

**No. 22-0658**

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**In the Supreme Court of Texas**

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*In re Keith Self, et al.,*

*Relators.*

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Direct Original Mandamus Proceeding Under  
Texas Election Code § 273.061

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**Response to Relators' Original Emergency  
Petition for Writ of Mandamus**

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***Oral Argument Requested***

## **Identity of Parties and Counsel**

Respondents supplement Relators' listing of parties and affiliated counsel as follows:

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### *Respondents:*

**Whitney Bilyeu**, in her capacity  
as Chair of the Libertarian Party of Texas

**Libertarian Party of Texas**

\*Real Parties in Interest on Following Page

*23 of the Real Parties in Interest:*

**Christopher Claytor**  
**John Simmons**  
**Roy Eriksen**  
**Bill Kelsey**  
**Ross Lynn Leone, Jr.**  
**Joseph Leblanc**  
**Mike Kolls**  
**Ken Ashby**  
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## **Oral Argument Requested**

This is an important case involving 23 general election races and depriving the rights of Texans to vote for the Libertarian candidates of their choosing. This case involves new statutory provisions relating to political parties that nominate by convention as opposed to political parties that nominate by primary election. Any ruling by this Court other than denial of the petition will have far-reaching implications on the state's election law and disruptive effects on the election and the voters. The permutations of those changes are beyond the scope of written briefing.

Pursuant to Texas Rule of Appellate Procedure 59, oral argument is requested.

## Statement of the Case

Relators' statement of the case is incomplete. The Court should be aware of two related proceedings involving the constitutionality Texas Election Code Section 141.041.

No. 1:21-CV-01089-RP; *Bilyeu v. Scott, in his official capacity as the Secretary of State for the State of Texas, et al.*; in the United States District Court for the Western District of Texas, Austin Division.<sup>1</sup>

No. 1:19-CV-700-RP; *Miller v. Doe, in his or her capacity as Sec. of State of the State of Texas, et al.*; In the United States District Court for the Western District of Texas, Austin Division.

In addition, the Relators' statement of the case is more argument than fact. To the extent further response is required, Respondents dispute the allegations and arguments contained in Relators' statement of the case.

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<sup>1</sup> Counsel in this case is representing Libertarians in *Bilyeu v. Scott* too. During the preparation of this response, we discovered that we had pleaded that the filing fee requirement related to eligibility, which was not squarely before that district court. After reviewing the issue closer, we realized that the filing fee is a form, content, procedure requirement for all political parties. We will be notifying the district court forthwith of our corrected legal analysis.



## Restatement of Issue

Relators frame the issue in this proceeding as one arising under Texas Election Code Section 145.033, but that statement of the issue is incorrect. Rather:

- I. In 2022, Senate Bill 2093 was enacted. It moved the filing fee requirement for the Libertarians from Chapter 141 to Chapter 181 of the Election Code but also deleted the word “eligible” and put the language in parity with the fee requirement for Republicans and Democrats under Section 172.031. The filing fee for Republicans and Democrats is a form, content, procedure requirement. The issue in this case is whether the filing fee in lieu of petition is now a form, content, procedure requirement. If it is, then Relators’ petition must be denied.

**TO THE HONORABLE SUPREME COURT OF TEXAS:**

**Facts**<sup>2</sup>

Respondents are the Libertarian Party of Texas (“LPTexas”) and its chair, Whitney Bilyeu (“Party Chair”). The Real Parties are Libertarian nominees for the 2022 general election (“Real Parties” and collectively with LPTexas and Party Chair as the “Libertarians”). The Libertarians’ fundamental platform is to create “a world of liberty; a world in which all individuals are sovereign over their lives and no individuals are forced to sacrifice their values for the benefit of others.”<sup>3</sup>

The Libertarians are required under the Election Code to nominate its candidates by convention. Its nomination procedures are framed by Chapter 181 of the Texas Election Code. As a qualified political party, LPTexas has “ballot status,” meaning, the Libertarians are *entitled* to have nominees appear on the general election ballot.

In 2019, the Legislature enacted Section 141.041, which for the first time in the state’s history, required Libertarian nominees to pay a fee to be on the general election ballot. In lieu of the fee, candidates are given the option of submitting

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<sup>2</sup> Unless otherwise stated, the facts in this section are supported by the Declaration of Whitney Bilyeu, which is Tab A of the Appendix.

<sup>3</sup> See Libertarian Party of Texas State Platform, available online at <https://lptexas.org/about/platform/>, last visited August 14, 2022.

signatures, but the practical reality is that petitions are more costly. In 2022, the Legislature amended the law, and what was Section 141.041 is now Section 181.0311. In the 2020 cycle, the filing fee was an “eligibility” requirement; in this cycle, it is a form, content, procedure requirement.

In contrast to the filing fee that Republicans and Democrats pay to their party chairs, which goes to subsidize the cost of the primary elections, the filing fee imposed on the Libertarians is paid directly to the Secretary of State or the County Judge and is deposited into the general revenue fund. It is not deposited into a fund to pay for the election, or offset the costs of Libertarian convention, which are self-funded. Many Libertarians viewed the new filing fee requirement as an unconstitutional poll tax and do not pay it as a sign of protest.

### ***Primary Parties/Parties in Power***

In Texas, political parties that received at least 20 percent of the vote in the last gubernatorial election nominate their candidates by primary election. *See* Tex. Elec. Code § 172.001. For at least the last century, only the Democratic Party and Republican Party—the two parties in power—have qualified as “Primary Parties.”

To be entitled to a place on the general primary election ballot, Primary Party candidates must make an application for a place on the ballot. Tex. Elec. Code § 172.021(a). As part of that, Primary Party candidates are required to: (a) pay a filing fee; or (b) submit a nomination petition that complies with Texas

Election Code § 141.062 and is signed by a specified number of eligible voters. *See* Tex. Elec. Code §§ 173.031-173.034. The state (run by members of the Primary Parties) justifies this admitted infringement by the need for candidates to show a modicum of support to prevent ballot overcrowding.

The filing fees paid by the Primary Party candidates are *paid to the Primary Party itself* and are used to reimburse the Primary Party for the costs it incurs “in connection with the primary election.”<sup>4</sup> *See* Tex. Elec. Code §§ 173.033–.034. The primary elections themselves are largely paid for with taxpayer funds. *See* Tex. Elec. Code § 173.001. Because the state runs the primary election, its exercise of oversight requirements of the payment of a filing fee or petition in lieu thereof makes sense.

For the Primary Parties, access to the general election ballot is determined by the outcome of the primary election and the certification of its results. *See* Tex. Elec. Code § 172.122(a). The winners of each primary race are designated as the

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<sup>4</sup> Some of the fees are retained by the party and some are remitted to the Secretary of State for use in the primary fund. *See* Tex. Elec. Code §§ 173.061-173.063.

party's nominee, and the nominees are placed on the general election ballot.<sup>5</sup> *See* Tex. Elec. Code §§ 172.116; 172.117(a); 172.120(a),(h); 172.122.

### ***Ballot-Qualified Convention Parties***

In contrast to the Primary Parties, all other political parties, i.e., those that are not required or authorized by Texas Election Code to nominate candidates by primary election, *must* nominate their candidates by convention. *See* Tex. Elec. Code §§ 181.002, 181.003, 172.002. A Convention Party is entitled to have its candidates placed on the general election ballot if, within the last five years, one of its statewide candidates received a number of votes equal to at least two percent of the total number of votes received by all candidates for that office. *See* Tex. Elec. Code § 181.005(c). That is, after meeting such requirements, it becomes a ballot-qualified Convention Party (“Qualified Convention Party”). A Qualified Convention Party is entitled to have its candidates placed on the ballot. *See id.*

To be eligible for nomination at a convention, a candidate must file an application with the Secretary of State, which contains the information necessary to show that the candidate is eligible for public office should that candidate win election. *See* Tex. Elec. Code §§ 141.001 & 181.031(a).

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<sup>5</sup> The Primary Parties do hold conventions, but not for the purpose of nominating their candidates (except for President and Vice President).

This Court has explained that applications for nomination by convention are not applications for a place on any ballot in the primary or general election, but merely are a prerequisite for nomination at a convention. That is, the Texas legislature has designed primary elections and nominating conventions to be two distinct things.

Challenges like this one have been in this Court before. In *In re Texas House Republican Caucus PAC*, the Supreme Court of Texas ultimately concluded that the imposition of a filing fee was an “eligibility” requirement, that the deadline for a Chapter 145 challenge removing a candidate from the ballot had passed, and as a result, the Libertarian candidates remained on the ballot. 630 S.W.3d 28, 30 (Tex. 2020).

In the 2021 session, the Legislature revised the filing fee law. On May 29, 2021, Governor Greg Abbott signed into law S.B. 2093, which substantively imposes new and additional obligations beyond Texas’s then-existing requirements, as follows:

SECTION 1. Section 141.041, Election Code, is transferred to Subchapter B, Chapter 181, Election Code, redesignated as Section 181.0311, Election Code, and amended to read as follows:

**Sec. 181.0311 [~~141.041~~]. FILING FEE OR PETITION REQUIRED [~~TO APPEAR ON BALLOT~~**

~~FOR GENERAL ELECTION FOR STATE AND COUNTY OFFICERS]. (a) In addition to any other requirements, [to be eligible] to be considered for nomination by convention [placed on the ballot for the general election for state and county officers], a candidate [who is nominated by convention under Chapter 181 or 182] must:~~

(1) pay a filing fee to the secretary of state for a statewide or district office or the county judge for a county or precinct office; or

(2) submit to the secretary of state for a statewide or district office or the county judge for a county or precinct office a petition in lieu of a filing fee that satisfies the requirements prescribed by Subsection (e) and Section 141.062.

