

CURRENT & FORMERLY INCARCERATED NEBRASKANS' VOTING RIGHTS

NOVEMBER 2020
GENERAL EDITION

KNOW YOUR RIGHTS

IMPORTANT NOTE: Even if you are currently detained in a Nebraska jail, you may be eligible to vote.

Voting is both a fundamental right and a civic duty. Voting is the cornerstone of our democracy and the fundamental right upon which all our civil liberties rest. The right to vote is constitutionally protected under the state and federal constitutions. Dating back to the Jim Crow era, felony disfranchisement laws, which vary in severity from state to state, have prevented millions of Americans who are in jail, or have a prior felony conviction, from voting. Unfortunately, confusion about these laws strips many Americans of this fundamental right.

In Nebraska, individuals who have been previously convicted of a felony can vote two years after completing their sentence. However, the two-year waiting period is confusing to many Nebraskans and few know when, if, and how they can restore their voting rights. Being detained in jail at election time is equally confusing.

That's why it's important to know your voting rights! Your vote matters because you get to vote for candidates who make decisions about your lives, including criminal justice policy, education policy, economic development and important ballot initiatives addressing key issues.

TO BE ELIGIBLE TO VOTE IN NEBRASKA, YOU MUST:

- Be a U.S. Citizen;
- Live in Nebraska;
- Be 18 years old on or before November 3, 2020;
- Have not have been convicted of treason;
- Have not been convicted of a felony, or if you were convicted of a felony then at least two years must have passed since the completion of your sentence including any parole or probation term; and
- Have not been found mentally incompetent.

FIND YOUR LOCAL ELECTION COMMISSIONER'S OFFICE:

- A **list of election commissioners** can be found here: www.sos.nebraska.gov/elections/election-officials-contact-information
- If you are not sure **what county you reside in**, find your county here: www.sos.nebraska.gov/sites/sos.nebraska.gov/files/doc/Cities%20and%20Villages.pdf

HOW TO VOTE:

STEP 1: Check if you meet the requirements to be eligible to vote.

If you are eligible, continue to **STEP 2**. **If you are not sure your voting rights have been restored after serving a sentence**, contact the Clerk of the District Court where the sentence was imposed, the Department of Corrections, your supervising parole officer, or your attorney to confirm. Once you've confirmed, continue to **STEP 2**.

STEP 2: Check your voter registration or update your voter registration.

You will **only** need to **re-register** if you have changed your name, address, political party affiliation, or if your rights were recently restored two years after completing a felony convictions sentence including any parole or probation term.

You can **check your voter registration status** at www.votercheck.necvr.ne.gov/voterview or by contacting your Election Commissioner. If you disagree with the Election Commissioner, contact them to raise your concerns. If the answers of the Election Commissioner do not satisfy you, contact the Secretary of State. If unaddressed by the Secretary of State, contact the ACLU of Nebraska.

If you need to register or re-register to vote, follow **STEP 3**.

❑ **STEP 3: Register to vote.**

Depending on your circumstances, you can vote online, by postal mail, or in-person.

- **Register to Vote Online:** www.nebraska.gov/apps-sos-voter-registration/
Deadline: Friday, October 16, 2020 before midnight
Note: To register online, you will need your Nebraska driver's license or state-issued identification card.
- **Register to Vote by Mail:** Fill out the following form using the accompanying instructions: www.sos.nebraska.gov/sites/sos.nebraska.gov/files/doc/vr-fillable.pdf
Deadline: Must be **postmarked** by Friday, October 16, 2020
Note: If you are registering via postal mail and are registering to vote for the first time in Nebraska, you must submit either a copy of a current and valid photo ID with your current address or a copy of a utility bill, bank statement, government check, paycheck, or other government document showing your name and address dated within 60 days.
- **Register to Vote In-Person at Election Commissioner's Office:** at any county election office, any Department of Motor Vehicle (DMV) office or offices that offer state public assistance (i.e. DHHS).
Deadline: October 23, 2020 by 6 p.m. CST.

