
**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Steven Glazer, Chair
2023 - 2024 Regular

Bill No: AB 1688 **Hearing Date:** 7/5/23
Author: Sanchez
Version: 6/27/23
Urgency: No **Fiscal:** Yes
Consultant: Karen French

Subject: Voter registration: cancellation: deceased persons.

DIGEST

This bill requires the Secretary of State (SOS) to adopt regulations to facilitate the availability of death statistics from the federal Social Security Administration (SSA) for use in canceling the voter registrations of deceased persons.

ANALYSIS

Existing federal law:

- 1) Requires each state, pursuant to the National Voter Registration Act (NVRA), to conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of death of the registrant, or a change in the residence of the registrant, as specified.
- 2) Requires each state, pursuant to the Help America Vote Act of 2002 (HAVA), to implement a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state. Requires each state to perform list maintenance to the computerized list on a regular basis and coordinate the computerized list with state agency records on felony status and records on death.

Existing state law:

- 1) Permits a person who is a United States (US) citizen, a resident of California, not in prison for the conviction of a felony, and at least 18 years of age at the time of the next election to register to vote in any local, state, or federal election.
- 2) Requires the SOS to adopt regulations to facilitate the availability of death statistics from the State Department of Health Services. Requires the data to be used by the SOS or county elections officials in canceling the affidavit of registration of deceased persons.
- 3) Requires the State Registrar of Vital Statistics, at the time that it sends notifications pursuant to existing law to the local registrar of births and deaths of the deaths of all

residents of the county, to send a copy of the notifications to the county elections official.

- 4) Requires the county elections official to cancel a voter's registration in the following cases:
 - a) At the signed, written request of the person registered.
 - b) When the mental incompetency of the person registered is legally established pursuant to existing law.
 - c) Upon proof that the person is presently imprisoned for conviction of a felony.
 - d) Upon the production of a certified copy of a judgment directing the cancellation to be made.
 - e) Upon the death of the person registered.
 - f) Upon notification as part of a pre-election residency confirmation procedure that the person has moved, but only after a specified notification is sent to the voter and only if the voter subsequently fails to vote or update their voter registration during the period between the time that notification is mailed and two federal general elections after the date of that mailing, as specified.
 - g) Upon official notification that the voter is registered to vote in another state.
 - h) Upon proof that the person is otherwise ineligible to vote.
- 5) Permits the SOS to cancel a voter's registration in the following cases:
 - a) When the mental incompetency of the person registered is legally established pursuant to existing law.
 - b) Upon proof that the person is presently imprisoned for the conviction of a felony.
 - c) Upon the death of the person registered.

This bill:

- 1) Authorizes the SOS to seek agreement with the SSA to facilitate the availability of death statistics.
- 2) Requires, upon obtaining agreement from the SSA, the SOS to adopt regulations governing the electronic transfer of death statistics to be implemented by January 1, 2026.
- 3) Requires, beginning on January 1, 2026, the SOS and county elections officials to use any data obtained to cancel the affidavits of registration of deceased persons.

BACKGROUND

Voter File Maintenance. VoteCal is the statewide voter registration database that connects the SOS and all 58 counties. County elections officials can use VoteCal to check for duplicate registrations, transfer a voter's record from one county to another when a voter moves, and to certify a voter has not been convicted of a felony, among other uses. A variety of methods are used to ensure voter registration rolls are up-to-date with the goal of maintaining an accurate list to prevent ineligible people from voting, prevent anyone from voting twice, and to reduce inaccuracies and speed up the voter check-in process at polling places. Previously in California, federal agencies used to verify voter information using SSA, US Postal Service, and National Change of Address files. At the state level, voter registration data is cross-checked with information from the Department of Vital Statistics, Department of Motor Vehicles, Department of Corrections and Rehabilitation, and the Department of Public Health. At the local level, current law requires county elections officials to conduct a pre-election residency confirmation procedure by the 90th day before each statewide primary election, as specified. With specific regard to deceased voters, county elections officials receive death data from their local county public health departments, and also use other tools which may include checking obituaries listed in the local newspapers, notifications from family members, and returned mail that is marked "Deceased."

Other States. HAVA requires states to coordinate voter registration databases with the state agency responsible for recording deaths, most commonly a bureau of vital statistics or health department. States vary on how this is accomplished, but most generally have processes in place for removing duplicate records, deceased voters, felons, and people who have moved. These checks can be conducted with data from federal agencies, state agencies, and other states. According to the National Conference of State Legislatures (NCSL) states may use additional sources of information beyond official vital statistics to identify deaths and remove voter registrations, including the SSA data. According to NCSL, the following 10 states use SSA death records for voter file verification: Florida, Indiana, Kansas, Maryland, Minnesota, Oklahoma, Tennessee, Texas, Utah, and Washington.

New Notification and Previous Legislation: Last year Governor Newsom signed AB 2841 (Low), Chapter 807, Statutes of 2022, which added a new voter registration notification and required a county elections official, between 15 and 30 days before canceling a person's registration for the reasons of mental incompetency, imprisonment for a conviction of a felony, death, or a change in residence to send a forwardable notice by first class mail to the person. The notification informs the voter that their voter registration is scheduled to be canceled and suggests the voter notify the registrar of voter's office within 15 days from the date of the notice if this cancellation is an error. This new notification requirement will become operative January 1, 2024.

COMMENTS

- 1) According to the author: Election experts agree that maintenance of voter rolls is crucial to preserving integrity and security in our elections. I introduced AB 1688 to provide our state's election officials with more tools to ensure that our voter registration lists are updated and properly maintained. This will help elections run smoother, save taxpayer money, and reduce the likelihood of fraud.

2) Argument in Support. In a letter supporting AB 1688, the California Association of Clerks and Election Officials (CACEO) writes, in part, the following:

Existing law requires the Secretary of State to adopt regulations to facilitate the availability of death statistics from the State Department of Health Services for use by the Secretary of State and county elections officials to cancel affidavits of registration of deceased persons.

This bill would also require the Secretary of State to adopt regulations to facilitate the availability of death statistics from the federal Social Security Administration for the same purpose.

CACEO greatly appreciates Assemblymember Sanchez’s desire to ensure that election officials have access to the information that is required to accurately maintain voter registration records.

RELATED/PRIOR LEGISLATION

AB 1206 (Pellerin) of 2023 would require the SOS to apply for membership with the Electronic Registration Information Center (ERIC). Among other information, ERIC uses SSA death information to identify registered voters in member states that may be deceased, and provides that information about potentially deceased registered voters to the states. AB 1206 was held on the Assembly Committee on Appropriations Suspense File.

AB 1020 (Ridley-Thomas), Chapter 728, Statutes of 2015, made necessary statutory changes to various sections of the Elections Code to ensure that the federally mandated VoteCal statewide voter registration database can be implemented effectively.

PRIOR ACTION

Assembly Floor:	80 - 0
Assembly Appropriations Committee:	15 - 0
Assembly Elections Committee:	7 - 0

POSITIONS

Sponsor: Author

Support: California Association of Clerks and Election Officials

Oppose: None received

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