



CALIFORNIA

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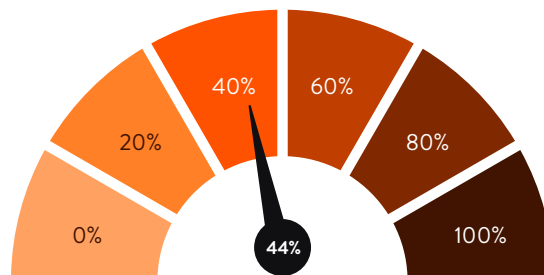
Protecting Voter Registration

An Assessment of Voter
Purge Policies in Ten States

California

Removal Practices

FIGURE 9
California Removal Practices



California scored 44% for its removal practices. On the positive side, California does not authorize a “use it or lose it” practice; voters cannot be targeted for removal from the rolls solely because they failed to vote for a certain period of time.⁵² State law provides guidance on criteria that must match when evaluating potential removals of persons with felony convictions.⁵³ It also provides notice to election officials and voters when an individual’s eligibility to vote is restored after a felony conviction or previous determination of mental incapacity.⁵⁴ California also limits mass voter challenges, allowing private parties to challenge others’ voter registrations only by filing a court action, which provides a significant disincentive to overly broad or discriminatory mass challenges.⁵⁵ This kind of disincentive is unique among the states we examined.

⁵² Prior to 2020, Cal. Elec. Code § 2224 gave counties discretion to initiate a confirmation and removal process based on a registrant’s failure to vote, although this was rarely done in practice. Legislation enacted in 2020, SB 504 (2019-2020), safeguarded the removal process by taking away any authority to initiate removal based solely on non-voting, available at <https://legiscan.com/CA/text/AB504/2019>.

⁵³ Cal. Elec. Code § 2212. Section 2212 was amended in 2022 by SB 504 (2021-2022) (available at <https://legiscan.com/CA/text/SB504/2021>) to set forth specific data points which the department of corrections must provide to the secretary of state for those convicted of felonies, to match with voter rolls, and to require notice to the election officials and voter when an individual’s voting rights have been restored. The 2022 amendment came in the wake of litigation in Los Angeles County over erroneous removals based on flawed data on felony status. See *All of Us or None v. Logan*, Case No, BC705656, Notice of Ruling on Defendants’ Motion for Summary Judgment and Scheduling Order, November 4, 2020 (Cal. Superior Ct.).

⁵⁴ Cal. Elec. Code §§ 2212, 2209, 2210.

⁵⁵ Cal. Elec. Code § 2213.

However, neither statute nor regulation specifies which criteria must match when canceling a registration due to suspected lack of citizenship,⁵⁶ adjudication of mental incapacity,⁵⁷ or death.⁵⁸ California currently also lacks notice procedures when canceling voter registrations based on information that the voter is deceased or is imprisoned for a felony,⁵⁹ nor does state law detail clear procedures to contest one’s removal from the registration rolls. California also provides open-ended discretion to election officials to bring proceedings to cancel a voter’s registration if deemed to be illegal.⁶⁰

California’s score for removal practices will improve substantially in January 2024, when new legislation enacted in September 2022 goes into effect. The new legislation, Assembly Bill 2841, strengthens the matching criteria that must be met before canceling a voter’s registration based on death or adjudication of mental incapacity. AB 2841 also creates stronger requirements for notifying voters before they are removed from the voting rolls.⁶¹ Indeed, California’s score on removals will rise to 62% once the new legislation goes into effect.

Table 9: Removal Practices

Reason for Removal	Felony Conviction	Death	Citizenship Status	Adjudication of Mental Incapacity	Other Reasons for Removal
Matching Criteria	4	2	0	0	Inactivity 20
Notice of Removal	0	0	0	0	Catch-all Removal Authority 0
Procedures to Contest	0	0	0	0	Caging / Mass Challenges 10
Notice of Restoration to Voter	2	n/a	n/a	2	Total 44/100 = 44%
Notice of Restoration to Elec. Official	2	n/a	n/a	2	

⁵⁶ Cal. Elec. Code §§ 2201(a)(8) (providing catch-all discretion to county election officials to cancel registrations upon proof of ineligibility; “proof” is undefined).

