

DATE: May 9th, 2019

TO: City Councilmembers and Members of the Rules and Legislation Committee

FROM: Councilmember Loren Taylor, Council District 6

SUBJECT: Supporting AB 646 & ACA 6

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2019 APR 25 PM 4:49

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**RECOMMENDATION**

Councilmember Loren Taylor recommends that the City Council adopt:

**RESOLUTION SUPPORTING CALIFORNIA STATE ASSEMBLY BILL NO. 646 & ASSEMBLY CONSTITUTIONAL AMENDMENT 6, AUTHORED BY ASSEMBLY MEMBER KEVIN MCCARTY. THE "FREE THE VOTE ACT," WOULD RESTORE VOTING RIGHTS TO EVERY PERSON ON PAROLE IN CALIFORNIA. THIS WILL REQUIRE PASSING AN ASSEMBLY CONSTITUTIONAL AMENDMENT (ACA 6), AS WELL AS ASSEMBLY BILL 646 TO PUT VOTING RIGHTS ON THE 2020 BALLOT.**

**SUMMARY**

Councilmember Taylor strongly supports ACA 6, a bill that would place a state constitutional amendment on the ballot to restore voting rights to Californians on parole, and AB 646, which would make corresponding changes to the Elections Code. Passage of both bills, and adoption by voters in the 2020 election, would help build a more inclusive democracy in California.

The Resolution in support of AB 646 and ACA 6 would reinforce AB 646 and ACA 6 to send a clear message that The City of Oakland supports the expansion of our democratic process to not only as a matter of principle but to foster a sense of civic duty among our population that have made mistakes and seek to come back into the community.

Item:

Rules and Legislation Committee

May 9th, 2019

Rules and Legislation Committee

Subject: Supporting Assembly Bill 646 & ACA 6

For questions regarding this report, please contact Victor Flores, Office of Councilmember Loren Taylor, 510-238-7006.

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 646 (McCarty) – As Amended March 13, 2019

**SUBJECT:** Elections: voter eligibility.

**SUMMARY:** Permits a person who is on parole for the conviction of a felony to register to vote and to vote, if voters approve a corresponding constitutional amendment. Specifically, **this bill:**

- 1) Deletes provisions of law that prohibit a person who is on parole for the conviction of a felony from voting, registering to vote, or pre-registering to vote and instead, allows a parolee to pre-register, register, and vote.
- 2) Provides that the provisions of this bill are operative only if ACA 6 (McCarty) is approved by the voters.
- 3) Makes other technical and conforming changes.

**EXISTING LAW:**

- 1) Permits a person who is a United States citizen, a resident of California, not imprisoned or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election, to register to vote.
- 2) Requires the Legislature to provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony.
- 3) Permits a person who is a United States citizen, a resident of California, not imprisoned or on parole for the conviction of a felony, and at least 16 years of age, to pre-register to vote.
- 4) Defines the following terms described above:
  - a) "Imprisoned" to mean currently serving a state or federal prison sentence.
  - b) "Parole" to mean a term of supervision by the Department of Corrections and Rehabilitation.
  - c) Provides that "conviction" does not include a juvenile adjudication made pursuant existing law.
- 5) Requires the county elections official to cancel a person's affidavit of registration upon proof that the person is presently imprisoned or on parole for the conviction of a felony.

**FISCAL EFFECT:** Unknown

**COMMENTS:****1) Purpose of the Bill:** According to the author:

AB 646 is the companion bill for the Assembly Constitutional Amendment (ACA) 6 Free the Vote Act. This legislation will serve to update any elections code that upon passage of the ACA will correctly indicate that people on parole are able to vote. By returning the vote to otherwise-eligible adults on California parole, AB 646 (with ACA 6) would also serve the state's goal of supporting the successful reintegration of people coming home from prison. States that allow people on parole to vote have lower rates of recidivism; giving people on parole the right to vote gives them a stake in their communities and a voice in the issues that impact their daily lives.

