross  
 5 pursuant to subdivision (b) of Section 2150 of the Elections Code.  
 6 (ii) Signs the affidavit of voter registration by means of a  
 7 signature stamp pursuant to Section 354.5 of the Elections Code.  
 8 (iii) Completes the affidavit of voter registration with the  
 9 assistance of another person pursuant to subdivision (d) of Section  
 10 2150 of the Elections Code.  
 11 (iv) Completes the affidavit of voter registration with reasonable  
 12 accommodations.  
 13 (4) The identity of the proposed conservator.  
 14 (5) The nature and effect on the conservatee’s basic rights of  
 15 any order requested under Chapter 4 (commencing with Section  
 16 1870), and in the case of an allegedly developmentally disabled  
 17 adult, the specific effects of each limitation requested in such order.  
 18 (6) The proposed conservatee has the right to oppose the  
 19 proceeding, to have the matter of the establishment of the  
 20 conservatorship tried by jury, to be represented by legal counsel  
 21 if the proposed conservatee so chooses, and to have legal counsel  
 22 appointed by the court if unable to retain legal counsel.  
 23 (b) After the court so informs the proposed conservatee and  
 24 before the establishment of the conservatorship, the court shall  
 25 consult the proposed conservatee to determine the proposed  
 26 conservatee’s opinion concerning all of the following:  
 27 (1) The establishment of the conservatorship.  
 28 (2) The appointment of the proposed conservator.  
 29 (3) Any order requested under Chapter 4 (commencing with  
 30 Section 1870), and in the case of an allegedly developmentally  
 31 disabled adult, of each limitation requested in such order.  
 32 (c) This section does not apply where both of the following  
 33 conditions are satisfied:  
 34 (1) The proposed conservatee is absent from the hearing and is  
 35 not required to attend the hearing under subdivision (a) of Section  
 36 1825.  
 37 (2) Any showing required by Section 1825 has been made.  
 38 SEC. 11. Section 1851 of the Probate Code is amended to read:  
 39 1851. (a) (1) If court review is required pursuant to Section  
 40 1850, the court investigator shall, without prior notice to the

1 conservator except as ordered by the court for necessity or to  
2 prevent harm to the conservatee, visit the conservatee. The court  
3 investigator shall inform the conservatee personally that the  
4 conservatee is under a conservatorship and shall give the name of  
5 the conservator to the conservatee. The court investigator shall  
6 determine all of the following:

7 (A) If the conservatee wishes to petition the court for termination  
8 of the conservatorship.

9 (B) If the conservatee is still in need of the conservatorship.

10 (C) If the present conservator is acting in the best interests of  
11 the conservatee. In determining if the conservator is acting in the  
12 best interests of the conservatee, the court investigator's evaluation  
13 shall include an examination of the conservatee's placement, the  
14 quality of care, including physical and mental treatment, and the  
15 conservatee's finances. To the extent practicable, the investigator  
16 shall review the accounting with a conservatee who has sufficient  
17 capacity. To the greatest extent possible, the court investigator  
18 shall interview individuals set forth in paragraph (1) of subdivision  
19 (a) of Section 1826, in order to determine if the conservator is  
20 acting in the best interests of the conservatee.

21 (D) (i) If the conservatee is incapable of communicating, with  
22 or without reasonable accommodations, a desire to participate in  
23 the voting process and may be disqualified from voting pursuant  
24 to Section 2208 or 2209 of the Elections Code.

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

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

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

32 (III) Completes the affidavit of voter registration with the  
33 assistance of another person pursuant to subdivision (d) of Section  
34 2150 of the Elections Code.

35 (IV) Completes the affidavit of voter registration with reasonable  
36 accommodations.

37 (2) If the court has made an order under Chapter 4 (commencing  
38 with Section 1870), the court investigator shall determine if the  
39 present condition of the conservatee is such that the terms of the  
40 order should be modified or the order revoked.

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

5 (b) (1) The findings of the court investigator, including the  
6 facts upon which the findings are based, shall be certified in writing  
7 to the court not less than 15 days before the date of review. A copy  
8 of the report shall be mailed to the conservator and to the attorneys  
9 of record for the conservator and conservatee at the same time it  
10 is certified to the court. A copy of the report, modified as set forth  
11 in paragraph (2), also shall be mailed to the conservatee's spouse  
12 or registered domestic partner, the conservatee's relatives in the  
13 first degree, and if there are no such relatives, to the next closest  
14 relative, unless the court determines that the mailing will ~~result in~~  
15 ~~harm to~~ *harm* the conservatee.

16 (2) Confidential medical information and confidential  
17 information from the California Law Enforcement  
18 Telecommunications System shall be in a separate attachment to  
19 the report and shall not be provided in copies sent to the  
20 conservatee's spouse or registered domestic partner, the  
21 conservatee's relatives in the first degree, and if there are no such  
22 relatives, to the next closest relative.

23 (c) In the case of a limited conservatee, the court investigator  
24 shall ~~make a recommendation regarding the continuation or~~  
25 ~~termination of~~ *recommend continuing or terminating* the limited  
26 conservatorship.

27 (d) The court investigator may personally visit the conservator  
28 and other persons as may be necessary to determine if the present  
29 conservator is acting in the best interests of the conservatee.

30 (e) The report required by this section shall be confidential and  
31 shall be made available only to parties, persons described in  
32 subdivision (b), persons given notice of the petition who have  
33 requested the report or who have appeared in the proceeding, their  
34 attorneys, and the court. The court shall have discretion at any  
35 other time to release the report if it would serve the interests of  
36 the conservatee. The clerk of the court shall limit disclosure of the  
37 report exclusively to persons entitled to the report under this  
38 section.

39 (f) A superior court shall not be required to perform any duties  
40 imposed pursuant to the amendments to this section enacted by

1 Chapter 493 of the Statutes *of* 2006 until the Legislature makes an  
2 appropriation identified for this purpose.

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

4 1910. (a) If the court determines the conservatee is incapable  
5 of communicating, with or without reasonable accommodations,  
6 a desire to participate in the voting process, the court shall by order  
7 disqualify the conservatee from voting pursuant to Section 2208  
8 or 2209 of the Elections Code.

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

12 (1) Signs the affidavit of voter registration with a mark or a  
13 cross pursuant to subdivision (b) of Section 2150 of the Elections  
14 Code.

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

17 (3) Completes the affidavit of voter registration with the  
18 assistance of another person pursuant to subdivision (d) of Section  
19 2150 of the Elections Code.

20 (4) Completes the affidavit of voter registration with reasonable  
21 accommodations.

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

29 However, if the Commission on State Mandates determines that  
30 this act contains other costs mandated by the state, reimbursement  
31 to local agencies and school districts for those costs shall be made  
32 pursuant to Part 7 (commencing with Section 17500) of Division  
33 4 of Title 2 of the Government Code.