

Date of Hearing: July 1, 2024

ASSEMBLY COMMITTEE ON TRANSPORTATION

Lori D. Wilson, Chair

SB 299 (Limón) – As Amended June 19, 2024

**SENATE VOTE:** Not relevant

**SUBJECT:** Voter registration: California New Motor Voter Program

**SUMMARY:**

Makes significant modifications to the California New Motor Voter (NMV) Program.

Specifically, **this bill:**

- 1) Modifies the NMV program by requiring the Secretary of State (SOS) and the Department of Motor Vehicles (DMV) to jointly develop a process by which the DMV uses information from the statewide voter registration database to determine whether a DMV customer is already registered or preregistered to vote in the state. Allows the SOS to satisfy this requirement by providing a copy of the statewide voter registration database to the DMV.
- 2) Requires the DMV, if it is determined by the process in 1) above that a person is unregistered to vote, to provide the opportunity to register to vote to individuals who apply for, renew or change an address for a driver's license or personal identification card issued by the DMV. Requires the DMV, if it is determined by the process in 1) above that a person is registered or preregistered to provide the opportunity to update or change the person's current voter registration or preregistration information.
- 3) Prohibits the DMV, if at the time of the transaction with the DMV the person provides a document that demonstrates the person is not a United States (US) citizen, from offering them the opportunity to register to vote, and prohibits the DMV from electronically providing records of that person to the SOS.
- 4) Permits the SOS, if the SOS determines that adequate technology infrastructure exists, to promulgate regulations to establish a list of individuals who are preapproved for voter registration. Requires the SOS to develop regulations in consultation with the DMV, county elections officials, and other interested parties that include, but are not limited to, the following:
  - a) Procedures for updating and maintaining the accuracy of the preapproved for voter registration list;
  - b) Procedures by which individuals on the preapproved for voter registration list may activate their registration; and,
  - c) The manner in which and method by which the DMV provides the SOS with information regarding the person's name and address and any additional information required by the SOS that the person submitted with their driver's license application.

- 5) Defines “preapproved for registration” to mean an unregistered person during their business with the department provided documentation demonstrating US citizenship and sufficient age to register or preregister to vote, did not submit a voter registration application pursuant to section 2265 during their transaction with the DMV, and was advised that they will be put on a preapproved voter registration list and that the voter may activate their registration from that list at a future date.

**EXISTING LAW:**

- 1) Requires, pursuant to the National Voter Registration Act (NVRA), each state to offer voter registration services at motor vehicle agency offices, offices that provide public assistance, offices that provide state-funded programs primarily engaged in providing services to persons with disabilities, Armed Forces recruitment offices, and other state and local offices within the state designated as NVRA voter registration agencies. (52 United States Code (U.S.C.) 20504)
- 2) Requires the DMV to provide the opportunity to register to vote to individuals who apply for, renew or change an address for a driver's license or personal identification card issued by the DMV. (52 U.S.C. 20504)
- 3) Requires a driver's license or identification application to be used as an application for voter registration, unless the applicant fails to sign the application. (52 U.S.C. 20504)
- 4) Requires change of address information received by the DMV to be used for the purpose of updating voter registration records, unless the registrant chooses otherwise. (52 U.S.C. 20504)
- 5) Provides that a person entitled to register to vote shall be a 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. (California Constitution, Article II, §2 )
- 6) Requires the SOS and the DMV to establish and implement the California NMV program for the purpose of increasing opportunities for voter registration for qualified voters. (Elections Code 2263)
- 7) Requires the DMV, in consultation with the SOS, to establish a schedule and method for the DMV to electronically provide to the SOS the records of each person who submits an application for a driver's license or state identification card, or provides the DMV with a change of address, as specified. Prohibits the DMV from electronically providing the records of a person who is issued a driver's license pursuant to specified provisions of law because that person is unable to establish satisfactory proof that their presence in the US is authorized under federal law. (Elections Code 2265)
- 8) Provides that the information transmitted to the SOS constitutes a completed affidavit of registration, and requires the SOS to register the person to vote or preregister the person to vote, unless the person affirmatively declines to be registered or preregistered to vote, the person's records do not reflect they attested to meeting all voter eligibility or preregistration eligibility requirements, the SOS determines the person is ineligible to vote, or other specified conditions exist. (Elections Code 2267)

