

VOTING WITH A CRIMINAL CONVICTION IN NEVADA:
Administrative Problems and the Need for Reform

A REPORT OF THE
ACLU of Nevada

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The American Civil Liberties Union is the nation's guardian of liberty,
and the ACLU of Nevada is an affiliate of the national organization,
working to protect the rights and liberties of all Nevadans.



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Introduction and Executive Summary

Nevada has one of the most severe and complex voter disfranchisement policies in the nation, barring individuals convicted of felonies from voting until they complete their sentences and have their voting rights restored. The process for getting one's rights restored varies greatly based on an individual's type, date, and place of conviction, and can be prohibitively difficult for some people.¹

More than 40,000 Nevada citizens, the majority of whom live, work and raise families in their communities, are barred from voting due to this restrictive disfranchisement policy.² Countless more are *de facto* disfranchised due to misinformation and misunderstanding stemming from the complexity of the state's policy.³

Voting is an important part of the community reentry process and helps individuals with past convictions rejoin and have a stake in their communities. Indeed, research has found that people who vote are less likely to be re-arrested,⁴ and organizations like the American Probation and Parole Association have voiced their support for policies that allow people living in the community to vote.⁵

Unfortunately, the severity of the state's disfranchisement law bars tens of thousands of Nevadans from participating in our democracy. And the complexity of the law makes it extremely difficult for elections employees to administer and for the voting public to understand.

This report summarizes research done by the American Civil Liberties Union (ACLU) of Nevada in 2010 about how the state's disfranchisement law is being administered. It suggests that the complexity of the law has generated considerable confusion among elections employees, and that members of the general public are not receiving accurate information about voting with a criminal conviction.

1 For a more detailed description of Nevada's policy, see the ACLU of Nevada brochure "Voting with a Criminal Conviction in Nevada," the most comprehensive and up-to-date explanation of when and how people with past felony convictions can regain their right to vote.

2 Jeff Manza & Christopher Uggen, *Locked Out: Felon Disenfranchisement and American Democracy* (2006).

3 ACLU and the Brennan Center, *De Facto Disenfranchisement* (2008).

4 Jeff Manza & Christopher Uggen. *Voting and Subsequent Crime and Arrest: Evidence from a Community Sample*. *Columbia Human Rights Law Review* 36 (2004-2005):193.

5 See the American Probation and Parole Association's resolution at http://www.appa-net.org/eweb/Dynamicpage.aspx?site=APPA_2&webcode=IE_NewsRelease&wps_key=a587deaf-9cbf-4efd-bd8d-025c14143f65.

Nevada clerks and registrars work hard every day to protect our democracy. The ACLU of Nevada's findings do not suggest shortcomings on the part of Nevada's elections employees, but rather the unfair burden placed on them by the state's complicated web of disfranchisement laws.

Remedying this problem requires action on two fronts: 1) simplification of the law by the state legislature, and 2) streamlining of the registration process by elections officials. In the interests of democracy, public safety and good government, we recommend the following specific actions be taken.

These legislative and administrative reforms will clarify current requirements while streamlining the administration of Nevada's elections, thus conserving valuable government resources and encouraging people who have paid their debts to society to resume the responsibilities of full citizenship.

Nevada lawmakers should:

1. Simplify the Law. All Nevada citizens should have their voting rights restored *automatically* upon completion of sentence; differences based on type, date and place of conviction should be eliminated, and complicated paperwork should not be required.

Nevada county clerks and registrars, in collaboration with the Secretary of State, should:

1. Provide Education to Elections Employees. All elections employees should receive regular training about the eligibility of individuals with criminal records.

2. Make Information Available to the Public. Clear and reader-friendly information about when and how people with past convictions can regain their voting rights should be widely available to the general public through written materials, state websites, and other sources.

3. Eliminate Paperwork Requirements that Prevent Eligible Voters from Registering. Individuals with past convictions who have regained their voting rights are required by current practice, but not by law, to show proof of rights restoration when registering to vote.⁶ This requirement should be eliminated, since it results in *de facto* disfranchisement by burdening individuals who may not have or be able to get the necessary documents. It also burdens elections employees, who must review and process the additional paperwork.

⁶ A detailed discussion of this issue can be found on page 6 of this report under the heading "Nevada's Voter Disfranchisement Policy."

Nevada's Voter Disfranchisement Policy

Nevada's disfranchisement policy for people with felony convictions is highly complex. In many of Nevada's neighboring states, voting rights are restored automatically to *all* individuals upon release from prison or community supervision.⁷ In contrast, Nevada's law varies based on an individual's type of conviction, date of conviction, and place of conviction, and requires certain individuals to affirmatively petition for rights restoration.

