

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

COMMON CAUSE and DAWN
ESSINK,

Plaintiffs,

v.

ROBERT B. EVNEN, in his
official capacity as the Secretary
of State of Nebraska,

Defendant.

CASE NO.

VERIFIED COMPLAINT

INTRODUCTION

1. Earlier this month, the U.S. Department of Justice issued a sweeping and unprecedented demand of Nebraska Secretary of State Robert Evnen. The DOJ, in a September 8 letter, demands Nebraska's "complete" voter registration list, including every registered voter's "full name, date of birth, residential address, [and] his or her state's driver's license number or the last four digits of the registrant's social security number[.]" The letter, which was made public on September 17, requires full compliance by the end of the day today, September 22.

2. Nebraska law prevents Secretary Evnen from acquiescing to the federal government's demands. Under current law, local and state election officials are prohibited from disclosing a voter's birth date, driver's license information, or social security number. Neb. Rev. Stat. § 32-330(3)(b). Additionally, Nebraska law prohibits third parties, including the federal government, from making or receiving copies of Nebraska's voter register. Neb. Rev. Stat. § 33-330(1). Although the Secretary of State can *use* copies of the voter file for valid law enforcement purposes, he cannot *release* those copies to outside parties.

3. Plaintiffs Common Cause and Dawn Essink object to any third-party, including the federal government, receiving either their or their members' personal identifying information, including exact birthdates, social security numbers, driver's license information, and voting histories. Plaintiffs bring this action against Secretary Evnen in his official capacity to prevent him from disclosing highly sensitive voter data to the federal government, in violation of state law.

PARTIES

4. Plaintiff Dawn Essink is a resident of Douglas County and a registered voter in Nebraska. By registering to vote in Nebraska, Essink has provided to the state private, sensitive information. She registered to vote with the expectation that her sensitive information will remain private.

5. Plaintiff Common Cause is a nonprofit, nonpartisan membership organization incorporated under the laws of the District of Columbia and registered to do business in Nebraska. Pursuant to its bylaws, Common Cause is organized and operated as a membership organization and brings this action in a representative capacity on behalf of its members.

6. Common Cause is a grassroots organization dedicated to empowering all people in Nebraska to make their voices heard in the political process. Common Cause's members live across Nebraska and include registered Nebraska voters. Through its members in Nebraska, Common Cause works to create open, honest, and accountable government that serves the public interest—including by protecting voting rights.

7. Pursuant to its bylaws, Common Cause has defined who qualifies as a member. Under its definition, a "member" of Common Cause is any individual who, within the past two years, (a) made a financial contribution to the organization; or (b) has taken meaningful action in support of Common Cause's advocacy work. Such meaningful

action includes, but is not limited to, signing petitions directed to government officials; participating in letter-writing or phone-banking campaigns; attending town halls, workshops or rallies organized by Common Cause; or otherwise engaging in activities designed to advance the organization's mission.

8. Many of Common Cause's Nebraska members are registered voters whose personal information is maintained in the statewide voter registration database held by the Nebraska Secretary of State. If the Secretary discloses the unredacted voter registration file to DOJ, these members' sensitive personal information—including full residential addresses, voter signatures, dates of birth, driver's license numbers, and portions of social security numbers—would be unlawfully released, causing an invasion of privacy, chilling participation in the electoral process, and undermining confidence in the integrity of Nebraska elections.

9. Common Cause represents the interests of its members in this litigation and has authority to pursue this litigation on their behalf. In September 2025, Common Cause communicated with its Nebraska membership regarding the DOJ's demand for voter registration data and Common Cause's consideration of filing this lawsuit. Members were informed that Common Cause was considering legal action in this matter on members' behalf and provided the opportunity to express their views or support for this litigation. To date, no Nebraska-based member has objected to Common Cause's associational role in this case.

10. Common Cause sues on behalf of its Nebraska members, who would have standing to sue individually because they face direct and imminent injury if their personal data is disclosed. Litigating this matter on behalf of its members is germane to Common Cause's mission of protecting voting rights and election integrity, and the relief requested—declaratory and injunctive relief—does not require participation of individual members.

11. Defendant Robert Evnen is the elected and qualified Nebraska Secretary of State. Under the Nebraska Election Act, Neb. Rev. Stat. §§ 32-101 to 32-1552, Secretary Evnen has access and control over Nebraska's voter register. Secretary Evnen is the recipient of the September 8 letter from the U.S. Department of Justice requesting Nebraska's entire, unredacted voter register.