- 9) Prohibits the DMV from electronically providing records that contain a home address designated as confidential pursuant existing law. (Elections Code 2269)
- 10) Requires the SOS to adopt regulations, including regulations addressing both of the following:
  - a) A process for canceling the registration or preregistration of a person who is ineligible to vote, but became registered or preregistered under the NVM program in the absence of any violation by that person; and,
  - b) An education and outreach campaign informing voters about the NVM program that the SOS will conduct, as specified. (Elections Code 2277)
- 11) Requires a person's registration, if a person who is ineligible to vote becomes registered to vote through the NMV program in the absence of willful voter registration fraud, to be presumed to have been effected with official authorization and to have not been the fault of that person. (Elections Code 2270)
- 12) Provides that if a person who is ineligible to vote becomes registered to vote through the NMV program and votes or attempts to vote in an election held after the effective date of the person's registration, that person shall be presumed to have acted with official authorization and shall not be guilty of fraudulently voting or attempting to vote unless that person willfully votes or attempts to vote knowing that the person is not entitled to vote. (Elections Code 2271)
- 13) Requires the SOS to establish to establish a taskforce to advise the SOS and the DMV on the effective implementation of the NMV program. Requires the SOS, in consultation with the DMV and the taskforce, to annually review the effectiveness of the NMV program and draft a written report that provides information about the operation of the NMV program, as specified. (Elections Code 2275, 2276)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

In 1993, the federal government enacted the NVRA, commonly referred to as the "motor voter" law, to make it easier for Americans to register to vote and to remain registered to vote. In addition to other methods of voter registration states offer, the NVRA requires states to provide the opportunity to apply to register to vote for federal elections through various methods. Section 5 of the NVRA requires states to offer voter registration opportunities at motor vehicle agencies. Additionally, Section 6 of the NVRA requires states to provide voter registration opportunities by mail-in application. Finally, Section 7 of the NVRA requires states to offer voter registration opportunities at all offices that provide public assistance or state-funded programs primarily engaged in providing services to persons with disabilities.

The Legislature approved and Governor Brown signed into law AB 1461 (Gonzalez), Chapter 729, Statutes of 2015, known as the NMV program, which provides automatic registration for every person who has a driver's license or state identification card and who is eligible to register to vote at the DMV, unless that person opts out. Under the NMV program, a DMV customer who attests to their eligibility and does not opt out is automatically registered to vote.

The implementation of AB 1461 was contingent upon the implementation of a federally required statewide voter registration database (known as VoteCal), the appropriation of funds from the Legislature necessary for the SOS and the DMV to implement AB 1461, and the adoption of regulations required by AB 1461. The NMV program became operative in April 2018.

*According to the author*, SB 299 is an opportunity to build on the existing Partial Automatic Voter Registration (AVR) system in California to further streamline voter registration. As proposed to be amended, this bill gives the Secretary of State discretionary authority, if they believe the necessary technology and infrastructure exists, to adopt regulations to generate a list of people “preapproved for registration.” This upgrade will position millions of eligible Californians to vote, bringing more people of color, young people, and formerly incarcerated people into the political process. Oregon, Alaska, Colorado, Delaware, Massachusetts, Nevada, New Mexico, Washington, Washington D.C., Michigan, and Minnesota have all already adopted versions of Secure AVR. This bill provides a path for California to join these states and to welcome 4.6 million eligible, but unregistered people, to our democratic process.”

*Non-citizen filter*: This bill modifies the NMV program and creates a non-citizen filter. Specifically, this bill provides that a person who provides the DMV with a document that demonstrates the person is not a US citizen will not be offered the opportunity to attest that they meet all voter eligibility requirements or offered the opportunity to register to vote. Additionally, this bill prohibits the DMV from electronically providing records of such a person to the SOS.

