

1 AN ACT relating to elections.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 118.176 is amended to read as follows:

4 (1) A "bona fide" candidate means one who is seeking nomination in a primary or
5 election in a special or regular election according to law.

6 (2) ***The county board of elections or the State Board of Elections shall, by the first***
7 ***Friday after the candidate filing deadlines established in KRS 83A.045, 118.165,***
8 ***and 118A.060, notify a candidate and the appropriate certifying authority of the***
9 ***candidate's failure to meet the jurisdictional or party affiliation requirements for***
10 ***the office sought. The certifying authority shall not certify the candidate's name,***
11 ***but a determination by the certifying authority shall be appealable by summary***
12 ***proceedings consisting of a motion before the Circuit Court of the judicial circuit***
13 ***in which the candidate whose bona fides is questioned resides. Any appeal***
14 ***brought under this subsection shall be filed with the court by the certification***
15 ***dates established in Section 2 of this Act.***

16 **(3)** The bona fides of any candidate seeking nomination as the nominee of a political
17 party or a nonpartisan or judicial nominee in a primary or election to an office as a
18 member of a political organization, political group, or as an independent in a special
19 or regular election may be questioned by any qualified voter entitled to vote for the
20 candidate or by an opposing candidate by summary proceedings consisting of a
21 motion before the Circuit Court of the judicial circuit in which the candidate whose
22 bona fides is questioned resides. An action regarding the bona fides of the nominee
23 of a political party or a nonpartisan or judicial nominee may be commenced at any
24 time prior to the primary. An action regarding the bona fides for election to an
25 office as a member of a political organization, political group, or as an independent
26 may be commenced at any time prior to a special or regular election. The motion
27 shall be tried summarily and without delay. Proof may be heard orally, and upon

1 motion of either party shall be officially reported. If the Circuit Judge of the circuit
2 in which the proceeding is filed is disqualified or absent from the county or is
3 herself or himself a candidate, the proceeding may be presented to, heard and
4 determined by the Circuit Judge of any adjoining judicial circuit.

5 ~~(4)~~~~(3)~~ In any action or proceeding under this section the burden of proof as to the
6 bona fides of a candidate shall be on the person challenging the bona fides of a
7 candidate.

8 ~~(5)~~~~(4)~~ If the court finds the candidate is not a bona fide candidate it shall so order,
9 and certify the fact to the board of elections, and the candidate's name shall be
10 stricken from the written designation of election officers filed with the board of
11 elections or the court may refuse recognition or relief in a mandatory or injunctive
12 way. The order of the Circuit Court shall be entered on the order book of the court
13 and shall be subject to a motion to set aside in the Court of Appeals. The motion
14 shall be heard by the Court of Appeals or a judge thereof in the manner provided for
15 dissolving or granting injunctions, except that the motion shall be made before the
16 court or judge within five (5) days after the entry of the order in the Circuit Court,
17 and may be heard and tried upon the original papers, and the order of the Court of
18 Appeals or judge thereof shall be final.

19 ~~(6)~~~~(5)~~ No person shall approach the Circuit Judge for the purpose or view of
20 influencing his or her decision on the motion pending before the Circuit Judge or to
21 be tried by him or her.

22 ➔Section 2. KRS 118.215 is amended to read as follows:

23 (1) After the order of the names has been determined as provided in KRS 118.225, the
24 Secretary of State shall certify, to the county clerks of the respective counties
25 entitled to participate in the nomination or election of the respective candidates, the
26 name, place of residence, and party of each candidate or slate of candidates for each
27 office, as specified in the nomination papers or certificates and petitions of

1 nomination filed with him or her, and shall designate the device with which the
2 candidate groups, slates of candidates, or lists of candidates of each party shall be
3 printed, in the order in which they are to appear on the ballot, with precedence to be
4 given to the party that polled the highest number of votes at the preceding election
5 for presidential electors, followed by the political party which received the second
6 highest number of votes, with the order of any other political parties and
7 independents to be determined by lot. Candidates for county offices and local state
8 offices shall be listed in the following order: Commonwealth's attorney, circuit
9 clerk, property valuation administrator, county judge/executive, county attorney,
10 county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and
11 constable. The names of candidates for President and Vice President shall be
12 certified in lieu of certifying the names of the candidates for presidential electors.
13 The names shall be certified as follows:

- 14 (a) Not later than the third ~~Monday~~ Friday after the filing deadline for the
15 primary as established in KRS 83A.045, 118.165, and 118A.060;
16 (b) Not later than the fourth Monday in August, except as provided in paragraph
17 (c) of this subsection; and
18 (c) Not later than the Monday after the Friday following the first Tuesday in
19 September preceding a regular election, for those years in which there is an
20 election for President and Vice President of the United States.

- 21 (2) Except as otherwise provided in subsection (3) of this section, all independent
22 candidates or slates of candidates whose nominating petitions are filed with the
23 county clerk or the Secretary of State shall be listed under the title and device
24 designated by them as provided in KRS 118.315, or if none is designated, under the
25 word "independent," and shall be placed on the ballot in a separate column or
26 columns or in a separate line or lines according to the office which they seek. The
27 order in which independent candidates or slates of candidates shall appear on the

1 ballot shall be determined by lot by the county clerk. If the same device is selected
2 by two (2) groups of petitioners, it shall be given to the first selecting it and the
3 county clerk shall permit the other group to select a suitable device. This section
4 shall not apply to candidates for municipal offices which come under subsection (3)
5 of this section.

6 (3) The ballots used at any election in which city officers are to be elected as provided
7 in subsection (2) of this section shall contain the names of candidates for the city
8 offices grouped according to the offices they seek, and the candidates shall be
9 immediately arranged with and designated by the title of office they seek. The order
10 in which the names of the candidates for each office are to be printed on the ballot
11 shall be determined by lot. Each group of candidates for each separate office for
12 which the candidates are to be elected shall be clearly separated from other groups
13 on the ballot and spaced to avoid confusion on the part of the voter.

14 (4) The Secretary of State shall not knowingly certify to the county clerk of any county
15 the name of any candidate or slate of candidates who has not filed the required
16 nomination papers, nor knowingly fail to certify the name of any candidate or slate
17 of candidates who has filed the required nomination papers.

18 (5) If the county clerk determines that the number of certified candidates or slates of
19 candidates cannot be placed on a ballot which can be accommodated by the voting
20 equipment currently in use by the county, he or she shall so notify the State Board
21 of Elections not later than the last Tuesday in February preceding the primary or the
22 last Tuesday in August preceding the regular election. The State Board of Elections
23 shall meet within five (5) days of the notice, review the ballot conditions, and
24 determine whether supplemental paper ballots are necessary for the election. Upon
25 approval of the State Board of Elections, supplemental paper ballots may be used
26 for nonpartisan candidates or slates of candidates for an office or offices and public
27 questions submitted for a yes or no vote. All candidates or slates of candidates for

1 any particular office shall be placed either on the ballot or on the supplemental
2 paper ballot. Supplemental paper ballots may also be used to conduct the voting, in
3 the instance of a small precinct as provided in KRS 117.066.

4 (6) The ballot position of a candidate or slate of candidates shall not be changed after
5 the ballot position has been designated by the county clerk.

6 ➔Section 3. KRS 118.995 is amended to read as follows:

7 (1) Any person who violates any of the provisions of KRS 118.136 shall be guilty of a
8 Class A misdemeanor.

9 (2) If the Secretary of State violates any of the provisions of subsection (4) of KRS
10 118.215, he shall be guilty of a Class D felony.

11 (3) Any person who violates subsection (5) of KRS 118.176 shall be guilty of a Class A
12 misdemeanor.

13 (4) If any county clerk violates any of the provisions of subsection ~~(6)~~⁽⁵⁾ of KRS
14 118.305, he shall be guilty of a Class D felony.