

**PROPOSED REGULATION OF THE
SECRETARY OF STATE**

LCB File No. R052-19

September 23, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1 and 2, NRS 293.124 and 293.247 and section 7 of 2018 Ballot Question No. 5; §3, NRS 293.124, 293.247, 293.504, 293.5045 and 293.524.

A REGULATION relating to elections; clarifying that certain applicants for the issuance or renewal of or a change of address on any driver's license or identification card are not applicants to register to vote in the automatic voter registration system; revising procedures relating to accepting and processing applications to register to vote by certain voter registration agencies; making technical corrections to the citation of certain federal laws; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes an eligible person known as an elector to register to vote by a variety of methods, including the automatic voter registration system. (Nev. Const. Art. 2, § 1; NRS 293.055, 293.485, 293.517, 483.290, 483.850) An "elector" is a person who: (1) is a citizen of the United States; (2) is 18 years of age or over; and (3) meets certain residency requirements. Under existing law, the automatic voter registration system allows for the secure electronic storage and transmission of voter registration information obtained from an applicant for the issuance or renewal of or a change of address on any driver's license or identification card. (Section 2 of 2018 Ballot Question No. 5, Automatic Voter Registration Initiative) The Secretary of State is required to adopt regulations to carry out the automatic voter registration system. (Section 7 of 2018 Ballot Question No. 5, Automatic Voter Registration Initiative)

Section 1 of this regulation clarifies that if an applicant for the issuance or renewal of or a change of address on any driver's license or identification card submits certain documentation to the Department of Motor Vehicles indicating that he or she is not an elector who meets the qualifications to vote in this State, the person is not an applicant to register to vote and the automatic voter registration system must not transfer the person's information to the Secretary of State or county clerks for purposes of voter registration.

Under existing law, certain agencies that provide public assistance, including the Department of Motor Vehicles, are designated as "voter registration agencies" where a person applying for services from the agency may apply to register to vote. (52 U.S.C. §§ 20502 et. seq.; NRS 293.504) The Department of Motor Vehicles is the only voter registration agency required to use the automatic voter registration system. (Section 2 of 2018 Ballot Question No. 5,

Automatic Voter Registration Initiative) **Section 2** of this regulation makes changes to the procedures of a voter registration agency in accepting and processing applications to register to vote to ensure consistency with the procedures that the Department must follow when using the automatic voter registration system.

Section 3 of this regulation makes technical corrections to the citation of the federal National Voter Registration Act of 1993.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto a new section to read as follows:

If an applicant for the issuance or renewal of or a change of address for a driver's license or identification card submits to the Department of Motor Vehicles any of the following documents indicating that he or she is not an elector who meets the qualifications to vote in this State, the person is not an applicant to register to vote and the system established pursuant to section 2 of 2018 Ballot Question No. 5, the Automatic Voter Registration Initiative, must not electronically transmit the applicant's information to the Secretary of State or county clerks:

- 1. A Permanent Resident Card, Alien Registration Receipt Card, Form I-551, or any temporary version of such documents issued by the United States Citizenship and Immigration Services of the Department of Homeland Security;*
- 2. An employment authorization document issued by the United States Citizenship and Immigration Services of the Department of Homeland Security using Form I-765 or I-766;*
- 3. An arrival and departure record issued by United States Customs and Border Protection of the Department of Homeland Security using Form I-94;*
- 4. A nonimmigrant visa issued by the United States Department of State; or*
- 5. Any birth certificate, driver's license or identification card which indicates that the applicant is not at least 17 years of age as of the date of the application.*

Sec. 2. NAC 293.410 is hereby amended to read as follows:

293.410 1. A voter registration agency shall place in a conspicuous position in each of its offices a sign which indicates that a person may register to vote in that office.

2. A registered voter may change his or her name, address or political party affiliation on the application to register to vote.

3. ~~The~~ *Except as otherwise provided in subsection 11, the* information required by the application to register to vote must be printed in black or blue ink with a ballpoint pen.