(b) The amount of the filing fee is the amount prescribed by Section 172.024 for a candidate for nomination for the same office in a general primary election.

(c) A filing fee received by the secretary of state shall be deposited in the state treasury to the credit of the general revenue fund.

(d) A filing fee received by the county judge shall be deposited in the county treasury to the credit of the county general fund.

(e) The minimum number of signatures that must appear on the petition authorized by Subsection (a) is the number prescribed by Section 172.025 to appear on a petition of a candidate for nomination for the same office in a general primary election.

(f) The secretary of state shall adopt rules as necessary to implement this section.

SECTION 2. This Act takes effect

September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 149 (S.B. 2093). S.B. 2093 is now codified as Texas Election Code Section 181.0311. And by deleting “eligible”, the Legislature changed the fee from an eligibility requirement to a form, content, and procedure requirement. S.B. 2093 also clarified that the fee was to be paid when the application was due, not after the candidates were nominated.



The Secretary of State’s new training materials characterize filing fees as form, content, and procedure:

TEXAS SECRETARY OF STATE

## Form, Content, and Procedure

- Things to look for...
  - Are all the boxes filled in?
  - Did they include a filing fee/petition?
  - Was the filing fee correct?
  - Did they include the correct felony information, if applicable?
  - Was the application signed/notarized
  - Was the petition properly filled out? Was the petition properly signed/notarized by the circulators?

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(Appx. Tab B at 13.) This makes sense because payment of a filing fee is decidedly procedural and is readily distinguishable from “eligibility” requirements:

TEXAS SECRETARY OF STATE

## Candidate Eligibility

- Eligibility for Public Office (141.001, TEC)
  - US Citizen
  - 18 years of age or older
  - No final judgment indicating:
    - Totally mentally incapacitated or
    - Partially mentally incapacitated without the right to vote
  - No final felony conviction
    - Unless pardoned or released from resulting disabilities
    - **NOTE: NEW LAW (HB 4555, 2021, Reg): If pardoned or released from the resulting disabilities, then must provide proof of the pardon or release.**
  - *\*Resided continuously in the state for 12 months*
  - *\*Resided continuously in the territory for 6 months.*
  - *\*Registered voter of the territory*
- **NOTE: \*Some offices have exclusive eligibility requirements, some laws are only partially conflicting and for some offices all of 141.001 applies. Review the Candidate's guide to determine the qualifications for the office a candidate has filed for. (Home Rule Charter)**

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Screenshot

(Appx. Tab B at 13.)

Just as they did in 2020, Republican candidates are seeking to have Libertarians removed from the ballot. This Court should not grant the relief that they seek.

### **Argument & Authority**

Relators ask this Court to order the LPTexas Party Chair declare 23 certified Libertarian candidates ineligible under Section 145.034, thus removing them from the general election ballot. In this cycle, however, payment of the filing fee is no longer an eligibility requirement but rather one of form, content, and procedure. Section 145.034 does not apply to form, content, and procedure challenges, and therefore cannot support Relators' Petition.

The Court has clearly held that applications for nomination by convention are not synonymous with applications for places on the ballot. *See In re Tex. House Republican Caucus PAC*, 630 S.W.3d 28, 30 (Tex. 2020); *see also In re Green Party of Tex.*, 630 S.W.3d 36, 39 (Tex. 2020). Therefore, even if Relators had brought their challenge under Section 141.034, which governs challenges to form, content, and procedure, Relators still could not prevail because there is no statute authorizing challenges to applications for nomination by convention.

Before turning to the argument in chief, it bears mentioning that the Libertarians are currently challenging the constitutionality of Section 181.0311 in federal court. As Relators point out, the district court denied the Libertarians'

application for preliminary injunction, but the district court did state what is common knowledge in political circles:

At the outset, it bears noting the hostility in the current landscape of the law toward third parties such as [the Libertarians]. **There is no question that laws of the sort at issue here have the effect of entrenching the two-party system in this state and across the country. States claim to benignly ask putative candidates to demonstrate a “modicum of support” in exchange for the privilege of appearing on the ballot. Yet the routes to demonstrating such support are severely constrained by laws like the one challenged here.** Third parties thus continue to face significant barriers in their efforts to participate in the democratic process.

*Bilyeu v. Scott*, No. 1:21-CV-1089-RP, 2022 U.S. Dist. LEXIS 35389, at \*17, 2022 WL 607889 (W.D. Tex. 2022) (emphasis added). Despite what Relators might argue about treating all political parties the same, this law is simply an effort by the Republicans to keep Libertarians off the ballot because of the so-called “spoiler effect”. There is no reason for the Republicans to go to all this effort to “level the playing field”.

**I. Chapter 145 does not apply because the Libertarian’s filing fee is no longer an eligibility requirement and is now a form, content, procedure requirement.**

Relators seek removal of the Libertarians under Section 145.003’s procedure for administrative declaration of ineligibility. They do not seek relief under any other provision of the Election Code. Although in the 2020 election cycle, the

filing fee was an eligibility requirement, in 2021 the Legislature changed the law. The Libertarian’s filing fee is now a form, content, procedure requirement. The filing fee imposed on the Libertarians now tracks the wording of the one for Republicans and Democrats. *Compare* Tex. Elec. Code § 172.021(application for place on the ballot) *with* § 181.0311 (filing fee for nomination by convention). This change makes sense because substantively, a filing fee or petition in lieu is properly characterized as form, content, and procedure. “Eligibility” requirements are things like, minimum age, residency requirements, and not barred from office for some other reason like commission of a felony. *See* Tex. Elec. Code § 141.001.

The more formal textual analysis supports the same conclusion. When interpreting a statute, “this Court presumes the Legislature deliberately and purposefully selects words and phrases it enacts, *as well as deliberately and purposefully omits words and phrases it does not enact.*” *See Tex. Mut. Ins. Co. v. Ruttiger*, 381 S.W.3d 430, 452 (Tex. 2012) (emphasis added). This Court should give full effect to all of a statute’s terms. *St. Luke’s Episcopal Hosp. v. Agbor*, 952 S.W.2d 503, 505 (Tex.1997).

First, the new statute does *not* use the word “eligible”. *See* Tex. Elec. Code § 181.0311. To determine whether this deletion was intentional, the Court need only look to the enrolled version of Senate Bill 2093, passed by both houses and signed by the governor:

SECTION 1. Section 141.041, Election Code, is transferred to Subchapter B, Chapter 181, Election Code, redesignated as Section 181.0311, Election Code, and amended to read as follows:

Sec. 181.0311 [~~141.041~~]. FILING FEE OR PETITION REQUIRED [~~TO APPEAR ON BALLOT FOR GENERAL ELECTION FOR STATE AND COUNTY OFFICERS~~]. **(a) In addition to any other requirements, [to be eligible] to be considered for nomination by convention [~~placed on the ballot for the general election for state and county officers~~], a candidate [~~who is nominated by convention under Chapter 181 or 182~~] must:**

(1) pay a filing fee to the secretary of state for a statewide or district office or the county judge for a county or precinct office; or

(2) submit to the secretary of state for a statewide or district office or the county judge for a county or precinct office a petition in lieu of a filing fee that satisfies the requirements prescribed by Subsection (e) and Section 141.062.

Acts 2021, 87th Leg., R.S., Ch. 149 (S.B. 2093) (emphasis added). It also takes out the reference to the general election, which presumably was because of the move to Chapter 181, which is the chapter that governs Convention Party's nominating procedures. As mentioned in the facts section, the Secretary of State considers

applications and filing fees form, content, and procedure, and there is no indication that they are wrong about that. *See supra* at 11.

**II. Even if Relators had brought this as a form, content, and procedure challenge, they would not prevail because Sections 141.032 and 141.034 do not apply to applications for nomination by convention, and even if it did, Relators are too late.**

The statutory challenge to the form, content, and procedure under Sections 141.032 and 141.034 do not apply to an application for nomination by convention. *In re Tex. House Republican Caucus PAC*, 630 S.W.3d 28, 33 (Tex. 2020). As this Court has noted:

[The Election] Code is clear that in order for there to be a ballot-application challenge under section 141.034, there must first be “[a]n application for a place on the ballot.” *Id.* Libertarian candidates, however, do not file an “application for a place on the ballot.” Instead, they file an “application for nomination by convention” under a separate set of statutes found in subchapter B of chapter 181. Section 141.034 does not authorize challenges to “an application for nomination by convention.” Instead, it deals with challenges to “an application for a place on the ballot.” Likewise, section 141.032, which imposes a duty on the party chair to review applications and reject them if deficient, is triggered “[o]n the filing of an application for a place on the ballot.” In other words, the legal duty the relators seek to enforce—a party chair’s duty to reject deficient applications—only arises “on the filing of an application for a place on the ballot.” For the Libertarian Party, however, no such applications exist. Because the Libertarian Party nominates candidates by convention, not by a primary election, Libertarian candidates file “[a]n application for nomination by convention.” These applications are governed by chapter 181 and are filed on

a form promulgated by the Secretary of State that is distinct from the form used for applications for a place on the ballot. Sections 141.032 and 141.034, which apply only to “an application for a place on the ballot,” are therefore inapplicable to these Libertarian candidates.

