

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1027

Introduced by Wayne, 13.

Read first time January 16, 2018

Committee:

1 A BILL FOR AN ACT relating to voting rights; to amend sections 29-112,
2 29-113, 29-2264, 32-313, 32-1530, and 83-1,118, Reissue Revised
3 Statutes of Nebraska, and section 32-312, Revised Statutes
4 Supplement, 2017; to provide for the restoration of voting rights
5 upon completion of a felony sentence or probation for a felony; to
6 harmonize 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 ~~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, Reissue Revised Statutes of Nebraska, is
26 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 a misdemeanor or felony and
6 is placed on probation by the court or is sentenced to a fine only, he or
7 she may, after satisfactory fulfillment of the conditions of probation
8 for the entire period or after discharge from probation prior to the
9 termination of the period of probation and after payment of any fine,
10 petition the sentencing court to set aside the conviction.

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

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

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

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

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

21 (a) Nullify the conviction; and

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

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

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

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

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

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

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

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

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

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

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

30 (j) Relieve a person who is convicted of an offense for which
31 registration is required under the Sex Offender Registration Act of the

1 duty to register and to comply with the terms of the act.

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

7 Sec. 4. Section 32-312, Revised Statutes Supplement, 2017, is
8 amended to read:

9 32-312 The registration application prescribed by the Secretary of
10 State pursuant to section 32-304 or 32-311.01 shall provide the
11 instructional statements and request the information from the applicant
12 as provided in this section.

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

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

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

22 NAME—the name of the applicant giving the first and last name in
23 full, the middle name in full or the middle initial, and the maiden name
24 of the applicant, if applicable.

25 RESIDENCE—the name and number of the street, avenue, or other
26 location of the dwelling where the applicant resides if there is a
27 number. If the registrant resides in a hotel, apartment, tenement house,
28 or institution, such additional information shall be included as will
29 give the exact location of such registrant's place of residence. If the
30 registrant lives in an incorporated or unincorporated area not identified
31 by the use of roads, road names, or house numbers, the registrant shall

1 state the section, township, and range of his or her residence and the
2 corporate name of the school district as described in section 79-405 in
3 which he or she is located.

4 POSTAL ADDRESS—the address at which the applicant receives mail if
5 different from the residence address.

6 ADDRESS OF LAST REGISTRATION—the name and number of the street,
7 avenue, or other location of the dwelling from which the applicant last
8 registered.

9 TELEPHONE NUMBERS—the telephone number of the applicant at work and
10 at home. At the request of the applicant, a designation shall be made
11 that the telephone number is an unlisted number, and such designation
12 shall preclude the listing of the applicant's telephone number on any
13 list of voter registrations.

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

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

22 DATE OF APPLICATION FOR REGISTRATION—the month, day, and year when
23 the applicant presented himself or herself for registration, when the
24 applicant completed and signed the registration application if the
25 application was submitted by mail or delivered to the election official
26 by the applicant's personal messenger or personal agent, or when the
27 completed application was submitted if the registration application was
28 completed pursuant to section 32-304.

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

31 DATE OF BIRTH—show the date of the applicant's birth. The applicant

1 shall be at least eighteen years of age or attain eighteen years of age
2 on or before the first Tuesday after the first Monday in November to have
3 the right to register and vote in any election in the present calendar
4 year.

5 REGISTRATION TAKEN BY—show the signature of the authorized official
6 or staff member accepting the application pursuant to section 32-309 or
7 32-310 or at least one of the deputy registrars taking the application
8 pursuant to section 32-306, if applicable.

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

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

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

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

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

26 (2) I have not been convicted of a felony or, if convicted, ~~it has~~
27 ~~been at least two years since~~ I have completed my sentence for the
28 felony, including any parole term;

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

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

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

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

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

10 32-313 (1) No person is qualified to vote or to register to vote who
11 is non compos mentis or who has been convicted of treason under the laws
12 of the state or of the United States unless restored to civil rights. No
13 person who has been convicted of a felony under the laws of this state or
14 any other state is qualified to vote or to register to vote until ~~two~~
15 ~~years~~ after the sentence is completed, including any parole term. The
16 disqualification is automatically removed at such time.

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

25 (3) Upon receiving notification from the United States Attorney of a
26 felony conviction of a Nebraska resident in federal court or of the
27 overturning of any such conviction, the Secretary of State shall forward
28 the notice to the election commissioner or county clerk of the county of
29 such person's residence. The election commissioner or county clerk shall
30 remove the name of such person from the voter registration register upon
31 receipt of notice of conviction.

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

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

10 Sec. 7. Section 83-1,118, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 83-1,118 (1) If, in the opinion of the board, a parolee does not
13 require guidance or supervision, the board may dispense with and
14 terminate such supervision.

15 (2) The board may discharge a parolee from parole at any time if
16 such discharge is compatible with the protection of the public and is in
17 the best interest of the parolee.

18 (3) The board shall discharge a parolee from parole when the time
19 served in the custody of the department and the time served on parole
20 equal the maximum term less good time.

21 (4) The department shall discharge a committed offender from the
22 custody of the department when the time served in the facility equals the
23 maximum term less good time.

24 (5) Upon completion of the lawful requirements of the sentence, the
25 department shall provide the parolee or committed offender with a written
26 notice regarding his or her civil rights. The notice shall inform the
27 parolee or committed offender that voting rights are restored ~~two years~~
28 after completion of the sentence. The notice shall also include
29 information on restoring other civil rights through the pardon process,
30 including application to and hearing by the Board of Pardons.

31 (6) The Board of Parole may discharge a parolee from parole when

1 such parolee is under the supervision of another state's correctional
2 institution and such offender has reached the expiration date of his or
3 her Nebraska parole term.

4 Sec. 8. Original sections 29-112, 29-113, 29-2264, 32-313, 32-1530,
5 and 83-1,118, Reissue Revised Statutes of Nebraska, and section 32-312,
6 Revised Statutes Supplement, 2017, are repealed.