


APR 23 2025



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NEBRASKA DEPARTMENT OF JUSTICE

Opinion No. 25-002 — April 23, 2025

OPINION FOR COLONEL JOHN A. BOLDUC,
SUPERINTENDENT OF LAW ENFORCEMENT
AND PUBLIC SAFETY

**Recognition of Foreign Pardons
and Other Restorations of Firearms Rights
in the Context of the Purchase of a Handgun.**

Summary: The Handgun Purchase Certificate Act, which regulates the purchase of handguns in Nebraska, contains an incorporation by reference of a federal statute, 18 U.S.C. § 922, that details when an individual is prohibited from purchasing a firearm. Under the incorporated federal statute, the law of the State where the conviction occurred determines whether a felony conviction results in a loss of firearm rights. The same is true with respect to a restoration of rights, such as a pardon, that removes or mitigates the collateral consequences of a felony conviction. Because the Handgun Purchase Certificate Act incorporates the federal statute wholesale, and because the incorporated statute has been authoritatively construed by the United States Supreme Court, there is no basis to deviate from its federal construction and understanding. Therefore, Nebraska law requires any law enforcement entity that conducts the background check that necessarily precedes the issuance of a Handgun Purchase Certificate, as well as the entity that ultimately issues a certificate, to recognize a restoration of firearm rights issued by the convicting sovereign regardless of the form or legal mechanism by which that restoration is effectuated.

Like nearly every State in the Union and the Federal Government, Nebraska law criminalizes the possession of a firearm by a convicted felon. Neb. Rev.

Stat. §§ 28-1206(1)(a)(i).¹ Cf 18 U.S.C. § 922(g)(1). Likewise, Nebraska law prohibits felons from receiving a license to purchase a handgun, see Neb. Rev. Stat. § 69-2404, or obtaining a permit to carry a handgun concealed, Neb. Rev. Stat. § 69-2433. Nebraska, again like every other State and the Federal Government,² has established a mechanism by which civil rights lost due to a felony conviction, including the right to possess a firearm, can be restored. Neb. Const. Art. IV, § 13; see also Neb. Rev. Stat. § 83-1,130(2).

¹ See generally 50-State Comparison: Loss & Restoration of Civil/Firearms Rights, The Collateral Consequences Resource Center (Sept. 2021) available at <https://perma.cc/8VUR-3VXK>. Of the 50 States, only Vermont does not *automatically* strip felons of the right to possess a firearm by statute, instead requiring a court order to achieve that outcome. See Jay Buckey, *Firearms for Felons? A Proposal to Prohibit Felons from Possessing Firearms in Vermont*, 35 Vt. L. Rev. 957, 958 (2011) (explaining that in Vermont there are “no restrictions on felons, or those adjudicated mentally incompetent, from owning or buying firearms”); see also *State v. Kasper*, 152 Vt. 435 (1989) (example of firearm restriction imposed by court order).

² The United States Constitution expressly authorizes federal clemency through its provision that the President “shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in case of impeachment.” U.S. Const. art. II, § 2. Although States are not required to establish a clemency regime, see Katie R. Van Camp, *The Pardoning Power: Where Does Tradition End and Legal Regulation Begin?*, 83 Miss. L.J. 1271, 1274 (2014) (citing *Herrera v. Collins*, 506 U.S. 390, 414 (1993)), “every state in the United States has created a pardon power,” *id.* See also Wayne A. Logan, “When Mercy Seasons Justice”: *Interstate Recognition of Ex-Offender Rights*, 49 U.C. Davis L. Rev. 1, 11 (2015) (“Today, every state makes pardons available in some form, vesting the authority in various entities, including governors acting alone and independent boards acting with or without governors.”).

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The State Patrol both enforces Nebraska's criminal law and conducts background checks that are necessary for the implementation of several regulatory statutes, such as the Nebraska Handgun Purchase Certificate Act and the Concealed Handgun Permit Act, under which an individual's status as a felon is legally relevant. *See* Neb. Rev. Stat. §§ 69-2409, 2411. In your request for an opinion of the Attorney General, you explain that the State Patrol has previously received informal advice that Nebraska does not recognize civil rights restorations, including those that expressly restore the right to possess a firearm, issued by another State. You have requested this opinion to "ensure the proper application of Nebraska's firearm prohibitions."