⁵⁷ Cal. Elec. Code §§ 2208 (directing court declarations of mental incompetence to be forwarded to the secretary of state for voter registration cancellation without specific requirement to match criteria before records are purged).

⁵⁸ Cal. Elec. Code §§ 2205, 2206 (setting forth data points that registrars of births and deaths must provide to counties and the secretary of state, but not mandating how many of the data points must match); see also Cal. Code Regs. tit. 2, § 19079.

⁵⁹ Cal. Elec. Code § 2205, 2206 (establishing removal requirements for death but omitting any requirement of notice to the voter); Cal. Elec. Code § 2212 (providing for removal of individuals based on felony conviction but omitting any requirement of notice to the voter prior to cancellation). California’s current lack of pre-removal notice requirements for these removals is confirmed by the legislation enacted in 2022, AB 2841 (available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2841) which will establish a notice requirement for these removals effective in January 2024.

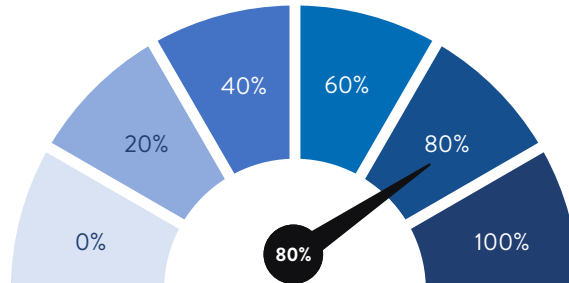
⁶⁰ Cal. Elec. Code §§ 2201(a)(8).

⁶¹ AB 2841, sec. 2(c)(1)(amending Cal. Elec. Code 2201).

Safeguards Against Erroneous Removal

FIGURE 10

California Safeguards from Removal



California scored 80% for the safeguards it has put in place to protect voters who learn that their registrations have been canceled or marked inactive only upon attempting to vote in an election. California has robust same-day voter registration. Voters can register during early voting and on Election Day,⁶² and same-day registrants can use the last four digits of their Social Security number (or other state-given identifiers) to register,⁶³ so they do not need to bring special documentation to the polls.⁶⁴ Additionally, voters on the inactive list who appear at their polling place may vote a regular ballot rather than a provisional ballot.⁶⁵ However, California generally requires same-day registrants to cast provisional rather than regular ballots.⁶⁶

Table 10: Safeguards Against Erroneous Removal

Safeguard	
Scope of Same-Day Registration (SDR)	40
SDR Identification Requirements	20
Regular or Provisional Ballot for SDR Voter	0
Regular or Provisional Ballot for Correcting Inactive Status	20
Total	80/100 = 80%

⁶² Cal. Elec. Code § 2170.

⁶³ 2 Cal. Code Reg. § 20022 (allowing conditional voter registration registrants to use the same registration form as other registrants); Cal. Elec. Code §§ 2150(a)(6), 2170(c) (allowing last four digits of SSN, or other state-given identifier, for voter registration affidavit).

⁶⁴ In addition, California requires election officials to attempt to retrieve the voter's ID number from the DMV database if it was omitted from the form. 2 Cal. Code Reg § 19074.

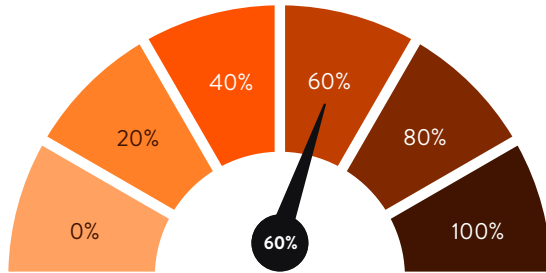
⁶⁵ Cal. Elec. Code §§ 14217, 14310 (regarding circumstances under which a voter gets a provisional ballot).

