

Assessment of Non-Citizen Voting Laws in Oklahoma

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***University of
Kentucky Law
Professor Joshua
Douglas, an expert
on local voting laws,
has determined that
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in Oklahoma.***

Oklahoma’s constitution states that the qualifications of electors are:

Subject to such exceptions as the Legislature may prescribe, all citizens of the United States, over the age of eighteen (18) years, who are bona fide residents of this state, are qualified electors of this state.

Oklahoma state statute regarding the qualifications of electors is:

§26-4-101. Persons entitled to become registered voters – Exceptions. Every person who is a qualified elector as defined by Section 1 of Article III of the Oklahoma Constitution shall be entitled to become a registered voter in the precinct of his or her residence, with the following conditions:

1. Persons convicted of a felony shall be eligible to register to vote when they have fully served their sentence of court-mandated calendar days, including any term of incarceration, parole or supervision, or completed a period of probation ordered by any court; and

2. Any person who has been adjudged to be an incapacitated person as such term is defined by Section 1–111 of Title 30 of the Oklahoma Statutes shall be ineligible to register to vote. When such incapacitated person has been adjudged to be no longer incapacitated such person shall be eligible to become a registered voter. The provisions of this paragraph shall not prohibit any person adjudged to be a partially incapacitated person as such term is defined by Section 1–111 of Title 30 of the Oklahoma Statutes from being eligible to register to vote unless the order adjudging the person to be partially incapacitated restricts such person from being eligible to register to vote.

The Oklahoma constitution and state statute identify that all citizens over the age of eighteen who are bona fide residents of Oklahoma and citizens of the United States are eligible voters. The state statute allows a person convicted of a felony to vote after they have served their sentence and if someone is judged incapacitated, they are ineligible to vote. There is nothing in either the constitution or the state statute that limits the right to vote to only United States citizens.

Oklahoma is also a home rule state. Generally home rule either gives municipalities the power to enact local rules and immunity from having to follow state rules that are inconsistent with the local rules or provides the power to the municipality but gives the legislature the power to preempt the local rule. Oklahoma’s constitution provides broad home rule authority to municipalities with a population over 2,000 as long as their rules are “consistent with and subject to the Constitution and laws of this State”. The municipality would need to frame a charter that is submitted to the Governor for approval. From a Dillon Rule perspective nothing within the Constitution limits the municipality from enacting election law as long as the population is over 2,000 and has a charter. University of Kentucky Law Professor Joshua Douglas, an expert on this issue, has determined that there are “no clear impediments” to non-citizens voting in Oklahoma.

References:

Oklahoma Constitution Elections:

<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=84843>

Oklahoma State Statute:

http://webserver1.lsb.state.ok.us/OK_Statutes/CompleteTitles/os26.pdf

Oklahoma Constitution Home Rule:

<https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=85126>