- 2) California Disenfranchisement Laws:** Article II, Section 4 of the California Constitution states that "[the] Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony." Elections Code Section 2101 is the statute that implements Article II, Section 4 of the California Constitution. Section 2101 states that "[a] person entitled to register to vote shall be a United States citizen, a resident of California, not imprisoned or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election." Moreover, under California law, any person who is imprisoned or on parole for the conviction of a felony is prohibited from voting and elections officials are required to cancel the voter registrations of such individuals. However, a person who is on probation for conviction of a felony is permitted to vote. Once an individual completes parole, then the right to vote is restored and they can re-register to vote.
- 3) Citizen Initiative Effort:** In 2017, Initiate Justice proposed an initiative constitutional amendment, entitled "Eliminates Restrictions on Voting by Felons in Prison or on Parole Initiative Constitutional Amendment and Statute," to change the California Constitution and eliminate existing restrictions on pre-registering to vote, registering to vote, and voting by persons while they are in prison or on parole for the conviction of a felony. Under the California Constitution, in order to qualify for the ballot, a constitutional amendment petition must contain signatures equal to 8 percent of the most recent gubernatorial vote (585,407 signatures were required at the time). The ballot measure did not obtain the necessary signatures and failed to qualify for the ballot.
- 4) States and Felony Disenfranchisement:** According to a 2018 report by the National Conference of State Legislatures (NCSL), understanding felony disenfranchisement laws can be challenging as the laws vary tremendously across states. The NCSL report points out that in two states - Maine and Vermont - felons never lose their right to vote, even while they are incarcerated. In 14 states and the District of Columbia, felons lose their voting rights only while incarcerated. In 22 states, felons lose their voting rights during incarceration, and for a period of time after, typically while on parole and/or probation. In 12 states, felons lose their voting rights indefinitely for some crimes, or require a governor's pardon in order for their voting rights to be restored, or face an additional waiting period after completion of sentence (including parole and probation) before voting rights can be restored.

According to NCSL, states that provide for "automatic restoration" of voting rights does not mean that voter registration is automatic. Typically, prison officials inform election officials that an individual's rights have been restored and the person is responsible for re-registering through normal processes. Some states, like California, require that voter registration information be provided to formerly incarcerated people.

The report also points out that the general trend has been toward reinstating the right to vote at some point. Between 1996 and 2008, 28 states passed new laws on felon voting rights:

- Seven repealed lifetime disenfranchisement laws, at least for some ex-offenders.
- Two gave probationers the right to vote.
- Seven improved data-sharing procedures among state agencies.
- Nine passed requirements that ex-offenders be given information and/or assistance in regaining their voting rights at the time they complete their sentence.
- Twelve simplified the process for regaining voting rights, for instance, by eliminating a waiting period or streamlining the paperwork process.

More recently, last year in Florida a citizen initiated constitutional amendment restored the right to vote for those with prior felony convictions, with certain exceptions. Additionally, the New York Governor issued an executive order removing the restrictions on parolees' right to vote and Louisiana passed a bill allowing any person who has not been incarcerated in the last 5 years (those on probation or parole) to be able to vote.

- 5) **Initiate Justice Survey:** According to a March 2019 report by Initiate Justice, there are approximately 162,000 citizens in the state (110,000 in state prison, 12,000 in federal prison, and 40,000 on parole) that are currently incarcerated in state prisons or on parole for the conviction of a felony that do not have the right to vote. In 2017, Initiate Justice launched a campaign to restore voting rights to California citizens who are currently incarcerated in state prison or on parole. As part of their campaign, Initiate Justice conducted a survey of its 4,000+ incarcerated members in 35 California state prisons and members on parole to better understand whether those who are incarcerated and on parole want to be able to vote, the political issues they care about most, ways in which they are currently civically engaged despite being denied the right to vote, and their insights on the types of public investments that could prevent incarceration and promote public safety. The survey received 1,085 responses and found that only 37% voted before incarceration and 98% said they would vote if they could because they want to have a voice in society, feel more connected and contribute positively to their community, and have a say in our political system.
- 6) **Arguments in Support:** One of the sponsors of this measure, the American Civil Liberties Union of California, writes:

Felony disenfranchisement policies disproportionately impact people of color: three out of four men leaving California prisons today are either African American, Latino, or Asian American. Giving people who have finished their prison sentences access to civic participation is a deeply effective way to assure

their successful reintegration. A 2016 study found that formerly incarcerated people in Florida who had their voting rights restored were less likely to commit crimes in the future: 0.4%, compared to an overall recidivism rate of 30%.

Finally, blocking people on parole – our neighbors who are working, paying taxes, and raising families in this state – from having a voice [in] the policies that shape their lives undermines our democratic system of government. By disenfranchising people on parole, California misses out not only on their civic contributions but also the participation of other community members with convictions who mistakenly believe that they too are prohibited from voting.

Last year, both Florida and Louisiana rolled back their bans on voting for formerly incarcerated people. During just this legislative session 20 states have introduced bills to improve voting rights for people with felony convictions.

- 7) **Related Legislation:** ACA 6 (McCarty), deletes provisions of the California Constitution that provides for the disqualification of electors while on parole for the conviction of a felony. ACA 6 is awaiting referral from the Assembly Rules Committee.

AB 787 (Gipson), also being heard in this committee today, requires a county or city and county that operates a jail facility to allow organizations to conduct in-person voter registration activities, as specified.