BACKGROUND

12. On September 8, 2025, the Civil Rights Division of the U.S. Department of Justice issued a demand to Secretary Evnen for Nebraska's entire voter registration list. The letter requests, among other information, "*all fields*," meaning every registered voter's "full name, date of birth, residential address, his or her state driver's license number or the last four digits of the registrant's social security number[.]" The letter was not made public until September 17. A copy of this letter is included as Exhibit A.

13. The DOJ's request, if fulfilled, violates Nebraska law in three material respects. First, the DOJ demands copies of the state's entire voter register via encrypted email or a file sharing platform. Under Nebraska law, certain portions of the voter registration register are public record and may be examined at the local election office. But only election officials and law enforcement may make copies, and copies of the register "shall ***only*** be used for list maintenance as provided in section 32-329 or law enforcement purposes." Neb. Rev. Stat. § 32-330(1) (emphasis added).

14. Although state and local election officials can make and *use* copies of the voter file in certain limited circumstances, they cannot *disclose* those copies to third party requesters, including the federal government. And even if they could, disclosure would not be lawful here because the federal government's request (a) is not related to list maintenance, (b) does not specify a legitimate law enforcement purpose, and (c) improperly requests access to the list via the internet. Disclosure would violate state law.

15. Second, the DOJ's demand seeks personal identifying information that exceeds the scope of Nebraska law. Specifically, the DOJ demands every voter's exact birthday and social security or driver's license information. But Nebraska law prohibits the Secretary of State from providing this information to the federal government, or any other third party. *See* Neb. Rev. Stat. § 32-330(3)(b) (listing the scope of information that may be released). Secretary Evnen cannot fulfill the DOJ's demands without violating state law.

16. Third, the DOJ's demand does not provide exceptions. Under Nebraska law, certain additional information in a registered voter's file may be confidential, including information relating to the voter's name, residence address, and telephone number. Neb. Rev. Stat. § 32-331. Confidentiality of this information protects victims of domestic violence, sexual assault, and stalking. The DOJ's request demands that Secretary Evnen turn over this confidential information. Evnen is prohibited from doing so under Nebraska law. Neb. Rev. Stat. § 32-330(1) ("The Secretary of State . . . shall withhold information in the register designated as confidential under section 32-331.").

17. The DOJ's letter cites the National Voter Registration Act (NVRA), the Help America Vote Act (HAVA), and Title III of the Civil Rights Act of 1960 as authority for its demand. But none of these statutes authorize the wholesale transfer of Nebraska's complete voter file, nor do they compel disclosure of confidential data such as exact birthdates, driver's license numbers, or social security numbers. The NVRA requires states to maintain records and allow limited inspection of list-maintenance activities, but it does not mandate the release of sensitive personally identifiable information. HAVA establishes statewide database requirements but provides no mechanism for federal seizure of voter data. And the Civil Rights Act of 1960 requires election officials to preserve records for specified periods but permits federal inspection only in the context of racial discrimination

investigations. In short, the statutory authorities DOJ invokes do not extend to the sweeping demand it has issued to Nebraska.

18. Nebraska law already provides for public inspection of appropriate voter records while expressly shielding sensitive fields such as full birthdates, voter signatures, driver's license information, social security numbers, and addresses of voters entitled to confidentiality protections. The DOJ's request disregards these limits and, critically, does not identify how its collection of Nebraska's complete voter file would comply with the federal Privacy Act of 1974, which requires federal agencies to publish notice and limit collection of personal data to what is relevant and necessary. By exceeding statutory authority and ignoring privacy safeguards, the DOJ's demand threatens to place Nebraskans' most sensitive information at risk of unlawful disclosure. This risk of exposure and misuse is precisely the harm Plaintiffs seek to prevent.

19. Secretary Evnen has acknowledged the unprecedented nature of the DOJ's demand, stating that he is unaware of any prior request seeking this "level of detail." But Secretary Evnen has not definitively rejected the federal government's request as required by Nebraska law. In fact, he acknowledged that he "want[s] to cooperate with the Department of Justice." Accordingly, there is a real and imminent threat that Secretary Evnen will fulfill the DOJ's request in violation of state law. And if that is done, Plaintiffs are without recourse to vindicate their rights.

CAUSE OF ACTION

UNIFORM DECLARATORY JUDGMENTS ACT

20. Plaintiffs re-allege and incorporate by reference the preceding paragraphs.

21. Under the Uniform Declaratory Judgments Act (UDJA), the Court has the power to "declare rights, status, and other legal

relations whether or not further relief is or could be claimed.” Neb. Rev. Stat. § 25-21,149.

22. The purpose of declaratory relief authorized by the UDJA is “to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations.” Neb. Rev. Stat. § 25-21,160.

