

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.

**MOTION FOR TEMPORARY
RESTRAINING ORDER AND
TEMPORARY INJUNCTION**

COMES NOW, Plaintiffs Common Cause and Dawn Essink, by and through their undersigned counsel of record, and pursuant to Neb. Rev. Stat. §§ 25-1062 *et seq.*, move this Court for a Temporary Restraining Order and Temporary Injunction against Defendant Robert B. Evnen, in his official capacity as the Secretary of State of Nebraska.

Specifically, Plaintiffs move this Court, pursuant to Neb. Rev. Stat. § 25-1064, for an order restraining the Secretary, until further order of this Court, from acquiescing to DOJ's demand and sharing Nebraska's voter registration list with the DOJ. The entry of a TRO and temporary injunction is necessary to preserve the status quo. Without a TRO, Plaintiffs will suffer immediate and irreparable harm for the following reasons:

1. 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[.]”

2. 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).

3. 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.

4. 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.

5. 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.").

6. 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.

7. 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.

8. 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.

9. Plaintiffs object to any third-party, including the federal government, receiving either their or their members' highly sensitive personal identifying information, including exact birthdates, voter signatures, social security numbers, driver's license information, and voting histories.

10. By registering to vote, Plaintiff Dawn Essink has provided to the state private, sensitive information. She registered to vote with the expectation that her sensitive information will remain private. Voters like Essink trust the state to protect this information. Breaking that trust erodes confidence in elections.

11. Plaintiff 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. Many of Common Cause's Nebraska 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.

12. 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. Additionally, sharing over the internet and centralizing this highly sensitive data creates an attractive target for hackers.

Plaintiffs certify that on September 22, 2025, a true and correct copy of this motion and underlying complaint were electronically filed with the Court. Plaintiffs also sent a true and correct copy of this motion and the complaint via email to Jennifer Huxoll, Civil Litigation Bureau Chief for the Nebraska Attorney General's Office. Finally, Plaintiffs sent a true and correct copy of this motion and the complaint via certified mail, return receipt requested, to Secretary Evnen. Plaintiffs request the Court to issue a temporary restraining order without further notice to the Secretary because, unless such an order is issued, Plaintiffs will suffer immediate and irreparable harm.

WHEREFORE, Plaintiffs respectfully move this Court, pursuant to Neb. Rev. Stat. §§ 25-1062 *et seq.*, to enter a TRO granting relief as described herein until such time as notice may be confirmed and a hearing may be held on Plaintiffs' motion for a temporary injunction.

DATED this 22nd day of September, 2025.

COMMON CAUSE and DAWN
ESSINK, **Plaintiffs**

/s/ Daniel J. Gutman

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Notice of Hearing

Plaintiffs intend to contact the Court once a judge is assigned to this matter and obtain a hearing date at that time. A supplemental notice of hearing will be filed once a hearing date is obtained.

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