For individuals convicted in Nevada courts, state law distinguishes between people convicted of single, non-violent felonies and those convicted of multiple or more serious crimes. Those in the former category have their rights automatically restored when they complete their sentences,⁸ while those in the latter group must petition "a court of competent jurisdiction" for an order restoring their voting rights.⁹ Nevada law also includes an exception for people who completed their sentences before July 1, 2003; those individuals, regardless of type of conviction, had their voting rights automatically restored by the passage of Assembly Bill 55 during the 2003 legislative session.¹⁰

For individuals with out-of-state felony convictions, Nevada law requires clerks to cancel the registration of those individuals who have not had their voting rights restored in their states of conviction (regardless of type of conviction).¹¹ This policy effectively bars individuals who never lost their voting rights in their states of conviction from ever voting in Nevada, since these individuals never had their rights "restored."¹²

State law is silent on the eligibility of individuals convicted of felonies in federal court, but an Attorney General opinion from 1996 indicates that those individuals must receive presidential

7 In Oregon and Utah, voting rights are restored automatically upon release from prison, and individuals on parole and probation may vote. In Idaho, voting rights are restored automatically upon full completion of sentence. And in California, voting rights are restored automatically upon completion of parole, and individuals sentenced only to felony probation never lose the right to vote.

8 NRS 176A.850(3), 213.090(1), 213.155(1) and 213.157(1). *Note:* these subsections do not apply to individuals who were convicted outside of the state of Nevada.

9 NRS 176A.850(4), 213.155(2) and 213.157(2). The term "court of competent jurisdiction" is not defined in NRS and could likely apply to the court of conviction. In some instances, however, the court where a person was convicted may no longer have jurisdiction, as records may have been lost or destroyed, or the court system may have been consolidated. In these instances, a person might not have access to a court of competent jurisdiction, and it is unclear how a person could get his or her rights restored.

10 http://www.leg.state.nv.us/Session/72nd2003/bills/AB/AB55_EN.pdf

11 NRS 293.540. However, Nevada law is silent on whether or not people with out-of-state convictions are eligible to register to vote in the first place.

12 An individual convicted of a felony in New York, for instance, and sentenced only to felony probation never loses his right to vote in New York. As such, he can never be said to have had his voting rights "restored," and so would presumably not be permitted to vote in Nevada.

pardons before they may vote in Nevada.¹³ Given the severely limited number of presidential pardons granted, this requirement places an undue burden on people with federal convictions.

According to current practice, individuals must also show proof of rights restoration when registering to vote, regardless of when and how their rights were restored; however, this requirement is not mandated by state law.¹⁴ Individuals who never received documentary proof of rights restoration—including those convicted in states where rights restoration is automatic and paperwork is never provided—as well as those who may not have it readily available are especially burdened by this requirement.

As a result of Nevada’s disenfranchisement laws, an estimated 43,594 Nevada citizens are barred from voting. The majority of these people are not in prison but are living and working in our communities, yet they are unable to participate fully in our democracy.¹⁵

13 See page 83 of the Nevada AG opinion at http://ag.state.nv.us/publications/ago/archive/1996_AGO.pdf

14 NRS 213.155, 213.157, and 213.090 refer to the restoration of voting rights process, but not to voter registration. They indicate (respectively) that “[a] person who has been honorably discharged from parole,” “[a] person who has been released from prison” and “[a] person who has been granted a pardon...*may present*” various documents “as proof that the person has been restored to civil rights.” However, they do not indicate that such individuals are required to present this proof *when registering to vote*. Additionally, NRS 293.540 requires that clerks cancel the registration of individuals convicted of felonies unless their rights have been restored pursuant to the statutes mentioned above. This section does not, however, require individuals to furnish proof of restoration in order to avoid cancellation, register for the first time, or re-register following disqualification.

Further, NAC 293.414 specifies that clerks who wish to verify the eligibility of individuals with felony convictions can rely on various types of written documents but also on “[t]he information received from the Secretary of State pursuant to subsection 3,” which specifies that “[t]he Secretary of State will immediately provide the county clerks with any information he receives regarding a person convicted of a felony who has had his right to vote restored and is currently eligible to register to vote.” In other words, clerks should be receiving information from the Secretary of State about individuals who have their rights restored, and may rely on that—and not on documents furnished by the individuals—to establish eligibility. Only the Secretary of State’s website indicates that “documentation must be provided if the registration is cancelled pursuant to NRS 293.540(3).” This requirement is not, however, part of state law.

15 Jeff Manza & Christopher Uggen, *Locked Out: Felon Disenfranchisement and American Democracy* (2006).

Administrative Obstacles and De Facto Disfranchisement

Voting is an important part of the reentry process, and helps individuals with past convictions rejoin and have a stake in their communities.¹⁶ Too many Nevadans are locked out of the democratic process, however, either because they are barred from voting by a web of disfranchisement laws or because they are confused about their eligibility.

Research by the ACLU of Nevada, explained in detail below, shows that many county clerks and voter registrar employees have a limited and sometimes incorrect understanding of state disfranchisement policy, and are sometimes dispensing misinformation. For example, when asked by a student researcher if people who had completed their felony sentences could vote, none of the elections employees was able to provide a comprehensive answer.