Once you are registered, the Elections/Election Commissioner's office will send an acknowledgment of registration to you via mail typically within 10–14 days. That notice will let you know whether the application was accepted, rejected, or if there were any problems in processing your registration.

Now that you are registered, you can request an Early Voting Ballot by following **STEP 4**.

❑ **STEP 4: You can either wait for your Early Voting Ballot Application to come in the mail or request an application following the steps below.**

For the November 3, 2020 General Election, you will not need to actively request an Early Voting Ballot Application because the Nebraska Secretary of State has decided to mail an application to ALL registered voters to protect public health. This makes it even more important than ever that your voter registration be as up to date as possible. If you do not receive an Early Voting Application in the mail or if you become incarcerated prior to and maybe through November 3, 2020, you can request your ballot be mailed to you in jail by filling out the Early Voting Ballot Application and faxing, emailing, or mailing it to your county Election Office or Commissioner:
www.sos.nebraska.gov/sites/sos.nebraska.gov/files/doc/elections/earlyvote_app_fill.pdf

If you are requesting the ballot be mailed to you in jail, make sure to write your inmate or booking number, if known, on the form.

OR write to your Election Commissioner requesting an Early Voting Ballot with:

- your name and residence address,
- your booking/inmate number, if applicable/known,
- your voting precinct, if known,
- your phone number,
- the mailing address you want the ballots sent to, and
- your signature.

Last day to send in requests for the Early Voting Ballot: October 23, 2020

Deadline to return ballot: Ballot must be received by County Election Office by November 3, 2020 8/7 p.m. CST/MT. However, due to potential U.S. postal service delays, try to send in your ballot by October 27, 2020 or submit via a drop box. A drop box for ballots will be available in every county.

Check the status of your early voting ballot here: www.votercheck.necvr.ne.gov/voterview

IMPORTANT TERMS & DEFINITIONS:

Bail: Temporary release of an individual accused of committing a crime while awaiting trial. The release is typically done on the condition that a sum of money be deposited with the court as a guarantee of their appearance in court.

Convicted/Conviction: a final judgment by the court imposing a sentence after a person is convicted through a verdict of guilty, a plea of guilty, or a plea of no contest.

Disenfranchise: To deprive a person of the right to vote.

Early Voting Ballot/Vote-By-Mail/Absentee Ballot: A ballot mailed to a voter before Election Day and then completed by the voter and returned to the Election Commissioner/Office by mail. This is a common form of voting for incarcerated people and will be an option for everyone during the May 2020 Primary Elections due to public health reasons.

Expungement/Expunge: When an individual's felony arrest is removed or erased from law-enforcement and court records because the arrest or conviction was due to a law enforcement agency's error.

Felony: A crime that may be punished by a year or more of incarceration. In Nebraska, certain felonies that are considered less serious, such as property offenses or other non-violent offenses, may result in probation sentences or incarceration in county jail, while felonies that are considered more serious may result in incarceration in prison. The two-year waiting period applies to all felonies regardless of where you are serving your sentence or what your sentence is: probation or time in prison/jail.

Formerly-Incarcerated Person/ Person with a Felony Conviction: Acceptable alternatives for terms like "ex-offender," "ex-felon," or "ex-convict" used to convey that someone whose life has been impacted by the criminal legal system is first and foremost a person.

FREQUENTLY ASKED QUESTIONS:

1. What if I have been convicted of a misdemeanor?

If you otherwise meet all the **TO BE ELIGIBLE** requirements, then you can vote (see **STEP 1**)!

2. What if I was charged with a felony?

You can vote if...

- you have been arrested but not convicted;
- you have been released on bail or bond and your case is still pending;
- you are under pre-trial release electronic monitoring; or
- you are in jail but your case is still pending.

Follow the “How to Vote” instructions.

3. Can I register to vote and vote if the felony conviction was set aside?

You can vote if you are otherwise eligible (see **TO BE ELIGIBLE**) and it has been two years since you have completed your sentence including any parole or probation term.

4. Can I register to vote if I was arrested for or charged with a felony but the charges were dismissed or reduced to a misdemeanor?

