

<p>California Department of Justice DIVISION OF LAW ENFORCEMENT John D. Marsh, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p>Access to Voting for Eligible Persons Under the Supervision of Probation Departments</p>	<p><i>No.</i></p> <p>2022-DLE-15</p>	<p><i>Contact for information:</i></p> <p>John D. Marsh, Chief Division of Law Enforcement (916) 210-6300</p>
	<p><i>Date:</i></p> <p>10/11/2022</p>	

TO: ALL PROBATION DEPARTMENTS

The purpose of this Information Bulletin is to remind probation departments of their legal obligations under existing state laws and the California Constitution regarding voting access to persons who are currently under the supervision of probation departments.

Probation officers have specific obligations to ensure that persons with a criminal history who are under their supervision are provided information regarding their eligibility to vote. Given that this year's Election Day is **November 8, 2022**, and in light of recent statutory and constitutional changes to the eligibility to vote for persons with a criminal history, this bulletin reminds probation departments of these obligations and provides a template letter to help convey information regarding voting rights to eligible voters under their supervision.

I. WHO IS ELIGIBLE TO VOTE?

The right to vote is fundamental and guaranteed to all eligible citizens in the California Constitution. Among those Californians who are entitled to exercise this crucial right are persons with a criminal history (i.e., past convictions), as well as eligible persons currently incarcerated in California's local detention facilities,¹ subject to certain exceptions.

A. Eligibility Requirements

Under California law, a person is eligible to vote if they:

- Are a United States citizen;
- Are a California resident;
- Are at least 18 years old by Election Day (which, this year, is **November 8, 2022**);
- Are not currently serving a state or federal prison term; and
- Have not been declared mentally incompetent by a Court.²

(Cal. Const., Art., II, §§ 2, 4; Elec. Code, § 2101.)

¹ "Local detention facility" means any city, county, city and county, or regional jail, camp, court holding facility, or other correctional facility, whether publicly or privately operated, used for confinement of adults or of both adults and minors, but does not include that portion of a facility for confinement of both adults and minors which is devoted only to the confinement of minors. (Cal. Code Regs. tit. 15, § 1006.)

² For information regarding this requirement, see [Voting Rights: Persons Subject to Conservatorship](#).

B. Persons With a Criminal History Who are not Currently Incarcerated Are Allowed to Vote, Even if on Probation or Parole

Once a person is released from serving a state or federal prison term for a felony conviction,³ their criminal history **does not** impact their ability to vote, even if following their release they remain on:

- Parole;
- Probation;
- Mandatory supervision;
- Post-release community supervision;
- Federal supervised release; or
- Have a juvenile wardship adjudication.

Prior to November 2020, the right to vote in California excluded persons on parole for a felony conviction. In November 2020, California voters approved Proposition 17, the Voting Rights Restoration for Persons on Parole Amendment. Proposition 17 amended the California Constitution to allow people on parole for felony convictions to vote in California. (Cal. Const., Art., II, §§ 2, 4.)

Accordingly, under California law, persons with a criminal history who served a felony prison sentence are entitled to vote regardless of their post-release supervision status, provided that they meet all other requirements, including citizenship, age, residency, and competency requirements. County probation departments should thus review their existing policies or informational materials, if any exist, applicable to or designed to inform persons with a criminal history to ensure that these materials reflect the current the current state of the law (i.e., post-Proposition 17), which **allows persons on parole from felony convictions to vote**.

II. PROBATION OFFICERS' RESPONSIBILITIES TO PROVIDE VOTING INFORMATION TO ELIGIBLE VOTERS WITHIN THEIR JURISDICTION

California law explicitly sets forth the Legislature's intent that "voter registration be maintained at the highest possible level," and requires counties to design and implement programs to identify and register eligible voters. (Elec. Code, § 2105.) In addition, probation departments specifically have an affirmative obligation to provide information regarding the voting rights of eligible persons with a criminal history under their jurisdiction. At a minimum:

(b) Each county probation department shall do both of the following:

- (1) Establish and maintain on the county probation department's Internet Web site a hyperlink to the Internet Web site at which information provided by the Secretary of State regarding voting rights for persons with a criminal history may be found.
- (2) Post, in each probation office where probationers are seen, a notice that contains the Internet Web site address at which information provided by the Secretary of State regarding voting rights for persons with a criminal history may be found.

³ Misdemeanor convictions alone do not impair a person's right to vote.

(Elec. Code, § 2105.5, subd. (b).)

The Secretary of State has developed guidance on voting rights for persons with criminal history on her website, as well as a flyer that is accessible in 10 languages. ([Voting Rights: Persons with a Criminal History.](#)) Accordingly, at a minimum, probation departments must ensure that their internet websites contain a hyperlink to this webpage, and must post this information in every office.

In addition, California law encourages probation departments to affirmatively notify persons under their supervision about their voting rights and to provide such information upon request:

- (b) Each county probation department is encouraged to notify persons that a printed version of information regarding voting rights for persons with a criminal history who are under the department's supervision is available upon request.
- (c) Each county probation department shall provide each person under the department's supervision, upon the person's request, information provided by the Secretary of State regarding voting rights for persons with a criminal history.

(Elec. Code, § 2105.6.)

In keeping with the spirit of these laws, the California Department of Justice has prepared a template letter (attached as Exhibit A to this bulletin), which probation departments are encouraged to provide to every person under their supervision, either by mail, email, when probationers meet with their probation officer, or by any other means of communication, in order to ensure that persons know of their voting rights:

This Information Bulletin does not create or confer any rights for or on any person or entity, nor does it impose any requirements beyond those required under applicable law and regulations. For questions about this Information Bulletin, please contact Division of Law Enforcement Chief John Marsh at (916) 210-6300.

EXHIBIT A

Sample Template Letter

[To be inserted on Probation Department Letterhead]

To: All Persons under the Supervision of a County Probation Department

RE: Eligibility to Vote

Dear Potential Voter,

You are receiving this letter because you are under the supervision of a county probation department. We would like to ensure that you know that you can vote if you meet the following requirements:

- (1) Are a United States citizen;
- (2) Are a California resident;
- (3) Are at least 18 years old by Election Day (which, this year, is November 8, 2022);
- (4) Are not currently serving a state or federal prison term; and
- (5) Have not been declared mentally incompetent by a Court.

Only people currently serving federal prison and state prison sentences, whether in county jail or in state or federal prison, are not eligible to vote. (Elec. Code, § 2101.) This means that the following persons **can** vote even if they have a criminal history:

- (1) Persons on informal probation;
- (2) Persons on formal probation;⁴
- (3) Persons on mandatory supervision; and
- (4) Persons on post-release community supervision (PRCS).⁵

You are receiving this letter because Californians who have been incarcerated have historically experienced widespread discrimination, obstacles to their exercise of the right to vote, or misinformation regarding their rights. We hope this letter clarifies your rights and we encourage you to exercise your voting rights.

The 2022 election will be on November 8, 2022, and the deadline to register is **October 24, 2022**. To obtain more information about how to register to vote and vote you can visit the Secretary of State's website at: <https://www.sos.ca.gov>.

⁴ A person who is **servicing a prison term** in county jail as a result of a parole or probation violation or as a result of a new offense is not allowed to register and vote until the prison term is completed.

⁵ Persons currently on parole are also eligible to vote.