- 8) **Previous Legislation:** AB 2466 (Weber), Chapter 787, Statutes of 2016, conformed state law to the Superior Court ruling in *Scott v. Bowen*, in which the court found that individuals on post-release community supervision and mandatory supervision are eligible to vote under Article II, Section 2 of the California Constitution, as specified, and made other significant changes to voter eligibility provisions of law, as specified.

## REGISTERED SUPPORT / OPPOSITION:

### Support

American Civil Liberties Union of California (co-sponsor)  
 Californians United for a Responsible Budget (co-sponsor)  
 Initiate Justice (co-sponsor)  
 League of Women Voters of California (co-sponsor)  
 Asian Americans Advancing Justice – California  
 Bend the Arc: Jewish Action  
 California Calls  
 California Coalition for Women Prisoners  
 Californians for Safety and Justice  
 California League of Conservation Voters  
 Center for Employment Opportunities  
 Community Works  
 Council on American-Islamic Relations, California  
 Courage Campaign  
 Dēmos  
 East Bay Community Law Center  
 FairVote

## Friends Committee on Legislation of California

Indivisible CA: StateStrong – a coalition of the following Indivisible groups:

All Rise Alameda  
Audaz – Indivisible District 40  
Building the Base Face to Face  
Cloverdale Indivisible  
Contra Costa MoveOn  
Defending Our Future: Indivisible CA 52  
El Cerrito Progressives  
Feminists in Action Los Angeles  
Indi Squared  
Indivisible 30/Keep Sherman Accountable  
Indivisible 36  
Indivisible 41  
Indivisible CA-3  
Indivisible CA29  
Indivisible CA-33  
Indivisible CA-37  
Indivisible CA-39  
Indivisible CA-43  
Indivisible East Bay  
Indivisible Marin  
Indivisible Media City Burbank  
Indivisible Normal Heights  
Indivisible North Oakland Resistance  
Indivisible North San Diego County  
Indivisible OC 46  
Indivisible OC 48  
Indivisible Sacramento  
Indivisible San Bernardino  
Indivisible San Jose  
Indivisible Sausalito  
Indivisible Sebastopol  
Indivisible SF  
Indivisible SF Peninsula and CA-14  
Indivisible Sonoma County  
Indivisible South Bay LA  
Indivisible Stanislaus  
Indivisible Suffragists  
Indivisible Ventura  
Indivisible Windsor  
Indivisible Yolo  
Indivisible: San Diego Central  
Indivisibles of Sherman Oaks  
Livermore Indivisible  
Mill Valley Community Action Network  
Nothing Rhymes with Orange  
Orchard City Indivisible  
Orinda Progressive Action Alliance

Our Revolution Long Beach  
RiseUp  
Santa Cruz Indivisible  
SFV Indivisible  
Tehama Indivisible  
The Resistance Northridge  
The Resistance Sacramento/Elk Grove  
TWW/Indivisible – Los Gatos  
Vallejo-Benicia Indivisible  
Venice Resistance  
Women’s Alliance Los Angeles  
Indivisible East Bay  
Indivisible Ventura  
Institute for Democratic Education and Culture dba SpeakOut  
Interfaith Council of Contra Costa  
Lawyers’ Committee for Civil Rights of the San Francisco Bay Area  
LitLab  
National Center for Youth Law  
RYSE  
Showing Up for Racial Justice Bay Area  
SURJ Contra Costa County  
Tides Advocacy  
University of California Student Association  
Voice of the Experienced  
Women’s Building of San Francisco  
Zeta Phi Beta Sorority, California membership

**Opposition**

None on file.

**Analysis Prepared by:** Nichole Becker / E. & R. / (916) 319-2094

AMENDED IN ASSEMBLY MARCH 13, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 646**

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**Introduced by Assembly Member McCarty**

February 15, 2019

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An act to amend Sections 2101, 2105.6, 2105.7, 2106, 2150, 2201, 2212, 2300, and 14240 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 646, as amended, McCarty. Elections: voter eligibility.

Existing law prohibits a person who is on parole for the conviction of a felony from voting, registering to vote, or preregistering to vote.

This bill would remove those prohibitions, thereby allowing a parolee to preregister, register, and vote and make other technical and conforming changes.

This bill would become operative only if ACA \_\_\_\_\_ 6 of the 2019-20 2019–20 Regular Session is approved by the voters.

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

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

1 SECTION 1. Section 2101 of the Elections Code is amended  
2 to read:  
3 2101. (a) A person entitled to register to vote shall be a United  
4 States citizen, a resident of California, not imprisoned for the  
5 conviction of a felony, and at least 18 years of age at the time of  
6 the next election.