The challenges faced by people with past convictions in terms of internet and phone access, unfamiliarity with statutory law and more only serve to make these problems more acute. Even if an eligible individual does have access to the internet, our research also revealed that information available on the Nevada Secretary of State's website about rights restoration is difficult to understand and is not comprehensive. The website provides only a cursory review of the law and recommends that individuals contact their county clerks or registrars for additional clarification, which—as our research shows—is not an adequate solution.

As such, Nevada citizens with past convictions likely do not understand whether they are eligible to vote. Many may believe they cannot vote when in fact they can, leading inevitably to the *de facto* disfranchisement of eligible would-be voters. Some could even attempt to register when they are *not* eligible, unknowingly exposing themselves to felony charges.¹⁷

The remainder of this report outlines the ACLU of Nevada's research findings, as well as a series of reforms that we believe are necessary to simplify the state's disfranchisement policy and eliminate the existing confusion.

16 Jeff Manza & Christopher Uggen. *Voting and Subsequent Crime and Arrest: Evidence from a Community Sample*. *Columbia Human Rights Law Review* 36 (2004-2005):193.

17 ACLU and the Brennan Center, *De Facto Disenfranchisement* (2008). See also NRS 293.800.

ACLU of Nevada County Clerk and Voter Registrar Survey

In May of 2010, the ACLU of Nevada worked with a student researcher to gauge Nevada county clerks' and voter registrars' understanding of the state's disfranchisement law. The goal of the survey was to better understand how the state's complicated policy is being communicated to the general public, and how its various provisions are being administered by county elections employees.

To this end, the student researcher called all 17 county clerk and registrar offices in the state, as well as the Elections Division of the Secretary of State's office, and asked a series of 16 questions about voting with a criminal conviction. The questions ranged from the very basic—"Can a person vote while incarcerated for a felony in Nevada?"—to the more complex: "If a person loses his right to vote due to a felony conviction, is there a procedure he needs to go through to be able to register again?"

The student researcher asked the questions of whoever answered the phone; in one case this was the clerk or registrar, while in all other cases it was another employee of that office. For simplicity's sake, we have generally used the term "elections employees" to refer to all respondents.

The findings, detailed below, indicate that there is considerable confusion about when and how people with past felony convictions regain the right to vote. State elections employees have a partial understanding of the state's disfranchisement policy, but cannot fully communicate all aspects to members of the public.

Question 1: Can a person vote while incarcerated for a felony in Nevada?

All elections employees knew that the correct answer to this question is "no."

Question 2: Can a person vote if he has been convicted of a misdemeanor in Nevada?

Nearly all elections employees knew that the correct answer to this question is "yes," since people with misdemeanor convictions never lose the right to vote in Nevada. (One respondent indicated, incorrectly, that individuals with misdemeanor convictions would have to have their civil rights restored.)

Question 3: If a person is on probation for a felony conviction, can he vote in Nevada?

All elections employees knew that the correct answer to this question is "no."

Question 4: If a person is on parole for a felony conviction, can he vote in Nevada?

All elections employees knew that the correct answer to this question is "no."

Question 5: If a person was convicted of a felony in Nevada and has completed his sentence, can he vote?

Answers to this question varied, but none adequately covered all aspects of Nevada's policy. A model answer would be something like the following:

"It depends. If he was convicted of one non-violent felony OR multiple non-violent felonies that arose out of the same act AND was unconditionally released after serving his full sentence or was honorably discharged from felony parole or probation, his right to vote is automatically restored and he may register. However, he is required by current practice to provide proof when registering that his voting rights were restored.¹⁸

If he was convicted of a category A felony, or category B felony that resulted in substantial bodily harm, or more than one separate felony (violent or non-violent), he must petition a court of competent jurisdiction for an order restoring his right to vote. If the judge grants the order, he may register to vote. However, he is required by current practice to provide proof when registering that his voting rights were restored.

If he was convicted of any felony (violent or non-violent) and he completed his sentence before July 1, 2003, his right to vote was automatically restored and he may register. However, he is required by current practice to provide paperwork showing a discharge date prior to July 1, 2003 with his voter registration form.

If he was dishonorably discharged from parole, he must apply to have his status changed to honorable before registering to vote."

No elections employee was able to give a comprehensive answer to this question. Most of the respondents (15 in total) correctly mentioned that individuals had to complete their sentences, be honorably discharged, and/or have their rights restored. Many (10 in total) also mentioned that individuals would have to show proof that they had discharged their sentences and/or had their rights restored, which reflects current practice but is not mandated by law.

Only two elections employees mentioned that the rights restoration process differs based on type of conviction, and not a single respondent mentioned the exception for people who discharged their sentences before July 1, 2003. Only one person mentioned that some people have to have their rights restored by a court, and only one respondent mentioned dishonorable discharges.