Specifically, you have asked two questions regarding individual who attempt to purchase a firearm in Nebraska:

1. Whether Nebraska recognizes a pardon that includes a restoration of firearm rights issued by another State for an offense of conviction that occurred in that State;
2. Whether Nebraska recognizes a restoration of firearm rights extended by another State by operation of a statute or via court order (or other judicial process) for an offense that occurred in that State.

The answer to both questions is "yes." In short, the Nebraska Legislature has made the policy decision to incorporate a relevant federal statute by reference.

That incorporated federal law has been authoritatively interpreted by the United States Supreme Court. The high court held that the statute's text plainly provides that it is the law of the jurisdiction of conviction that determines whether an individual has been convicted of a disqualifying felony. Concomitantly, the statute declares that law—the law of the convicting jurisdiction—determines whether the collateral consequences of a disqualifying felony, such as the right to purchase a firearm, have been lifted by a restoration of civil rights.

We see no reason Nebraska should deviate from the federal understanding, which is predicated on a straightforward reading of the relevant statutory text. Accordingly, we conclude that, in the context of an individual's application for a Handgun Purchase Certificate, Nebraska law recognizes civil rights restorations issued by another sovereign that nullify or otherwise fully relieve the applicant of a collateral consequence impacting their firearms rights that flows from a conviction obtained by the rights-restoring sovereign. That is so regardless of the form such a restoration of rights takes, be it a pardon, a set aside, or any other mechanism recognized under the law of the convicting jurisdiction.

I.

We begin with a discussion of this opinion's scope. At the threshold, it is important to recognize that Nebraska law does not regulate the sale of every

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firearm. Indeed, only the purchase of a handgun³—not a rifle, shotgun, or other long gun—is directly implicated by a Nebraska statute or regulation. *See* Neb. Rev. Stat. §§ 69-2401 to 69-2425; *see also* 272 Neb. Admin. Code, ch. 22, §§ 001 to 008. There are, of course, various federal statutes and regulations that often apply to or otherwise govern sales of non-handgun firearms in Nebraska.⁴ Nebraska law also frequently includes cross-references to these federal enactments. *See, e.g.*, Neb. Rev. Stat. §§ 69-2409.01, 2411(1)(a); 272 Neb. Admin. Code, ch. 22, § 003.08D. Furthermore, there are, as mentioned above, other Nebraska statutes related to firearms under which an individual's criminal history is legally relevant. Undoubtedly, there will be some overlap between the principles applied here and those relevant in related contexts.

That said, this opinion addresses only the questions asked. Specifically, this opinion answers whether any principle of Nebraska or federal law requires the State Patrol (or any other Nebraska law enforcement entity) to recognize a restoration of firearm rights granted by another sovereign for a criminal offense prosecuted and punished under that sovereign's jurisdiction. And we do so only in the context of an individual's attempt to purchase a handgun in Nebraska.

³ Nebraska law defines a handgun as: "[A]ny firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand." Neb. Rev. Stat. § 69-2402(4).

⁴ *See generally* 18 U.S.C. § 922.

A.

We start with an overview of the relevant Nebraska regulatory scheme.

The Nebraska Handgun Purchase Certificate Act,⁵ Neb. Rev. Stat. §§ 69-2401 to 69-2425, regulates the “purchase, lease, rental, and transfer of handguns” by requiring an individual obtain a certificate prior to engaging in one of the listed activities in Nebraska. *Id.* § 2401. Any person desiring to “purchase, lease, rent, or receive transfer of a handgun” must “apply with the chief of police or sheriff of the applicant’s place of residence” for a Handgun Purchase Certificate. 272 Neb. Admin. Code, ch. 22, § 003.01; *see also id.* § 002.03. That application must be made on an official form designed by the State Patrol. *Id.* § 003.04. With limited exception, the purchase, lease, or other transfer of a handgun without a certificate is a misdemeanor offense for both the buyer and the seller. *See* Neb. Rev. Stat. §§ 69-2403, 2408; *see also State v. Hofmann*, 310 Neb. 609, 615 (2021).