4. A voter registration agency may not accept an application to register to vote which includes any erasure of or line drawn through information provided by the applicant relating to the political party affiliation of the applicant.

5. ~~A~~ *Except as otherwise provided in subsection 11, a* voter registration agency shall include with each application to register to vote or group of applications which is transmitted to the county clerk or registrar of voters a transmittal form prescribed and provided by the Secretary of State.

6. A voter registration agency shall not void an application unless the applicant is present. If the agency voids an application, the agency shall:

- (a) Write or stamp the word “void” on the front of the application;
- (b) Forward the voided application to the county clerk; and
- (c) Maintain a record of the voided application.

7. A voter registration agency shall ascertain whether a file stamp obliterates the portion of the application reserved for the applicant’s signature. If a file stamp does obliterate this portion, the voter registration agency shall issue a new application to the applicant.

8. ~~Before~~ *Except as otherwise provided in subsection 11, before* each application completed by an employee of the voter registration agency is forwarded to the county clerk or

registrar of voters, it must be reviewed by the employee of the voter registration agency designated pursuant to NAC 293.4105 who shall determine whether the application is legible. If the employee determines that an application is illegible, he or she shall cause a computer-generated copy of the information contained in the records relating to the applicant's driver's license or identification card to be attached to the application.

9. A voter registration agency shall, in a form prescribed by the Secretary of State, maintain a record of the number of persons who decline to register to vote when applying for or receiving services or assistance from the agency or when submitting an application for recertification, renewal or a change of address related to such services or assistance.

10. ~~+~~ ~~A~~ *Except as otherwise provided in subsection 11, a* voter registration agency shall stamp the original and the voter's receipt from the completed application with the date that the completed application is received by the agency. Except as otherwise provided in this subsection, the stamp used by the agency must not include the name of the agency.

11. The provisions of subsections 3, 5, 8 and 10 do not apply to an application to register to vote submitted pursuant to the automatic voter registration system established pursuant to section 2 of the 2018 Ballot Question No. 5, the Automatic Voter Registration Initiative.

Sec. 3. NAC 293.4105 is hereby amended to read as follows:

293.4105 1. Each voter registration agency shall designate one employee in each of its offices to be responsible for providing oversight and direction, as necessary, to ensure that the voter registration agency is in compliance with the provisions of ~~42 U.S.C. §§ 1973gg-1 et seq.~~ *52 U.S.C. §§ 20502 et. seq.*

2. An employee designated pursuant to subsection 1 shall:

(a) In cooperation with the county clerks and registrars of voters, conduct training programs once every 6 months to familiarize the employees of the voter registration agency with the required procedures for registering voters through the voter registration agency.

(b) Review each completed application to register to vote that is received by the voter registration agency.

(c) Transmit completed applications to register to vote to the county clerk or registrar of voters.

(d) Ensure that the voter registration agency maintains an adequate supply of applications to register to vote and other materials related to voter registration.

(e) Ensure that the Secretary of State has a current list of all titles and classifications of employees of the voter registration agency whose job duties may require the employees to:

(1) Accept completed applications to register to vote; or

(2) Make applications to register to vote available to a person who applies for or receives services or assistance from the agency.

3. For purposes of subsection 3 of NRS 293.5045, a “person whose duties will include the registration of voters” means an employee of the voter registration agency who may:

(a) Have access to paper applications or, if applicable, electronic applications to register to vote; or

(b) Interact with persons who:

(1) Apply for or receive service or assistance from the voter registration agency; and

(2) May submit applications to register to vote to the voter registration agency.

4. The Secretary of State will provide:

(a) Annual training to employees designated pursuant to this section on the provisions of ~~42 U.S.C. §§ 1973gg-1 et seq.~~ *52 U.S.C. §§ 20502 et. seq.*

(b) Any materials that are necessary for employees designated pursuant to this section to conduct training programs pursuant to paragraph (a) of subsection 2. The Secretary of State will ensure that any such materials are updated, as necessary.