1 (b) A person entitled to preregister to vote in an election shall  
2 be a United States citizen, a resident of California, not imprisoned  
3 for the conviction of a felony, and at least 16 years of age.

4 (c) For purposes of this section, the following definitions apply:

5 (1) "Imprisoned" means currently serving a state or federal  
6 prison sentence.

7 (2) "Conviction" does not include a juvenile adjudication made  
8 pursuant to Section 203 of the Welfare and Institutions Code.

9 *SEC. 2. Section 2105.6 of the Elections Code is amended to*  
10 *read:*

11 2105.6. (a) The Department of Corrections and Rehabilitation  
12 shall provide each parolee under the jurisdiction of the department  
13 upon the completion of his or her parole, upon the parolee's  
14 request, *its jurisdiction, upon the parolee's request made at any*  
15 *time during the parole*, information provided by the Secretary of  
16 State regarding voting rights for persons with a criminal history.

17 (b) Each county probation department is encouraged to notify  
18 persons that a printed version of information regarding voting  
19 rights for persons with a criminal history who are under the  
20 department's supervision is available upon request.

21 (c) Each county probation department shall provide each person  
22 under the department's supervision, upon the person's request,  
23 information provided by the Secretary of State regarding voting  
24 rights for persons with a criminal history.

25 ~~SEC. 2.~~

26 *SEC. 3. Section 2105.7 of the Elections Code is amended to*  
27 *read:*

28 2105.7. (a) A state or local juvenile detention facility,  
29 including, but not limited to, a juvenile hall, juvenile ranch, juvenile  
30 camp, or a facility of the Department of Corrections and  
31 Rehabilitation, Division of Juvenile Justice, shall do all of the  
32 following:

33 (1) Identify each individual housed in the facility who is of age  
34 to register to vote and not in prison for the conviction of a felony.

35 (2) Provide an affidavit of registration to each individual housed  
36 in the facility who is of age to register to vote and not in prison  
37 for the conviction of a felony by doing either of the following:

38 (A) Providing the individual a paper affidavit of registration.

1 (B) Directing the individual to an affidavit of registration  
2 provided on the ~~Internet Web site~~ *internet website* of the Secretary  
3 of State.

4 (3) Assist each individual housed in the facility who is of age  
5 to register to vote and not in prison for the conviction of a felony  
6 with the completion of the affidavit of registration, unless the  
7 individual declines assistance.

8 (b) A facility providing paper affidavits of registration pursuant  
9 to subdivision (a) shall do either of the following:

10 (1) Assist the individual who completed the voter registration  
11 card in returning the completed card to the county elections official.

12 (2) Accept any completed voter registration card and transmit  
13 the card to the county elections official.

14 ~~SEC. 3.~~

15 *SEC. 4.* Section 2106 of the Elections Code is amended to read:

16 2106. A program adopted by a county pursuant to Section 2103  
17 or 2105, that is designed to encourage the registration of electors,  
18 shall contain the following statement in printed literature or media  
19 announcements made in connection with the program: "A person  
20 entitled to register to vote must be a United States citizen, a resident  
21 of California, not currently imprisoned in a state or federal prison  
22 for the conviction of a felony, and at least 18 years of age at the  
23 time of the election. A person may preregister to vote if that person  
24 is a United States citizen, a resident of California, not currently  
25 imprisoned in a state or federal prison for the conviction of a  
26 felony, and at least 16 years of age." A county elections official  
27 may continue to use existing materials before printing new or  
28 revised materials required by any changes to this section.

29 ~~SEC. 4.~~

30 *SEC. 5.* Section 2150 of the Elections Code is amended to read:

31 2150. (a) The affidavit of registration shall show:

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

33 (2) The affiant's name at length, including the person's given  
34 name, and a middle name or initial, or if the initial of the given  
35 name is customarily used, then the initial and middle name. The  
36 affiant's given name may be preceded, at the affiant's option, by  
37 the designation of "Miss," "Ms.," "Mrs.," or "Mr." A person shall  
38 not be denied the right to register because of that person's failure  
39 to mark a prefix to the given name and shall be so advised on the

1 voter registration card. This subdivision shall not be construed as  
2 requiring the printing of prefixes on an affidavit of registration.

3 (3) The affiant's place of residence, residence telephone number,  
4 if furnished, and email address, if furnished. A person shall not be  
5 denied the right to register because of the person's failure to furnish  
6 a telephone number or email address, and shall be so advised on  
7 the voter registration card.

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

10 (5) The affiant's date of birth to establish that the affiant will  
11 be at least 18 years of age on or before the date of the next election.  
12 In the case of an affidavit of registration submitted pursuant to  
13 subdivision (d) of Section 2102, the affiant's date of birth to  
14 establish that the affiant is at least 16 years of age.

