

CURRENT & FORMERLY INCARCERATED NEBRASKANS' VOTING RIGHTS

FALL 2022
GENERAL ELECTION

KNOW YOUR RIGHTS

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

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 disenfranchisement laws 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, someone who has been previously convicted of a felony can vote two years after completing their sentence. This 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. This guide is meant to help.

Your vote matters because you get to vote for candidates who make decisions about your life, including criminal legal policy, education policy, economic development and important ballot initiatives addressing key issues like the minimum wage and voting rights.

TO VOTE IN NEBRASKA, YOU MUST:

- Be a U.S. Citizen;
- Live in Nebraska (this includes self-supporting students who regard the location of their school as their home and military service members living on a military post with no intention to return to their former places of residence);
- Be 18 years old on or before November 8, 2022;
- Have not have been convicted of treason under Nebraska law or federal law unless your right to vote has been restored by a court;
- Have not been convicted of a felony under Nebraska's laws, another state's laws, or federal government laws, 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
- Not be currently subject to a court order of mental incompetency. An adult under a guardianship order can still vote unless there is a court order stating otherwise.

FIND YOUR LOCAL ELECTION COMMISSIONER'S OFFICE:

- A **list of Election Commissioners** and their contact information can be found here: www.sos.nebraska.gov/elections/election-officials-contact-information

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 Nebraska Department of Correctional Services (NDCS), 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 sentence, including any parole or probation term. If you believe it has been two years since completing a felony sentence, it is recommended that you contact the Clerk of the District Court where the sentence was imposed, the Nebraska Department of Correctional Services (NDCS) or the supervising parole officer to confirm if it has been two years since the completion of your sentence.

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 Election Commissioner's answers 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:**
Fill out the form here: www.nebraska.gov/apps-sos-voter-registration/
Deadline: Friday, October 21, 2022 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: <https://sos.nebraska.gov/sites/sos.nebraska.gov/files/doc/elections/vr-fillable.pdf>
Deadline: Must be **postmarked** by Friday, October 21, 2022
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:** Register in person by visiting your local county election office.
Deadline: Friday, October 28, 2022 at 6 P.M.
Note: You may also register at any Department of Motor Vehicle (DMV) office or offices that offer state public assistance (e.g. DHHS) through Friday, October 21, 2022.

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

❑ **STEP 4: Request an early voting ballot application.**

You can request your ballot be mailed to you in jail by filling out the Early Voting Ballot Application and faxing, e-mailing, or mailing it to your county Election Office or Commissioner: www.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 for the election office to receive your request for an early voting ballot:
Friday, October 28, 2022

Deadline to return ballot: Ballot must be received by County Election Office by November 8, 2022 8 P.M. CST (7 MT)

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 or drop box. This is a common form of voting for incarcerated people.

Expungement/Expunge: When an individual's felony arrest is removed or erased from law enforcement and court records, often because the arrest or conviction was due to a law enforcement agency's error. This is not an option in Nebraska but may apply to out-of-state convictions that have been expunged.

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, of any state or federal felony, regardless of where you are serving your sentence or what your sentence is: probation or time in prison/jail.

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.

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 regardless of whether the conviction is set-aside.

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 the conviction is set-aside, 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 resulting from a felony conviction.

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 or another institution and you intend to return home to the address listed on your registration, you do NOT need to re-register to update your address.

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 (CONTINUED):

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 Correctional Services (NDCS), 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. Nebraskans 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. Criminal charges that did not result in a conviction do not prevent voting regardless of whether the criminal record has been sealed or not.

Set-Aside: A set-aside is an order removing the civil disabilities and disqualifications resulting from a conviction. However, a set-aside does not remove the conviction from a criminal record nor restore the right to vote as a result of the 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 Office in the county where you live 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 November 8, 2022, 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 November 8, 2022, 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**.

12. Do I need identification to register to vote?

Only if you are registering for the first time in the state of Nebraska by mail. 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. As of fall 2022, 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 have a legal guardian, your guardian can also help you.

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 Election Day November 8, 2022?

If you are released from jail after October 28, 2022 but before Election Day November 8, 2022 and you were not registered to vote, you will not be able to vote because the last voter registration deadline has passed.

If you are released from jail after October 28, 2022 but before the November 8, 2022 election 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 forms, 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 indigent (unable to pay), a certain amount of postage must be

provided to you. 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@aclunebraska.org

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

ADDITIONAL RESOURCES:

Civic Nebraska

530 S. 13th St, Ste 100, Lincoln, NE 68508
Phone: 402.904.5191
Website: www.civiclebraska.org/contact/

Nebraska Secretary of State

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

League of Women Voters of Nebraska

Phone: 402.982.1572
Website: www.lwvnebraska.org

Nebraska Civic Engagement Table

P.O. Box 83358, Lincoln, NE 68501
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.