The law enforcement entities that issue Handgun Purchase Certificates must “conduct a background check to determine whether [an] applicant has a firearm disability that precludes him or her from purchasing or possessing a handgun.” *Id.* § 004.02. The mandatory background check “may include, but is not limited to, a criminal background check, a check of court and government records including notations or warrants and commitment orders issued by courts or mental health boards, and interviews of individuals

⁵ *See* 272 Neb. Admin. Code, ch. 22, § 001.01.

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with reliable and pertinent information about the applicant.” *Id.* § 004.03. A permit shall be “issued to the applicant . . . within three days” so long as the record background check “reveals no disqualifying information and applicant meets all of the requirements of the [Handgun Purchase Certificate] Act” and the associated regulations. *Id.* § 005.01.

To receive a Handgun Purchase Certificate, an applicant must:

- Be at least twenty-one (21) years of age;
- Complete the application and submit it along with all necessary documentation to the appropriate issuing entity;
- Pay the required fee;
- Not be prohibited from purchasing or possessing a handgun by federal, state or local law. (Verification of this eligibility requires a criminal history record check, including a National Instant Criminal Background Check System check); and
- Be a U.S. citizen, or an alien qualified under federal law to purchase or possess a handgun

Id. § 003.08A to 003.08E. If disqualifying information is discovered or the applicant otherwise “does not meet the certificate qualifications, they will be notified in writing indicating the reason(s) for the denial, along with notification of the appeal process” established by statute. *Id.* § 006.01; *see* Neb. Rev. Stat. § 69-2406. If an issuing entity later determines that a certificate holder “has become disqualified for the certificate under federal, state or local law,” that

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entity may “immediately revoke the certificate and require the holder to surrender the certificate immediately.” 272 Neb. Admin. Code, ch. 22, § 006.02.

An application will be denied if the applicant is prohibited from purchasing or possessing a firearm under either federal law or Nebraska regulation (which largely incorporate various federal statutes by reference). *See* Neb. Rev. Stat. § 69-2404; 272 Neb. Admin. Code, ch. 22, § 007; *see also Scalise v. Davis*, 312 Neb. 518, 522 (2022). The most relevant federal statute is 18 U.S.C. § 922 (“Section 922”). And the most pertinent provisions are 18 U.S.C. § 922(g)(1), which sets forth the federal prohibition on possession or receipt of a firearm by felons, and the definitions section that immediately precedes it, *id.* at § 921(a).

Thus, because Nebraska law incorporates this federal law by reference, the starting point for our analysis is the scope and applicability of Section 922. We thus turn to how the statute is applied by federal courts.

1.

Although it does not use the word “felon” or “felony,” Section 922(g)(1)’s prohibition on purchase or possession by a person who “has been convicted in any court of[] a crime punishable by imprisonment for a term exceeding one year” is understood to be synonymous with a prohibition on possession by a person who has been convicted of a felony. *See Johnson v. United States*, 576 U.S. 591, 593 (2015); *see also Smith v. United States*, 63 F.4th 677, 679 (8th Cir. 2023) “Federal law forbids certain people”

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including “convicted felons” from “ship[ing], possess[ing], [or] receiv[ing] firearms.” *Johnson*, 576 U.S. at 593 (citing Section 922(g)).

When determining if an individual qualifies as a “felon” for purposes of Section 922, the relevant analytical lens is the applicable law from the State where the conviction occurred. This was a deliberate choice made by Congress when it amended Section 922 in 1986, via enactment of the Firearm Owners Protection Act (“FOPA”).⁶ See *United States v. Kolter*, 849 F.2d 541, 543 (11th Cir. 1988). In FOPA’s definitions section, which outlines the parameters of a “crime punishable by imprisonment for a term exceeding one year,” Congress declared that “[w]hat constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held.” 18 U.S.C § 921(a)(20). Thus, “state law governs whether a person convicted of a state offense is a felon.” Stephen P. Halbrook, *Firearms Law Deskbook* § 2:31 (2024). Accordingly, it is an applicant’s status under state law that determines if, at the threshold, an applicant is considered a felon (and therefore prohibited) or not a felon (and thus eligible).