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

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

18 (B) In the case of any other affiant, other than an affiant to whom  
19 subparagraph (C) applies, the last four digits of the affiant's social  
20 security number.

21 (C) If a voter registration affiant has not been issued a current  
22 and valid driver's license or a social security number, the state  
23 shall assign the affiant a number that will serve to identify the  
24 affiant for voter registration purposes. If the state has a  
25 computerized list in effect under this paragraph and the list assigns  
26 unique identifying numbers to registrants, the number assigned  
27 under this subparagraph shall be the unique identifying number  
28 assigned under the list.

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

30 (9) That the affiant is currently not imprisoned for the conviction  
31 of a felony.

32 (10) A prior registration portion indicating whether the affiant  
33 has been registered at another address, under another name, or as  
34 preferring another party. If the affiant has been so registered, the  
35 affiant shall give an additional statement giving that address, name,  
36 or party.

37 (b) The affiant shall certify the content of the affidavit of  
38 registration as to its truthfulness and correctness, under penalty of  
39 perjury, with the signature of the affiant's name and the date of  
40 signing. If the affiant is unable to write, the affiant shall sign with

1 a mark or cross. An affiant who is an individual with a disability  
2 may complete the affidavit with reasonable accommodations as  
3 needed.

4 (c) The affidavit of registration shall also contain a space that  
5 would enable the affiant to state the affiant's ethnicity or race, or  
6 both. An affiant shall not be denied the ability to register because  
7 the affiant declines to state the affiant's ethnicity or race.

8 (d) If a person assists the affiant in completing the affidavit of  
9 registration, that person shall sign and date the affidavit below the  
10 signature of the affiant.

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

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

17 ~~SEC. 5.~~

18 *SEC. 6.* Section 2201 of the Elections Code is amended to read:

19 2201. (a) The county elections official shall cancel the  
20 registration in the following cases:

21 (1) At the signed, written request of the person registered.

22 (2) When the mental incompetency of the person registered is  
23 legally established as provided in Sections 2208, 2209, 2210, and  
24 2211.

25 (3) Upon proof that the person is presently imprisoned for  
26 conviction of a felony.

27 (4) Upon the production of a certified copy of a judgment  
28 directing the cancellation to be made.

29 (5) Upon the death of the person registered.

30 (6) Pursuant to Article 2 (commencing with Section 2220).

31 (7) Upon official notification that the voter is registered to vote  
32 in another state.

33 (8) Upon proof that the person is otherwise ineligible to vote.

34 (b) The Secretary of State may cancel the registration in the  
35 following cases:

36 (1) When the mental incompetency of the person registered is  
37 legally established as provided in Sections 2208, 2209, 2210, and  
38 2211.

39 (2) Upon proof that the person is presently imprisoned for the  
40 conviction of a felony.

1 (3) Upon the death of the person registered.

2 ~~SEC. 6:~~

3 *SEC. 7.* Section 2212 of the Elections Code is amended to read:

4 2212. The clerk of the superior court of each county, on the  
5 basis of the records of the court, shall furnish to the Secretary of  
6 State and the county elections official in the format prescribed by  
7 the Secretary of State, not less frequently than the first day of every  
8 month, a statement showing the names, addresses, and dates of  
9 birth of all persons who have been committed to state prison as  
10 the result of a felony conviction since the clerk's last report. The  
11 Secretary of State or county elections official shall cancel the  
12 affidavits of registration of those persons who are currently  
13 imprisoned for the conviction of a felony. The clerk shall certify  
14 the statement under the seal of the court.

15 *SEC. 8. Section 2300 of the Elections Code is amended to read:*

16 2300. (a) All voters, pursuant to the California Constitution  
17 and this code, shall be citizens of the United States. There shall  
18 be a Voter Bill of Rights for voters, available to the public, which  
19 shall convey all of the following to voters:

20 (1) (A) You have the right to cast a ballot if you are a valid  
21 registered voter.

22 (B) A valid registered voter means a United States citizen who  
23 is a resident in this state, who is at least 18 years of age and not in  
24 ~~prison or on parole~~ *prison or on parole serving a state or federal prison sentence* for  
25 conviction of a felony, and who is registered to vote at ~~his or her~~  
26 *their* current residence address.

27 (2) You have the right to cast a provisional ballot if your name  
28 is not listed on the voting rolls.

29 (3) You have the right to cast a ballot if you are present and in  
30 line at the polling place before the close of the polls.

31 (4) You have the right to cast a secret ballot free from  
32 intimidation.

