



SOPHIE HAHN
 Berkeley City Council, District 5
 2180 Milvia Street, 5th Floor
 Berkeley, CA 94704
 (510) 981-7150
shahn@cityofberkeley.info

CONSENT CALENDAR
 JANUARY 30, 2024

To: Honorable Mayor and Members of the City Council
 From: Councilmembers Sophie Hahn and Rigel Robinson (Co-Authors)
 Subject: Support for ACA 4 Elections: Eligibility to Vote

RECOMMENDATION

Adopt a resolution in support of Assembly Constitutional Amendment 4 (Bryan), which would repeal a constitutional requirement disqualifying electors incarcerated for felony convictions, and send a copy of the resolution to Assemblymembers Isaac Bryan and Buffy Wicks, and State Senator Nancy Skinner.

BACKGROUND

Introduced by Assemblymember Bryan in 2023, ACA 4 would repeal a State constitutional requirement for the California Legislature to provide for the disqualification of electors while serving a State or federal prison term for the conviction of a felony.

This amendment to the California Constitution would preserve the right to vote for all people, including all those who are currently incarcerated. At least 95% of people currently incarcerated in State prison will eventually return home.¹ Data shows that people who vote while incarcerated and shortly thereafter are 50% less likely to be rearrested.²

The impacts of legal barriers to civic participation disproportionately affect Black, Latino, and Native American communities, who are denied the ability to influence governance and public policy, and stripped of political power. Additionally, veterans, many of whom return to civilian life with visible and invisible trauma face a greater likelihood of incarceration. California currently has more than 7,000 veterans who, despite having served our country, are denied their voting rights solely because they are incarcerated.³

Several U.S. states and territories already allow universal participation in the democratic process, and democracies around the world have also normalized this standard. Maine, Vermont, Washington D.C., and Puerto Rico all allow people in prison to vote. Nearly all Western European countries allow incarcerated people to vote, as does a diverse group

¹ Hughes, Timothy & Wilson, Doris James, Reentry Trends in the United States, U.S. Department of Justice, <https://bjs.ojp.gov/content/pub/pdf/reentry.pdf>

² Uggen, Christopher & Manza, Jeff, Voting and Subsequent Crime and Arrest: Evidence from a Community Sample, 36 Colum. Hum. Rts. L. Rev. 193 (2004-2005), [Uggen Manza 04 CHRLR2.pdf \(umn.edu\)](https://www.umn.edu/humanrts/uggen-manza-04-chrlr2.pdf)

³ "5-19-22 - Assembly Floor Analysis, ACA 4 (Bryan)" https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202320240ACA4#

of others around the world including Israel, Canada, Zimbabwe, Japan, Kenya, and Peru. ACA 4 will give voters in California the opportunity to decide if a thriving democracy includes everyone or if historic suppression and disenfranchisement measures should remain a feature of our civil society.⁴

Here in California, we already facilitate elections in some carceral settings. People serving a misdemeanor sentence, for example, have the right to vote and some jails already serve as polling places – including in Los Angeles County.⁵ California should follow the lead of Maine, Vermont, Washington, D.C. and Puerto Rico, and restore voting rights to all serving a prison sentence in California.

The attached resolution declares the City of Berkeley's endorsement of ACA 4 and the subsequent ballot measure. Copies of the resolution will be sent to Assemblymembers Isaac Bryan and Buffy Wicks, and State Senator Nancy Skinner.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

None.

CONTACT PERSON

Councilmember Sophie Hahn, 510-981-7150

Attachments:

1: Resolution

2: State of California Constitution Section to be amended by ACA 4

⁴ "5-19-22 - Assembly Floor Analysis, ACA 4 (Bryan)

https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202320240ACA4#

⁵ League of Women Voters Co-Sponsor Letter: ACA 4, [a0da977c-22c9-4567-ab75-472f79658152 \(windows.net\)](https://www.a0da977c-22c9-4567-ab75-472f79658152.windows.net)

RESOLUTION NO. ##,###-N.S.

IN SUPPORT OF ASSEMBLY CONSTITUTIONAL AMENDMENT 4

WHEREAS, The California Constitution authorizes a person to vote if the person is a United States citizen, at least 18 years of age, and a resident of the State but this right does not extend to a person currently incarcerated and serving a State or federal prison term for a felony conviction; and

WHEREAS, For much of its history, California has taken steps to restrict voting rights on the basis of race and socioeconomic status, and refused to ratify the 14th and 15th Amendments until 1959 and 1962, respectively; and

WHEREAS, The prohibition of voting rights for incarcerated people disproportionately disenfranchises Black, Brown, poor and Indigenous people and veterans; and

WHEREAS, Black people make up 6.5 percent of California's population but account for 28 percent of the state's prison population, and 80 percent of California's prison population is made up of people of color; and

WHEREAS, California currently has nearly 7,000 veterans who are denied their voting rights because they are incarcerated; and

WHEREAS, Many other democracies such as Canada, Israel, France, Denmark, Japan, Germany, Czech Republic, Kenya, Netherlands, Poland, Peru, Romania, Sweden, and Zimbabwe allow incarcerated people the right to vote, and the United States trails on this front; and

WHEREAS, In the United States, Vermont, Maine, Washington D.C., and Puerto Rico have restored the right to vote for all people in prison; and

WHEREAS, In recent years, California has made significant and historic reforms that have expanded voting rights and voter access, with the goal of achieving a more representative democracy; and

WHEREAS, According to the Brennan Center for Justice, voting helps support reentry by giving people a voice and civic engagement and has been shown to reduce recidivism; and

WHEREAS, In a nationwide poll by Stand Up America, State Innovation Exchange, the Sentencing Project, and Common Cause, almost 60 percent of participants said that voting rights should be guaranteed for all people – including those completing terms in prison; and

WHEREAS, ACA 4, introduced by Assemblymember Isaac Bryan and co-authored by Assemblymembers Bonta, Jackson, Kalra, Weber, Wilson, Haney, McKinnor, Jones-Sawyer, Low, Santiago, and Lee, and Senators Becker, Bradford, Cortese, and Smallwood-Cuevas, will give allow California voters to decide whether to restore voting rights to people completing prison sentences for felony convictions; and

WHEREAS, If passed, ACA 4 will remove the current State constitution prohibition against voting for people in prison for felony convictions and the companion bill, AB 1595, would remove mention of this prohibition throughout the California Code;

NOW THEREFORE, BE IT RESOLVED that the Berkeley City Council **declares its** support for ACA 4 and AB 1595, and urges their passage by the California State Legislature and by California voters; and,

BE IT FURTHER RESOLVED that copies of this resolution will be sent to Assemblymembers Isaac Bryan, Buffy Wicks, and Senator Nancy Skinner.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2023–24 Regular Session commencing on the fifth day of December 2022, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First— That Section 2 of Article II thereof is amended to read:

SEC. 2. ~~(a)~~A United States citizen *who is at least* 18 years of age and *a* resident in this State may vote.

~~(b)An elector disqualified from voting while serving a state or federal prison term, as described in Section 4, shall have their right to vote restored upon the completion of their prison term.~~

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

SEC. 4. The Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally ~~incompetent or serving a state or federal prison term for the conviction of a felony.~~ *incompetent.*