This new non-citizen filter may help ensure a non-citizen is not inadvertently offered the opportunity to register to vote. On the flip side, this new non-citizen filter may prevent a person whose citizenship status has changed from being offered the opportunity to vote in the future. As mentioned above, once a person has provided documentation of their legal presence in the US, that person typically is not required to provide proof of legal presence during subsequent transactions with the DMV.

Additionally, the non-citizen filter will require the DMV to determine citizenship for those individuals that will be filtered through the non-citizen filter. According to the DMV, while they take note of the authenticity of credentials presented to them, they do not determine citizenship.

*Registration status filter*: Under the California NMV program, an individual is asked whether they would like to register to vote during the course of their transaction at the DMV. If an individual chooses to register to vote, they are required to attest to their eligibility under penalty of perjury and subsequently answer voter registration questions, such as choosing a party preference and requesting translated voting materials.

This bill modifies this process, and creates a voter registration status filter in which an individual’s current voter registration status (registered or not registered) determines how the individual moves through the NMV program. Specifically, this bill requires the SOS and the DMV to develop a process in which the DMV compares the information associated with each person who submits a driver’s license application to voter registration information from the statewide voter registration database (VoteCal) to determine whether the person is already registered or preregistered to vote in the state. If it is determined that a person is unregistered to vote, the individual moves through the NMV program. If it is determined a person is registered to vote, the individual is asked if they would like to update or change their current voter registration information.

*Delays at DMV:* The DMV is currently undergoing a comprehensive modernization of its information technology (IT) systems through their Digital eXperience Platform (DXP) Project. The DXP Project will update and replace software, hardware, and programming languages for DMV's current legacy systems. The DXP Project is a multi-year incremental technology project to replace all obsolete legacy applications and systems, including systems for occupational licensing, vehicle registration, and driver's license and identification cards. The DXP Project will replace the current obsolete legacy applications and systems with flexible technology to meet business processes and services as well as to comply with changing legislation and new mandates in a timely manner. The DMV core systems technology architecture was designed in the late 1960s to address the business needs at the time and has reached its outer limits and any change to or expansion of functionality jeopardizes continuity of services, systems and data integrity, as well as the collection of billions of dollars.

According to DMV, challenges have caused significant delays in the completion of the DXP Project and the driver's license modernization project is now expected to be complete in 2028. The modernization project will include the addition of functionality required by previously-enacted legislation. However, due to concerns about the potential for further delays and complications to the modernization project, DMV is no longer considering adding additional functionality to the contract for modernizing the driver's licensing system and asking legislation that would require changes to driver's licensing systems to delay implementation until 2030, with the changes being made to the modernized system after it is deployed in 2028.

The non-citizen and voter registration status filters proposed in this bill would affect the driver's licensing system and consequently, it is unclear whether it is feasible for these components to be implemented before 2030.

*Committee concerns:* According to the Legislative Analyst Office (LAO), The Motor Vehicle Account (MVA), the primary funding source for DMV, is expected to fully exhaust its reserves and become insolvent in 2025-26. The LAO recommends the Legislature should consider MVA cost pressures when evaluating new proposals. LAO argues that "Until a plan is put in place to address MVA's structural deficit, we recommend the Legislature set a high bar for considering approval of any proposals that create additional MVA cost pressures and accelerate the risk of insolvency."

*Related legislation:* AB 2127 (Berman) of 2024 extends, from January 1, 2025 to January 1, 2030, the operation of the NMV program taskforce established by the SOS to advise the SOS and the DMV on the effective implementation of the NMV program. AB 2127 is pending in Senate Appropriations Committee.

AB 796 (Berman), Chapter 314, Statutes of 2021, codifies voter registration information transmittal requirements in the federal NVRA, as specified. AB 796 additionally codifies into state law various provisions from a legal settlement regarding the transmission of voter registration information, and requires the SOS to establish a taskforce to evaluate the California NMV program, as specified.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

**Analysis Prepared by:** David Sforza / TRANS. / (916) 319-2093