33 (5) (A) You have the right to receive a new ballot if, before  
34 casting your ballot, you believe you made a mistake.

35 (B) If at any time before you finally cast your ballot, you feel  
36 you have made a mistake, you have the right to exchange the  
37 spoiled ballot for a new ballot. Vote by mail voters may also  
38 request and receive a new ballot if they return their spoiled ballot  
39 to an elections official before the closing of the polls.

1 (6) You have the right to receive assistance in casting your  
2 ballot, if you are unable to vote without assistance.

3 (7) You have the right to return a completed vote by mail ballot  
4 to any precinct in the county.

5 (8) You have the right to election materials in another language,  
6 if there are sufficient residents in your precinct to warrant  
7 production.

8 (9) (A) You have the right to ask questions about election  
9 procedures and observe the election process.

10 (B) You have the right to ask questions of the precinct board  
11 and elections officials regarding election procedures and to receive  
12 an answer or be directed to the appropriate official for an answer.  
13 However, if persistent questioning disrupts the execution of their  
14 duties, the precinct board or elections officials may discontinue  
15 responding to questions.

16 (10) You have the right to report any illegal or fraudulent  
17 activity to a local elections official or to the Secretary of State's  
18 office.

19 (b) Beneath the Voter Bill of Rights there shall be listed a  
20 toll-free telephone number to call if a person has been denied a  
21 voting right or to report election fraud or misconduct.

22 (c) The Secretary of State may do both of the following:

23 (1) Develop regulations to implement and clarify the Voter Bill  
24 of Rights set forth in subdivision (a).

25 (2) Revise the wording of the Voter Bill of Rights as necessary  
26 to ensure the use of clear and concise language free from technical  
27 terms.

28 (d) The Voter Bill of Rights set forth in subdivisions (a) and (b)  
29 shall be made available to the public before each election and on  
30 election day, at a minimum, as follows:

31 (1) The Voter Bill of Rights shall be printed in the state voter  
32 information guide, pursuant to Section 9084, in a minimum of  
33 12-point type. Subparagraph (B) of paragraph (1) of subdivision  
34 (a), subparagraph (B) of paragraph (5) of subdivision (a), and  
35 subparagraph (B) of paragraph (9) of subdivision (a) may be printed  
36 in a smaller point type than the rest of the Voter Bill of Rights.

37 (2) Posters or other printed materials containing the Voter Bill  
38 of Rights shall be included in precinct supplies pursuant to Section  
39 14105.

1     ~~SEC. 7.~~

2     *SEC. 9.* Section 14240 of the Elections Code is amended to  
3 read:

4     14240. (a) A person offering to vote may be orally challenged  
5 within the polling place only by a member of the precinct board  
6 upon any or all of the following grounds:

7     (1) That the voter is not the person whose name appears on the  
8 roster.

9     (2) That the voter is not a resident of the precinct, or in an  
10 election conducted using a voter center, not a resident of the  
11 county.

12     (3) That the voter is not a citizen of the United States.

13     (4) That the voter has voted in that election.

14     (b) A person, other than a member of a precinct board or other  
15 official responsible for the conduct of the election, shall not  
16 challenge or question any voter concerning the voter's  
17 qualifications to vote.

18     (c) If any member of a precinct board receives, by mail or  
19 otherwise, any document or list concerning the residence or other  
20 voting qualifications of any person or persons, with the express or  
21 implied suggestion, request, or demand that the person or persons  
22 be challenged, the board member shall first determine whether the  
23 document or list contains or is accompanied by evidence  
24 constituting probable cause to justify or substantiate a challenge.  
25 In any case, before making any use whatever of such a list or  
26 document, the member of the precinct board shall immediately  
27 contact the elections official, charged with the duty of conducting  
28 the election, and describe the contents of the document or list and  
29 the evidence, if any, received bearing on voting qualifications. The  
30 elections official shall advise the members of the precinct board  
31 as to the sufficiency of probable cause for instituting and  
32 substantiating the challenge and as to the law as herein provided,  
33 relating to hearings and procedures for challenges by members of  
34 the precinct board and determination thereof by a precinct board.  
35 The elections official may, if necessary, designate a deputy to  
36 receive and answer inquiries from precinct board members as  
37 herein provided.

1 ~~SEC. 8.~~

2 *SEC. 10.* This act shall become operative only if ACA ~~\_\_\_\_\_~~ 6  
3 of the ~~2019-20~~ 2019-20 Regular Session is approved by the voters.

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**Assembly Constitutional Amendment**

**No. 6**

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**Introduced by Assembly Members McCarty, Bonta, Gonzalez,  
Kalra, Kamlager-Dove, and Weber**

January 28, 2019

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Assembly Constitutional Amendment No. 6—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 4 of Article II thereof, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

ACA 6, as introduced, McCarty. Elections: disqualification of electors.

