

1 **WMAN**  
SADMIRA RAMIC, ESQ.  
2 Nevada Bar No.: 15984  
CHRISTOPHER M. PETERSON, ESQ.  
3 Nevada Bar No.: 13932  
**AMERICAN CIVIL LIBERTIES**  
4 **UNION OF NEVADA**  
4362 W. Cheyenne Ave.  
5 North Las Vegas, NV 89032  
6 Telephone: (702) 366-1226  
Facsimile: (702) 718-3213  
7 Email: ramic@aclunv.org  
*Attorneys for Petitioner*

8  
9 **FOURTH JUDICIAL DISTRICT COURT**  
10 **ELKO COUNTY, NEVADA**

11 AMERICAN CIVIL LIBERTIES UNION OF  
NEVADA, a domestic nonprofit  
12 corporation,  
13  
14 vs.  
15 ELKO COUNTY, NEVADA, a government entity;  
16  
17 Respondent.

Case No.:

Department:

**HEARING REQUESTED**

18 **PETITION FOR WRIT OF MANDAMUS TO COMPEL THE ELKO COUNTY**  
19 **SHERIFF’S DEPARTMENT TO COMPLY WITH ASSEMBLY BILL 286 AND**  
20 **PROVIDE ACCESS TO VOTING FOR ELIGIBLE INDIVIDUALS HELD IN**  
21 **CUSTODY**

22 The Petitioner, the American Civil Liberties Union of Nevada (“ACLU of Nevada”) by  
23 and through counsel Sadmira Ramic, Esq., and Christopher M. Peterson, Esq. of the American  
24 Civil Liberties Union of Nevada, hereby bring this Petition for Writ of Mandamus. Petitioner seeks  
25 an order directing the Defendant Elko County to implement policies and procedures ensuring  
26 persons detained in the Elko County Jail may register to vote and vote in an election as required  
27 by AB 286. Petitioner also seeks reasonable costs and attorneys’ fees pursuant to NRS 34.270.

1 This Petition is supported by the pleadings and papers filed with this Court, and any attached  
2 exhibits.

3 **INTRODUCTION**

4 Individuals who are incarcerated for pre-trial detention or serving sentences other than for  
5 felonies retain their fundamental right to vote. Despite never losing the right to vote, eligible voters  
6 held in Nevada county jails have been regularly denied meaningful access to the ballot.  
7 Recognizing the unique constraints placed on those in custody and the vast disenfranchisement  
8 taking place, the Nevada Legislature in 2023 passed Assembly Bill 286 (“AB 286”), mandating a  
9 person who administers a county or city jail to coordinate with the county or city clerk to establish  
10 a policy that ensures a person who is detained in a jail may register to vote and vote in an election.  
11 The bill went into effect on January 1, 2024, and therefore, all registration and voting requirements  
12 were to be implemented during the February 2024 Presidential Primary Preference election. Yet,  
13 the Elko County Sheriff’s Department has failed to implement said policies and procedures for the  
14 Elko County Jail during the 2024 Presidential Primary Preference, and to date has not complied  
15 with the law. Absent immediate writ relief, the disenfranchisement that AB 286 was designed to  
16 curtail will continue, and eligible Nevada voters will be disenfranchised ahead of upcoming  
17 elections, including the June primary and November general 2024 elections.

18 **PARTIES**

19 1. Petitioner, AMERICAN CIVIL LIBERTIES UNION OF NEVADA, is a domestic  
20 nonprofit, non-partisan organization that works to defend and advance the civil liberties and civil  
21 rights, including the fundamental right to vote, of all Nevadans operating in the State of Nevada.

22 2. Respondent, ELKO COUNTY, is a governmental entity organized and existing  
23 under the laws of the State of Nevada and possesses the power and authority to adopt policies and  
24 procedures affecting all facets of the Elko County Jail.

1 **JURISDICTION & VENUE**

2 3. The transactions and occurrences that give rise to the Petitioner’s claims against  
3 Respondent occurred in the City of Elko, Elko County, Nevada.

4 4. This Court has the authority to grant the writ relief requested herein pursuant to  
5 NRS 34.160.

6 5. Venue is proper in this Court pursuant to NRS 13.020 and 13.040 because the  
7 cause, or some part thereof, arose in the City of Elko, Elko County, Nevada.

8 **STANDING**

9 6. A petitioner has standing in a proceeding on an extraordinary writ when the  
10 petitioner has a “beneficial interest” in obtaining writ relief.<sup>1</sup> “[A] beneficial interest sufficient to  
11 pursue a mandamus action” is a “substantial interest that falls within the zone of interests to be  
12 protected by the legal duty asserted.”<sup>2</sup>

13 7. ACLUNV has standing to bring this mandamus proceeding because it has a  
14 beneficial interest in obtaining writ relief. *Id.*

15 8. ACLUNV has standing because its organizational mission—guarding the civil  
16 rights and civil liberties of all Nevadans across the state through systemic efforts—is frustrated by  
17 the jail’s failure to codify the requirements of AB 286 as a policy, and it must divert its resources  
18 to prevent disenfranchisement from taking place during the upcoming 2024 elections.<sup>3</sup>

19 9. ACLUNV is a non-profit organization that works to defend and preserve the  
20 individual rights and liberties that the Constitution and the laws of the United States guarantee  
21 everyone in Nevada. Protecting the fundamental right to vote is a core tenet of ACLUNV’s work,  
22 and ACLUNV has frequently engaged in *systemic* work in furtherance of this mission, including

23 \_\_\_\_\_  
24 <sup>1</sup> *Heller v. Legislature of State of Nev.*, 120 Nev. 456, 460- 61, 93 P.3d 746, 749 (2004) (citing  
*Lindelli v. Town of San Anselmo*, 111 Cal.App.4th 1099, 4 Cal.Rptr.3d 453, 461 (2003)).

25 <sup>2</sup> *Id.*

26 <sup>3</sup> “An organization may satisfy the Article III requirement of injury in fact if it can demonstrate:  
27 (1) frustration of its organizational mission; and (2) diversion of its resources to combat the  
particular housing discrimination in question.” *Smith v. Pac. Props. & Dev. Corp.*, 358 F.3d  
1097, 1105 (9th Cir. 2004).

1 running one of the largest non-partisan election protection programs within the state, which  
2 includes election-day education and poll observations, and providing educational resources  
3 regarding individuals' voting rights through our website.

4 10. If jail administrators of the Elko County Jail followed the mandates of AB 286,  
5 ACLUNV would not have to utilize limited resources devoted to the systemic work discussed  
6 above to seek public records requests regarding its voting policies and information surrounding  
7 individuals in its custody, create educational materials to engage incarcerated people on an  
8 individual basis if they are unable to register to vote or cast a ballot, and fill in gaps which serve  
9 as barriers for such individuals. By having to expend limited resources on doing so, ACLUNV's  
10 mission is frustrated.

11 11. ACLUNV will be forced to continue to devote additional resources through applied  
12 challenges if the policy is not followed, with no legitimate remedy in place as the election will be  
13 concluded if there is further delay.

14 12. ACLUNV also has standing pursuant to the public importance doctrine because:  
15 (1) this case involves issues of significant public importance, including ensuring that eligible  
16 voters have access to registering to vote and voting; (2) the petitioner seeks to address an issue  
17 related to the Separation of Powers doctrine; and (3) ACLUNV is an appropriate party to bring the  
18 suit. *See, e.g., Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894–95 (2016); *see also Nev.*  
19 *Pol'y Rsch. Inst., Inc. v. Cannizzaro*, 138 Nev. Adv. Op. 28, 507 P.3d 1203, 1208 (Nev. 2022).