Having established that baseline, the question remains: What law determines whether, in the wake of a conviction, an individual has had their right to purchase or possesses a firearm restored?

⁶ Pub. L. 99-308, 100 Stat 449 (1986).

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The plain text of FOPA once again provides the answer. Indeed, the same provision that establishes the definition of a felon further provides that:

Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

18 U.S.C § 921(a)(20). The import of this language is not difficult to discern: FOPA’s definition “give[s] federal effect to state statutes that fully restore the civil rights of convicted felons when they are released from prison, or are granted a pardon, or have their convictions expunged.” *United States v. Richardson*, 168 F.3d 836, 839 (5th Cir. 1999) (quoting *United States v. Thomas*, 991 F.2d 206, 209 (5th Cir. 1993)).

This understanding of FOPA has been confirmed by the United States Supreme Court. Parsing the text of FOPA, the Court explained that the relevant language plainly “says that a conviction for which a person has had civil rights restored ‘shall not be considered a conviction.’” *Beecham v. United States*, 511 U.S. 368, 371 (1994) (quoting 18 U.S.C. § 921(a)(20)). Read in tandem with FOPA’s “choice-of-law clause” (the “shall be determined in accordance” language discussed above), “[a]sking whether a person has had civil rights restored is thus just one step in determining whether something should ‘be considered a conviction.’ By the terms of the

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choice-of-law clause, this determination is governed by the law of the convicting jurisdiction.” *Id.* at 371. Undergirding the propriety of this interpretation, the Court explained, was the fact that the three examples of civil rights restorations mentioned in the statutory text—“pardons, expungements, and set-asides”—are “either always or almost always . . . done by the jurisdiction of conviction.” *Id.*

The takeaway from this authority is straightforward. To determine if an individual falls within the definition of felon established by FOPA and thus are prohibited from purchasing a firearm by Section 922, federal courts look to the law of the jurisdiction where the conviction occurred. *See, e.g., Smith*, 63 F.4th at 680 (“*Beecham* teaches that, in evaluating whether rights have been restored, we look to the law of the jurisdiction in which the proceedings were held”) (internal quotations omitted). As a corollary, it is the law of the convicting jurisdiction that also determines whether any collateral consequence flowing from a qualifying conviction—including the loss of the right to purchase a firearm—can be erased or excused by some legal process or mechanism.

2.

Having outlined how the federal courts apply Section 922, we next address how the Nebraska statutes and regulations that incorporate Section 922

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by reference apply in the context of issuance of handgun permits.⁷

The text of the Handgun Purchase Certificate Act contains an unambiguous command: “An applicant *shall receive* a [Handgun Purchase] [C]ertificate if he or she is twenty-one years of age or older and *is not prohibited* from purchasing or possessing a handgun *by 18 U.S.C. 922.*” Neb. Rev. Stat. § 69-2404 (emphasis added). Fundamental principles of statutory interpretation dictate that when a statute speaks in “plain, direct, and unambiguous” language there is no need to “look . . . further than the text.” *Heist v. Nebraska Dep’t of Corr. Servs.*, 312 Neb. 480, 492 (2022). That is because “[t]he text of a statute or rule is the primary, essential source of its meaning.” Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 56 n.1 (2012). There can little doubt what the plain text commands here: Issue a certificate unless Section 922 says not to.

The question remains: Should (or must) Nebraska adhere to the federal understanding of the meaning, scope, and substance of Section 922? We believe so, for at least two reasons. *First*, the federal understanding is predicated on a straightforward reading of the statute’s plain text. *See* pp. 9–11, *supra*. Because plain-text readings should control in the absence of a substantial ambiguity or manifest absurdity—and neither exists here—we agree that the federal understanding of Section 922 is the optimal one.