⁶⁶ Cal. Elec. Code § 2170(e). However, a voter registering "conditionally" may cast a regular ballot if the elections official, using the statewide voter registration database, can verify that the registrant is eligible, hasn't already voted in the election, and isn't in a roster for another county. Cal. Elec. Code § 2170(f).

Data Accessibility

FIGURE 11

California Data Accessibility



California scored 60% for data accessibility. The state responded within ten days of our request, and the voter file is electronic. It is somewhat unclear whether the complete file is available to any member of the public that wants it. State code limits access to the file to candidates for office, initiative or referendum committees, or to individuals for election, scholarly, journalistic, political, or governmental purposes, at the discretion of the Secretary of State.⁶⁷ However, “political” is defined fairly broadly in regulations,⁶⁸ so it seems that many interested parties could access it, although someone interested in accessing the voter file must jump through some hoops to document “political purpose.”⁶⁹ Finally, the file is not free, though, at \$100, it is significantly cheaper, and therefore more accessible, than the costly files of other states we analyzed.⁷⁰

Table 11: Data Accessibility

Indicator of Accessibility	
Complete File Publicly Available	0
Who Can Request File	10
Cost	10
Timeline	20
Format	20
Total	60/100 = 60%

⁶⁷ Cal. Elec. Code § 2194(a)(3).

⁶⁸ 2 Cal. Code Reg 19003(a)(4) "Political: for any person to communicate with voters to influence public opinion related to political or election activities. The content of such communications shall include, but shall not be limited to: news and opinions of candidates, elections, education related to political matters, political party developments, ballot measures, initiatives, referendum positions, and related political matters."

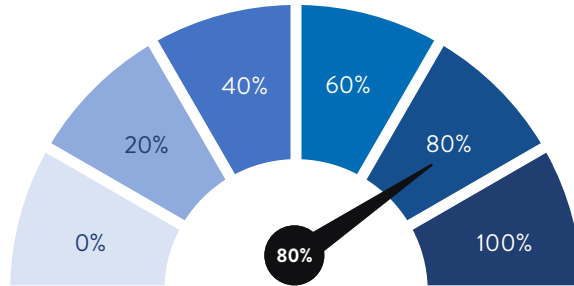
⁶⁹ 2 Cal. Code Reg 19008.

⁷⁰ 2 Cal. Code Reg 19006(a) caps the fees at \$100.

Data Transparency

FIGURE 12

California Data Transparency



California scored 80% for data transparency, as the state voter file includes Voter ID number, voter status, status reason code, and voting history but does not include race, as California does not require registrants to provide their race or ethnicity.⁷¹

Table 12: Data Transparency

Indicator of Transparency	
Race	0
Voter ID Number	20
Voter Status	20
Status Reason Code	20
Date Last Voted	20
Total	80/100 = 80%

Current Political Context

As mentioned, a bill enacted in September 2022, but not effective until January 1, 2024, will require notice to voters before canceling registrations for death, imprisonment, adjudication of mental incapacity, or being in inactive status for four years. It will also overhaul the process for identifying and removing voters based on adjudication of mental incapacity.⁷² California has also, in recent years, improved its processes by implementing practices for ensuring that removals for felony convictions are based on

⁷¹ See, e.g., Santa Clara County, “Voter Data Specifications,” available at <https://sccvote.sccgov.org/sites/g/files/exjcpb1106/files/Voter%20Data%20Specifications%20-Revised%202019.pdf>

⁷² CA AB 2841, available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2841 (last visited October 16, 2022).

reliable information and accompanied by notice.⁷³ Thus, California appears to be on a positive trajectory with respect to changes in its voter purge practices, even if it still has more to do to make some of its practices more fully voter-friendly.

⁷³ See *supra* n.2.

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