A representative from the Secretary of State's Elections Division declined to answer this or any of the previous questions, and instead referred the researcher to the Secretary of State's website

¹⁸ As mentioned above, proof of rights restoration is not required by law. Because the requirement is part of current practice, however, we consider it to be part of a comprehensive answer to this question.

(included as an appendix to this report). The website correctly indicates that people convicted of certain felonies have their rights restored automatically upon honorable discharge/completion of sentence, but does not specify *which* individuals are covered by this provision. It also does not explain that individuals *not* eligible for automatic restoration must have their rights restored by a court of competent jurisdiction.

The website mentions the exception for individuals who completed their sentences before July 1, 2003, but indicates that this exception applies only to people convicted of certain (unspecified) felonies, when in fact it applies to *all* felonies.

The bulk of the website is devoted to “documentation requirements,” but indicates only that “documentation [of rights restoration] *may* be provided at the time of registration to ensure that the registration is not subsequently cancelled.” Though a person convicted of a felony *may* provide such documentation, no NRS or Nevada Administrative Code *requires* a person to provide this information in order to register to vote. In fact, the Nevada Administrative Code requires the Secretary of State to provide information to the clerks about individuals who have their rights restored, and permits clerks to rely on this information (rather than on written documents) when verifying eligibility.¹⁹ However, information from the clerks (cited later in this report) indicates that such information is not being shared.

Overall, though the Secretary of State’s website includes some helpful information, critical detail is lacking, and the format—which refers repeatedly to various NRS sections but does not explain them—likely makes it difficult for the average reader to understand.

Question 6: If a person was convicted of a felony in another state, can he vote in Nevada?

Most elections employees provided answers that were largely, but not entirely, correct and complete. Indeed, all but one correctly explained that individuals convicted of felonies in other states would have to complete their sentences and/or have their rights restored in order to vote,²⁰ and 10 of the respondents mentioned the need to show proof of rights restoration. However, only five specified that an individual’s rights had to be restored *in his or her state of conviction*.

Only two employees acknowledged that some individuals might not have received the necessary rights restoration documentation, particularly if they were convicted in states where restoration is automatic.

The Secretary of State’s website mentions out-of-state convictions, but the presentation is such that the average reader would have a hard time understanding whether he or she was eligible.

¹⁹ NAC 293.414.

²⁰ As discussed above, Nevada law requires clerks to cancel the registration of individuals with out of state convictions who do not have their rights restored in their states of conviction, but does not speak to these individual’s eligibility to register in the first place.

Question 7: If a person was convicted of a federal felony, can he vote in Nevada?

State law is silent on this question, but a Nevada Attorney General opinion from 1996 explains that individuals convicted of felonies in federal court must obtain presidential pardons in order to vote in Nevada.

Answers to this question were generally vague, and none mentioned a presidential pardon. Most elections employees responded by saying that individuals with federal felony convictions could not vote unless they had their rights restored. The Secretary of State's website does not mention federal convictions.

Question 8: If a person loses his right to vote due to a felony conviction, is there a procedure he needs to go through to be able to register again?

A comprehensive answer to this question would be similar to the answer to question five. As with that question, none of the elections employees was able to give a complete answer. Though most were aware that a rights restoration procedure existed, none could adequately explain it. Nine employees mentioned the need to finish one's sentence and/or have one's rights restored, and five mentioned the need to show paperwork stating that one's rights have been restored and/or that one had completed his sentence.

Only two employees mentioned restoration of rights through the court; one of those individuals explained that the process varied based on type of conviction—no other respondent mentioned this fact—while the other implied that *all* people would have to go through the courts, saying in response to the question: "That would be something that would have to go through the court system. What that entails I don't know."

Only one elections employee mentioned the exception for people who discharged their sentences before July 1, 2003. And none of the employees made mention of people dishonorably discharged from parole or probation.

A handful of elections employees mentioned that a process exists for restoring one's rights but that they didn't know what the process entailed. A few others indicated that an individual should consult an attorney, the Nevada Revised Statutes and/or the district attorney for an answer.

A representative from Secretary of State's office agreed to respond to this question, but indicated that the only information available from the agency was on the website (as outlined above, the Secretary of State's website addresses some but not all aspects of this question). The representative also recommended that individuals with further questions contact their parole officer or another similar entity.

Questions 9 and 10: If a person was convicted of a felony, does he need to provide any documentation or paperwork with his voter registration form showing he is eligible to vote? If yes, what documentation is required?

The majority of respondents (14 in total) indicated that some form of documentation is required, and most indicated that the document should be proof that the individual's rights were restored. Some mentioned that this documentation would come from the court, while others said it would come from the agency from whose supervision the individual was released. Generally, however, information about the nature of the documentation required was vague and inconsistent.

Three elections employees recommended that individuals consult the Secretary of State, an attorney or the state supreme court/county court websites for answers to this question.

The representative from the Secretary of State's office recommended that an individual contact parole or probation offices, indicating that "they're supposed to notify you when you're released from prison with all that information." As mentioned above, the Secretary of State's website covers so-called "documentation requirements," but does not in fact show that such documentation is required by law in order to register.