The California Constitution requires the Legislature to provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony. Existing statutory law, for purposes of determining who is entitled to register to vote, defines imprisoned as currently serving a state or federal prison sentence.

This measure would instead direct the Legislature to provide for the disqualification of electors who are serving a state or federal prison sentence for the conviction of a felony. This measure would also delete the requirement that the Legislature provide for the disqualification of electors while on parole for the conviction of a felony.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the  
2 Legislature of the State of California at its 2019–20 Regular  
3 Session commencing on the third day of December 2018,

1 two-thirds of the membership of each house concurring, hereby  
2 proposes to the people of the State of California, that the  
3 Constitution of the State be amended as follows:

4 That Section 4 of Article II thereof is amended to read:

5 SEC. 4. The Legislature shall prohibit improper practices that  
6 affect elections and shall provide for the disqualification of electors  
7 while mentally incompetent or ~~imprisoned or on parole~~ *servng a*  
8 *state or federal prison sentence* for the conviction of a felony.

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## ACA 6: Community Fact Sheet

### Restore the Right to Vote for People on Parole

**Summary:** ACA 6 and AB 646 by Assemblymember Kevin McCarty (D-Sacramento) will restore the right to vote for people on parole in California by placing an initiative on the ballot to amend the California Constitution and updating related provisions in the state Elections Code.

**Background:** Felony disenfranchisement in the California Constitution can be traced directly to a history of racially discriminatory Jim Crow laws passed in the 1800s. After the 15th Amendment of the U.S. Constitution banned voter disenfranchisement based on race, many states used criminal convictions - coupled with the intense over-policing of communities of color - as a way to keep Black and Brown communities out of the polling place. Fearing a rise in the political power of African Americans, Native Americans, Latinos, and Chinese immigrants, California wrote felony disenfranchisement into the state's first constitution in 1849. After being the only former free state to initially reject the 14th Amendment ending slavery, California also rejected the 15th Amendment in 1870.<sup>1</sup>

Though amended to become less restrictive in the 1970s, our state constitution still prohibits voting for otherwise eligible adults who are "imprisoned or on parole for the conviction of a felony." As Californians have moved away from overly-punitive tough-on-crime laws in recent years, including with the passage of the Criminal Justice Realignment Act of 2011 (AB 109), we've clarified that people may still vote if they are in county jail, on probation, or on Post-Release Community Supervision. State elections law, however, still blocks Californians from voting if they are in state or federal prison or on state parole.

**Need for this bill: Our democracy is rooted in the idea that everyone's voice matters. Promoting civic engagement not only makes our country stronger; it also makes it safer. When people feel that they are valued members of their community, and that their needs and concerns are addressed, they are less likely to re-engage in criminal activity.**

As the rate of mass incarceration in the U.S. has exploded in recent decades, the voter suppression impact of felony disenfranchisement has only intensified. Currently, nearly 50,000 Californians are unable to participate in local, state, and federal elections because they are on parole. These individuals are working, paying taxes, and raising families in our communities, but they are being denied the opportunity to help choose the representatives and shape the policies that impact their daily lives.

Today, felony disenfranchisement laws continue to disproportionately lock people of color out of the voting booth. Because of persistent and systematic racial inequalities in our criminal legal system,

<sup>1</sup> It took until 1962 for California to finally ratify the 15th Amendment.

African Americans are four times as likely to experience felony disenfranchisement as are white Americans.<sup>2</sup> Three out of four men leaving California prisons are Black, Latino, or Asian American.<sup>3</sup>

**Voting is one of the most fundamental rights of citizenship.** Laws that declare people coming home from prison “civically dead” unfairly strip these individuals of their full citizenship and run counter to the purpose of the reentry period. Parole is intended be a process of reintegration into society after prison and allowing people on parole to vote is a critical way to give them a stake in their communities.

California currently lags behind fourteen other states and Washington, D.C, which either automatically restore voting rights upon release from prison or have no felony disenfranchisement whatsoever. National momentum is also growing to restore voting rights to people with convictions in other states. Governors in New York and Virginia recently used executive power to re-enfranchise certain people who had finished their sentences. Last year, both Florida and Louisiana rolled back their bans on voting for formerly incarcerated people and several other states have introduced similar legislation this year. It's time for California to join the growing movement to end the racist legacy of felony disenfranchisement by restoring the vote to people on parole.