*See id.* (internal citations omitted). There is no equivalent in Chapter 181 to the form, content, and procedure challenged to ballot applications that are governed by Sections 141.032 do not apply. *See id.*

Perhaps the Legislature intended for political campaigning to make up for treating Primary Parties and Convention Parties differently. Competing Republican and Democratic candidates who are concerned about the Libertarian threat can certainly make a campaign issue out of whether a candidate paid the filing fee. But as this Court has held, this Court “cannot deviate from the text of the law by subjecting the Libertarian candidates’ applications to challenges not authorized by the Election Code.” *In re Tex. House Republican Caucus PAC*, 630 S.W.3d at 30.

If application for a place on the ballot and application for nomination by convention are now synonymous, Relators still cannot prevail because they are too late. Relators are too late because the deadline to challenge would have been 50 days prior to the nominating conventions, just like the challenge limit is 50 days before the general primary election for the Primary Parties. *See Tex. Elec. Code* § 141.034.

Under this alternative analysis, the election that Libertarians file applications for is the one that takes place at the conventions. *But see In re Tex. House Republican Caucus PAC*, 630 S.W.3d at 34 (“Both in name and in substance, these [applications for nomination by convention] are not applications for a place on any ballot in the primary or general election.”). It is too far a departure from the text of the statute, but the analogy of primary conventions being akin to nominating conventions was recognized by this Court: “As in the major parties, a right of access to the general-election ballot flows from certification of the results of the nominating process, not from the candidate’s application.” *In re Tex. House Republican Caucus PAC*, 630 S.W.3d at 34.

All of that said, the challenge would be too late. The Libertarians’ nominating conventions were held earlier this year: county conventions on March 12, 2022; district conventions on March 19; and the state convention on April 9, 2022. The 50th day preceding each of those (and the to challenge form, content, and procedure) in this hypothetical would have been January 21, 2022, January 29, 2022, and February 18, 2022, respectively. *See* Tex. Elec. Code § 141.034; *see also* § 172.0223; *Risner v. Harris Cnty. Republican Party*, 444 S.W.3d 327, 336-37 (Tex. App.—Houston [1st Dist.] 2014, pet. denied) (holding that a form, content, procedure challenge was timely because it was filed before the *primary* election).



The Party Chair has already complied with her post-nomination statutory certification duties, which were required by the 20th day following each of the nominating conventions. *See* Tex. Elec. Code § 181.068. Notably, the statute only prohibits the Party Chair from certifying nominated candidates “if, before delivering the certification, the presiding officer learns that the name is to be omitted from the ballot under Section 145.035.” *Id.* at § 181.068(c). Section 145.035 is, of course, the administrative declaration of ineligibility. *See* Tex. Elec. Code § 145.035.

### **Conclusion & Prayer**

For these reasons, the Court should DENY the Petition for Writ of Mandamus in full and grant Respondents all other relief, in law or in equity, to which they are justly entitled.

\* \* \*

Respectfully submitted,

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### **Certificate of Compliance**

I certify that this document was prepared using Microsoft Word, and according to the program's word-count function, the body of the foregoing brief contains 3,372 words, including footnotes. I also certify that the text of the body contained herein is 14-point type, with footnotes being 12-point type.

/s/ Jared G. LeBlanc  
Jared G. LeBlanc

### **Certificate of Accuracy**

I certify that I have reviewed the response and concluded that, unless otherwise stated, every factual statement in the petition is supported by competent evidence included in an appendix or record.

/s/ Jared G. LeBlanc  
Jared G. LeBlanc

### **Certificate of Service**

I certify that on August 15, 2022, I served a copy of this paper on all counsel of record and parties that have appeared through the ProDoc2 system.

/s/ Jared G. LeBlanc  
Jared G. LeBlanc

No. 22-0658

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**In the Supreme Court of Texas**

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*In re Keith Self, et al.,*

*Relators.*

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Direct Original Mandamus Proceeding Under  
Texas Election Code § 273.061

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**Appendix to Response of 23 Real Parties to Relators' Original  
Emergency Petition for Writ of Mandamus**

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Tex. Elec. Code Ch. 181 .....	Tab F

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AFFIDAVIT OF WHITNEY BILYEU

---

State of Texas     §  
                              §  
County of Harris   §

Before me, the undersigned authority, on this day personally appeared Whitney Bilyeu, who after being duly sworn, on his oath, did testify as follows:

1. My name is Whitney Bilyeu. I am of sound mind, capable of making this Unsworn Declaration, have personal knowledge of the facts herein stated, and these facts are true and correct.
  
2. I currently serve as Chair of the Libertarian Party of Texas for the 2022–2024 term. I was first elected Chair on August 2, 2020. This is my second term serving as Chair. As Chair, it is my duty to act as the principal and presiding officer of the State Executive Committee and the Libertarian Party of Texas.
  
3. The State Libertarian Executive Committee is comprised of myself and three other officers, as well as two representatives from each state senate district. State officers and representatives are elected for two-year terms at the biennial State Convention. Although the State chair is responsible for receiving applications for nominations by convention for district and statewide offices, there is no acceptance or rejection procedure. The state and county chairs assemble information from the applications for nomination by convention and deliver that information to the Secretary of State.
  
4. In addition to the State Libertarian Executive Committee, there are currently 73 County Chairs in Texas. The County Chairs are responsible for facilitating the business of each county party, which includes filing and maintaining necessary paperwork prescribed by the

Texas Election Code such as Notices of Precinct and County Conventions (in even numbered years), Certifications of Nominees when candidates are nominated for precinct and county level races, and receiving and maintaining Applications for Nomination for people seeking nomination for precinct and county level offices.

5. In even-numbered years, each county holds a convention in accordance with the Texas Election Code. Within 20 days of the deadline for making applications for the nomination of the party in a general election, the Secretary of the State Libertarian Executive Committee notifies each County Chair of any candidates who have submitted an Application for Nomination and are therefore eligible to be nominated at a County Convention.
6. Similarly, districts made up of more than one county hold conventions in even-numbered years. District conventions are held to nominate candidates for positions including congressional districts, legislative districts, and district court judges.
7. The first order of business at either a county or district convention is to elect a convention chair. Once the convention chair is selected, that person will conduct the remainder of the convention. While every county or district may have its own bylaws, generally speaking the convention chair will open the floor for nominations, then facilitate an election in which each delegate may vote, often by secret ballot.
8. A convention may decline to nominate any candidate for public office, even if there are persons seeking the Party's nomination for that office. This is colloquially known as a vote for "NOTA," or "None of the Above."
9. Once the votes are cast, it is the convention chair's duty to certify each nominee for placement on the general ballot. Within 20 days of the date of the convention making the nomination, each convention chair is responsible for delivering the certification to the secretary of state.

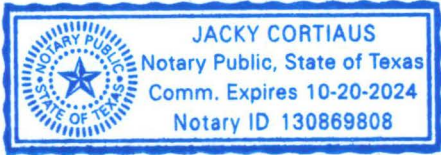
10. For this current election cycle, 70 counties held their conventions on March 12, 2022. Each county convention had a different convention chair overseeing the convention and nominations. Similarly, the district conventions were held on March 19, 2022, with a different convention chair overseeing each district convention.
11. In 2022, Section 141.041 was amended by the Legislature to what is now Section 181.0311, which changed the filing fee from an “eligibility” requirement to a form, content, procedure requirement. This filing fee imposed on Libertarian is paid directly to the Secretary of State or County Judge and deposited into the general revenue fund; many Libertarians view the new filing fee requirement as an unconstitutional poll tax.
12. As a Convention Party, LPTexas is entitled to have its candidates placed on the general election ballot if, within the last five years, one of its statewide candidates receives a number of votes equal to at least two percent of the total number of votes received by all candidates for that office, thus making it a ballot-qualified Convention Party.
13. To be eligible for nomination at a convention, a candidate must file an application with the Secretary of State containing the information necessary to show that candidate is eligible for public office and pay the filing fee at the time of application.
14. I have reviewed the “Facts” section of the Response to Relators’ Original Emergency Petition for Writ of Mandamus. To my personal knowledge after reasonable investigation, the factual statements in that section are true and correct.
15. I personally downloaded the December 2, 2021, Power Point titled “Accepting and Rejecting Candidate Applications” from the Texas Secretary of State’s website. That document is attached as Tab B to this Response and it a true and correct copy of the one that I downloaded.
16. I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

End of Affidavit.

Dated August 15, 2022.

Whitney Bilyeu  
Whitney Bilyeu

SUBSCRIBED AND SWORN to me this 15th day of  
August 2022.



[Signature]  
NOTARY PUBLIC



# Accepting and Rejecting Candidate Applications

Krystine N. Ramon – Staff Attorney  
CSO Seminar  
December 2, 2021



# Topics Covered

- Candidate Filing Period
- Using the Correct Application Forms
- Developing Your Process
- Receiving Applications
- Reviewing Applications
- Accepting/Rejecting Applications
- FAQ's



# Candidate Filing Period

- May 7, 2022 Election
  - **January 19, 2022 – February 18, 2022**
  
- November 8, 2022
  - **July 23, 2022 – August 22, 2022**



# Using the Correct Application Forms

- All candidate forms have been updated to include Legislative Changes
- Forms can be accessed on the following pages
  - 2022 Candidate's Guide
  - Forms Manual
- If you are having trouble accessing the new forms, clear your cache on your web browser.
- How to determine if it's the correct form...