Yes, only felony convictions affect your right to vote. If your charge was dismissed, reduced to a misdemeanor, sealed, or expunged, you still have the right to vote if you are otherwise eligible (see **TO BE ELIGIBLE**) and do not have to wait two years.

5. Can I register to vote and vote if I am currently on probation?

If you are currently on probation as a result of a **felony** conviction, you cannot register to vote or vote until two years after you have been released from probation.

If you are currently on probation as a result of a **misdemeanor** conviction, and otherwise meet all the **TO BE ELIGIBLE** requirements, you can vote (see **STEP 1**)!

6. Can I register and vote if I am on parole?

You cannot register to vote or vote until two years after you have completed your prison and parole sentence.

7. Can I register to vote and vote if I received a pardon for the felony conviction?

Yes. If you have received a pardon for your felony conviction, and you are otherwise eligible (see **TO BE ELIGIBLE**), you can register to vote (see **STEP 1**)!

Note: It is usual practice for the Board of Pardons to wait 10 years after a felony sentence has been completed to grant a pardon. You only need to wait 2 years to register to vote after completing your felony sentence including any parole or probation term.

8. What if the felony conviction is from another state?

You can vote if you are otherwise eligible (see **TO BE ELIGIBLE**) and it has been two years since you have completed your sentence including any parole or probation term.

9. If I'm currently detained, do I need to update my voter registration to the jail's address?

No. If you are currently in a county jail and you intend to return home to the address listed on your registration, you do NOT need to re-register.

Temporarily leaving your residence due to detention or incarceration does NOT change your residence for voting purposes. It's common for voters to be incarcerated outside of their home county. If you have changed addresses since you last registered to vote and need to update your registration, it's best to double check (see **STEP 2**).

However if you know you will be in custody on election day, use the jail address with your booking or inmate number as the mailing address to receive the Early Voting Ballot. To request an Early Voting Ballot, follow **STEP 4** and see **What address do I use for the Early Voting Ballot** question on the next page.

IMPORTANT TERMS & DEFINITIONS:

Misdemeanor: A crime not punishable by more than a year in jail. Misdemeanor convictions, regardless of the sentence, do not affect the right to vote. (i.e. disturbing the peace, criminal mischief) Individuals otherwise eligible (see **TO BE ELIGIBLE**) to vote who have been convicted of a misdemeanor do not have to wait two years to vote.

Pardon: A proclamation issued by the Nebraska Board of Pardons restoring civil rights lost due to a felony conviction, including the right to vote.

Parole: A period of supervision in the community by a state parole officer after release from state prison. Individuals are not eligible to vote while they are on parole but may vote again two years after they complete their prison and parole term.

Pre-trial Electronic Monitoring: An electronic system which may include a phone line and ankle bracelet used by the court to monitor the individual accused of a crime while out on bail.

Prison: “State prison” refers to a system of detention facilities, operated by the Nebraska Department of Corrections (NDOC), that incarcerate people who have been convicted of certain felonies. “Federal prison” refers to a system of detention facilities, operated by the Federal Bureau of Prisons, that incarcerate people convicted of a felony under federal law. Individuals lose their voting rights while they are in either state or federal prison up until two years after they complete their sentence including any parole, mandatory supervision, or probation term.

Sealed: Court records of cases that do not result in a criminal conviction are sealed, which means they are removed from the public record, cannot be disclosed to the public by court officials, and are only available to law enforcement.

Set-Aside: A set-aside is an order removing the civil disabilities and disqualifications resulting from a conviction. However, a set-aside does not restore the right to vote as a result of a conviction.

10. What address do I put on my voter registration or Early Voting Ballot if I am currently experiencing homelessness?

If you are currently experiencing homelessness, your residence is the county in which you live. You may use the homeless shelter in which you reside or the election commissioner's address as your mailing address.

For the mailing of your ballot, you may choose to have your ballot sent to any location where you receive mail — like a P.O. Box, a friend's residence, your work, or a shelter if you register at the election office address.

