

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 711

Introduced by Cavanaugh, 6; Chambers, 11.

Read first time January 23, 2019

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to elections; to amend sections 29-112,
2 29-113, 32-313, and 32-1530, Reissue Revised Statutes of Nebraska,
3 and sections 29-2264, 32-312, and 83-1,118, Revised Statutes
4 Cumulative Supplement, 2018; to change provisions relating to voting
5 qualifications for any person convicted of a felony; and to repeal
6 the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-112, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 29-112 Any person sentenced to be punished for any felony, when the
4 sentence is not reversed or annulled, is incompetent to be a juror or to
5 hold any office of honor, trust, or profit within this state, unless such
6 person receives from the Board of Pardons of this state a warrant of
7 discharge, in which case such person shall be restored to such civil
8 rights and privileges as enumerated or limited by the Board of Pardons.
9 The warrant of discharge shall not release such person from the costs of
10 conviction unless otherwise ordered by the Board of Pardons.

11 ~~Any person sentenced to be punished for any felony, when the~~
12 ~~sentence is not reversed or annulled, is not qualified to vote until two~~
13 ~~years after he or she has completed the sentence, including any parole~~
14 ~~term. The disqualification is automatically removed at such time.~~

15 Sec. 2. Section 29-113, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 29-113 Any person who has been convicted of a felony under the laws
18 of any other state shall be deemed incompetent to be a juror or to hold
19 any office of honor, trust, or profit within this state unless such
20 person has been restored to civil rights under the laws of the state in
21 which the felony was committed.

22 ~~Any person who has been convicted of a felony under the laws of any~~
23 ~~other state is not qualified to vote until two years after such person~~
24 ~~has completed his or her sentence, including any parole term.~~

25 Sec. 3. Section 29-2264, Revised Statutes Cumulative Supplement,
26 2018, is amended to read:

27 29-2264 (1) Whenever any person is placed on probation by a court
28 and satisfactorily completes the conditions of his or her probation for
29 the entire period or is discharged from probation prior to the
30 termination of the period of probation, the sentencing court shall issue
31 an order releasing the offender from probation. ~~Such order in all felony~~

1 ~~cases shall provide notice that the person's voting rights are restored~~
2 ~~two years after completion of probation.~~ The order shall include
3 information on restoring ~~other~~ civil rights through the pardon process,
4 including application to and hearing by the Board of Pardons.

5 (2) Whenever any person is convicted of an infraction, a
6 misdemeanor, or a felony and is placed on probation by the court or is
7 sentenced to a fine only, he or she may, after satisfactory fulfillment
8 of the conditions of probation for the entire period or after discharge
9 from probation prior to the termination of the period of probation and
10 after payment of any fine, petition the sentencing court to set aside the
11 conviction.

12 (3) In determining whether to set aside the conviction, the court
13 shall consider:

14 (a) The behavior of the offender after sentencing;

15 (b) The likelihood that the offender will not engage in further
16 criminal activity; and

17 (c) Any other information the court considers relevant.

18 (4) The court may grant the offender's petition and issue an order
19 setting aside the conviction when in the opinion of the court the order
20 will be in the best interest of the offender and consistent with the
21 public welfare. The order shall:

22 (a) Nullify the conviction; and

23 (b) Remove all civil disabilities and disqualifications imposed as a
24 result of the conviction.

25 (5) The setting aside of a conviction in accordance with the
26 Nebraska Probation Administration Act shall not:

27 (a) Require the reinstatement of any office, employment, or position
28 which was previously held and lost or forfeited as a result of the
29 conviction;

30 (b) Preclude proof of a plea of guilty whenever such plea is
31 relevant to the determination of an issue involving the rights or

1 liabilities of someone other than the offender;

2 (c) Preclude proof of the conviction as evidence of the commission
3 of the infraction, misdemeanor, or felony whenever the fact of its
4 commission is relevant for the purpose of impeaching the offender as a
5 witness, except that the order setting aside the conviction may be
6 introduced in evidence;

7 (d) Preclude use of the conviction for the purpose of determining
8 sentence on any subsequent conviction of a criminal offense;

9 (e) Preclude the proof of the conviction as evidence of the
10 commission of the infraction, misdemeanor, or felony in the event an
11 offender is charged with a subsequent offense and the penalty provided by
12 law is increased if the prior conviction is proved;

13 (f) Preclude the proof of the conviction to determine whether an
14 offender is eligible to have a subsequent conviction set aside in
15 accordance with the Nebraska Probation Administration Act;

16 (g) Preclude use of the conviction as evidence of commission of the
17 infraction, misdemeanor, or felony for purposes of determining whether an
18 application filed or a license issued under sections 71-1901 to
19 71-1906.01, the Child Care Licensing Act, or the Children's Residential
20 Facilities and Placing Licensure Act or a certificate issued under
21 sections 79-806 to 79-815 should be denied, suspended, or revoked;

22 (h) Preclude use of the conviction as evidence of incompetence,
23 neglect of duty, physical, mental, or emotional incapacity, or final
24 conviction of or pleading guilty or nolo contendere to a felony for
25 purposes of determining whether an application filed or a certificate
26 issued under sections 81-1401 to 81-1414.10 should be denied, suspended,
27 or revoked;

28 (i) Preclude proof of the conviction as evidence whenever the fact
29 of the conviction is relevant to a determination of the registration
30 period under section 29-4005; or

31 (j) Relieve a person who is convicted of an offense for which

1 registration is required under the Sex Offender Registration Act of the
2 duty to register and to comply with the terms of the act.