23. Nebraska law—namely, Neb. Rev. Stat. § 32-330—affects Plaintiffs’ legal rights and relations vis-à-vis voter registration. That statute guarantees that certain information, including birthdates, voter signatures, social security numbers, and driver’s license information, will not be shared by state or local election officials with any third parties, including the federal government.

24. The UDJA does not require Plaintiffs to wait until the unlawful conduct occurs to confer standing. Instead, the Court may issue a declaratory judgment if the moving party “carries the burden of showing that [they face] a credible threat of future enforcement, which is sufficiently imminent.” *Nebraska Firearms Owners Ass’n v. City of Lincoln*, 319 Neb. 723, 737, 24 N.W.3d 891, 902 (2025).

25. The threat of irreparable harm is sufficiently imminent. The federal government’s unprecedented and sweeping demand requires compliance *today*, September 22. And while the Secretary of State has publicly contemplated the possibility of an extension, the extension would only be days, meaning the state’s entire voter file could be shared with the federal government by the end of the week. If the data is turned over, there is no way to un-ring that bell.

26. Plaintiffs seek relief against Secretary Evnen from an imminent invalid act and abuse of authority.

REQUEST FOR RELIEF

Plaintiffs respectfully request that this Court grant:

1. A declaration that the federal government's September 8 request for Nebraska's full voter file will, if fulfilled, violate Nebraska laws governing data privacy and protection;
2. A declaration that Nebraska law prohibits the Secretary from providing copies of the Nebraska voter registration register to the DOJ;
3. In the alternative, a declaration that Nebraska law limits the information that can be shared to the list provided in Neb. Rev. Stat. 32-330(3)(b)(i)–(xiii) and prohibits the Secretary from providing any additional information to the federal government, including but not limited to full date of birth, state driver's license number, the last four digits of the registrant's social security number, voter signature, and information in the register designated as confidential under section 32-331;
4. A temporary restraining order and temporary injunction prohibiting the Secretary from sharing any information until the issues raised in this litigation are finally resolved; and
5. Such other and further relief as the Court deems just and equitable.

DATED this 22nd day of September, 2025.

COMMON CAUSE and DAWN
ESSINK, **Plaintiffs**

/s/ Daniel J. Gutman

Daniel J. Gutman, #26039

Alexander S. Arkfeld, #27277

Sydney L. Hayes, #27051

Gutman Law Group

PO Box 485

Omaha, NE 68101

(402) 319-8897

daniel@glg.law

ATTORNEYS FOR PLAINTIFFS

VERIFICATION

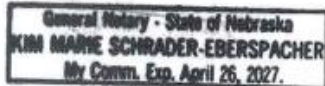
STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

Gavin Geis, Nebraska State Director, on behalf of Common Cause, being first duly sworn upon oath, deposes and states that Common Cause is a Plaintiff herein, and that he has read the foregoing Verified Complaint and knows the contents thereof; and that the facts stated therein are true and correct.

Gavin Geis

Gavin Geis, Nebraska State
Director, Common Cause

SUBSCRIBED AND SWORN to before me the 21st day of
September, 2024.

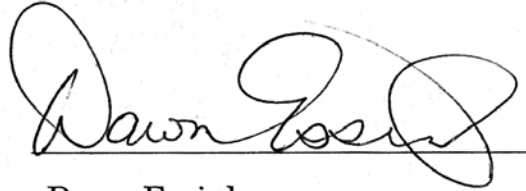


Kim Marie Schrader-
Notary Public Eberspacher

VERIFICATION

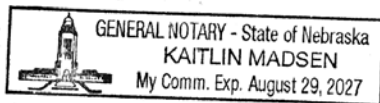
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

I, Dawn Essink, being first duly sworn upon oath, deposes and states that I am a Plaintiff herein, and that I have read the foregoing Verified Complaint and know the contents thereof; and that the facts stated therein are true and correct.



Dawn Essink

SUBSCRIBED AND SWORN to before me the 22 day of
September, 2025.


Notary Public



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

September 8, 2025

Via Mail and Email

The Honorable Robert Evnen
Secretary of State
P.O. Box 94608
Lincoln, NE 68509-4608
robert.evnen@nebraska.gov;
sos.info@nebraska.gov

Re: **Request for Complete Nebraska's Voter Registration List with All Fields**

Dear Secretary Evnen:

We write to you as the chief election official for the State of Nebraska concerning your State's compliance with the statewide voter registration list maintenance provisions of the National Voter Registration Act ("NVRA"), 52 U.S.C. § 20501 *et seq.*, and the Help America Vote Act ("HAVA"), 52 U.S.C. § 20901, *et seq.* Please provide a copy of Nebraska's statewide voter registration list ("VRL") within fourteen days of the date of this letter.

