

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R101-21

December 20, 2021

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

AUTHORITY: § 1, NRS 293.124 and 293.247; § 2, NRS 293.124, 293.247, 293.540 and 293.543.

A REGULATION relating to elections; revising certain election provisions related to persons convicted of a felony; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law: (1) requires a county clerk to cancel the voter registration of a person upon the determination that the person has been convicted of a felony and is currently serving a term of imprisonment; (2) provides that a person convicted of a felony who has served his or her sentence and has been released from prison is immediately restored the right to vote; and (3) authorizes any such person to reregister to vote upon release from prison. (NRS 213.157, 293.540, 293.543)

Existing regulations provide that the Secretary of State will immediately provide the county clerks with any information the Secretary of State receives from the Attorney General of the United States regarding the conviction of any person of a felony. (NAC 293.414) **Section 2** of this regulation provides instead that the Secretary of State will immediately provide the county clerks with any information the Secretary of State receives from the Attorney General of the United States or the Department of Corrections regarding any person who is convicted of a felony and sentenced to a term of imprisonment.

Section 2 also removes obsolete language related to the former process of restoring the voting rights of a person who was convicted of a felony.

Existing regulations require a county clerk to count a provisional ballot under certain circumstances including that a voter has not been convicted of a felony or, if the voter had been convicted of a felony, the civil rights of the voter had been lawfully restored. (NAC 293.270)

Section 1 of this regulation removes this obsolete language in order to comply with the applicable provisions of the Nevada Revised Statutes.

Section 1. NAC 293.270 is hereby amended to read as follows:

293.270 1. A person who completes the written affirmation required by NRS 293.3082 must be provided with a provisional ballot, regardless of whether the person is at the wrong polling place or precinct.

2. If an election official becomes aware that a person appearing to vote is a registered voter who has appeared to vote in the wrong polling place, the election official must inform the person of the location of the correct polling place for the person. The election official must also inform the person that although a provisional ballot may be cast at the incorrect precinct, the provisional ballot will not be counted unless the requirements of subsection 3 are satisfied and the voter casts the provisional ballot at a polling place that is located in the congressional district in which the voter resides.

3. A county clerk shall count a provisional ballot if the county clerk determines that all the following requirements were satisfied by the date of the election for which the provisional ballot was cast:

- (a) The voter was properly registered in the county where the provisional ballot was cast;
- (b) The voter was a citizen of the United States;
- (c) The voter was 18 years of age or older;
- (d) The voter had continuously resided in the county where he or she registered to vote for at least 30 days;
- (e) The voter had continuously resided in the precinct for which he or she registered to vote for at least 10 days;
- (f) ~~The voter had not been convicted of a felony or, if the voter had been convicted of a felony, the civil rights of the voter had been lawfully restored;~~
- ~~(g)~~ The voter signed the required affirmation;

~~(h)~~ (g) If the provisional ballot was cast at a polling place, the voter did not cast any other ballot ~~including an absent or mail-in ballot;~~

~~(i)~~ ;

(h) If the voter did not show proof of residence and identity at the time he or she registered to vote, that the voter provided official identification establishing residence and identity by 5 p.m. on the Friday following election day;

~~(i)~~ (i) The voter cast the provisional ballot at a polling place that was authorized to accept a ballot for the congressional district in which the voter resides; and

~~(j)~~ (j) The provisional ballot cast listed the correct federal offices for the congressional district in which the voter resides.

4. The county clerk shall, not earlier than 5 p.m. on the Friday immediately following election day, post and submit to the Secretary of State the totals of provisional votes counted. The county clerk shall post and submit the updated results in the same manner and form as election day results.

Sec. 2. NAC 293.414 is hereby amended to read as follows:

293.414 1. The Secretary of State will immediately provide the county clerks with any information the Secretary of State receives from the Attorney General of the United States *or the Department of Corrections* regarding ~~the conviction of~~ any person ~~of a felony~~ *who is convicted of a felony and sentenced to a term of imprisonment.*

2. A county clerk may, for the purpose of making the determination to cancel the registration of a person required by *paragraph (c) of* subsection ~~3~~ 2 of NRS 293.540, rely upon any information the county clerk 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 the Secretary of State receives regarding a person convicted of a felony who has had his or her 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 or her 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 the county clerk can verify that the document is invalid or forged.~~

~~—6.— If a county clerk does not receive a document described in subsection 4 within 15 days after a person who was convicted of a felony applies to register to vote, the county clerk shall reject the application of the person to register to vote. A person whose application to register to~~

~~vote is rejected pursuant to this subsection may submit a new application to register}~~ *Upon release from prison, a person whose registration has been cancelled pursuant to paragraph (c) of subsection 2 of NRS 293.540 may reregister to vote ~~+~~ by any method authorized pursuant to NRS 293.517.*