3 (6) Except as otherwise provided for the notice in subsection (1) of
4 this section, changes made to this section by Laws 2005, LB 713, shall be
5 retroactive in application and shall apply to all persons, otherwise
6 eligible in accordance with the provisions of this section, whether
7 convicted prior to, on, or subsequent to September 4, 2005.

8 (7) The changes made to this section by Laws 2018, LB146, shall be
9 retroactive in application and shall apply to all persons, otherwise
10 eligible in accordance with the provisions of this section, whether
11 convicted prior to, on, or subsequent to July 19, 2018.

12 Sec. 4. Section 32-312, Revised Statutes Cumulative Supplement,
13 2018, is amended to read:

14 32-312 The registration application prescribed by the Secretary of
15 State pursuant to section 32-304 or 32-311.01 shall provide the
16 instructional statements and request the information from the applicant
17 as provided in this section.

18 CITIZENSHIP—"Are you a citizen of the United States of America?"
19 with boxes to check to indicate whether the applicant is or is not a
20 citizen of the United States.

21 AGE—"Are you at least eighteen years of age or will you be eighteen
22 years of age on or before the first Tuesday following the first Monday of
23 November of this year?" with boxes to check to indicate whether or not
24 the applicant will be eighteen years of age or older on election day.

25 WARNING—"If you checked 'no' in response to either of these
26 questions, do not complete this application."

27 NAME—the name of the applicant giving the first and last name in
28 full, the middle name in full or the middle initial, and the maiden name
29 of the applicant, if applicable.

30 RESIDENCE—the name and number of the street, avenue, or other
31 location of the dwelling where the applicant resides if there is a

1 number. If the registrant resides in a hotel, apartment, tenement house,
2 or institution, such additional information shall be included as will
3 give the exact location of such registrant's place of residence. If the
4 registrant lives in an incorporated or unincorporated area not identified
5 by the use of roads, road names, or house numbers, the registrant shall
6 state the section, township, and range of his or her residence and the
7 corporate name of the school district as described in section 79-405 in
8 which he or she is located.

9 POSTAL ADDRESS—the address at which the applicant receives mail if
10 different from the residence address.

11 ADDRESS OF LAST REGISTRATION—the name and number of the street,
12 avenue, or other location of the dwelling from which the applicant last
13 registered.

14 TELEPHONE NUMBERS—the telephone number of the applicant at work and
15 at home. At the request of the applicant, a designation shall be made
16 that the telephone number is an unlisted number, and such designation
17 shall preclude the listing of the applicant's telephone number on any
18 list of voter registrations.

19 EMAIL ADDRESS—an email address of the applicant. At the request of
20 the applicant, a designation shall be made that the email address is
21 private, and such designation shall preclude the listing of the
22 applicant's email address on any list of voter registrations.

23 DRIVER'S LICENSE NUMBER OR LAST FOUR DIGITS OF SOCIAL SECURITY
24 NUMBER—if the applicant has a Nebraska driver's license, the license
25 number, and if the applicant does not have a Nebraska driver's license,
26 the last four digits of the applicant's social security number.

27 DATE OF APPLICATION FOR REGISTRATION—the month, day, and year when
28 the applicant presented himself or herself for registration, when the
29 applicant completed and signed the registration application if the
30 application was submitted by mail or delivered to the election official
31 by the applicant's personal messenger or personal agent, or when the

1 completed application was submitted if the registration application was
2 completed pursuant to section 32-304.

3 PLACE OF BIRTH—show the state, country, kingdom, empire, or dominion
4 where the applicant was born.

5 DATE OF BIRTH—show the date of the applicant's birth. The applicant
6 shall be at least eighteen years of age or attain eighteen years of age
7 on or before the first Tuesday after the first Monday in November to have
8 the right to register and vote in any election in the present calendar
9 year.

10 REGISTRATION TAKEN BY—show the signature of the authorized official
11 or staff member accepting the application pursuant to section 32-309 or
12 32-310 or at least one of the deputy registrars taking the application
13 pursuant to section 32-306, if applicable.

14 PARTY AFFILIATION—show the party affiliation of the applicant as
15 Democrat, Republican, or Other or show no party affiliation as
16 Nonpartisan. (Note: If you wish to vote in both partisan and nonpartisan
17 primary elections for state and local offices, you must indicate a
18 political party affiliation on the registration application. If you
19 register without a political party affiliation (nonpartisan), you will
20 receive only the nonpartisan ballots for state and local offices at
21 primary elections. If you register without a political party affiliation,
22 you may vote in partisan primary elections for congressional offices.)