2-2  
Prescribed by Secretary of State  
Sections 141.031, 141.036, 172.021, 172.022, 172.023, 172.024, Texas Election Code  
06/2021

**APPLICATION FOR A PLACE ON THE GENERAL PRIMARY BALLOT**  
ALL INFORMATION REQUIRED TO BE PROVIDED UNLESS INDICATED AS OPTIONAL. Failure to provide required information may result in rejection of application.

**APPLICATION FOR A PLACE ON THE \_\_\_\_\_ PARTY GENERAL PRIMARY BALLOT**  
(Democratic or Republican)

TO: State/County Chair  
I request that my name be placed on the above-named official primary ballot as a candidate for nomination to the office indicated below.

OFFICE SOUGHT (Include any place number or other distinguishing number, if any.) \_\_\_\_\_ INDICATE TERM  
 FULL  UNEXPIRED

FULL NAME (First, Middle, Last) \_\_\_\_\_ PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT\* \_\_\_\_\_

PERMANENT RESIDENCE ADDRESS (Do not include a P.O. Box or Rural Route. If you do not have a residence address, describe location of residence.) \_\_\_\_\_ PUBLIC MAILING ADDRESS (Optional) (Address for which you receive campaign related correspondence, if available.) \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PUBLIC EMAIL ADDRESS (Optional) (Address for which you receive campaign related emails, if available.) \_\_\_\_\_ OCCUPATION (Do not leave blank) \_\_\_\_\_ DATE OF BIRTH \_\_\_\_/\_\_\_\_/\_\_\_\_ VOTER REGISTRATION VOID NUMBER<sup>2</sup> (Optional) \_\_\_\_\_

TELEPHONE CONTACT INFORMATION (Optional)  
Home: \_\_\_\_\_ Office: \_\_\_\_\_ Cell: \_\_\_\_\_

**FELONY CONVICTION STATUS (You MUST check one)**  
 I have not been finally convicted of a felony.  
 I have been finally convicted of a felony, but I have been pardoned or otherwise released from the resulting disabilities of that felony conviction and I have provided proof of this fact with the submission of this application.<sup>3</sup>

LENGTH OF CONTINUOUS RESIDENCE AS OF DATE THIS APPLICATION WAS SWORN  
IN THE STATE OF TEXAS \_\_\_\_\_ year(s) \_\_\_\_\_ month(s)  
IN TERRITORY/DISTRICT/PRECINCT FROM WHICH THE OFFICE SOUGHT IS ELECTED \_\_\_\_\_ year(s) \_\_\_\_\_ month(s)

\*If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan or contain a title, nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election. Please review sections 52.031, 52.032 and 52.033 of the Texas Election Code regarding the rules for how names may be listed on the official ballot.

Before me, the undersigned authority, on this day personally appeared (name of candidate) \_\_\_\_\_, who being by me here and now duly sworn, upon oath says:  
"I, (name of candidate) \_\_\_\_\_, of \_\_\_\_\_ County, Texas, being a candidate for the office of \_\_\_\_\_, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the constitution and laws of this state. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code. I am aware that I must disclose any prior felony conviction, and if so convicted, must provide proof that I have been pardoned or otherwise released from the resulting disabilities of any such final felony conviction. I am aware that knowingly providing false information on the application regarding my possible felony conviction status constitutes a Class B misdemeanor. I further swear that the foregoing statements included in my application are in all things true and correct."

**X**  
SIGNATURE OF CANDIDATE

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_ (name of candidate)

Signature of Officer Authorized to Administer Oath<sup>4</sup> \_\_\_\_\_ Printed Name of Officer Authorized to Administer Oath \_\_\_\_\_  
Notarial or Official Seal

Title of Officer Authorized to Administer Oath \_\_\_\_\_

TO BE COMPLETED BY CHAIR OR DESIGNEE: THIS APPLICATION IS ACCOMPANIED BY THE REQUIRED FILING FEE PAID BY:  
 CASH  CHECK  MONEY ORDER  CASHIERS CHECK OR  PETITION IN LIEU OF A FILING FEE.  
This document and \$ \_\_\_\_\_ filing fee or a nominating petition of \_\_\_\_\_ pages received.  Voter Registration Status Verified

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ (See Section 1.007)  
Date Received \_\_\_\_\_ Date Accepted \_\_\_\_\_ Signature of Chair or Designee \_\_\_\_\_

Print Reset

- Things to Look for:
  - 9/2021 Revision Date
  - Box on Felony Conviction Status
- Other Changes
  - More boxes marked “optional”
  - More references to Texas Election Code rules on Nicknames
  - Revised Oath
  - More information for filing authority to fill out.



# Filing Fee/Petition Signatures

- This is only if your political subdivision had a filing fee or petition requirement.
- Most common is a Home Rule City, however not all. Refer to your city charter to verify.



# DEVELOPING YOUR PROCESS



# Process for Receiving Candidate Filings

- Develop a Written Process/Checklist
- Determine who will receive applications in your office.
  - Any employee at the usual place of business can receive applications, including volunteers (1.007).
- Determine where you will keep received applications before reviewing/after reviewing





# Receipt v. Acceptance

- Be cautious with your word choice!
- **Receipt** of an application is taking possession of a candidate's application.
- **Acceptance** of an application is making a determination that a candidate's application is complete and the candidate's name will be on the ballot.



# When Receiving the Application...

## If candidate is hand delivering...

1. Take possession of application
2. Initial Review for Completeness –
  - Are all the required boxes filled in?
  - Did the candidate include filing fee or nominating petition, if applicable?
  - Has the application or petition been notarized?
3. If the application has not been signed and notarized, and you or someone in your office is a notary, then proceed with having the candidate sign/notarize the applications.
  - You can only notarize an application that hasn't been signed! If you are notarizing, the candidate must sign the application in your physical presence.
4. Immediately date/time stamp it!
  - Separate date/time stamp machine or hand write it
5. Make a copy for the candidate of their application and filing fee/petition.
6. Tell the candidate, application has been received by your office, and you will review it to make a determination on whether the application should be accepted/rejected.
7. Complete review for Completeness/Acceptance
8. Make a decision on acceptance/rejection and notify the candidate in writing of your decision.



# When Receiving Application...

## If candidate delivers application by fax, mail, or email....

1. Immediately date/time stamp it!
  - Separate date/time stamp machine or hand write date/time
2. Review for Completeness –
  - Are all the required boxes filled in?
  - Did the candidate include filing fee or nominating petition, if applicable?
  - Has the application or petition been notarized?
3. Review for Acceptance
  - Look at position they are running for and review qualifications for office
    - How long have they lived in the district?
    - Are they required to be a registered voter by a certain time?
    - Did they include the correct filing fee or the correct number of petition signatures?
  - Review answers in boxes
4. Make a decision on acceptance/rejection and notify the candidate in writing of your decision.



# Review of Application

- **Form, Content and Procedure**
  - Was the candidate application submitted timely?
  - Was it filled out properly?
- **Eligibility**
  - On the face of the application, does the candidate meet the eligibility requirements associated with that office?



# Form, Content, and Procedure

- Things to look for...
  - Are all the boxes filled in?
  - Did they include a filing fee/petition?
  - Was the filing fee correct?
  - Did they include the correct felony information, if applicable?
  - Was the application signed/notarized
  - Was the petition properly filled out? Was the petition properly signed/notarized by the circulators?



# Candidate Eligibility

- **Eligibility for Public Office (141.001, TEC)**
  - US Citizen
  - 18 years of age or older
  - No final judgment indicating:
    - Totally mentally incapacitated or
    - Partially mentally incapacitated without the right to vote
  - No final felony conviction
    - Unless pardoned or released from resulting disabilities
    - **NOTE: NEW LAW (HB 4555, 2021, Reg): If pardoned or released from the resulting disabilities, then must provide proof of the pardon or release.**
  - *\*Resided continuously in the state for 12 months*
  - *\*Resided continuously in the territory for 6 months.*
  - *\*Registered voter of the territory*
- **NOTE: \*Some offices have exclusive eligibility requirements, some laws are only partially conflicting and for some offices all of 141.001 applies. Review the Candidate's guide to determine the qualifications for the office a candidate has filed for. (Home Rule Charter)**



# ACCEPTANCE/REJECTION OF AN APPLICATION



# Acceptance of Application

- Review promptly, within 5 days of receiving an application. If petition is submitted, review “as soon as practicable.” Provide written notice of acceptance
  - Not Required, but recommended
  - Email permissible if candidate provided email
  - Can be combined with Ballot Drawing Notice

[Section 141.032]





# Rejection of Application

- Review promptly within 5 days of receiving the application.
- As soon as practicable, if petition is submitted
- Written rejection is required!
  - Email is permissible if the candidate provided their email



# Rejecting Applications

- If you determine there is a problem with the paperwork, then it is a rejection for “form, content, and procedure.”
- If you determine the candidate is not eligible for the office they are seeking, then this is a rejection for eligibility purposes. This is also known as an **Administrative Declaration of Ineligibility**.
- Note: PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT\* If the candidate wants their name to appear on the ballot and it violates the Election Code, this is not a cause for rejection.