Question 11: What if he doesn't have that documentation? How can he get it?

Answers to this question varied greatly, and included recommendations that an individual contact the court, parole and probation offices, corrections officials, the DA's office, the Secretary of State, the sheriff's department and various state websites.

Question 12: How does your office know when an individual has lost the right to vote due to a felony conviction?

Most elections employees said that they periodically receive a list with names of individuals convicted of felonies from the Secretary of State, though some indicated that the list came from other sources (including district courts and sheriff's departments). A few employees, however, mentioned that they have no way of knowing whether someone has lost the right to vote due to a felony conviction.

Questions 13, 14, 15 and 16: Does your office notify individuals that they have lost their right to vote? How does your office know when an individual with a felony conviction has regained the right to vote? Does your office notify individuals when they have regained the right to vote? If a person was a registered voter before conviction of a felony, would he need to re-register after regaining the right to vote?

These questions were intended to help the ACLU of Nevada better understand how people with felony convictions are removed from and returned to the rolls. Most elections officials indicated that people removed from the voter rolls due to felony convictions are notified of their removal,

but that reinstatement requires affirmative action on the part of the individual. In other words, elections employees are not notified when individuals regain their eligibility to vote, so those individuals must re-register and provide proof of eligibility if they wish to vote.

This information appears to contradict the Nevada Administrative Code, which specifies that “The Secretary of State will immediately provide the county clerks with any information he receives regarding a person convicted of a felony who has had his right to vote restored and is currently eligible to register to vote.”²¹

21 NAC 293.414.

Conclusion and Recommendations for Reform

These findings indicate that the complexity of Nevada law is creating a host of administrative problems. Clerks and registrars are having difficulty communicating Nevada's complicated disfranchisement law to the general public, and they are not receiving adequate support from the Secretary of State's office.

To fully solve this problem and ensure that residents of the state do not face undue barriers to voting, the Nevada legislature must move to simplify the law by permitting all Nevadans who have completed their sentences to vote. In addition, and in the interim, Nevada clerks and registrars, in collaboration with the Secretary of State and the ACLU of Nevada, should take steps to streamline the registration process for eligible individuals.

The Nevada state legislature should:

1. *Simplify the Law.* All Nevada citizens should be permitted to register to vote *automatically* upon completion of sentence, regardless of type, date and place of conviction. Changing the law to provide for disqualification only while under the supervision of the Department of Corrections or Parole and Probation will ensure that individuals do not have to affirmatively petition for rights restoration. It will also guard against the disqualification of individuals with out-of-state convictions who never technically had their rights "restored," and will address gaps in the law with respect to individuals with out-of-state and federal convictions.

Simplifying the law in this way will relieve the administrative burden placed on elections officials, eliminate confusion among the general public, and encourage people with past convictions to rejoin their communities as productive members of society.

Nevada county clerks and registrars, in collaboration with the Secretary of State, should:

1. *Provide Education to Elections Employees.* All elections employees should receive regular training about the eligibility of individuals with criminal records. Nevada's disfranchisement laws are complex, and elections employees should not be required to decipher the various provisions on their own. Regular trainings will help ensure that both veteran and new employees are informed about this aspect of Nevada election law, and can effectively communicate with the public about its provisions.

2. *Make Information Available to the Public.* Information about when and how people with past convictions can regain their voting rights should be widely available to the general public through written materials, state websites, and other sources. This information should be presented in a way that is clear and accessible to readers of all levels and should be widely disseminated.

The informational brochure developed by the ACLU of Nevada, "Voting with a Criminal Conviction in Nevada," provides a good model of how this information can be presented in an accessible format. The brochure has already been distributed to non-profit organizations and voters around

the state, and the ACLU of Nevada would be happy to make additional copies available to clerks and registrars.

3. Eliminate Paperwork Requirements that Prevent Eligible Voters from Registering. Individuals with past convictions who have regained their voting rights are currently asked to show proof of rights restoration when registering to vote. However, this requirement is not mandated by state law, and should be removed.

Individuals registering to vote are already required to sign an affirmation swearing, under penalty of perjury, that they are “not laboring under any felony conviction or other loss of civil rights that would make it unlawful for [them] to vote.” This affirmation should be sufficient to establish eligibility.

Furthermore, the Nevada Administrative Code requires the Secretary of State to share information with county clerks about individuals who have their rights restored, and permits clerks to rely on this information—rather than documentary proof—when verifying an individual’s eligibility.²² The Secretary of State must fulfill his obligation to provide this information, which will obviate the need for clerks to request documentation from individuals who wish to register.

Many formerly incarcerated people may not have or know how to obtain the necessary paperwork, and so may be discouraged from registering even if they are eligible. In addition, this practice also places burden on elections employees, who are required to collect and verify the paperwork before registering a voter. Eliminating this requirement will streamline the registration process, thus simplifying Nevada elections and conserving government resources.