**For more information:**

- Taina Vargas-Edmond, Initiate Justice (IJ), [taina@initiatejustice.org](mailto:taina@initiatejustice.org)
- Michael Mendoza, Anti-Recidivism Coalition (ARC), [mmendoza@antirecidivism.org](mailto:mmendoza@antirecidivism.org)
- Dauras Cyprian, Legal Services for Prisoners with Children (LSPC)/ All of Us or None (AOUON), [dauras@prisonerswithchildren.org](mailto:dauras@prisonerswithchildren.org)
- Brittany Stonesifer, ACLU of California, [bstonesifer@acluca.org](mailto:bstonesifer@acluca.org)

**Bill Sponsors:**

Initiate Justice  
ACLU of California  
Anti-Recidivism Coalition  
All of Us or None  
Californians United for a Responsible Budget  
California Secretary of State Alex Padilla  
League of Women Voters of California  
Legal Services for Prisoners with Children  
People Over Profits San Diego  
Vote Allies  
White People for Black Lives

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<sup>2</sup> The Sentencing Project, 6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, (October 16, 2016), Christopher Uggen, Ryan Larson, and Sarah Shannon, available at: <http://www.sentencingproject.org/publications/6-million-lost-voters-state-level-estimates-felony-disenfranchisement-2016/>.

<sup>3</sup> Los Angeles Times, Restore voting rights for low-level felons in California, (September 16, 2016), Janai Nelson.

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## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER LOREN TAYLOR

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**RESOLUTION SUPPORTING CALIFORNIA STATE ASSEMBLY BILL NO.646 & ASSEMBLY CONSTITUTIONAL AMENDMENT 6, AUTHORED BY ASSEMBLY MEMBER KEVIN MCCARTY. THE "FREE THE VOTE ACT," WOULD RESTORE VOTING RIGHTS TO EVERY PERSON ON PAROLE IN CALIFORNIA. THIS WILL REQUIRE PASSING AN ASSEMBLY CONSTITUTIONAL AMENDMENT (ACA 6), AS WELL AS ASSEMBLY BILL 646 TO PUT VOTING RIGHTS ON THE 2020 BALLOT.**

**WHEREAS**, ACA 6 and AB 646 were introduced by Assemblymember Kevin McCarty (D-Sacramento) and co-authored by Assemblymembers Carrillo (D-Los Angeles), Bonta (D-Oakland), Gipson (D-Carson), Gonzalez (D-San Diego), Kalra (D-San Jose), Kamlager-Dove (D-Los Angeles), Mark Stone (D-Monterey Bay), and Weber (D-San Diego) and Senator Wiener (D-San Francisco); and

**WHEREAS**, Felony disenfranchisement laws in the United States have troubling race and class dimensions that cannot be reconciled with our shared present-day values of equal citizenship and equal dignity; and

**WHEREAS**, Discriminatory disenfranchisement laws are not unique to the South; California, too, must confront its history on this issue; not only did the state reject ratification of the Fifteenth Amendment in 1870 (ratifying the Amendment only in 1962), it also included permanent felony disenfranchisement in its first constitution in 1849; although California has changed and states have repudiated discriminatory barriers to voting such as poll taxes and literacy tests, criminal disenfranchisement laws persist; these laws continue to have a disproportionate racial impact due to the pervasive racial bias in the criminal justice system; and

**WHEREAS**, Reenfranchising people who have previously been convicted of crimes is a vital step toward ensuring the safety and vitality of California's communities; any and all duties that help the person fully reintegrate will motivate that individual to further engage in community-based activity and away from unlawful conduct;

**WHEREAS**, Restricting those with felony convictions from voting does nothing to improve the safety of neighborhoods; restoring the right to vote, on the other hand, would help educate and prepare these individuals for full re-entry; registering to vote and casting a ballot would engage their responsibilities as citizens, ultimately resulting in stronger, safer communities in which members do right by one another.

**WHEREAS,** The City of Oakland has a disproportionate number of systems impacted individuals who come from resilient minority groups due to centuries of tragically misguided racist policies; supporting AB 646 and ACA 6 will bring us closer to moving in the right direction to restore our communities; now, therefore, be it

**RESOLVED:** That the City of Oakland gives its full endorsement of AB 646 and ACA 6; and be it

**FURTHER RESOLVED:** That the City Council requests that the City Administrator transmit a copy of this Resolution to the following: City of Oakland's legislative representatives including Senator Nancy Skinner, Assemblymember Rob Bonta, Assemblymember Buffy Wicks; Governor Gavin Newsom; President Pro Tern of the California Senate Toni Atkins; Assembly Speaker Anthony Rendon; and to the lobbyist for the City of Oakland to advocate for passage of AB 646 and ACA 6.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
City Clerk and Clerk of the Council of the  
City of Oakland, California