# Administrative Declaration of Ineligibility

- **Eligibility**

- MAY administratively declare candidate ineligible if:
  - Information on the candidate application indicates ineligible for office, OR
  - Conclusive public record shows ineligibility

**NOTE:** There is NO public record that conclusively establishes residency.

[143.005 TEC]



# Administrative Declaration of Ineligibility

- Candidate **MAY** be declared ineligible:
  - **By filing authority before early voting in person begins, OR**
  - By the presiding officer of final canvassing authority after the polls close and before certificate of election is issued.
- Candidate must be given **written notice** of the declaration of ineligibility.



# Resources

- **2022 Candidate's Guide**
- **[Running for Local Election](#)**



# FAQ's



## What is my responsibility for evaluating an application?

- As the filing authority you are limited to the four corner rule. This means since the candidate application has been sworn to and notarized, you should take the application at face value.



# As the filing authority can I determine a Candidate's Residence?

- No. An individual's residency is where an individual intends to return. In reviewing residency questions, the courts have consistently ruled that residency is a combination of intention and fact, and that the voter's intention must be reviewed to make a final determination of residence. McBeth v. Streib, 96 S.W.2d 992 (Tex. Civ. App.--San Antonio 1936, no writ). For example, the El Paso Court of Appeals held that "the voter's intention was material to a proper determination of the voter's residence requirement." Simmons v. Jones, 838 S.W.2d 298, 301 (Tex. App.-El Paso 1992, no writ). Coupled with the voter's intention must be a physical connection to the place in which he or she is claiming residence. Commercial Standard Ins. Co. v. Nunn, 464 S.W.2d 415 (Tex. Civ. App.--Texarkana 1971, writ dismissed). In the absence of judicial review, a person must generally be presumed to have the requisite intent. Further, the Texas Supreme Court has not indicated a single or a combination of public records that conclusively establish residency.





## Cont'

- If the candidate describes a residence address on the face of the application within the district and the state for the requisite amount of time, the filing authority must accept that statement. Under Section 145.003(f) of the Texas Election Code, an administrative declaration of ineligibility may be made only if the application or a conclusive public record establishes the candidate's ineligibility. Tex. Elec. Code Ann. § 145.003(f). Again, neither the courts nor the Texas Legislature have established a public document that conclusively establishes residency.



## What if an elected person seems to have moved from their elected territory?

- In terms of the elections process, when a candidate files an application for a place on the ballot, he or she presents a sworn description on the face of the application as to the location of the person's residence, and the length of time at that location. The authority with whom the application is filed relies on this sworn description when reviewing the application for purposes of certifying the name to the ballot. In order to challenge this residence description, an opposing candidate would likewise need to challenge the application in court.



## Cont'

- An officer is presumed to be a resident of the required territory he or she was elected to serve. To challenge this would require a judicial proceeding: specifically, a quo warranto hearing brought by the county or district attorney. See *Whitmarsh v. Buckley*, 324 S.W.2d 298 (Tex. Civ. App., Houston, 1959, no writ hist.). Our office is not a fact-finding tribunal (i.e., a court).



Questions?

[elecitons@sos.texas.gov](mailto:elecitons@sos.texas.gov)





Neutral

As of: August 15, 2022 3:10 PM Z

## [In re Tex. House Republican Caucus PAC](#)

Court of Appeals of Texas, Third District, Austin

August 25, 2020, Filed

NO. 03-20-00424-CV

### Reporter

2020 Tex. App. LEXIS 6819 \*; 2020 WL 5102565

In re Texas House Republican Caucus PAC, Senator Brandon Creighton (SD 4), Senator Larry Taylor (SD 11), Senator Pete Flores (SD 19), Rep. Cody Harris (HD 8), Justin Berry (HD 47), Rep. Phil King (HD 61), Rep. Phil Stephenson (HD 85), Rep. Candy Noble (HD 89), Rep. Dan Huberty (HD 127), Rep. Jim Murphy (HD 133), Rep. Valoree Swanson (HD 150), Republican Party of Harris County, Republican Party of Travis County, and Republican Party of Tarrant County

Rod Wingo, Real Party in Interest, Pro Se, Fort Worth, TX.

Jo-Anne Valdivia, Real Party in Interest, Pro Se, San Antonio, TX.

For Relator: Briscoe Cain III, Fulton Strahan Law Group, PLLC, Houston, TX.

Michael Clark, Real Party in Interest, Pro Se, Austin, TX.

**Subsequent History:** Related proceeding at [In re Tex. House Republican Caucus PAC, 2020 Tex. LEXIS 818 \(Tex., Sept. 5, 2020\)](#)

**Judges:** [\*1] Before Chief Justice Rose, Justices Baker and Kelly. Dissenting Opinion by Chief Justice Rose.

**Opinion by:** Chari L. Kelly, Justice

## Core Terms

candidate, writ petition, election day, ineligible, mandamus, ballot

**Counsel:** Neko Antoniou, Real Party in Interest, Pro Se, Humble, TX.

K. Nicole Sprabary, Real Party in Interest, Pro Se, Mabank, TX.

J. K. Stephenson, Real Party in Interest, Pro Se, TX.

Cameron Brock, Real Party in Interest, Pro Se, Humble, TX.

Ed Kless, Real Party in Interest, Pro Se, Allen, TX.

Jared Wissel, Real Party in Interest, Pro Se, Houston, TX.

For Relator: Tyler Talbert, Scanes & Routh, LLP, Waco, TX.

Whitney Bilyeu, Respondent, Pro Se, Chair, Libertarian Party of Texas, Houston, TX.

Michael L. Miller, Real Party in Interest, Pro Se, Richmond, TX.

R. Edwin Adams, Real Party in Interest, Pro Se, Corsicana, TX.

## Opinion

### ORIGINAL PROCEEDING

### MEMORANDUM OPINION

Relators filed their petition for writ of mandamus three days after the statutory deadline to have ineligible candidates' names omitted from the ballot. See [Tex. Elec. Code § 145.035](#); see also *id.* [§ 145.039](#) ("If a candidate dies or is declared ineligible after the 74th day before election day, the candidate's name shall be placed on the ballot."). Relevant here, the 74th day before election day was August 21, 2020. Accordingly, the petition for writ of mandamus is dismissed as moot. See [In re The National Republican Congressional Committee, Nos. 03-20-00421-CV & 03-20-00422-CV, \\_\\_\\_ S.W.3d \\_\\_\\_, 608 S.W.3d 544, 2020 Tex. App. LEXIS 6823 \(Tex. App.—Austin Aug. 25, 2020, orig. proceeding\)](#).

Chari L. Kelly, Justice

Before Chief Justice Rose, Justices Baker and Kelly

Dissenting Opinion by Chief Justice Rose

Filed: August 25, 2020

**Dissent by:** Jeff Rose

## **Dissent**

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### **ORIGINAL PROCEEDING**

#### **DISSENTING OPINION**

For the reasons expressed in my dissent to the Court's decision in *In re the National Republican Congressional Committee and Van Taylor*, No. 03-20-00421-CV, and *In re Republican Party of Travis County, Texas*, No. 03-20-00422-CV, I respectfully dissent from the Court's opinion in this case.

Jeff Rose, Chief Justice

Before [\*2] Chief Justice Rose, Justices Baker and Kelly

Filed: August 25, 2020

ELECTION CODE

TITLE 9. CANDIDATES

CHAPTER 141. CANDIDACY FOR PUBLIC OFFICE GENERALLY

SUBCHAPTER A. ELIGIBILITY FOR PUBLIC OFFICE

Sec. 141.001. ELIGIBILITY REQUIREMENTS FOR PUBLIC OFFICE.

(a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

(1) be a United States citizen;

(2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;

(3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;

(5) have resided continuously in the state for 12 months

and in the territory from which the office is elected for six months immediately preceding the following date:

(A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(C) for a write-in candidate, the date of the election at which the candidate's name is written in;

(D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and

(E) for an appointee to an office, the date the appointment is made;

(6) on the date described by Subdivision (5), be registered to vote in the territory from which the office is elected; and

(7) satisfy any other eligibility requirements prescribed by law for the office.

(a-1) For purposes of satisfying the continuous residency requirement of Subsection (a) (5), a person who claims an intent to



return to a residence after a temporary absence may establish that intent only if the person:

(1) has made a reasonable and substantive attempt to effectuate that intent; and

(2) has a legal right and the practical ability to return to the residence.

(a-2) Subsection (a-1) does not apply to a person displaced from the person's residence due to a declared local, state, or national disaster.

(a-3) The authority with whom an application for a place on a general primary election ballot is filed under Section 172.022 shall, to the extent permitted by law, use Subsections (a) and (a-1) in determining whether a candidate meets the residency requirements for a public elective office.

(b) A statute outside this code supersedes Subsection (a) to the extent of any conflict.

(c) Subsection (a) does not apply to an office for which the federal or state constitution or a statute outside this code prescribes exclusive eligibility requirements.

(d) Subsection (a)(6) does not apply to a member of the governing body of a district created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. [417](#)), Sec. 28, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 504 (H.B. [484](#)), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1047 (H.B. [831](#)), Sec. 1, eff. January 1, 2020.