20 13. As to the public importance component, “[v]oters have a compelling interest in the  
21 way elections are run,” *ACLU of Nev. v. Cnty. of Nye*, 519 P.3d 36 (Nev. 2022) citing *State of N.M.*  
22 *ex rel. League of Woman Voters v. Herrera*, 203 P.3d 94, 97 (N.M. 2009) (“Determining the  
23 validity of individual votes is of unquestionable importance. Establishing clear rules, prior to  
24 election day, as to how such validity is to be established is of equal, if not greater, importance.”),  
25 as well as a constitutional right “[t]o have complaints about elections and election contests resolved  
26 fairly, accurately and efficiently as provided by law.” *Id* citing Nev. Const. art. 2, § 1A(11). Further,  
27 as the Nevada Supreme Court recognized in *ACLU of Nev. v. Cnty. of Nye*, ACLUNV particularly

1 has standing to bring such suits as the votes in a Nevada County count toward statewide election  
2 contests and ballot matters, and concerns that threaten the validity of that election process, impact  
3 the citizens of this state in general. The votes of eligible voters in the Elko County Jail will have  
4 an impact on the outcome of the election in Nevada and nationwide, and therefore the issue is of  
5 extreme public interest that requires an early determination for future guidance. See *We the People*  
6 *Neu. v. Miller*, 124 Nev. 874, 880, 192 P.3d 1166, 1170 (2008) (allowing for public policy,  
7 urgency, and necessity factors in deciding to consider a writ petition that "raises issues of  
8 significant magnitude" and "potentially has an impact on this year's election as well as future  
9 general elections"); *LaPorta v. Broadbent*, 91 Nev. 27, 29, 530 P.2d 1404, 1405-06 (1975)  
10 (exercising discretion to consider a writ petition concerning an election matter in the first instance  
11 "because the public interest requires an early determination of the issue").

12 14. As to the second factor, the Separation of Powers provision of the Nevada  
13 Constitution is triggered here because Nevada voters are given express power to engage in  
14 Legislative functions including the power to propose, by initiative petition, statutes and  
15 amendments to this Constitution, and to enact or reject them at the polls. Nev. Const. art. XIX §2.

16 15. There are several statewide ballot questions on the 2024 General Election Ballot,  
17 including Question 1 resulting from the passage of SJR7, Question 2 resulting from the passage of  
18 ARJ1, Question 3 from the 2022 general election ballot, and Question 4 resulting from the passage  
19 of AJR10. See *2024 Petitions and General Ballot Questions*, Nevada Secretary of State, retrieved  
20 May 2, 2024, from <https://www.nvsos.gov/sos/elections/2024-petitions>.

21 16. When members of the Executive Branch, such as the Elko County Sheriff's  
22 Department, prevent Nevada voters from voting on a ballot which contains referendums or ballot  
23 initiatives, they are *de facto* encroaching on the powers of the voters to engage in statute and  
24 rulemaking. This is a "clear threat[...] to the essential nature of state government guaranteed to  
25 [...] citizens under their [c]onstitution." *Nev. Pol'y Rsch. Inst., Inc.* at 1210.

26 17. Lastly, ACLUNV is an appropriate party to bring the suit. It is a non-profit  
27 organization whose primary mission is to defend and preserve the rights and liberties of Nevadans,

1 including advocating for and protecting the fundamental right to vote on a systemic level. The  
2 ACLU has been at the forefront of numerous efforts surrounding voting rights, including as  
3 counsel for petitioners in *ACLU of Nev. v. Cnty. of Nye*, 519 P.3d 36 (Nev. 2022) and *Martin v.*  
4 *City of North Las Vegas*, No. A-21-845709-W (Eighth Jud. Dist. Ct. Clark Cnty., Nev. filed Feb.  
5 4, 2022).

### 6 STANDARD OF REVIEW – MANDAMUS

7 18. A writ of mandamus may be issued by the court “to compel the performance of an  
8 act which the law especially enjoins as a duty resulting from an office, trust or station; or to compel  
9 the admission of a party to the use and enjoyment of a right or office to which the party is entitled  
10 and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or  
11 person,” when there is no plain, speedy, and adequate remedy in the ordinary course.<sup>4</sup>

12 19. It is within the court’s sound discretion whether to grant such relief.<sup>5</sup>  
13 “Extraordinary writ relief may be available where there is no ‘plain, speedy and adequate remedy  
14 in the ordinary course of law.’”<sup>6</sup>

15 20. However, even when a legal remedy is available, the court can “still entertain a  
16 petition for writ ‘relief where the circumstances reveal urgency and strong necessity.’”<sup>7</sup>

17 21. The court must examine each request for writ relief individually.<sup>8</sup>

---

21 <sup>4</sup> “The writ may be issued by ... a district court or a judge of the district court, to compel the  
22 performance of an act which the law especially enjoins as a duty resulting from an office, trust or  
23 station; or to compel the admission of a party to the use and enjoyment of a right or office to  
24 which the party is entitled and from which the party is unlawfully precluded by such inferior  
tribunal, corporation, board or person. When issued by a district court or a judge of the district  
court it shall be made returnable before the district court.” NRS 34.160; NRS 34.170.

25 <sup>5</sup> *Segovia v. Eighth Judicial Dist. Court*, 133 Nev. 910, 911, 407 P.3d 783, 785 (2017).

26 <sup>6</sup> *Id.* (quoting NRS 34.170 and NRS 34.330).

27 <sup>7</sup> *Id.* (quoting *Barngrover v. Fourth Judicial Dist. Court*, 115 Nev. 104, 111, 979 P.2d 216, 220  
(1999)).

<sup>8</sup> *Jeep Corp. v. Second Judicial Dist. Court*, 98 Nev. 440, 443, 652 P.2d 1183, 1185 (1982).

22. The court will generally exercise its discretion to consider an extraordinary writ where an important legal issue that needs clarification is raised or to promote judicial economy and administration.<sup>9</sup>

23. When a petition for extraordinary relief involves a question of first impression that arises with some frequency, the interests of sound judicial economy and administration favor consideration of the petition.<sup>10</sup>

### **FACTUAL BACKGROUND**

24. Article 2, Section 1 of the Nevada Constitution outlines the right of citizens to vote, including incarcerated individuals held as pretrial detainees or who are incarcerated because of a misdemeanor conviction. Specifically, it states:

“All citizens of the United States (not laboring under the disabilities named in this constitution) of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the state six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election; *provided*, that no person who has been or may be convicted of treason or felony in any state or territory of the United States, unless restored to civil rights, and no person who has been adjudicated mentally incompetent, unless restored to legal capacity, shall be entitled to the privilege of an elector. There shall be no denial of the elective franchise at any election on account of sex. The legislature may provide by law the conditions under which a citizen of the United States who does not have the status of an elector in another state and who does not meet the residence requirements of this section may vote in this state for President and Vice President of the United States.”

25. Article 2, Section 1(A) outlines specific rights of voters. Section 1(A)(9) states that a registered voter has a right to equal access to the elections system without discrimination, including, without limitation, discrimination on the basis of race, age, disability, military service, employment or overseas residence.

---

<sup>9</sup> *State Office of the Attorney General v. Justice Court of Las Vegas Township*, 133 Nev. 78, 80, 392 P.3d 170, 172 (2017).

<sup>10</sup> *A.J. v. Eighth Judicial District Court in and for County of Clark*, 2017, 394 P.3d 1209, 133 Nev. 202, quoting *Cote H. v. Eighth Jud. Dist. Ct. ex rel. Cty. of Clark*, 124 Nev. 36, 175 P.3d 906 (2008).

1           26.     Section 1(A)(11) states that a registered voter has a right to have complaints about  
2 elections and election contests resolved fairly, accurately and efficiently as provided by law.

3           27.     In 2023, the Nevada Legislature passed Assembly Bill 286, “requiring a person  
4 who administers a county or city jail to coordinate with the county or city clerk to establish a policy  
5 that ensures a person who is detained in the jail may register to vote and vote in an election.” *See*

6 *Assembly Bill 286*, 82d Sess. (Nev. 2023)

7 <https://www.leg.state.nv.us/App/NELIS/REL/82nd2023/Bill/10096/Text#> attached hereto Exhibit

8 1.