⁷ “[T]he Nebraska Legislature may lawfully adopt by reference an existing law or regulation of another jurisdiction including the United States.” *Anderson v. Tiemann*, 182 Neb. 393, 396 (1967).

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Moreover, as the Nebraska Court of Appeals has indicated, “federal laws are subject to federal construction.” *Mumin v. T-Netix Tel. Co.*, 13 Neb. App. 188, 194 (2004); accord *State v. Reed*, 266 Neb. 641, 646 (2003). And in circumstances where a state statute is derived from or incorporates a federal statute by reference, state courts will often “resort to federal case law for guidance” in interpreting the state statute. See, e.g., *State v. Ontai*, 84 Haw. 56, 61 (1996).

Second, even if an alternative construction of Section 922 exists, on-point U.S. Supreme Court precedent very likely forecloses the application of that alternative. As the Nebraska Supreme Court has explained, though it is not bound by a lower federal court’s construction of federal law, “Nebraska courts must treat U.S. Supreme Court decisions [interpreting federal law] as binding authority.” *Strong v. Omaha Const. Indus. Pension Plan*, 270 Neb. 1, 10 (2005); see also *Reed*, 266 Neb. at 646 (explaining that “U.S. Supreme Court interpretations of [a congressionally sanctioned interstate compact] are . . . binding on state courts”). And, as discussed above, the pertinent portion of Section 922 was authoritatively parsed by the United States Supreme Court in *Beecham*. See pp. 10–11, *supra*. Thus, so long as Nebraska incorporates Section 922 wholesale, it is bound to adhere to the United States Supreme Court’s authoritative construction of what Section 922 means.⁸

⁸ Congress, of course, could alter that meaning by amending Section 922. Indeed, it did just that when it enacted FOIPA, in response to an earlier Supreme Court decision construing Section 922. See *United States v. Cassidy*, 899 F.2d 543, 547 (6th Cir. 1990) (explaining that by enacting FOIPA

That does not mean, however, that Nebraska is *required* to embed a reference to Section 922 into its regulatory framework. Nothing prevents the Legislature (or the People, through the exercise of their reserved powers) from removing the direct reference to Section 922 and replacing it with something else (or, like Vermont, nothing at all).⁹ In other words, Nebraska is free (subject only to ordinary and generally applicable constitutional considerations) to craft a regulatory structure governing the purchase or possession of firearms by convicted felons entirely disconnected from federal law. Indeed, Nebraska has, in one limited respect, done just that. Nebraska deems certain misdemeanants—those whose crime of conviction is “punishable by imprisonment for a term exceeding two years”—to be prohibited persons even if they would not so qualify under federal law. *Compare* 272 Neb. Admin. Code, ch. 22, § 007.01B, *with* 18 U.S.C. § 921(a)(20)(B). This reinforces the notion that the decision, in the main, to incorporate Section 922 by reference is a policy choice, not a dictate flowing from

“Congress expressly overruled” *Dickerson v. New Banner Institute*, 460 U.S. 103 (1983)); *see also United States v. Kolter*, 849 F.2d 541, 543 (11th Cir. 1988). Or (though at present it seems unlikely) the Supreme Court could revisit *Beecham* and come to a different conclusion. Thus, *Beecham*’s construction remains authoritative—and thus binding on Nebraska—only so long as that construction has not been superseded by subsequent events. And, as discussed herein, the Nebraska Legislature could decouple the Handgun Purchase Certificate Act from Section 922 (and the currently authoritative *Beecham* construction) at any time. *See* p. 14, *infra*.

⁹ *See* FN 1, *supra*.

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the federal constitution or principles of federal statutory preemption.¹⁰

Thus, under the statutory framework that governs handgun purchases in Nebraska, another sovereign's restoration of an individual's firearms rights is recognized and given effect, at least for the purpose of determining whether that individual is entitled to receive a Handgun Purchase Certificate.¹¹

II.