²² NAC 293.414.

APPENDIX 1: Secretary of State Guidelines on Restoration of Voting Rights in Nevada²³

The screenshot shows the website for the Nevada Secretary of State, Ross Miller. The navigation bar includes links for Home, About Ross, Calendar, News, FAQ, Forms, and Contact Us. The main menu features categories: Home, Information Center, Election Center, Business Center, Licensing Center, Securities Center, and Online Services. The left sidebar lists various election-related topics, with 'Restoration of Voting Rights in Nevada' highlighted. The main content area is titled 'Restoration of Voting Rights in Nevada' and includes sections for 'In General', 'Documentation Requirements', and a note about reregistration after cancellation. The 'In General' section states that in 2003, the Nevada Legislature passed Assembly Bill 55, restoring the right to vote for persons convicted of certain felonies. The 'Documentation Requirements' section lists two conditions: (1) an official document of release from prison, or (2) a court order restoring the right to vote. The note about reregistration states that the documentation must be provided if the registration is cancelled pursuant to NRS 293.540(3).

²³ <http://nvsos.gov/index.aspx?page=86>

APPENDIX 2: Relevant NRS and NAC Provisions

NRS 176A.850 Honorable discharge from probation: When granted; restoration of civil rights; effect; documentation.

1. A person who:
 - (a) Has fulfilled the conditions of probation for the entire period thereof;
 - (b) Is recommended for earlier discharge by the Division; or
 - (c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court,
È may be granted an honorable discharge from probation by order of the court.
2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge.
3. Except as otherwise provided in subsection 4, a person who has been honorably discharged from probation:
 - (a) Is free from the terms and conditions of probation.
 - (b) Is immediately restored to the following civil rights:
 - (1) The right to vote; and
 - (2) The right to serve as a juror in a civil action.
 - (c) Four years after the date of honorable discharge from probation, is restored to the right to hold office.
 - (d) Six years after the date of honorable discharge from probation, is restored to the right to serve as a juror in a criminal action.
 - (e) If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.
 - (f) Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.
 - (g) Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.
 - (h) Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, "establishment" has the meaning ascribed to it in NRS 463.0148.
 - (i) Except as otherwise provided in paragraph (h), need not disclose the conviction to an employer or prospective employer.
4. Except as otherwise provided in this subsection, the civil rights set forth in subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this State:
 - (a) Of a category A felony.
 - (b) Of an offense that would constitute a category A felony if committed as of the date of the honorable discharge from probation.
 - (c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.
 - (d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of honorable

discharge from probation.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

Ê A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of civil rights as set forth in subsection 3.

5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.
6. Except for a person subject to the limitations set forth in subsection 4, upon honorable discharge from probation, the person so discharged must be given an official document which provides:
 - (a) That the person has received an honorable discharge from probation;
 - (b) That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil action as of the date of honorable discharge from probation;
 - (c) The date on which the person's civil right to hold office will be restored pursuant to paragraph (c) of subsection 3; and
 - (d) The date on which the person's civil right to serve as a juror in a criminal action will be restored pursuant to paragraph (d) of subsection 3.
7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of honorable discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore the person's civil rights pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights set forth in subsection 3. A person must not be required to pay a fee to receive such an order.
8. A person who has been honorably discharged from probation in this State or elsewhere may present:
 - (a) Official documentation of honorable discharge from probation, if it contains the provisions set forth in subsection 6; or
 - (b) A court order restoring the person's civil rights,

Ê as proof that the person has been restored to the civil rights set forth in subsection 3.

(Added to NRS by 1967, 1436; A 1989, 1983; 1993, 1517; 1997, 1672; 2001, 1639, 1690; 2003, 67, 2685; 2005, 81, 2354)

NRS 213.090 Pardon: Restoration of civil rights; relieved of disabilities; limitations.

1. A person who is granted a full, unconditional pardon by the Board is restored to all civil rights and is relieved of all disabilities incurred upon conviction.
2. A pardon granted by the Board shall be deemed to be a full, unconditional pardon unless the official document issued pursuant to subsection 3 explicitly limits the restoration of the civil rights of the person or does not relieve the person of all disabilities incurred upon conviction.
3. Upon being granted a pardon by the Board, a person so pardoned must be given an official document which provides that the person has been granted a pardon. If the person has not been granted a full, unconditional pardon, the official document must explicitly state all limitations on the restoration of the civil rights of the person and all disabilities incurred upon conviction from which the person is not

relieved.

4. A person who has been granted a pardon in this State or elsewhere and whose official documentation of his or her pardon is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been granted a pardon and is eligible to be restored to his or her civil rights, the court shall issue an order restoring the person to his or her civil rights. A person must not be required to pay a fee to receive such an order.
5. A person who has been granted a pardon in this State or elsewhere may present:
 - (a) Official documentation of his or her pardon; or
 - (b) A court order restoring his or her civil rights, Ê as proof that the person has been restored to his or her civil rights.[Part 5:149:1933; 1931 NCL § 11573]—[NRS A 1973, 1845; 1977, 665; 2001, 1696; 2003, 2692; 2005, 2907]

NRS 213.155 Restoration of civil rights after honorable discharge from parole; limitations.