9           28.     Sections 5-7 of the bill outline specific requirements that must be included in the  
10 policies, including:

11           a.     How detainees can vote in secrecy and “without coercion or intimidation”;

12           b.     How detainees can register to vote and vote the same day (i.e. “same-day voter  
13 registration”); and

14           c.     That the jails must:

- 15                 • post the process and requirements for voting and registering to  
16                 vote in prominent locations and the inmate handbook.
- 17                 • provide a blue or black ink to fill out a mail-in ballot.
- 18                 • “provide each person detained in the jail with a reasonable amount  
19                 of privacy to vote, which may, without limitation, be in a common  
20                 area, visitation area, room or cell”.
- 21                 • allow the county clerk to establish a process for the collection of  
22                 the mail ballots voted by persons detained in the jail that includes  
23                 a method for documenting the chain of custody of mail ballots.
- 24                 • allow voters “to cure any defect in the signature on a mail ballot  
25                 pursuant to NRS 293.269927.”
- 26                 • not open a mail-in ballot after the voter has sealed it.
- 27                 • file a report no later than 30 days after the election with the  
Secretary of State describing the voting/registering process that  
has been established and complaints received related to them.

24 *Id.*

25           29.     The bill went into effect on January 1, 2024. *Id.*



1           30. Prior to the passage of AB 286, while some jails within Nevada had policies on  
2 how incarcerated individuals can obtain a mail-in ballot,<sup>11</sup> the Nevada Legislature recognized that  
3 wide variances in policies regarding voting in jails across the state existed. Most jails had no  
4 policies on how an incarcerated individual can register to vote or vote, and those that did had vague  
5 policies leaving the incarcerated individual’s ability to vote at the mercy of individual corrections  
6 officers. AB 286 was passed to streamline the process of registering to vote and voting, and to  
7 create some level of uniformity in access to the ballot box, for eligible incarcerated voters.<sup>12</sup> By  
8 passing AB 286, the Nevada Legislature has affirmatively solidified the jails’ obligation to provide  
9 actual access to the ballot for incarcerated voters.

10           31. Following the passage of AB 286, on November 6, 2023, the Office of the Nevada  
11 Secretary of State issued a statewide memorandum to Nevada clerks, registrars, sheriffs and jail  
12 administrators, including the Elko County Sheriff’s Department, offering an overview of the  
13 requirements under the law and guidance on its implementation. *See* November 6, 2023, Memo  
14 2023-005- AB 286 Implementation Guidance, attached hereto Exhibit 2.

15           32. On January 29, 2024, the ACLU of Nevada requested public records from Elko  
16 County regarding the Elko County Jail’s policies and procedures related to voting. *See* January 29,  
17 2024, Elko County Public Records Request, attached hereto Exhibit 3.

18           33. The Elko County Clerk<sup>13</sup> provided the records responsive to the ACLU of Nevada’s  
19 request on February 26, 2024. The response specifically states, “the Clerk and Elko County  
20 Sheriff’s Office (ECISO) Jail Administrator are responsible for creating and updating this  
21 procedure.” *See* September 14, 2023, Elko County Clerk’s Office Elections Procedure, attached  
22 hereto Exhibit 4.

23 \_\_\_\_\_  
24 <sup>11</sup> In Nevada, all registered voters automatically receive a mail-in ballot unless they opt-out. NRS  
25 293.269911.

26 <sup>12</sup> *Minutes of the Assembly Committee on Legislative Operations and Elections*, 82d Sess., 4–5, 8  
27 (Nev. Apr. 4, 2023) (statements of Assemblywoman Brittney Miller),  
<https://www.leg.state.nv.us/Session/82nd2023/Minutes/Assembly/LOE/Final/723.pdf> (last  
visited April 15, 2024).

<sup>13</sup> The Public Records Request Portal directs the request to the clerk’s office.

1           34.     The policy provided in the public records response fails to set forth the required  
2 procedures for registering to vote and voting as it merely reiterates the provisions of AB 286. *Id.*  
3 In other words, the policy of the Elko County Sheriff’s Department is that they will create a policy  
4 to comply with AB 286.

5           35.     Per AB 286, all jails located within Nevada must file a report with the Secretary of  
6 State no later than 30 days after the election describing the voting/registering processes that have  
7 been established and any complaints received related to those processes.

8           36.     The Elko County Sheriff’s Department filed its report with the Secretary of State.  
9 *See* Election voting report, attached hereto Exhibit 5.

10          37.     The report the Elko County Sheriff’s Department filed with the Secretary of State  
11 differed from what was provided to the ACLU of Nevada, and notably, it contained a policy that  
12 again failed to adopt the requirements of AB 286. *Id.*

13          38.     It contained the same information as the policy submitted to ACLUNV’s public  
14 records request, but it contained an additional section titled “Plan.” *Id.*

15          39.     The “Plan” designates two “field registrars” that will assist detainees in registering  
16 to vote by providing them with a registration form. *Id.*

17          40.     Additionally, it requires the Elko County Sheriff’s Office to notify the Clerk’s  
18 Office which detainees want to vote, pick up the ballots from the Clerk’s Office, and deliver the  
19 ballots back to the Clerk’s Office once the detainee(s) have voted. *Id.*

20          41.     Despite the additional “plan” incorporated in the report, the policy fails to comply  
21 with many specific mandates enumerated in AB 286. *Id.*

22          42.     The policy filed with the Secretary of State does not include a process for  
23 registering to vote or voting for a voter detained in another county. *Id.*

24          43.     The policy filed with the Secretary of State does not include an outline of safety  
25 procedures for election board officers or others who assist individuals with the voting process. *Id.*

26          44.     The policy filed with the Secretary of State does not include a process to ensure  
27 secrecy of the ballot. *Id.*

1           45.    The policy filed with the Secretary of State does not include a prohibition on  
2 opening mail-in ballots once they are sealed. *Id.*

3           46.    The policy filed with the Secretary of State does not include the ability for an  
4 individual in custody to register to vote or vote without intimidation or coercion. *Id.*

5           47.    The policy filed with the Secretary of State does not include a process for same day  
6 registration. *Id.*

7           48.    The policy filed with the Secretary of State does not include a process on how  
8 family members can bring necessary information for the voter to be able to take part in same day  
9 registration. *Id.*

10          49.    The policy filed with the Secretary of State does not include a plan establishing  
11 chain of custody for mail-in ballots, including how ballots will be collected and stored by the Elko  
12 County Sheriff's Office prior to transportation to the Clerk's Office. *Id.*

13          50.    The policy filed with the Secretary of State does not require that a report be filed  
14 with the Secretary of State's Office regarding the process for registering to vote and voting and a  
15 summary of all complaints received from detainees related to voting. *Id.*

16          51.    Petitioner sent a demand letter to the Elko County City Attorney, David Stanton,  
17 on April 11, 2024, outlining these deficiencies and demanding a revised policy in conformance  
18 with the provisions of AB 286. *See* April 11, 2024, Implementation of Bill AB 286, attached hereto  
19 Exhibit 6.

20          52.    To date, no response has been received in relation to that letter.

21          53.    The failure by the Elko County Sheriff's Office to comport its policies and  
22 procedures ensuring individuals in custody are able to exercise their fundamental right to vote  
23 violates AB 286 and the Nevada Constitution.

24          54.    By ignoring the mandates of the Nevada Legislature, the Elko County Sheriff's  
25 Office disenfranchised eligible voters during the 2024 Presidential Preference Primary, and the  
26 continued imposition of barriers to registering to vote and voting for individuals in custody will  
27 undoubtedly lead to the disfranchisement of detained eligible voters within its facility.

1 **CLAIMS FOR RELIEF**

2 **WRIT OF MANDAMUS: Violation of Assembly Bill 286 and Nev. Const. art. II §1**

3 55. Petitioner re-alleges and incorporates by reference each and every allegation  
4 contained in the paragraphs above as if fully set forth herein.

5 56. Here, there is no plain, speedy and adequate remedy in the ordinary course of law.  
6 There is no other method to challenge the jail’s failure to provide individuals in custody access to  
7 registering to vote or vote.