The electronic copy of the statewide VRL should contain *all fields*, which means, your state's VRL must include the registrant's full name, date of birth, residential address, his or her state driver's license number or the last four digits of the registrant's social security number as required under HAVA¹ to register individuals for federal elections. *See* 52 U.S.C. § 21083(a)(5)(A)(i).

We request Nebraska's VRL to assess your state's compliance with the statewide VRL maintenance provisions of the NVRA. Our request is pursuant to the Attorney General's authority under Section 11 of the NVRA to bring enforcement actions. *See* 52 U.S.C. § 20510(a).

HAVA also provides authority for the Justice Department to seek the State's VRL via Section 401, which makes the Attorney General solely responsible for actions to enforce HAVA's

¹ In charging the Attorney General with enforcement of the voter registration list requirements in the HAVA and in the NVRA, Congress plainly intended that DOJ be able to conduct an independent review of each state's list. Any statewide prohibitions are clearly preempted by federal law.

EXHIBIT A

computerized statewide voter registration list requirements. *See* 52 U.S.C. § 21111; *see also* *Brunner v. Ohio Republican Party*, 555 U.S. 5, 6 (2008) (*per curiam*) (finding no private right of action to enforce HAVA requirements).

In addition to those authorities, the Attorney General is also empowered by Congress to request records pursuant to Title III of the Civil Rights Act of 1960 (“CRA”), codified at 52 U.S.C. § 20701, *et seq.* Section 301 of the CRA requires state and local officials to retain and preserve records related to voter registration and other acts requisite to voting for any federal office for a period of twenty-two months after any federal general, special or primary election. *See* 52 U.S.C. § 20701.

Section 303 of the CRA provides, in pertinent part, “Any record or paper required by section 20701 to be retained and preserved shall, upon demand in writing by the Attorney General or his representative directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying at the principal office of such custodian by the Attorney General or his representative...” *See* 52 U.S.C. § 20703.

Pursuant to the foregoing authorities, including the CRA, the Attorney General is requesting an electronic copy of Nebraska’s complete and current VRL. The purpose of this request is to ascertain Nebraska’s compliance with the list maintenance requirements of the NVRA and HAVA.

To the extent there are privacy concerns, the voter registration list is subject to federal privacy protections. Section 304 of the CRA provides the answer:

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this chapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury.

52 U.S.C. § 20704. HAVA specifies that the “last 4 digits of a social security number . . . shall not be considered to be a social security number for purposes of section 7 of the Privacy Act of 1974” (5 U.S.C. § 522a note); 52 U.S.C. § 21083(c). In addition, any prohibition of disclosure of a motor vehicle record contained in the Driver’s License Protection Act, codified at 18 U.S.C. § 2721(b)(1), is exempted when the disclosure is for use by a government agency in carrying out the government agency’s function to accomplish its enforcement authority as the Justice Department is now doing. That said, all data received from you will be kept securely and treated consistently with the Privacy Act explained at [Civil Rights Division - Department of Justice - Privacy Policy](https://civilrights.justice.gov/privacy-policy#:~:text=Our%20Statutes-Privacy%20Act%20Statement,the%20scope%20of%20our%20jurisdiction)².

Please provide the requested electronic VRL³ to the Justice Department fourteen days from the date of this letter. The information and materials may be sent by encrypted email to

² Available at: <https://civilrights.justice.gov/privacy-policy#:~:text=Our%20Statutes-Privacy%20Act%20Statement,the%20scope%20of%20our%20jurisdiction>.

³ Containing *all fields*, which includes either the registrant’s full name, date of birth, residential address, his or her state driver’s license number or the last four digits of the registrant’s social security number as required by HAVA.

voting.section@usdoj.gov or via the Department's secure file-sharing system, Justice Enterprise File Sharing ("JEFS"). If Nebraska would be interested in a data sharing agreement with the Civil Rights Division, please reply to voting.section@usdoj.gov prior to the expiration of the fourteen-day response window. Upon receipt, we will send you an agreement template.

Should further clarification be required, please contact Maureen Riordan at maureen.riordan2@usdoj.gov.

Regards,

A handwritten signature in blue ink, appearing to read "Harmeet K. Dhillon".

Harmeet K. Dhillon
Assistant Attorney General
Civil Rights Division

cc: Wayne J. Bena, Esq.
Deputy Secretary of State
P.O. Box 94608
Lincoln, NE 68509-4608
wayne.bena@nebraska.gov