1. Except as otherwise provided in subsection 2, a person who receives an honorable discharge from parole pursuant to NRS 213.154:
 - (a) Is immediately restored to the following civil rights:
 - (1) The right to vote; and
 - (2) The right to serve as a juror in a civil action.
 - (b) Four years after the date of his or her honorable discharge from parole, is restored to the right to hold office.
 - (c) Six years after the date of his or her honorable discharge from parole, is restored to the right to serve as a juror in a criminal action.
2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has received an honorable discharge from parole if the person has previously been convicted in this State:
 - (a) Of a category A felony.
 - (b) Of an offense that would constitute a category A felony if committed as of the date of his or her honorable discharge from parole.
 - (c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.
 - (d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her honorable discharge from parole.
 - (e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.Ê A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in subsection 1.
3. Except for a person subject to the limitations set forth in subsection 2, upon his or her honorable discharge from parole, a person so discharged must be given an official document which provides:
 - (a) That the person has received an honorable discharge from parole;
 - (b) That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil

- action as of the date of his or her honorable discharge from parole;
- (c) The date on which his or her civil right to hold office will be restored to the person pursuant to paragraph (b) of subsection 1; and
 - (d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph (c) of subsection 1.
4. Subject to the limitations set forth in subsection 2, a person who has been honorably discharged from parole in this State or elsewhere and whose official documentation of his or her honorable discharge from parole is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been honorably discharged from parole and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.
 5. A person who has been honorably discharged from parole in this State or elsewhere may present:
 - (a) Official documentation of his or her honorable discharge from parole, if it contains the provisions set forth in subsection 3; or
 - (b) A court order restoring his or her civil rights,
Ê as proof that the person has been restored to the civil rights set forth in subsection 1.
 6. The Board may adopt regulations necessary or convenient for the purposes of this section.
- (Added to NRS by 1959, 799; A 1973, 1845; 1977, 665; 1993, 39; 1999, 69; 2001, 1696; 2003, 2693; 2005, 2358)

NRS 213.157 Restoration of civil rights after sentence served; limitations.

1. Except as otherwise provided in subsection 2, a person convicted of a felony in the State of Nevada who has served his or her sentence and has been released from prison:
 - (a) Is immediately restored to the following civil rights:
 - (1) The right to vote; and
 - (2) The right to serve as a juror in a civil action.
 - (b) Four years after the date of his or her release from prison, is restored to the right to hold office.
 - (c) Six years after the date of his or her release from prison, is restored to the right to serve as a juror in a criminal action.
2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has been released from prison if the person has previously been convicted in this State:
 - (a) Of a category A felony.
 - (b) Of an offense that would constitute a category A felony if committed as of the date of his or her release from prison.
 - (c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.
 - (d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her release from prison.
 - (e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

- Ê A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in subsection 1.
3. Except for a person subject to the limitations set forth in subsection 2, upon his or her release from prison, a person so released must be given an official document which provides:
 - (a) That the person has been released from prison;
 - (b) That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil action as of the date of his or her release from prison;
 - (c) The date on which his or her civil right to hold office will be restored to the person pursuant to paragraph (b) of subsection 1; and
 - (d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph (c) of subsection 1.
 4. Subject to the limitations set forth in subsection 2, a person who has been released from prison in this State or elsewhere and whose official documentation of his or her release from prison is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been released from prison and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.
 5. A person who has been released from prison in this State or elsewhere may present:
 - (a) Official documentation of his or her release from prison, if it contains the provisions set forth in subsection 3; or
 - (b) A court order restoring his or her civil rights,Ê as proof that the person has been restored to the civil rights set forth in subsection 1.
(Added to NRS by 1973, 1844; A 1977, 666; 1993, 39, 1529; 1995, 508; 2001, 1697; 2003, 2695; 2005, 2359)

NRS 293.540 Circumstances in which county clerk is required to cancel registration of voter. The county clerk shall cancel the registration:

1. If the county clerk has personal knowledge of the death of the person registered, or if an authenticated certificate of the death of any elector is filed in the county clerk's office.
2. If the insanity or mental incompetence of the person registered is legally established.
3. Upon the determination that the person registered has been convicted of a felony unless:
 - (a) If the person registered was convicted of a felony in this State, the right to vote of the person has been restored pursuant to the provisions of NRS 213.090, 213.155 or 213.157.
 - (b) If the person registered was convicted of a felony in another state, the right to vote of the person has been restored pursuant to the laws of the state in which the person was convicted.
4. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.
5. Upon the request of any registered voter to affiliate with any political party or to change affiliation, if that change is made before the end of the last day to register to vote in the election.
6. At the request of the person registered.
7. If the county clerk has discovered an incorrect registration pursuant to the provisions of NRS 293.5235, 293.530 or 293.535 and the elector has failed to respond or appear to vote within the required time.
8. As required by NRS 293.541.

