

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 158

Introduced by Wayne, 13.

Read first time January 08, 2021

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to voting rights; 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, 2020; to provide for the restoration of
5 voting rights upon completion of a felony sentence; to harmonize
6 provisions; and to repeal 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 such
13 person ~~two years after he or she~~ has completed the sentence, including
14 any parole term. The disqualification is automatically removed at such
15 time.

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

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

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

26 Sec. 3. Section 29-2264, Revised Statutes Cumulative Supplement,
27 2020, is amended to read:

28 29-2264 (1) Whenever any person is placed on probation by a court
29 and satisfactorily completes the conditions of his or her probation for
30 the entire period or is discharged from probation prior to the
31 termination of the period of probation, the sentencing court shall issue

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

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

13 (3)(a) Except as provided in subdivision (3)(b) of this section,
14 whenever any person is convicted of an offense and is sentenced other
15 than as provided in subsection (2) of this section, but is not sentenced
16 to a term of imprisonment of more than one year, such person may, after
17 completion of his or her sentence, petition the sentencing court to set
18 aside the conviction.

19 (b) A petition under subdivision (3)(a) of this section shall be
20 denied if filed:

21 (i) By any person with a criminal charge pending in any court in the
22 United States or in any other country;

23 (ii) During any period in which the person is required to register
24 under the Sex Offender Registration Act;

25 (iii) For any misdemeanor or felony motor vehicle offense under
26 section 28-306 or the Nebraska Rules of the Road; or

27 (iv) Within two years after a denial of a petition to set aside a
28 conviction under this subsection.

29 (4) In determining whether to set aside the conviction, the court
30 shall consider:

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

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

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

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

8 (a) Nullify the conviction;

9 (b) Remove all civil disabilities and disqualifications imposed as a
10 result of the conviction; and

11 (c) Notify the offender that he or she should consult with an
12 attorney regarding the effect of the order, if any, on the offender's
13 ability to possess a firearm under state or federal law.

14 (6) The setting aside of a conviction in accordance with the
15 Nebraska Probation Administration Act shall not:

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

19 (b) Preclude proof of a plea of guilty whenever such plea is
20 relevant to the determination of an issue involving the rights or
21 liabilities of someone other than the offender;

22 (c) Preclude proof of the conviction as evidence of the commission
23 of the offense whenever the fact of its commission is relevant for the
24 purpose of impeaching the offender as a witness, except that the order
25 setting aside the conviction may be introduced in evidence;

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

28 (e) Preclude the proof of the conviction as evidence of the
29 commission of the offense in the event an offender is charged with a
30 subsequent offense and the penalty provided by law is increased if the
31 prior conviction is proved;

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

4 (g) Preclude use of the conviction as evidence of commission of the
5 offense for purposes of determining whether an application filed or a
6 license issued under sections 71-1901 to 71-1906.01, the Child Care
7 Licensing Act, or the Children's Residential Facilities and Placing
8 Licensure Act or a certificate issued under sections 79-806 to 79-815
9 should be denied, suspended, or revoked;

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

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

19 (j) Relieve a person who is convicted of an offense for which
20 registration is required under the Sex Offender Registration Act of the
21 duty to register and to comply with the terms of the act;

22 (k) Preclude use of the conviction for purposes of section 28-1206;

23 (l) Affect the right of a victim of a crime to prosecute or defend a
24 civil action;

25 (m) Affect the assessment or accumulation of points under section
26 60-4,182; or

27 (n) Affect eligibility for, or obligations relating to, a commercial
28 driver's license.

29 (7) For purposes of this section, offense means any violation of the
30 criminal laws of this state or any political subdivision of this state
31 including, but not limited to, any felony, misdemeanor, infraction,

1 traffic infraction, violation of a city or village ordinance, or
2 violation of a county resolution.

3 (8) 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 (9) The changes made to this section by Laws 2018, LB146, and Laws
9 2020, LB881, shall apply to all persons otherwise eligible under this
10 section, without regard to the date of the conviction sought to be set
11 aside.

12 Sec. 4. Section 32-312, Revised Statutes Cumulative Supplement,
13 2020, 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 numbers of the applicant. At the
15 request of the applicant, a designation shall be made that a telephone
16 number is an unlisted number, and such designation shall preclude the
17 listing of such telephone number on any list of voter registrations.

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

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

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

1 completed pursuant to section 32-304.

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

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

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

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

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

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

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

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

30 (2) I have not been convicted of a felony or, if convicted, ~~it has~~
31 ~~been at least two years since~~ I have completed my sentence for the

1 felony, including any parole term;

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

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

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

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

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

14 32-313 (1) No person is qualified to vote or to register to vote who
15 is non compos mentis or who has been convicted of treason under the laws
16 of the state or of the United States unless restored to civil rights. No
17 person who has been convicted of a felony under the laws of this state or
18 any other state is qualified to vote or to register to vote until ~~two~~
19 ~~years~~ after the sentence is completed, including any parole term. The
20 disqualification is automatically removed at such time.

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

29 (3) Upon receiving notification from the United States Attorney of a
30 felony conviction of a Nebraska resident in federal court or of the
31 overturning of any such conviction, the Secretary of State shall forward

1 the notice to the election commissioner or county clerk of the county of
2 such person's residence. The election commissioner or county clerk shall
3 remove the name of such person from the voter registration register upon
4 receipt of notice of conviction.

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

7 32-1530 Any person who votes (1) who is not a resident of this state
8 or registered in the county or who at the time of election is not of the
9 constitutionally prescribed age of a registered voter, (2) who is not a
10 citizen of the United States, or (3) after being disqualified by law by
11 reason of his or her conviction of a felony and prior to ~~the end of the~~
12 ~~two-year period after~~ completing the sentence, including any parole term,
13 shall be guilty of a Class IV felony.

14 Sec. 7. Section 83-1,118, Revised Statutes Cumulative Supplement,
15 2020, is amended to read:

16 83-1,118 (1) If, in the opinion of the board, upon receipt of
17 information from the Director of Supervision and Services, a parolee has
18 shown suitable compliance with his or her parole programming plan, the
19 board may reduce the level of supervision for a parolee that is
20 commensurate with the best interests of the parolee and is compatible
21 with the protection of the public.

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

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

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

1 ~~years after~~ completion of the sentence. The notice shall also include
2 information on restoring other civil rights through the pardon process,
3 including application to and hearing by the Board of Pardons.

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

8 Sec. 8. Original sections 29-112, 29-113, 32-313, and 32-1530,
9 Reissue Revised Statutes of Nebraska, and sections 29-2264, 32-312, and
10 83-1,118, Revised Statutes Cumulative Supplement, 2020, are repealed.