8 57. The Elko County Jail has not adopted a policy which incorporates a plan on how  
9 individuals in custody will receive ballots and how those ballots will be returned to the elections  
10 department. More specifically, the policy does not include: 1) a process for registering to vote or  
11 voting for a voter detained in another county; 2) an outline of safety procedures for election board  
12 officers or others who assist individuals with the voting process; 3) a process to ensure secrecy of  
13 the ballot; 4) a prohibition on opening mail-in ballots once they are sealed; 5) the ability for an  
14 individual in custody to register to vote or vote without intimidation or coercion; 6) a process for  
15 same day registration; 7) a process on how family members can bring necessary information for  
16 the voter to be able to take part in same day registration; 8) a plan establishing chain of custody  
17 for mail-in ballots, including how ballots will be collected and stored by the Elko County Sheriff’s  
18 Office prior to transportation to the Clerk’s Office; and 9) requiring that a report be filed with the  
19 Secretary of State’s Office regarding the process for registering to vote and voting and a summary  
20 of all complaints received from detainees related to voting.

21 58. Thus, the Elko County Sheriff’s Department is in direct violation of the provisions  
22 of AB 286, which it has been legally required to implement since January 1, 2024.

23 59. Whether a jail policy complies with the requirements in AB 286 presents a question  
24 of first impression that arises with some frequency, especially given the large number of detention  
25 centers spread throughout Nevada, and thus favors consideration of the petition.

26 60. Incarcerated individuals’ fundamental right to vote is guaranteed by Article 2,  
27 Section 1 of the Nevada Constitution.

1 61. The inactions of the Elko County Sheriff's Department to outline a process by  
2 which an incarcerated individual can register to vote and vote also constitute a restriction that  
3 amounts to a denial of the fundamental right to vote in violation of Article 2, Section 1 of the  
4 Nevada Constitution.

5 62. An affirmative duty was placed on jail administrators to adhere to the fundamental  
6 right to vote of incarcerated voters by requiring them to draft and implement policies and  
7 procedures specifically outlining how incarcerated voters can register to vote and vote, including  
8 but not limited to, addressing how county clerks can collect mail-in ballots, establishing a process  
9 for curing a ballot, requiring display of election information in prominent locations and handbook,  
10 and addressing reporting requirements on how the jail complied with the law and a summary of  
11 complaints received from detainees.

12 **REQUEST FOR RELIEF**

13 WHEREFORE, Petitioner, the ACLU of Nevada, asks for the following relief:

14 A. A declaration that the current policies of the Elko County Sheriff's Department on  
15 voting while in custody fail to ensure that a person who is detained in its facility can register  
16 to vote and vote in an election, thereby directly violating AB 286.

17 B. A declaration that the Elko County Sheriff's Department's failure to implement  
18 policies and procedures that ensures a person who is detained in a jail may register to vote  
19 and vote in an election violates the Right of Suffrage provision under Article 2, Section 1  
20 of the Nevada Constitution.

21 C. A Writ of Mandamus directing the Elko County Sheriff's Department to comply  
22 with AB 286 and its mandated requirements, ahead of the June 2023 primary election and  
23 all subsequent elections.

24 D. A Writ of Mandamus directing the Elko County Sheriff's Department to adopt a  
25 policy which includes: 1) a process for registering to vote or voting for a voter detained in  
26 another county; 2) an outline of safety procedures for election board officers or others who  
27 assist individuals with the voting process; 3) a process to ensure secrecy of the ballot; 4) a


1 prohibition on opening mail-in ballots once they are sealed; 5) the ability for an individual  
2 in custody to register to vote or vote without intimidation or coercion; 6) a process for same  
3 day registration; 7) a process on how family members can bring necessary information for  
4 the voter to be able to take part in same day registration; 8) a plan establishing chain of  
5 custody for mail-in ballots, including how ballots will be collected and stored by the Elko  
6 County Sheriff's Office prior to transportation to the Clerk's Office; and 9) a requirement  
7 that a report be filed with the Secretary of State's Office regarding the process for  
8 registering to vote and voting and a summary of all complaints received from detainees  
9 related to voting.

10 E. Award Petitioners their reasonable attorney's fees and costs incurred in this action  
11 as provided by NRS 34.270; and

12 F. Such other and further relief as the court deems just and appropriate.

13 Dated this 6th day of May, 2024.

14 **AMERICAN CIVIL LIBERTIES**  
15 **UNION OF NEVADA**

16 

17 SADMIRA RAMIC, ESQ.

18 Nevada Bar No. 15984

19 CHRISTOPHER M. PETERSON, ESQ.

20 Nevada Bar No. 13932

21 4362 W. Cheyenne Ave.

22 North Las Vegas, NV 89032

23 Telephone: (702) 366-1226

24 Facsimile: (702) 718-3213

25 Email: ramic@aclunv.org

26 *Attorneys for Petitioner*

# **EXHIBIT 1**

Assembly Bill No. 286—Assemblymen Brittney Miller, C.H. Miller; Anderson, Backus, Bilbray-Axelrod, Cohen, Considine, D’Silva, Duran, González, Gorelow, La Rue Hatch, Marzola, Monroe-Moreno, Mosca, Newby, Nguyen, Peters, Summers-Armstrong, Taylor, Thomas, Torres and Watts

CHAPTER.....

AN ACT relating to elections; requiring a person who administers a county or city jail to establish a policy that ensures a person who is detained in the jail may register to vote and vote in an election; requiring the person who administers a county or city jail to submit a report to the Secretary of State after each election; prohibiting electioneering near certain areas of a jail; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires a county clerk to cancel the registration of a voter upon the determination that the person has been convicted of a felony and is currently incarcerated. (NRS 293.540) Unless a person has been convicted of a felony, existing law does not prohibit a person who is detained in a county or city jail from registering to vote or voting in an election.

**Section 5** of this bill requires each person who administers a county or city jail to establish a policy that ensures that: (1) a person who is detained in the jail and is a registered voter may vote in each primary election, presidential preference primary election, primary city election, general election and general city election in which the person is eligible to vote; and (2) a person detained in the jail and is a qualified elector may register to vote in each such election. **Section 5** requires such a policy to: (1) be developed in coordination with the county clerk and, if applicable, the city clerk; (2) be consistent with existing provisions of law relating to elections; (3) ensure the safety of any election board officer or other person who assists in the conduct of registering to vote or voting at the jail; (4) ensure that a person who registers to vote or votes in jail may do so without coercion or intimidation; (5) ensure the secrecy of the ballot; and (6) set forth a process for same-day voter registration. **Section 5** further requires the jail to post in a prominent location and set forth in the handbook for detained persons certain information relating to elections and voting in the jail.

**Section 7** of this bill requires each county or city jail to: (1) provide each person detained in the jail with a reasonable amount of privacy to vote; (2) provide each person detained in the jail with a pen to vote his or her mail ballot; (3) allow the county clerk to establish a process for the collection of mail ballots in the jail; and (4) allow a person, under certain circumstances, to cure any defect in a signature on a mail ballot.

**Section 8** of this bill requires each person who administers a county or city jail to submit a report to the Secretary of State not later than 30 days after each primary election, presidential preference primary election, general election, primary city election and general city election.

**Sections 16.5 and 16.7** of this bill prohibit electioneering near the area of a county or city jail where a person detained in the jail may vote.





THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

**Secs. 2-4.** (Deleted by amendment.)

**Sec. 5. 1.** *Each person who administers a county or city jail shall establish a policy that ensures that:*

*(a) A person who is detained in the jail and is a registered voter may vote in each primary election, presidential preference primary election, primary city election, general election and general city election in which the person is eligible to vote; and*

*(b) A person who is detained in the jail and is a qualified elector may register to vote in each primary election, presidential preference primary election, primary city election, general election and general city election in which the person is eligible to register to vote.*

*2. If qualified electors or registered voters of a county are detained in a jail or facility located in another county pursuant to an agreement entered into pursuant to subsection 2 of NRS 211.010, the county clerk shall coordinate with the person who administers the jail in the county where such qualified electors or registered voters are detained to establish a procedure for those persons to register to vote and vote.*

*3. Each policy or procedure established pursuant to subsection 1 or 2, as applicable, must:*

*(a) Be developed in coordination with the county clerk and, if applicable, the city clerk;*

*(b) Be consistent with the provisions of this title relating to elections;*

*(c) Ensure the safety of any election board officer or other person who assists in the conduct of registering to vote or voting at the jail;*

*(d) Ensure that a person who registers to vote or votes in a jail may do so without coercion or intimidation;*

*(e) Ensure the secrecy of the ballot, including, without limitation, the mail ballot; and*

*(f) Set forth a process that allows for same-day voter registration and allows a family member of a person detained in the jail to provide the person in the jail with the necessary*



*information to register to vote on the day of the election pursuant to NRS 293.5847.*

*4. Each county or city jail shall post in a prominent location and set forth in the handbook for detained persons information relating to elections and voting in the jail, including, without limitation, qualifications to register to vote and to vote and the options and procedures for registering to vote and voting at the jail.*

*5. Nothing in this section authorizes a person convicted of a felony in this State who has not had his or her right to vote restored pursuant to NRS 213.157 to vote or to register to vote.*

*6. The Secretary of State shall adopt regulations to carry out the provisions of this section.*

**Sec. 6.** (Deleted by amendment.)

**Sec. 7. 1.** *Each county or city jail shall:*

*(a) Provide each person detained in the jail with a reasonable amount of privacy to vote, which may, without limitation, be in a common area, visitation area, room or cell;*

*(b) Provide each person detained in the jail with a pen with black or blue ink to vote his or her mail ballot;*

*(c) Allow the county clerk to establish a process for the collection of the mail ballots voted by persons detained in the jail that includes a method for documenting the chain of custody of mail ballots; and*

*(d) If applicable, allow the person to cure any defect in the signature on a mail ballot pursuant to NRS 293.269927.*

*2. A county or city jail shall not open a mail ballot after a prisoner has voted and sealed the mail ballot.*

**Sec. 8.** *Not later than 30 days after each primary election, presidential preference primary election, primary city election, general election and general city election, each person who administers a county jail or city jail shall submit in a report to the Secretary of State:*

*1. An explanation of the process the jail used to comply with the requirements of sections 5 and 7 of this act for the election; and*

*2. A summary of each complaint received by the jail from a person detained in the jail relating to registering to vote or voting in the election.*

**Secs. 9-16 and 16.3.** (Deleted by amendment.)

**Sec. 16.5.** NRS 293.361 is hereby amended to read as follows:

293.361 1. During the time a polling place for early voting is open for voting, a person may not electioneer for or against any



candidate, measure or political party in or within 100 feet from the entrance to the voting area. *During the time that a person detained in a county or city jail may vote in the jail, a person may not electioneer for or against any candidate, measure or political party in or within 100 feet from the entrance of the voting area of the jail.*

2. During the period of early voting, the county clerk shall keep continuously posted:

(a) At the entrance to the room or area, as applicable, in which the polling place for early voting is located a sign on which is printed in large letters "Polling Place for Early Voting"; and

(b) At the outer limits of the area within which electioneering is prohibited, a sign on which is printed in large letters "Distance Marker: No electioneering between this point and the entrance to the polling place."

3. Ropes or other suitable objects may be used at the polling place to ensure compliance with this section. Persons who are not expressly permitted by law to be in a polling place must be excluded from the polling place to the extent practicable.

4. Any person who willfully violates the provisions of this section is guilty of a gross misdemeanor.

**Sec. 16.7.** NRS 293.740 is hereby amended to read as follows:

293.740 1. Except as otherwise provided in subsection 2, it is unlawful inside a polling place , ~~to~~ within 100 feet from the entrance to the building or other structure in which a polling place is located ~~to~~ , *inside the area of a county or city jail where a person detained in the jail may vote or within 100 feet from the entrance of the area in a jail where a person detained in the jail may vote:*

(a) For any person to solicit a vote or speak to a voter on the subject of marking the voter's ballot.

(b) For any person, including an election board officer, to do any electioneering on election day.

↪ The county clerk or registrar of voters shall ensure that, at the outer limits of the area within which electioneering is prohibited, notices are continuously posted on which are printed in large letters "Distance Marker: No electioneering between this point and the entrance to the polling place."

2. The provisions of subsection 1 do not apply to the conduct of a person in a private residence or on commercial or residential property that is within 100 feet from the entrance to a building or other structure in which a polling place is located. The provisions of subsection 1 are not intended to prohibit a person from voting solely because he or she is wearing a prohibited political insignia and is



reasonably unable to remove the insigne or cover it. In such a case, the election board officer shall take such action as is necessary to allow the voter to vote as expediently as possible and then assist the voter in exiting the polling place as soon as is possible.

3. Any person who violates any provision of this section is guilty of a gross misdemeanor.

4. As used in this section, “electioneering” means campaigning for or against a candidate, ballot question or political party by:

(a) Posting signs relating to the support of or opposition to a candidate, ballot question or political party;

(b) Distributing literature relating to the support of or opposition to a candidate, ballot question or political party;

(c) Using loudspeakers to broadcast information relating to the support of or opposition to a candidate, ballot question or political party;

(d) Buying, selling, wearing or displaying any badge, button or other insigne which is designed or tends to aid or promote the success or defeat of any political party or a candidate or ballot question to be voted upon at that election; or

(e) Soliciting signatures to any kind of petition.

**Sec. 17.** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

**Sec. 18.** 1. This section and section 17 of this act become effective upon passage and approval.

2. Sections 1 to 16.7, inclusive, of this act, become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2024, for all other purposes.



# **EXHIBIT 2**

**FRANCISCO V. AGUILAR**  
*Secretary of State*

STATE OF NEVADA

**GABRIEL DI CHIARA**  
*Chief Deputy Secretary of State*

**MAGGIE SALAS CRESPO**  
*Deputy Secretary for Southern Nevada*



**ERIN HOUSTON**  
*Deputy Secretary for Securities*

**SHAUNA BAKKEDAHL**  
*Deputy Secretary for Commercial Recordings*

**MARK A. WLASCHIN**  
*Deputy Secretary for Elections*

**DEBBIE I. BOWMAN**  
*Deputy Secretary for Operations*

OFFICE OF THE  
SECRETARY OF STATE

# MEMORANDUM

---

To: Nevada County Clerks, Registrars, Sheriffs, and Jail Administrators  
From: Mark Wlaschin  
Date: November 6, 2023  
Subject: Memo 2023-005 – AB286 Implementation Guidance

---

The following guidance is provided to clarify the implementation of [Assembly Bill 286 \(AB286\)](#) from the 2023 legislative session.

## **Purpose of AB286**

AB286 is intended to facilitate voting by incarcerated but eligible Nevadan voters. It does not allow incarcerated convicted felons to vote and does not alter the requirement of a county election official to cancel the voter registration of an individual pursuant to [NRS 293.540\(2\)\(c\)](#), “Upon the determination that the person has been convicted of a felony and is currently incarcerated.”

Instead, AB286 seeks to enable the ability of an otherwise eligible elector to register and vote and **ultimately tasks “each person who administers a county or city jail” to develop a policy to make it possible**. To be clear, this is the responsibility of the county or city jail administrators and county election officials are in a supporting role to this effort.

## **Residency**

Regarding the loss of residency after being incarcerated for a certain number of months, [NRS 293.487\(3\)](#) says that residence is not lost while a person is “[a]n inmate of any public institution.” So a resident of Lyon County, for example, who is jailed in Carson City, would still be allowed to vote in Lyon County.

## **In-person Voting for New Registrants**

Section 5(3)(f) of AB286 requires establishment of a process that allows for same-day registration pursuant to [NRS 293.5847](#). This may present challenges, particularly for administrators of jails that house individuals who reside in different counties. Regarding the conflict of [NRS 293.5847](#) (Same-Day Registration) and AB286, it is important to note that incarcerated but eligible voters who register to vote pursuant to [NRS 293.5847](#) **must vote in-person**. Nothing in [NRS 293.5847](#) (which AB286 specifically references) would allow a person to use a mail ballot to vote after same-day registering.