11. If I'm currently detained in jail, what address do I use for the Early Voting Ballot Application?

If you know you will be in custody on the November 3, 2020 General Election date, use the jail address with your booking or inmate number, if known/available, as the mailing address to receive the Early Voting Ballot following **STEP 4**. If you are transferred to a different jail, you should contact the election office to update your address. Most sheriffs' offices do not forward or redirect mail to other jails.

If you know you will be released before the November 3, 2020 General Election date, an application should be waiting for you at the address you indicated on your voter registration. If you are no longer living at the same address you were registered at, re-register by following **STEPS 2** and **3** and put your permanent address or an address where you can reliably receive mail as your mailing address. If you do not receive an application, you can request an Early Voting Ballot by following **STEP 4** prior to October 23, 2020.

12. Do I need identification to register to vote?

Only if you are registering for the first time in the state of Nebraska. See **STEP 3** for specific documentation requirements and remember you can have someone mail one of these documents to you if you do not have access to them while being detained in jail.

13. Do I need identification to vote?

No. Nebraska is not a voter ID state. You don't need to prove your identity when you vote.

14. What if I need help marking or reading my ballot?

You have the right to request accommodations to facilitate your right to vote and can pick someone to help you vote, including a jail staff member. This helper cannot be your employer, an agent of your employer or officer of your union. They must respect your privacy and not look at your ballot unless you ask them to do so. You can also assign an agent (a person you designate) to apply for your ballots.

If you are casting an Early Voting Ballot and received assistance filling out your ballot, the envelope must be sealed and signed (or mark made) by you and any helper.

15. What if I do not understand the language in which the ballot is written?

You may use an interpreter at the polling place or where you are voting. Colfax, Dakota, and Dawson counties must provide bilingual ballot materials in English and Spanish.

If you are casting an Early Voting Ballot and received assistance filling out your ballot, the envelope must be sealed and signed (or mark made) by you and the interpreter.

16. What if I am released before General Election day November 3, 2020?

If you are released from jail between October 23, 2020 and General Election day November 3, 2020 and you were not registered to vote, you will not be able to vote because the voter registration deadline of October 23rd has passed.

If you are released from jail between October 23, 2020 and General Election day November 3, 2020 and you are registered to vote at an address in the same county, you can update your address and vote on the same day at any polling place or Election Office in your county.

17. Do I need to pay for postage?

Yes, voter registration form, early voting ballot application forms, and ballots

require postage. If you are detained, you can typically purchase stamps at the canteen in the jail.

If you are not detained, you can drop off the forms at your local Election Commissioner's office instead of paying for postage.

18. What if my voter registration was wrongfully denied?

Elections officials may make mistakes regarding the voting rights of people with felony convictions. If your voter registration is wrongfully denied, or you receive a notice your right to vote is improperly suspended, contact either your local Election Commissioner or the Secretary of State to raise your concerns. Remember: the only requirements to vote are listed under **TO BE ELIGIBLE**. An election office or election commissioner cannot impose any other requirements. If none of these agencies address your issue, contact the ACLU of Nebraska:

By e-mail: gethelp@aclunbraska.org

By mail: ACLU of Nebraska
134 South 13th Street, #1010
Lincoln, Nebraska 68508

ADDITIONAL RESOURCES:

Civic Nebraska

1111 Lincoln Mall, Ste. 350
Lincoln, NE 68508
Phone: 402.904.5191
Website: www.civicnebraska.org/contact/

Nebraska Secretary of State

Elections Division
P.O. Box 94608
Lincoln, NE 68509-4608
Phone: 402.471.2555
Toll Free: 888.727.0007
E-mail: sos.elect@nebraska.gov
Website: sos.nebraska.gov

League of Women Voters of Nebraska

Phone: 402.475.1411
Website: www.lwv-ne.org

Nebraska Civic Engagement Table

211 N 14th Street
Lincoln, Nebraska 68508
Phone: 402.253.0500
Website: www.nebraskatable.org

DISCLAIMER: This resource is general voter education. These materials do not entitle you to legal advice from the ACLU and is not an offer by the ACLU to represent you as your attorneys. Please contact local election officials, your attorney, or the ACLU for more information.