9. Upon verification that the application to register to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.
(Added to NRS by 1960, 275; A 1961, 295; 1967, 862; 1991, 1686, 2224; 1993, 2196; 1995, 2279; 2003, 2185; 2005, 2289)

NRS 293.800 Acts concerning registration of voters; violations of laws governing elections; crimes by public officers....

4. A person who causes or endeavors to cause his or her name to be registered, knowing that he or she is not an elector or will not be an elector on or before the day of the next ensuing election in the precinct or district in which he or she causes or endeavors to cause the registration to be made, and any other person who induces, aids or abets the person in the commission of either of the acts is guilty of a category E felony and shall be punished as provided in NRS 193.130.NRS 176A.850 Honorable discharge from probation: When granted; restoration of civil rights; effect; documentation.
1. A person who:
- (a) Has fulfilled the conditions of probation for the entire period thereof;
 - (b) Is recommended for earlier discharge by the Division; or
 - (c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court,
- Ê may be granted an honorable discharge from probation by order of the court.
2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge.
3. Except as otherwise provided in subsection 4, a person who has been honorably discharged from probation:
- (a) Is free from the terms and conditions of probation.
 - (b) Is immediately restored to the following civil rights:
 - (1) The right to vote; and
 - (2) The right to serve as a juror in a civil action.
 - (c) Four years after the date of honorable discharge from probation, is restored to the right to hold office.
 - (d) Six years after the date of honorable discharge from probation, is restored to the right to serve as a juror in a criminal action.
 - (e) If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.
 - (f) Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.
 - (g) Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.
 - (h) Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, "establishment" has the meaning ascribed to it in NRS 463.0148.
 - (i) Except as otherwise provided in paragraph (h), need not disclose the conviction to an employer or prospective employer.
4. Except as otherwise provided in this subsection, the civil rights set forth in subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this

State:

- (a) Of a category A felony.
 - (b) Of an offense that would constitute a category A felony if committed as of the date of the honorable discharge from probation.
 - (c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.
 - (d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of honorable discharge from probation.
 - (e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.
- Ê A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of civil rights as set forth in subsection 3.
- 5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.
 - 6. Except for a person subject to the limitations set forth in subsection 4, upon honorable discharge from probation, the person so discharged must be given an official document which provides:
 - (a) That the person has received an honorable discharge from probation;
 - (b) That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil action as of the date of honorable discharge from probation;
 - (c) The date on which the person's civil right to hold office will be restored pursuant to paragraph (c) of subsection 3; and
 - (d) The date on which the person's civil right to serve as a juror in a criminal action will be restored pursuant to paragraph (d) of subsection 3.
 - 7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of honorable discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore the person's civil rights pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights set forth in subsection 3. A person must not be required to pay a fee to receive such an order.
 - 8. A person who has been honorably discharged from probation in this State or elsewhere may present:
 - (a) Official documentation of honorable discharge from probation, if it contains the provisions set forth in subsection 6; or
 - (b) A court order restoring the person's civil rights,Ê as proof that the person has been restored to the civil rights set forth in subsection 3.

NAC 293.414 Person convicted of felony. (NRS 293.124, 293.247, 293.540, 293.543)

- 1. The Secretary of State will immediately provide the county clerks with any information he receives from the Attorney General of the United States regarding the conviction of any person of a felony.
- 2. A county clerk may, for the purpose of making the determination to cancel the registration of a person

required by subsection 3 of NRS 293.540, rely upon any information he receives from the Secretary of State pursuant to subsection 1 or from the Central Repository for Nevada Records of Criminal History regarding the conviction of any person of a felony.

3. The Secretary of State will immediately provide the county clerks with any information he receives regarding a person convicted of a felony who has had his right to vote restored and is currently eligible to register to vote.
4. A county clerk may, for purposes of determining whether a person applying to register to vote who was convicted of a felony has had his right to vote restored and is currently eligible to register, rely on:
 - (a) The information received from the Secretary of State pursuant to subsection 3;
 - (b) An order of any federal or state court restoring the right to vote to the applicant;
 - (c) A document issued to the applicant by a penal agency of the State of Nevada, any other state or the Federal Government verifying that the right to vote of the applicant has been restored; or
 - (d) A document issued by a penal agency of the State of Nevada, any other state or the Federal Government verifying that the applicant received a pardon or was discharged from probation, parole or prison before July 1, 2003.
5. If a county clerk has reason to believe that a document described in subsection 4 is invalid or forged, the county clerk shall attempt to verify the document. The county clerk must accept the document as legitimate unless he can verify that the document is invalid or forged.

(Added to NAC by Sec'y of State, eff. 3-15-96; A by R072-06, 7-14-2006)