- One method to achieve this is to bring an inmate to an in-person polling location in the county of their residence where they can then register to vote during the period for in-person early voting or on election day. NRS 293.487(3) states no person may gain or lose residence while an inmate of any public institution, so the inmate’s county of residency in Nevada would remain the same as prior to their incarceration. This may require transportation across county lines.
- Another option would be to establish the jail as a polling location, but to do so would require adhering to all requirements across Title 24 relating to the establishment of an in-person voting location.

### **Mail Ballot Voting for Existing Registrants**

Eligible but incarcerated voters **who are already registered to vote in Nevada** may cast a mail ballot in any election in which they are eligible to vote. There are two methods to do so:

1. An eligible but incarcerated elector could update their voter registration with the mailing address of the county or city jail not later than the 14<sup>th</sup> day prior to the election either online or by mail. This would ensure that they receive a mail ballot at the location of their incarceration.
2. An eligible elector who is incarcerated 13 days or less before the election may request the delivery of a mail ballot from their county election official. If requested and logistically practicable, the ballot should be delivered to the voter by the county election official in the most expedient manner possible (e.g., priority mail, same-day mail, etc.).

### **Use of the Effective Absentee System for Elections (EASE)**

Registered voters who are otherwise considered a “covered voter” and who are eligible to use the Effective Absentee System for Elections (EASE) may use EASE while incarcerated if the option exists (i.e., the county or city jail allows inmates access to a computer that allows a connection to [NVEASE.gov](http://NVEASE.gov)). This includes a voter who:

1. Has a disability as described in [NAC 293.206](#);
2. Is a tribal member and resides on an Indian reservation or Indian colony; or
3. Is a covered voter, as that term is defined in [NRS 293D.030](#) or [NRS 293D.090](#).

### **Identity Requirements**

Regarding the use of booking sheets, [NRS 293.5847\(3\)](#) allows residence to be established with a variety of documents, including “any other document issued by a governmental agency.” For residency, a booking sheet would be acceptable, but if they intend to use it as proof of identity to register to vote, it would not be sufficient. For same-day registration, a qualified elector needs an NV driver’s license or ID card according to [NRS 293.5847\(2\)\(c\)](#). For other types of registration, [NAC 293.395](#) would apply for establishing identity, and it does not include “booking sheets” as an acceptable form of ID.

### **Reporting Requirements**

The following report is required by Section 8 of AB286:

*Sec. 8. Not later than 30 days after each primary election, presidential preference primary election, primary city election, general election and general city election, each person who administers a county jail or city jail shall submit in a report to the Secretary of State:*

- 1. An explanation of the process the jail used to comply with the requirements of sections 5 and 7 of this act for the election; and*
- 2. A summary of each complaint received by the jail from a person detained in the jail relating to registering to vote or voting in the election.*

In addition to the information listed in AB286, Section 8, the Secretary requests that the report should include:

1. The number of voters who cast a ballot pursuant to AB286; and
2. The breakdown of the costs associated with the implementation of AB286.

Specifically, regarding the 2024 election cycle, the three reports must be submitted **not later** than the following dates:

- Presidential Preference Primary Election – Thursday March 7, 2024
- June Primary Election – Thursday July 11, 2024
- November General Election – Thursday December 5, 2024

Upon completion, each report should be submitted by email to [NVElect@sos.nv.gov](mailto:NVElect@sos.nv.gov).

If you have any questions regarding this guidance, please contact the Office of the Secretary of State at [NVElect@sos.nv.gov](mailto:NVElect@sos.nv.gov). You may also wish to discuss the requirements of AB286 with your legal counsel to ensure compliance. The Office of the Secretary of State will monitor implementation and issues that arise and welcomes suggestions for proposals during the next Legislative session.

Respectfully,

Francisco V. Aguilar  
Secretary of State

By: Mark Wlaschin  
Mark Wlaschin, Deputy Secretary for Elections



# **EXHIBIT 3**



# Elko County Public Records Request



Elko County Manager's Office  
540 Court Street, Suite 101  
Elko Nevada 89801

775-738-5398 phone  
775-753-8535 fax

[administration@elkocountynev.net](mailto:administration@elkocountynev.net)

## Instructions

This is a request under the Freedom of Information Act. Please complete all sections, sign and submit the form by online submission, fax, mail or hand delivery. You will receive a cost estimate if production costs are greater than \$25.00.

## Requestor Information

|   |  |
|---|--|
| Name/Organization                                 | ACLU of Nevada                                 |
| Street Address Including City, State and Zip Code | 4362 W Cheyenne Ave, North Las Vegas, NV 89032 |
| Telephone   | 512-909-1610                                   |
| E-mail  | yalmonte@aclunv.org                            |

## Records Request

Please describe your request in as much detail as possible:

- 1.) Requesting any information or policies that are or will be established to ensure a person who is detained in the Elko County Jail may register to vote and vote in an election in accordance with AB 286
- 2.) Copies of any policies that are or will be established to ensure a person who is detained in the Elko County Jail may register to vote and vote in an election

I want to receive the records by:  Paper Copy  Electronic Copy  Certified Copy  In-Person Inspection

To complete cost estimate, please provide the following information

I will Pick Up  Mail by USPS  Send by FedEx  E-mail  
 Arrange Time and Date  Provide Postage  Provide FedEx Number  Provide E-mail

## Acknowledgment

I understand there is a charge for copies of public records. The maximum amount I am willing to pay for this request is \$\_\_\_\_\_. I understand I will receive a written estimate for production of the records indicated above if estimated cost is expected to be over \$25.00, which I will be required to pay in full prior to reproduction. I acknowledge that the Nevada Public Records Act (NRS 239.001) does not supersede or in any manner affect the federal laws governing copyrighted records, plans, documents or other materials.

Signature

Date 1/29/24

Reset Form

Print Form

Submit Form

# **EXHIBIT 4**



# ELKO COUNTY CLERK

550 Court Street, 3rd Floor • Elko, Nevada 89801-3518  
775-753-4600 • Fax 775-753-4610  
[www.elkocountynv.net](http://www.elkocountynv.net)

ELKO COUNTY CLERK  
Kristine Jakeman  
[kjakeman@elkocountynv.net](mailto:kjakeman@elkocountynv.net)

CHIEF DEPUTY CLERK  
Brenda Rodriguez  
[brodriguez@elkocountynv.net](mailto:brodriguez@elkocountynv.net)

## Elko County Clerk's Office Elections Procedure

### **Purpose:**

The purpose of this policy is to define procedures to be utilized between the Clerk and the Jail to ensure compliance with AB286 from the 2023 Legislative session. This policy provides direction on how to ensure that the person who administers the Elko County Jail ensures that a person who is detained in the jail may register to vote and vote in an election.

### **Responsibility:**

The Clerk and Elko County Sheriff's Office (ECSSO) Jail Administrator are responsible for creating and updating this procedure.

### **Procedure:**

Below are the guidelines for ensuring that a person who is detained in the jail may register to vote and vote in an election:

- During each election held by the Elko County Office of Election, the jail administration shall:
  - Post signs with information relating to the election and voting in the jail, including qualification to register to vote and voting options and procedures for registering to vote and voting at the jail.
  - Include in the handbook for detained persons information relating to the election and voting in the jail, including qualification to register to vote and voting options and procedures for registering to vote and voting at the jail.
  - Provide each person detained in the jail with a reasonable amount of privacy to vote.
  - Provide each person detained in the jail with a pen with black or blue ink to vote their ballot.
  - Ensure that during the time that a person detained in the jail may vote in the jail, no person is electioneering for or against any candidate, measure, or political party in or within 100 feet from the entrance of the voting

area of the jail.