Sec. 141.002. EFFECT OF BOUNDARY CHANGE ON RESIDENCE REQUIREMENT FOR PRECINCT OFFICE. (a) Instead of the six-month residence requirement prescribed by Section 141.001(a)(5), a candidate for or appointee to a precinct office must be a resident of the precinct on the date prescribed by Section 141.001(a)(5) and must have resided continuously in the county in which the precinct is located for six months immediately preceding that date if an order creating the precinct or changing the boundary of the precinct:

(1) was adopted less than seven months before that date;

or

(2) was in litigation at any time during the seventh month immediately preceding that date.

(b) For the purpose of this section, an order is in litigation if the judgment concluding a judicial proceeding in which the order is mandated or the validity of the order is challenged has not become final.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 141.003. AGE AND RESIDENCE REQUIREMENTS FOR HOME-RULE CITY OFFICE. (a) Different age and residence requirements from those prescribed by Section 141.001 may be prescribed by a home-rule city charter, but a minimum age may not be more than 21 years and a minimum length of residence in the state or city may not be more than 12 months immediately preceding election day.

(b) A charter provision is void if it prescribes a minimum age requirement of more than 21 years or a minimum length of residence requirement of more than 12 months.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 141.004. EFFECT OF BOUNDARY CHANGE ON RESIDENCE REQUIREMENT FOR CITY OFFICE. In determining whether a person has complied with a residence requirement under Section 141.001 or 141.003 for a city office, residence in an area while the area was not part of the city is considered as residence within the city if

the area is part of the city on the date that is the basis for determining the applicable period of residence.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

#### SUBCHAPTER B. APPLICATION FOR PLACE ON BALLOT

Sec. 141.031. GENERAL REQUIREMENTS FOR APPLICATION. (a) A candidate's application for a place on the ballot that is required by this code must:

- (1) be in writing;
- (2) be signed and sworn to before a person authorized to administer oaths in this state by the candidate and indicate the date that the candidate swears to the application;
- (3) be timely filed with the appropriate authority; and
- (4) include:
  - (A) the candidate's name;
  - (B) the candidate's occupation;
  - (C) the office sought, including any place number or other distinguishing number;
  - (D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have

place numbers or other distinguishing numbers;

(E) a statement that the candidate is a United States citizen;

(F) a statement that the candidate has not been determined by a final judgment of a court exercising probate jurisdiction to be:

(i) totally mentally incapacitated; or

(ii) partially mentally incapacitated without the right to vote;

(G) an indication that the candidate has either not been finally convicted of a felony or if so convicted has been pardoned or otherwise released from the resulting disabilities;

(H) the candidate's date of birth;

(I) the candidate's residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate's residence;

(J) the candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application;

(K) the statement: "I, \_\_\_\_\_, of \_\_\_\_\_ County, Texas, being a candidate for the office of \_\_\_\_\_,

swear that I will support and defend the constitution and laws of the United States and of the State of Texas";

(L) a statement that the candidate is aware of the nepotism law, Chapter 573, Government Code; and

(M) a public mailing address at which the candidate receives correspondence relating to the candidate's campaign, if available, and an electronic mail address at which the candidate receives correspondence relating to the candidate's campaign, if available.

(a-1) A person who has been convicted of a felony shall include in the application proof that the person is eligible for public office under Section 141.001(a)(4).

(b) Instead of the statement required by Subsection (a)(4)(F), a candidate eligible for office because of Section 1.020(a) shall include in the application a statement that the person's mental capacity has been completely restored by a final judgment of a court.

(c) Instead of the statement required by Subsection (a)(4)(F), a candidate eligible for office because of Section 1.020(b) shall include in the application a statement that the person's guardianship has been modified to include the right to vote or the person's mental capacity has been completely restored,

as applicable, by a final judgment of a court.

(d) The secretary of state may prescribe a different form for an application for a place on the ballot for each of the following:

- (1) an office of the federal government;
- (2) an office of the state government; or
- (3) an office of a political party.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 427, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3A.03, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(26), eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. [417](#)), Sec. 29, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. [910](#)), Sec. 12, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. [1073](#)), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 469 (H.B. [2157](#)), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 828 (H.B. [1735](#)), Sec. 22, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 1006 (H.B. [4555](#)), Sec. 1, eff.

September 1, 2021.

Sec. 141.032. REVIEW OF APPLICATION; NOTICE TO CANDIDATE.

(a) On the filing of an application for a place on the ballot, the authority with whom the application is filed shall review the application to determine whether it complies with the requirements as to form, content, and procedure that it must satisfy for the candidate's name to be placed on the ballot.

(b) Except as provided by Subsection (c), the review shall be completed not later than the fifth day after the date the application is received by the authority.

(c) If an application is accompanied by a petition, the petition is considered part of the application, and the review shall be completed as soon as practicable after the date the application is received by the authority. However, the petition is not considered part of the application for purposes of determining compliance with the requirements applicable to each document, and a deficiency in the requirements for one document may not be remedied by the contents of the other document. Unless the petition is challenged, the authority is only required to review the petition for facial compliance with the applicable requirements as to form, content, and procedure.



(d) A determination under this section that an application complies with the applicable requirements does not preclude a subsequent determination that the application does not comply, subject to Section 141.034.

(e) If an application does not comply with the applicable requirements, the authority shall reject the application and immediately deliver to the candidate written notice of the reason for the rejection.

(f) This section does not apply to a determination of a candidate's eligibility.

(g) Except as otherwise provided by this code:

(1) a candidate may not amend an application filed under Section 141.031; and

(2) the authority with whom the application is filed may not accept an amendment to an application filed under Section 141.031.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 54, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1349, Sec. 51, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 254 (H.B. [1135](#)), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 95 (S.B. [44](#)), Sec. 1, eff. May 23, 2017.

Acts 2021, 87th Leg., R.S., Ch. 711 (H.B. [3107](#)), Sec. 76, eff. September 1, 2021.

Sec. 141.033. FILING APPLICATIONS FOR MORE THAN ONE OFFICE PROHIBITED. (a) A candidate may not file applications for a place on the ballot for two or more offices that:

(1) are not permitted by law to be held by the same person; and

(2) are to be voted on at one or more elections held on the same day.

(b) If a person files more than one application for a place on a ballot in violation of this section, each application filed subsequent to the first one filed is invalid.

(c) This section does not apply to candidacy for the office of president or vice-president of the United States and another office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 141.034. LIMITATION ON CHALLENGE OF APPLICATION.

(a) An application for a place on the ballot may not be challenged

for compliance with the applicable requirements as to form, content, and procedure after the 50th day before the date of the election for which the application is made.

(b) This section does not apply to a determination of a candidate's eligibility.

(c) A challenge must state with specificity how the application does not comply with the applicable requirements as to form, content, and procedure. The authority's review of the challenge is limited to the specific items challenged and any response filed with the authority by the challenged candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.07, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.57; Acts 1991, 72nd Leg., ch. 554, Sec. 28, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 55, eff. Sept. 1, 1993.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 95 (S.B. [44](#)), Sec. 2, eff. May 23, 2017.

Acts 2021, 87th Leg., R.S., Ch. 711 (H.B. [3107](#)), Sec. 77, eff. September 1, 2021.

Sec. 141.035. APPLICATION AS PUBLIC INFORMATION. An

application for a place on the ballot, including an accompanying petition, is public information immediately on its filing.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 141.036. PRESERVATION OF APPLICATION. The authority with whom an application for a place on the ballot is required to be filed shall preserve each application filed with the authority for two years after the date of the election for which the application is made.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 141.037. FORM OF NAME CERTIFIED FOR PLACEMENT ON BALLOT.

An authority responsible for certifying the names of candidates for placement on the ballot shall certify each name in the form indicated on the candidate's application for a place on the ballot, subject to Subchapter B, Chapter 52.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 141.038. REFUND OF FILING FEE. (a) A filing fee paid in connection with a candidate's application for a place on the ballot shall be refunded to the candidate or to the candidate's estate, as appropriate, if before the date of the election for

which the application is made:

- (1) the candidate dies;
- (2) the candidate is declared ineligible; or
- (3) the candidate's application for a place on the

ballot is determined not to comply with the requirements as to form, content, and procedure that it must satisfy for the candidate's name to be placed on the ballot.

(b) A claim for a refund of a filing fee must be presented to the authority with whom the candidate's application for a place on the ballot is filed.

(c) A filing fee may not be refunded except as provided by this section.

(d) The refunding of filing fees for home-rule city offices may be regulated by the city charter, and those regulations supersede this section to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.08, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 93, eff. Sept. 1, 1997.

Sec. 141.039. OFFICIAL APPLICATION FORM. In addition to the other statements and spaces for entering information that appear on an officially prescribed form for an application for a place on the

ballot, each official form for an application that a candidate is required to file under this code must include:

(1) a space for indicating the form in which the candidate's name is to appear on the ballot;

(2) a space for the candidate's public mailing address;

(3) spaces for the candidate's home and office telephone numbers and e-mail address at which the candidate receives correspondence relating to the candidate's campaign;

(4) a statement informing candidates that the furnishing of the telephone numbers is optional;

(5) a statement informing candidates that knowingly providing false information on the application under Section 141.031(a)(4)(G) constitutes a Class B misdemeanor; and

(6) a statement informing candidates that a candidate who indicates under Section 141.031(a)(4)(G) that the candidate has been convicted of a felony must comply with the requirements of Section 141.031(a-1).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 279 (H.B. [1593](#)), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 828 (H.B. [1735](#)), Sec. 23, eff.

September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 1006 (H.B. [4555](#)), Sec. 2, eff.  
September 1, 2021.