Ultimately, you have asked, in the context of handgun purchases, whether Nebraska law requires the recognition of some restorations of firearm rights but not others. The short answer is "no." Our conclusion holds without specific regard to the process by which a restoration of an individual's firearms rights is carried out.

¹⁰ Whether, in the absence of Section 922's incorporation by reference, Nebraska would be obligated to recognize another sovereign's restoration of firearms right by operation of the Full Faith and Credit Clause, U.S. Const. art. IV, § 1, is a complex and not entirely settled question. See *Thrall v. Wolfe*, 503 F.2d 313, 315–16 (7th Cir. 1974); see also *People v. Laino*, 32 Cal. 4th 878, 889–92 (2004). Cf. *In re Tr. Created by Nixon*, 277 Neb. 546, 551 (2009); *McIntosh v. Nebraska State Patrol*, 15 Neb. App. 867, 881 (2007). Because we need not resolve that question to answer the specific queries you have asked, we do not plumb those depths here.

¹¹ We express no opinion as to whether another sovereign's pardon or other restoration of civil rights must be given effect in other contexts, such as when considering an application for a professional license or during criminal sentencing.

Nebraska recognizes any restoration of rights that, under the law of the convicting jurisdiction, effectively nullifies or otherwise relieves an individual of a collateral consequence flowing from a conviction that would prohibit them from purchasing a firearm. Therefore, while there may be a relevant distinction between a pardon or a set aside when assessing the rights of a convicted felon *under Nebraska law*—because our statutes require a pardon coupled with express gubernatorial action to restore a felon’s firearm rights, *see* p. 17, *infra*—when one looks to the application of Section 922, which looks to the *laws of other states*, no distinction can automatically be drawn between an executive pardon or reprieve, a judicial expungement or set-aside, and an “automatic” legislative (that is, statutory) restoration—or any other lawful method recognized by the convicting jurisdiction. That is because FOIPA, the federal law which Nebraska has incorporated into the Handgun Certificate Purchase Act by reference, draws no such distinction. *See* pp. 9–11, *supra*. Instead, Congress plainly and expressly provided that “the law of the jurisdiction in which the proceedings were held,” 18 U.S.C § 921(a)(20), determines when and if individual would be deemed, at the outset, to have a disqualifying conviction that prohibits them from purchasing or possessing a firearm. That choice of law provision applies with equal force on the back end when assessing whether an individual’s right to purchase or possess a firearm has been restored.

We appreciate the practical impact this conclusion may have on the law enforcement agencies charged with implementing the Handgun Purchase Certificate Act. “States have adopted a ‘wide variety of practices’

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for restoring” civil rights, including the right to purchase or possess a firearm, lost due to a felony conviction. *United States v. Bost*, 87 F.3d 1333, 1335 (D.C. Cir. 1996); see *Harbison v. Bell*, 556 U.S. 180, 187 (2009) (recognizing that “the States administer clemency in a variety of ways” and providing several examples).¹²

In some instances, understanding when clemency has been extended or a restoration of rights has occurred—and, critically, the scope of any such restoration—will not be difficult to discern. Nebraska law, for instance, requires the Governor to “expressly authorize” the restoration of the firearms rights of an individual who has received a pardon in Nebraska. Neb. Rev. Stat. § 83-1,130(2). In the absence of such an express re-authorization, an individual’s firearm rights are deemed to not have been restored. See *State v. Illig*, 237 Neb. 598, 609 (1991); see also *United States v. Wilson*, No. 4:15-CR-3002, 2016 WL 215272, at *2 (D. Neb. Jan. 19, 2016) (“[A] felon’s right to possess firearms may be restored only through the Nebraska governor’s express authorization.”) (citing, *inter alia*, Neb. Rev. Stat. § 83-1,130(2)).