23 OTHER—information the Secretary of State determines will assist in
24 the proper and accurate registration of the voter.

25 Immediately following the spaces for inserting information as
26 provided in this section, the following statement shall be printed:

27 To the best of my knowledge and belief, I declare under penalty of
28 election falsification that:

29 (1) I live in the State of Nebraska at the address provided in this
30 application;

31 ~~(2) I have not been convicted of a felony or, if convicted, it has~~

1 ~~been at least two years since I completed my sentence for the felony,~~
2 ~~including any parole term;~~

3 (2) ~~(3)~~ I have not been officially found to be non compos mentis
4 (mentally incompetent); and

5 (3) ~~(4)~~ I am a citizen of the United States.

6 Any registrant who signs this application knowing that any of the
7 information in the application is false shall be guilty of a Class IV
8 felony under section 32-1502 of the statutes of Nebraska. The penalty for
9 a Class IV felony is up to two years imprisonment and twelve months post-
10 release supervision, a fine of up to ten thousand dollars, or both.

11 APPLICANT'S SIGNATURE—require the applicant to affix his or her
12 signature to the application.

13 Sec. 5. Section 32-313, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 32-313 ~~(1)~~—No person is qualified to vote or to register to vote
16 who is non compos mentis or who has been convicted of treason under the
17 laws of the state or of the United States unless restored to civil
18 rights. ~~No person who has been convicted of a felony under the laws of~~
19 ~~this state or any other state is qualified to vote or to register to vote~~
20 ~~until two years after the sentence is completed, including any parole~~
21 ~~term. The disqualification is automatically removed at such time.~~

22 (2) ~~The clerk of any court in which a person is convicted of a~~
23 ~~felony shall prepare an abstract each month of each final judgment served~~
24 ~~by the clerk convicting an elector of a felony. The clerk shall file the~~
25 ~~abstract with the election commissioner or county clerk of the elector's~~
26 ~~county of residence not later than the tenth day of the month following~~
27 ~~the month in which the abstract is prepared. The clerk of the court shall~~
28 ~~notify the election commissioner or county clerk in writing if any such~~
29 ~~conviction is overturned.~~

30 (3) ~~Upon receiving notification from the United States Attorney of a~~
31 ~~felony conviction of a Nebraska resident in federal court or of the~~

1 ~~overturning of any such conviction, the Secretary of State shall forward~~
2 ~~the notice to the election commissioner or county clerk of the county of~~
3 ~~such person's residence. The election commissioner or county clerk shall~~
4 ~~remove the name of such person from the voter registration register upon~~
5 ~~receipt of notice of conviction.~~

6 Sec. 6. Section 32-1530, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 32-1530 Any person who votes (1) who is not a resident of this state
9 or registered in the county or who at the time of election is not of the
10 constitutionally prescribed age of a registered voter or (2) who is not
11 a citizen of the United States, ~~or (3) after being disqualified by law by~~
12 ~~reason of his or her conviction of a felony and prior to the end of the~~
13 ~~two-year period after completing the sentence, including any parole term,~~
14 shall be guilty of a Class IV felony.

15 Sec. 7. Section 83-1,118, Revised Statutes Cumulative Supplement,
16 2018, is amended to read:

17 83-1,118 (1) If, in the opinion of the board, upon receipt of
18 information from the Director of Supervision and Services, a parolee has
19 shown suitable compliance with his or her parole programming plan, the
20 board may reduce the level of supervision for a parolee that is
21 commensurate with the best interests of the parolee and is compatible
22 with the protection of the public.

23 (2) The board shall discharge a parolee from parole when the time
24 served in the custody of the department and the time served on parole
25 equal the maximum term less good time.

26 (3) The department shall discharge a committed offender from the
27 custody of the department when the time served in the facility equals the
28 maximum term less good time.

29 (4) Upon completion of the lawful requirements of the sentence, the
30 department shall provide the parolee or committed offender with a written
31 notice regarding his or her civil rights. ~~The notice shall inform the~~

1 ~~parolee or committed offender that voting rights are restored two years~~
2 ~~after completion of the sentence.~~ The notice shall also include
3 information on restoring ~~other~~ civil rights through the pardon process,
4 including application to and hearing by the Board of Pardons.

5 (5) The Board of Parole may discharge a parolee from parole when
6 such parolee is under the supervision of another state's correctional
7 institution and such offender has reached the expiration date of his or
8 her Nebraska parole term.

9 Sec. 8. Original sections 29-112, 29-113, 32-313, and 32-1530,
10 Reissue Revised Statutes of Nebraska, and sections 29-2264, 32-312, and
11 83-1,118, Revised Statutes Cumulative Supplement, 2018, are repealed.