February 25, 2013

County Clerk/Registrar of Voters (CC/ROV) Memorandum #13023

TO: All County Clerks/Registrars of Voters

FROM: /s/ Jennie Bretschneider
              Assistant Chief Deputy and Counsel

RE: Voter Registration: New Felon Eligibility Language

The Secretary of State (SOS) is updating the language on the California voter registration form and all related publications to reflect changes made to the law in 2012.

The new VRC will require a person to attest:

> "I am a U.S. citizen and will be at least 18 years old on election day. I am ***not in prison, on parole, serving a state prison sentence in county jail, serving a sentence for a felony pursuant to subdivision (h) of Penal Code section 1170, or on post release community supervision.*** I understand that it is a crime to intentionally provide incorrect information on this form. I declare under penalty of perjury under the laws of the State of California that the information on this form is true and correct." (revised language in ***bold italics***)

Background

In 2011, the Legislature passed and the Governor signed the Criminal Justice Realignment Act (CJRA). Under Penal Code section 1170(h), low-level felons are sentenced to county jail and/or supervision by the county probation department instead of state prison. In December 2011, the SOS issued CC/ROV #11134 to clarify the voting status of felons sentenced under CJRA.

At the time, the term "probation" was used to describe two categories of convicted felons placed under the supervision of the county probation department: (1) felons serving traditional probation (eligible), and (2) felons sentenced under CJRA and serving a term of supervision by the county probation department (not eligible).

In 2012, the Legislature passed and the Governor signed SB 1023, Chapter 43, Statutes of 2012, which resolved some of the confusion by creating the term "mandatory supervision" for category (2) above.

Eligibility

Below is a chart of who is eligible and who is not eligible to register to vote.

Not Eligible	Eligible
✓ In state prison. ✓ In county jail serving a state prison sentence. ✓ In county jail serving a felony sentence under Penal Code section 1170(h). ✓ On parole, mandatory supervision, or post release community supervision.	✓ In county jail serving a misdemeanor sentence. A misdemeanor *never* affects your right to vote. ✓ In county jail because jail time is a condition of probation. ✓ On probation. ✓ *Done* with parole, mandatory supervision, or post release community supervision. Your right to vote is *automatically* restored when parole or supervision is done.

California Penal Code section 2910 (PC 2910) allows the California Department of Corrections & Rehabilitation (CDCR) to enter into agreements with cities and counties to house felons in a county jail or other correctional facility. The following counties have contracts with CDCR under PC 2910: Alameda and Sacramento. For more information, please visit CDCR's website.

It is the responsibility of each applicant, not the elections official, to determine whether he or she is eligible to vote. The applicant assumes responsibility for his or her eligibility by signing the attestation on the VRC. If an applicant has questions about his or her eligibility, the elections official should refer the applicant to the applicant's parole or county probation office.

For more information, please refer to the following resources:

Secretary of State
Voting Rights for Californians with Criminal Convictions or Detained in Jail or Prison
http://www.sos.ca.gov/elections/sharing-ideas/a-voting-guide-for-inmates.pdf.

Judicial Council
California's Criminal Justice Realignment Resource Center
http://www.courts.ca.gov/partners/realignment.htm.

If you have any questions, please feel free to contact me at JBretschneider@sos.ca.gov or (916) 651-8297.