But that practice is not universal. As our Supreme Court has recognized, while “[s]ome states . . . have a specific statute which prohibits the possession of firearms by felons, even where their civil rights have

¹² See also 50-State Comparison: Pardon Policy & Practice, The Collateral Consequences Resource Center (July 2024) available at <https://perma.cc/BDY2-B5U3>; 50 State Comparison: Expungement, Sealing & Other Record Relief, The Collateral Consequences Resource Center (October 2021) available at <https://perma.cc/NT9G-SFCE>.

been restored,” the law in numerous other States does not directly address the issue. *See Illig*, 237 Neb. at 609. This has led to a split in authority among the federal courts of appeals about how to apply FOPA’s state-law focused approach. *See Daniel Brenner, The Firearm Owners’ Protection Act and the Restoration of Felons’ Right to Possess Firearms: Congressional Intent Versus Notice*, 2008 U. Ill. L. Rev. 1045, 1058–68 (2008) (describing the contours of the split). Suffice to say, determining whether and when a convicted felon’s firearms rights have been restored by a pardon, set aside, statutory scheme, or other similar legal mechanism can be complicated.

Nevertheless, that a statute may be challenging to implement provides no basis for the implementing agency to shirk its obligation to faithfully execute the law. *Cf. In re Aiken Cty.*, 725 F.3d 255, 259 (D.C. Cir. 2013) (Kavanaugh, J.) (“[A]bsent a lack of funds or a claim of unconstitutionality that has not been rejected by [the judiciary], the Executive [branch] must abide by statutory mandates and prohibitions.”).¹³ Executive entities, like the State Patrol, are not inherently imbued with discretion to “disregard . . . statutory obligations . . . or to [choose not to] implement or administer statutory projects or programs.” *Id.*

¹³ Nothing in this opinion should be understood as either an endorsement or indictment of the constitutionality of either the Handgun Purchase Certificate Act or Section 922. Underlying constitutional considerations, such as any potential interplay between those statutes and the right to bear arms secured by both the Second Amendment and Nebraska’s similar constitutional provision, Neb. Const, Art. I, § 1, have not been raised and thus played no part in our analysis.

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Here, the Handgun Purchase Certificate Act contains two unambiguous statutory commands. *First*, applicants who satisfy the regulatory requirements “shall receive a [Handgun] [Purchase] [C]ertificate.” Neb. Rev. Stat. § 69-2404; *see also* 272 Neb. Admin. Code, ch. 22, § 005.01. *Second*, a Handgun Purchase Certificate “shall issue” within three days, unless the issuing law enforcement entity “furnish[es] the applicant the specific reasons for the denial in writing.” Neb. Rev. Stat. § 69-2405. A statute’s use of “shall” is generally “inconsistent with the idea of discretion.” *Prokop v. Lower Loup Nat. Res. Dist.*, 302 Neb. 10, 28 (2019). Thus, the law enforcement entities that implement the Act, including the State Patrol, have a duty to discharge the obligations set forth therein that facilitate its implementation. For the reasons set forth above, doing so will, in some circumstances, require grappling with and ultimately determining the legal effect of a pardon or other restoration of rights under the law of the jurisdiction where that restoration was issued.

We acknowledge the practical considerations inherent in this opinion. Perhaps in an acknowledgement of these considerations, the Legislature has both immunized law enforcement agencies who implement the Act in good faith from civil liability, *see* Neb. Rev. Stat. § 69-2405,¹⁴ and established a process by which an applicant denied a

¹⁴ The relevant statutory text provides that: “No civil liability shall arise to any law enforcement agency if such law enforcement agency complies with sections 69-2401, 69-2403 to 69-2408, and 69-2409.01.”

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Purchase Certificate can appeal that denial to the judiciary, Neb. Rev. Stat. § 69-2406. The Legislature's chosen mitigation mechanisms provide some practical relief from the impact of the reliance on Section 922.

III.

Every American jurisdiction has a mechanism to strip convicted felons of their right to purchase or possess a firearm. Each also has some corresponding mechanism for restoring those rights after they have been lost. The Nebraska Legislature has made a policy choice that requires recognition of both sides of that coin. Unless and until the Legislature or the People decide otherwise, for purposes of determining eligibility to purchase a handgun, Nebraska law recognizes the effect of a restoration of rights, regardless of its form, that relieves a convicted felon of the collateral consequences of their conviction with respect to firearms, as judged by the law of the convicting jurisdiction.

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