Sec. 141.040. NOTICE OF DEADLINES AND FILING METHODS.

(a) The authority with whom an application for a place on the ballot under this subchapter must be filed shall post notice of the dates of the filing period in a public place in a building in which the authority has an office not later than the 30th day before:

(1) the first day on which a candidate may file the application; or

(2) the last day on which a candidate may file the application, if this code does not designate a first day on which the candidate may file the application.

(b) This section does not apply to an office filled at the general election for state and county officers.

(c) An authority shall designate an e-mail address in the notice required by this section for the purpose of filing an application for a place on the ballot under Section 143.004.

Added by Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. [1970](#)), Sec. 13, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 28, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 711 (H.B. [3107](#)), Sec. 78, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 711 (H.B. [3107](#)), Sec. 79, eff. September 1, 2021.

#### SUBCHAPTER C. PETITION

Sec. 141.061. APPLICABILITY OF SUBCHAPTER. This subchapter applies to each petition filed in connection with a candidate's application for a place on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 493, Sec. 1, eff. Sept. 1, 1987.

Sec. 141.062. VALIDITY OF PETITION. (a) To be valid, a petition must:

- (1) be timely filed with the appropriate authority;
- (2) contain valid signatures in the number required by this code; and
- (3) comply with any other applicable requirements for validity prescribed by this code.



(b) A petition may consist of multiple parts.

(c) After the filing deadline:

(1) a candidate may not amend a petition in lieu of a filing fee submitted with the candidate's application; and

(2) the authority with whom the application is filed may not accept an amendment to a petition in lieu of a filing fee submitted with the candidate's application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 254 (H.B. [1135](#)), Sec. 2, eff. September 1, 2011.

Sec. 141.063. VALIDITY OF SIGNATURE. (a) A signature on a petition is valid if:

(1) except as otherwise provided by this code, the signer, at the time of signing, is a registered voter of the territory from which the office sought is elected or has been issued a registration certificate for a registration that will become effective in that territory on or before the date of the applicable election;

(2) the petition includes the following information with respect to each signer:

(A) the signer's residence address;

(B) the signer's date of birth or the signer's voter registration number and, if the territory from which signatures must be obtained is situated in more than one county, the county of registration;

(C) the date of signing; and

(D) the signer's printed name;

(3) the part of the petition in which the signature appears contains the affidavit required by Section 141.065;

(4) each statement that is required by this code to appear on each page of the petition appears, at the time of signing, on the page on which the signature is entered; and

(5) any other applicable requirements prescribed by this code for a signature's validity are complied with.

(b) The signature is the only information that is required to appear on the petition in the signer's own handwriting.

(c) The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.

(d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in

more than one state. The omission of the zip code from the address does not invalidate a signature.

(e) The signer's residence address and registration address are not required to be the same if the signer would otherwise be able to vote for that office under Section 11.004 or 112.002.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 52, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 726 (H.B. [1509](#)), Sec. 1, eff. September 1, 2005.

Acts 2021, 87th Leg., R.S., Ch. 711 (H.B. [3107](#)), Sec. 80, eff. September 1, 2021.

Sec. 141.064. METHOD OF ACQUIRING SIGNATURE. A person circulating a petition must:

(1) before permitting a person to sign, point out and read to the person each statement pertaining to the signer that appears on the petition;

(2) witness each signature;

(3) ascertain that each date of signing is correct; and

(4) before the petition is filed, verify each signer's registration status and ascertain that each registration number

entered on the petition is correct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 141.065. AFFIDAVIT OF CIRCULATOR. (a) Each part of a petition must include an affidavit of the person who circulated it, executed before a person authorized to administer oaths in this state, stating that the person:

(1) pointed out and read to each signer, before the petition was signed, each statement pertaining to the signer that appears on the petition;

(2) witnessed each signature;

(3) verified each signer's registration status; and

(4) believes each signature to be genuine and the corresponding information to be correct.

(b) If a petition contains an affidavit that complies with Subsection (a), for the purpose of determining whether the petition contains a sufficient number of valid signatures, the authority with whom the candidate's application is filed may treat as valid each signature to which the affidavit applies, without further verification, unless proven otherwise.

(c) A single notarized affidavit by any person who obtained signatures is valid for all signatures gathered by the person if

the date of notarization is on or after the date of the last signature obtained by the person.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 469 (H.B. [2157](#)), Sec. 2, eff. September 1, 2017.

Sec. 141.066. SIGNING MORE THAN ONE PETITION PROHIBITED. (a)

A person may not sign the petition of more than one candidate for the same office in the same election.

(b) The following statement must appear at the top of each page of a petition: "Signing the petition of more than one candidate for the same office in the same election is prohibited."

(c) A signature on a candidate's petition is invalid if the signer signed the petition subsequent to signing a petition of another candidate for the same office in the same election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 94, eff. Sept. 1, 1997.

Sec. 141.067. WITHDRAWAL OF SIGNATURE. (a) A signature may be withdrawn from a petition as provided by this section.

(b) To withdraw a signature, the signer must request that the

signer's signature be withdrawn.

(c) To be effective, a withdrawal request must:

(1) be in writing and be signed and acknowledged by the signer of the petition; and

(2) be filed with the authority with whom the petition is required to be filed not later than the date the petition is received by the authority or the seventh day before the petition filing deadline, whichever is earlier.

(d) A withdrawal request filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(e) The signer must deliver a copy of the withdrawal request to the candidate when the request is filed.

(f) The filing of an effective withdrawal request nullifies the signature on the petition and places the signer in the same position as if the signer had not signed the petition.

(g) If the withdrawal of a signature reduces the number of signatures on the petition below the prescribed minimum for the petition to be valid, the authority with whom the request is filed shall notify the candidate immediately by telephone, telegram, or an equally or more expeditious method of the number of withdrawn signatures. Before the third day after the date the candidate receives the notice, the candidate's petition may be supplemented

with signatures equal in number to the number of signatures withdrawn.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 95, eff. Sept. 1, 1997.

Sec. 141.068. DUTY OF LOCAL AUTHORITY TO VERIFY SIGNATURES.

(a) On request of the secretary of state, a voter registrar shall verify the voter registration status of a signer of a petition filed with the secretary who the petition indicates is registered or has been accepted for registration in the county served by the registrar.

(b) On request of the secretary of state, a county clerk shall ascertain from the records in the clerk's custody whether a signer of a petition filed with the secretary is shown to have voted in a particular election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 141.069. VERIFYING SIGNATURES BY STATISTICAL SAMPLE. If signatures on a petition that is required to contain more than 1,000 signatures are to be verified by the authority with whom the candidate's application is required to be filed, the authority may use as the basis for the verification any reasonable statistical

sampling method that ensures an accuracy rate of at least 95 percent.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 16(b), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1349, Sec. 53, eff. Sept. 1, 1997.

Sec. 141.070. ESTIMATING GUBERNATORIAL VOTE FOR TERRITORY WITH CHANGED BOUNDARY. (a) If, since the most recent gubernatorial general election, a district or precinct from which an officer of the federal, state, or county government is elected is created or has had its boundary changed, the number of votes received in the district or precinct by a political party's gubernatorial candidate or by all the gubernatorial candidates shall be estimated, as provided by this section, for the purpose of computing the number of signatures required on a candidate's petition.

(b) The secretary of state, for a district, or the county clerk of the county in which the precinct is situated, for a precinct, shall estimate the applicable vote total on the request of:

- (1) a candidate affected by the creation or change; or
- (2) an authority with whom an affected candidate's



application for a place on the ballot is required to be filed.

(c) Not later than the 30th day after the date the secretary of state or county clerk receives an estimate request, the secretary or clerk shall certify the secretary's or clerk's estimate in writing and deliver a copy of the certification to the candidate and to the authority with whom the candidate's application for a place on the ballot is required to be filed.

(d) If an estimate is not requested under Subsection (b), the authority with whom an affected candidate's application for a place on the ballot is required to be filed shall make the estimate before acting on a petition.

(e) If, before completing an estimate, the estimating authority determines that the total estimated vote will be large enough to make a computation of the number of signatures required to appear on the petition unnecessary, the authority may certify that fact in writing instead of completing the estimate.

(f) A candidate for an office that is affected by an estimate or by a determination made under Subsection (e) may challenge the accuracy of the estimate or determination by filing a petition, stating the ground of the challenge, in a district court having general jurisdiction in the territory involved. Review in the district court is by trial de novo, and the court's decision is not

appealable.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 96, eff. Sept. 1, 1997.

#### SUBCHAPTER D. COERCION OF CANDIDACY

Sec. 141.101. COERCION AGAINST CANDIDACY PROHIBITED. (a) A person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to:

(1) not file an application for a place on the ballot or a declaration of write-in candidacy; or

(2) withdraw as a candidate.

(b) In this section, "coercion" has the meaning assigned by Section 1.07, Penal Code.

(c) An offense under this section is a Class A misdemeanor unless the intimidation or coercion is a threat to commit a felony, in which event it is a felony of the third degree.

Added by Acts 1995, 74th Leg., ch. 667, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. [1970](#)), Sec. 3, eff. September 1, 2009.

Transferred, redesignated and amended from Election Code, Section 2.054 by Acts 2021, 87th Leg., R.S., Ch. 711 (H.B. [3107](#)), Sec. 82, eff. September 1, 2021.