- Ensure the safety of any election board officer or other person who assists in the conduct of registering to vote or voting at the jail.
  - Ensure that a person who registers to vote or votes in a jail may do so without coercion or intimidation.
  - Ensure the secrecy of the ballot.
  - In conjunction with the Clerk, set forth a process that allows for same-day voter registration and allows a family member of a person detained in the jail to provide the person in the jail with the necessary information to register to vote on the day of the election.
- During each election held by the Elko County Office of Election, the Clerk shall:
    - Coordinate with the person who administers the jail in any county where a qualified elector or registered voter is detained to establish a procedure for those persons to register to vote and vote.
    - Assist in providing information to the jail administrator for use in signage and the handbook for detained persons information relating to the election and voting in the jail, including qualification to register to vote and voting options and procedures for registering to vote and voting at the jail.
    - Establish a process for the collection of the mail ballots voted by persons detained in the jail, to include a chain of custody of mail ballots.
    - Establish a process to allow the person to cure any defect in the signature on a mail ballot pursuant to NRS 293.269927.
    - Ensure the safety of any election board officer or other person who assists in the conduct of registering to vote or voting at the jail.
    - Ensure that a person who registers to vote or votes in a jail may do so without coercion or intimidation.
    - Ensure the secrecy of the ballot.
    - In conjunction with the Jail Administrator, set forth a process that allows for same-day voter registration of a person detained in the jail.

# **EXHIBIT 5**



# ELKO COUNTY SHERIFF'S OFFICE

# SHERIFF

SHERIFF AITOR NARVAIZA

TEL 775.738.3421 • FAX 775.753.9845  
775 W. Silver St. • Elko, NV 89801

To: Nevada Secretary of State, Francisco V. Aguilar

From: Sheriff Aitor Narvaiza  
Lieutenant Adrienne Parry

RE: Election voting report

Please accept this as my official jail/detention voting report. Attached is a copy of the Elko County Voting Policy and inmate notification that was posted on all tablets for all inmates.

Did the policy as written allow individuals to vote and register to vote? Yes and No inmates requested to vote.

Dis the policy as it was carried out allow individuals to vote and register to vote? Yes and No inmates requested to register to vote or vote.

Did the policy as written allow qualified electors who were registered voters of another county that the county in which they were jailed to vote, and register to vote? Yes (included in the inmate handbook) and no inmates voted or registered to vote.

Did the policy as it was carried out allow for qualified electors who were registered voters of another county than the county in which they were jailed to vote and register to vote? Yes and no inmates voted or registered to vote.

Did the policy as it was written allow for same day voter registration, including on Election day? Yes and no inmates choose to register or vote.

Did the policy as it was written allow for same day voter registration, including on Election day? Yes and no inmates choose to register or vote.

Did the policy as it was written account for individuals with disabilities requesting to use voting machine instead of mail ballot to cast their vote? Yes but no requests were made by inmates to use a voting machine.

Did the policy as it was carried out account for individuals with disabilities requesting to use voting machines instead of a mail ballot to cast their vote? Yes but no requests were made to use a voting machine.

Number of voters who cast a ballot pursuant to AB286: 0.00

The breakdown of costs associated with the implantation of AB286: 0.00 cost Noticed on tablets

Elko County Clerks Office Preparation – Unknown

Respectfully,  
Lt. Adrienne Parry  
for Sheriff Aitor Narvaiza  
Elko County Sheriff's Office

## **Purpose:**

The purpose of this policy is to define procedures to be utilized between the Clerk and the Jail to ensure compliance with AB286 from the 2023 Legislative session. This policy provides directions on how to ensure that the person who administers the Elko County Jail ensures that a person who is detained in the jail may register to vote and vote in an election.

## **Responsibility:**

The Clerk and Elko County Sheriff's Office (ECSO) Jail Administrator are responsible for creating and updating this procedure.

## **Procedure:**

Below are the guidelines for ensuring that a person who is detained in the jail may register to vote and vote in an election:

- During each election held by the Elko County Office of Election, the jail administration shall:
  - Post signs with information relating to the election and voting in the jail, including qualification to register to vote and voting options and procedures for registering to vote and voting at the jail.
  - Include in the handbook for detained persons information relating to the election and voting in the jail, including qualification to register to vote and voting options and procedures for registering to vote and voting at the jail.
  - Provide each person detained in the jail with a reasonable amount of privacy to vote.
  - Provide each person detained in the jail with a pen with black or blue ink to vote their ballot.
  - Ensure that during the time that a person detained in the jail may vote in the jail, no person is electioneering for or against any candidate, measure, or political party in or within 100 feet from the entrance of the voting area of the jail.
  - Ensure the safety of any election board officer or other person who assists in the conduct of registering to vote or voting at the jail.
  - Ensure that a person who registers to vote or votes in a jail may do so without coercion or intimidation.
  - Ensure the secrecy of the ballot.
  - In conjunction with the Clerk, set forth a process that allows for same-day voter registration and allows a family member of a person detained in the



jail to provide the person in the jail with the necessary information to register to vote on the day of the election.

- During each election held by the Elko County Office of Election, the Clerk shall:
  - Coordinate with the person who administers the jail in any county where a qualified elector or registered voter is detained to establish a procedure for those persons to register to vote and vote.
  - Assist in providing information to the jail administrator for use in signage and the handbook for detained persons information relating to the election and voting in the jail, including qualification to register to vote and voting options and procedures for registering to vote and voting at the jail.
  - Establish a process for the collection of the mail ballots voted by persons detained in the jail, to include a chain of custody of mail ballots.
  - Establish a process to allow the person to cure any defect in the signature on a mail ballot pursuant to NRS 293.269927.
  - Ensure the safety of any election board officer or other person who assists in the conduct of registering to vote or voting at the jail.
  - Ensure that a person who registers to vote or votes in a jail may do so without coercion or intimidation.
  - Ensure the secrecy of the ballot.
  - In conjunction with the Jail Administrator, set forth a process that allows for same-day voter registration of a person detained in the jail.

### **Plan:**

There will be two Field Registrars in charge of registering or updating voter registration for persons detained in Elko County – Adrienne Parry, ECSO and Jessell Beristain, NYTC.

The ESCO will ask inmates if they are going to be participating in the upcoming election. If so, the inmate will be provided with a paper application to register or update their voter registration.

The Clerk's Office will provide important deadlines to the ECSO so detained voters may have time to receive and submit their voted ballot.

The ESCO will request via email or by phone call a list of inmates who wish to vote. If valid, the Clerk's Office will prepare ballots and the sheriff's office can pick up the ballots, give the inmates access and privacy to vote, and deliver the ballots to the Clerk's Office. The Clerk's

Office will accept the voted ballots and any undeliverable ones and treat them in the same manner as every other ballot received by the Clerk's Office.

Signature Discrepancies: If there are any signature discrepancies, we will notify the voter through a letter to the sheriff's office so the voter may cure their signature.

Clerk's Contact Information:

Aly Guaman, Deputy Clerk

Jessica Shannon, Deputy Clerk

[Election@elkocountynv.net](mailto:Election@elkocountynv.net)

(775) 753-4600 Opt. 3 for Election Dept.

550 Court St. 3<sup>rd</sup> Floor

Elko, NV 89801

# **EXHIBIT 6**

April 11, 2024

David Stanton  
City Attorney  
Law Office Center of Goicoechea,  
DiGrazia, Coyle & Stanton, LTD.  
530 Idaho Street Elko, NV 89801

*Re: Implementation of Assembly Bill 286*

Dear Mr. Stanton:

The ACLU of Nevada (ACLUNV) has been monitoring the implementation of Assembly Bill 286 since it was passed by the Nevada Legislature in 2023 with an effective date of January 1, 2024. The bill requires a person who administers a county or city jail to coordinate with the county or city clerk to establish a policy that ensures a person who is detained in the jail may register to vote and vote in an election. Sections 5-7 of the bill outline specific requirements that must be included in the policies and procedures, including:

- How detainees can vote in secrecy and without coercion;
- How detainees can register to vote the same day; and
- That the jails must:
  - post the process and requirements for voting and registering to vote in prominent locations and the inmate handbook;
  - provide a blue or black ink to fill out a mail-in ballot;
  - provide each person detained in the jail with a reasonable amount of privacy to vote, which may, without limitation, be in a common area, visitation area, room or cell;
  - allow the county clerk to establish a process for the collection of the mail ballots voted by persons detained in the jail that includes a method for documenting the chain of custody of mail ballots;
  - allow the person to cure any defect in the signature on a mail ballot pursuant to NRS 293.269927;
  - not open a mail-in ballot after the voter has sealed it; and
  - file a report no later than 30 days after the election with the Secretary of State describing the voting/registering process that has been established and complaints received related to them.



4362 W. CHEYENNE AVE.  
NORTH LAS VEGAS, NV 89032  
ACLUNV@ACLUNV.ORG

[WWW.ACLUNV.ORG](http://WWW.ACLUNV.ORG)



4362 W. CHEYENNE AVE.  
NORTH LAS VEGAS, NV 89032  
ACLUNV@ACLUNV.ORG

[WWW.ACLUNV.ORG](http://WWW.ACLUNV.ORG)

A public records request was filed with the Elko County Clerk and the Elko County Sheriff's Office in February 2024 requesting policies and procedures of the Elko County Jail related to access to voting, and any other documents outlining how the detention center is complying with the requirements under AB 286. The response provided establishes the jail is not in compliance. The policy submitted merely reiterates the enumerated requirements under AB 286 and fails to put forth how the requirements will be effectuated. The bill mandates more than a statement that the jail will permit the outlined requirements- it requires the policy to lay out a process on *how* it will be accessible to the voters in custody.

The report filed by the Elko County Jail with the Secretary of State describing the voting/registering process that has been established and complaints received related to them, as required by AB 286, differs from what was provided to the ACLU of Nevada. It contains the enumerated requirements of AB 286 that was submitted as a response to the public records request, but it also contains an additional section titled "Plan." The "Plan" designates two "field registrars" that will assist detainees in registering to vote by providing them with a registration form. Additionally, it requires the Elko County Sheriff's Office to notify the Clerk's Office which detainees want to vote, pick up the ballots from the Clerk's Office, and deliver the ballots back to the Clerk's Office once the detainee(s) have voted. Despite the additional "plan" incorporated in the report, several gaps remain in the policy making the jail noncompliant with AB 286, including:

- a process for registering to vote or voting for a voter detained in another county;
- an outline of safety procedures for election board officers or others who assist individuals with the voting process;
- the ability for an individual in custody to register to vote or vote without intimidation or coercion;
- ensuring secrecy of the ballot;
- a process for same day registration;
- a process on how family members can bring necessary information for the voter to be able to take part in same day registration;
- a plan establishing chain of custody for mail-in ballots, including how ballots will be collected and stored by the Elko County Sheriff's Office prior to transportation to the Clerk's Office;
- prohibiting anyone from opening a mail-in ballot once it has been sealed; and
- requiring that a report be filed with the Secretary of State's Office regarding the process for registering to vote and voting and a summary of all complaints received from detainees related to voting.

As previously and publicly stated, ACLU of Nevada demands a revised plan in conformance with the provisions of the law by April 22, 2024 at noon. Failure by the Elko County Jail to comport their policies and procedures with AB 286 by April 22, 2024 and to provide us with an updated responsive plan in conformance will result in legal action.

You may contact me directly at 702-550-9324 or [ramic@aclunv.org](mailto:ramic@aclunv.org) with any questions.

Sincerely,



Sadmira Ramic  
Voting Rights Attorney  
American Civil Liberties Union of Nevada



4362 W. CHEYENNE AVE.  
NORTH LAS VEGAS, NV 89032  
[ACLUNV@ACLUNV.ORG](mailto:ACLUNV@ACLUNV.ORG)

[WWW.ACLUNV.ORG](http://WWW.ACLUNV.ORG)

# **EXHIBIT 7**

1 **DECL**  
SADMIRA RAMIC, ESQ. (15984)  
2 CHRISTOPHER M. PETERSON, ESQ. (13932)  
**AMERICAN CIVIL LIBERTIES**  
3 **UNION OF NEVADA**  
4362 W. Cheyenne Ave.  
4 North Las Vegas, NV 89032  
Telephone: (702) 366-1226  
5 Facsimile: (702) 830-9205  
Emails: peterson@aclunv.org  
6 ramic@aclunv.org

7 *Attorneys for Petitioner*

8  
9 **FOURTH JUDICIAL DISTRICT COURT**  
**ELKO COUNTY, NEVADA**

10 AMERICAN CIVIL LIBERTIES UNION OF  
11 NEVADA, a domestic nonprofit corporation,

12 Petitioner,

13 vs.

14 ELKO COUNTY, NEVADA, a local municipal  
15 government entity;

16 Respondent.

Case No.:

Department:



**DECLARATION OF ATHAR HASEEBULLAH, ESQ. IN SUPPORT OF PETITION  
FOR WRIT OF MANDAMUS**

I, Athar Haseebullah, Esq., under penalty of perjury declare:

1. I am over the age of 18 and I am competent to testify.
2. I am the Executive Director of the American Civil Liberties Union (ACLU) of Nevada and an attorney licensed to practice before Nevada Courts.
3. I have personal knowledge of the facts set forth in this declaration.
4. I make this declaration in support of the Petition for Writ of Mandamus.
5. As the guardian of civil liberties of all Nevadans for over 55 years, and with more than 4,000 members statewide, including Elko County, preventing constitutional and statutory violations is of substantial interest to ACLU of Nevada.
6. ACLU of Nevada is a non-partisan, non-profit organization that continually works to defend and advance the civil liberties and civil rights of all Nevadans.
7. Protecting the fundamental right to vote is a core tenet of ACLUNV's work, and ACLUNV has frequently engaged in *systemic* work in furtherance of this mission, including running one of the largest non-partisan election protection programs within the state, which includes election-day education and poll observations, and providing educational resources regarding individuals' voting rights through our website.
8. The ACLU of Nevada has been at the forefront of numerous efforts surrounding voting rights, including as counsel for petitioners in *ACLU of Nev. v. Cnty. of Nye*, 519 P.3d 36 (Nev. 2022) and *Martin v. City of North Las Vegas*, No. A-21-845709-W (Eighth Jud. Dist. Ct. Clark Cnty., Nev. filed Feb. 4, 2022).

9. ACLU of Nevada was not, and is not, designed to address individual civil liberties and civil rights issues as they arise based on our limited resources.
10. Assembly Bill 286 was passed during the 2023 Nevada Legislative Session and signed by Governor Lombardo thereafter with an effective date for purposes of this action of January 1, 2024, to give local governments adequate time to comply with the new law.
11. After the passage of Assembly Bill 286, the ACLU of Nevada was informed by members that jails throughout the state have not complied with its requirements.
12. As a result, the ACLU of Nevada had to divert its resources, including staff salaries which were to be devoted to other civil rights matters, to request information from jails around the state regarding adopted policies on registering to vote and voting for incarcerated individuals within their facilities, a core requirement of AB 286.
13. Additionally, ACLU of Nevada diverted resources by seeking information surrounding individuals in custody of the Elko County Jail and creating educational materials to engage incarcerated people on an individual basis if they are unable to register to vote or cast a ballot.
14. Specifically, on January 29, 2024, ACLU of Nevada requested public records from Elko County regarding the Elko County Jail's policies and procedures related to voting for individuals incarcerated within its facility.
15. The request was made using the Elko County Public Records Portal at [https://www.elkocountynv.net/public\\_record/index.php](https://www.elkocountynv.net/public_record/index.php).
16. On February 26, 2024, a response to the public records request was received by ACLU of Nevada via email.

17. After the responses to the requests confirmed noncompliance, including the response from Elko County, resources were again diverted to address these concerns including gathering data and presenting to the Nevada Joint Interim Standing Committee on Legislative Operations and Elections, and the public as a whole as this item is a matter of public importance.
18. To date, Elko County is not compliant with numerous requirements of Assembly Bill 286 as specified throughout this Writ of Mandamus.
19. ACLU of Nevada has sought to remedy this matter in advance of this filing with no indication of compliance from Elko County.
20. ACLU of Nevada will be forced to continue to devote additional resources through applied challenges if the policy is not followed, with no legitimate remedy in place as the election, and therefore the exercise of detained individuals' rights pursuant to AB 286, will be concluded if there is further delay.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 3<sup>rd</sup> day of May, 2024.

*Athar Haseebullah*

---

Athar Haseebullah, Esq.  
Executive Director  
American Civil Liberties Union of Nevada