ELECTION CODE

TITLE 9. CANDIDATES

CHAPTER 145. WITHDRAWAL, DEATH AND INELIGIBILITY OF CANDIDATE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 145.001. METHOD FOR WITHDRAWAL AS CANDIDATE. (a) To withdraw from an election, a candidate whose name is to appear on the ballot must request that the candidate's name be omitted from the ballot.

(b) A withdrawal request must:

(1) be in writing and be signed and acknowledged by the candidate; and

(2) be timely filed with the appropriate authority or an agent of an authority only as expressly provided by this code.

(c) A withdrawal request filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(d) The time of a withdrawal is the time that an effective withdrawal request is filed.

(d-1) A withdrawal that is not filed in compliance with Subsection (b) has no legal effect and is not considered filed.

(e) This section does not apply to a candidate for president

or vice-president of the United States.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 98, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 29, eff. September 1, 2011.

Sec. 145.002. PROCEDURE FOR OMITTING DECEASED CANDIDATE'S NAME FROM BALLOT. (a) Except as provided by Subsection (b), if a candidate's name is to be omitted from the ballot under this code because the candidate has died, the authority responsible for having the official ballot prepared shall omit the candidate's name from the ballot on receipt of reliable information of the death.

(b) If a deceased candidate's name has been certified by the secretary of state for placement on the ballot, the candidate's name may not be omitted from the ballot without authorization from the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 145.003. ADMINISTRATIVE DECLARATION OF INELIGIBILITY.

(a) Except for a judicial action in which a candidate's eligibility is in issue, a candidate may be declared ineligible

only as provided by this section.

(b) A candidate in the general election for state and county officers may be declared ineligible before the 30th day preceding election day by:

(1) the party officer responsible for certifying the candidate's name for placement on the general election ballot, in the case of a candidate who is a political party's nominee; or

(2) the authority with whom the candidate's application for a place on the ballot is required to be filed, in the case of an independent candidate.

(c) A candidate in an election other than the general election for state and county officers may be declared ineligible before the beginning of early voting by personal appearance by the authority with whom an application for a place on the ballot for the office sought by the candidate is required to be filed.

(d) The presiding officer of the final canvassing authority for the office sought by a candidate may declare the candidate ineligible after the polls close on election day and, except as provided by Subsection (e), before a certificate of election is issued.

(e) In the case of a candidate for governor or lieutenant governor, a declaration of ineligibility by the final canvassing

authority's presiding officer may not be made after the final canvass for that office is completed.

(f) A candidate may be declared ineligible only if:

(1) the information on the candidate's application for a place on the ballot indicates that the candidate is ineligible for the office; or

(2) facts indicating that the candidate is ineligible are conclusively established by another public record.

(g) When presented with an application for a place on the ballot or another public record containing information pertinent to a candidate's eligibility, the appropriate authority shall promptly review the record. If the authority determines that the record establishes ineligibility as provided by Subsection (f), the authority shall declare the candidate ineligible.

(h) If a candidate is declared ineligible after the deadline for omitting an ineligible candidate's name from the ballot, the authority making the declaration shall promptly certify in writing the declaration of ineligibility to the canvassing authority for the election.

(i) If a candidate is declared ineligible, the authority making the declaration shall promptly give written notice of the declaration of ineligibility to the candidate.

(j) This section does not apply to a challenge on an application under Section 141.034.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.58; Acts 1991, 72nd Leg., ch. 554, Sec. 29, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 56, eff. Sept. 1, 1993.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 711 (H.B. [3107](#)), Sec. 85, eff. September 1, 2021.

Sec. 145.004. FINAL JUDGMENT REQUIRED FOR ADJUDICATION OF INELIGIBILITY. A candidate's entitlement to a place on the ballot or to a certificate of election is not affected by a judicial determination that the candidate is ineligible until a judgment declaring the candidate to be ineligible becomes final.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 145.005. EFFECT OF VOTES CAST FOR DECEASED, WITHDRAWN, OR INELIGIBLE CANDIDATE. (a) If the name of a deceased, withdrawn, or ineligible candidate appears on the ballot under this chapter, the votes cast for the candidate shall be counted and entered on the official election returns in the same manner as for



the other candidates.

(b) If the deceased, withdrawn, or ineligible candidate receives the vote required for election, the resulting vacancy shall be filled in the regular manner.

(c) If the deceased, withdrawn, or ineligible candidate and another candidate tie for the most votes in an election in which a plurality vote is sufficient for election, the other candidate is considered to be elected. If more than one other candidate is tied with the deceased, withdrawn, or ineligible candidate, the winner of the election shall be determined by resolving the tie between the other candidates in the regular manner for resolving a tie vote in the election.

(d) In a race in which a runoff is required, if the deceased, withdrawn, or ineligible candidate received the vote that would entitle the candidate to a place on the runoff election ballot or tied for that number of votes, the candidates in the runoff shall be determined in the regular manner but without regard to the votes received by the deceased, withdrawn, or ineligible candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 99, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 30,

eff. September 1, 2011.

SUBCHAPTER B. PARTY NOMINEE IN GENERAL ELECTION FOR STATE AND  
COUNTY OFFICERS

Sec. 145.031. APPLICABILITY OF SUBCHAPTER. This subchapter applies to a candidate who is a political party's nominee in the general election for state and county officers except a candidate for president or vice-president of the United States.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 145.032. DEADLINE FOR WITHDRAWAL. A candidate may not withdraw from the general election after the 74th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 7, eff. September 1, 2005.

Sec. 145.033. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED. A candidate must file a withdrawal request with:

- (1) the secretary of state, for a statewide or district

office; or

(2) the authority responsible for having the official ballot prepared, for a county or precinct office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 145.034. COPY OF WITHDRAWAL REQUEST DELIVERED TO EXECUTIVE COMMITTEE. At the same time a withdrawal request is filed, a candidate must deliver a copy of the request to the chair of the executive committee authorized to fill a vacancy in the nomination. If a vacancy exists in the office of chair of a precinct or district executive committee, the copy must be delivered to:

(1) the chair of the state executive committee, for a district office; or

(2) the chair of the county executive committee, for a precinct office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 100, eff. Sept. 1, 1997.

Sec. 145.035. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT. A candidate's name shall be omitted from the ballot if the candidate withdraws, dies, or is declared

ineligible on or before the 74th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 7, eff. September 1, 2005.

Sec. 145.036. FILLING VACANCY IN NOMINATION. (a) Except as provided by Subsection (b), if a candidate's name is to be omitted from the ballot under Section 145.035, the political party's state, district, county, or precinct executive committee, as appropriate for the particular office, may nominate a replacement candidate to fill the vacancy in the nomination.

(b) An executive committee may make a replacement nomination following a withdrawal only if:

(1) the candidate:

(A) withdraws because of a catastrophic illness that was diagnosed after the first day after the date of the regular filing deadline for the general primary election and the illness would permanently and continuously incapacitate the candidate and prevent the candidate from performing the duties of the office sought; and

(B) files with the withdrawal request a certificate

describing the illness and signed by at least two licensed physicians;

(2) no political party that held primary elections has a nominee for the office sought by the withdrawing candidate as of the time of the withdrawal; or

(3) the candidate has been elected or appointed to fill a vacancy in another elective office or has become the nominee for another office.

(c) Under the circumstances described by Subsection (b) (2), the appropriate executive committee of each political party making nominations for the general election for state and county officers may make a replacement nomination for the office sought by the withdrawing candidate.

(d) For the purpose of filling a vacancy, a majority of the committee's membership constitutes a quorum. To be nominated, a person must receive a favorable vote of a majority of the members voting.

(e) A vacancy in a nomination for a district, county, or precinct office that was made by primary election may not be filled before the beginning of the term of office of the county executive committee members elected in the year in which the vacancy occurs. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended

by Acts 1987, 70th Leg., ch. 54, Sec. 20, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 337, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 101, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. [1703](#)), Sec. 12, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 828 (H.B. [1735](#)), Sec. 24, eff. September 1, 2017.

Sec. 145.037. CERTIFICATION OF REPLACEMENT NOMINEE FOR PLACEMENT ON BALLOT. (a) For the name of a replacement nominee to be placed on the general election ballot, the chair of the executive committee making the replacement nomination must certify in writing the nominee's name for placement on the ballot as provided by this section.

(b) The certification must be signed and acknowledged by the chair.

(c) In addition to the name of the replacement nominee, the certification must include:

(1) the replacement nominee's residence address and mailing address, if different from the residence address;

(2) the name of the original nominee;

(3) the office sought, including any place number or other distinguishing number;

(4) the cause of the vacancy;

(5) an identification of the executive committee making the replacement nomination; and

(6) the date of the replacement nomination.

(d) The chair must deliver the certification to:

(1) the secretary of state, for a statewide or district office; or

(2) the authority responsible for having the official ballot prepared, for a county or precinct office.

(e) The certification must be delivered not later than 5 p.m. of the 71st day before election day.

(f) A certification of a replacement nominee that is delivered by mail is considered to be delivered at the time of its receipt by the appropriate authority.

(g) A replacement nominee's name may not be certified if, before delivering the certification, the certifying authority learns that the replacement nominee's name is to be omitted from the ballot under Section 145.035.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 102, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 8, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 20, eff. September 1, 2011.

Sec. 145.038. FAILURE OF DISTRICT EXECUTIVE COMMITTEE TO MAKE REPLACEMENT NOMINATION. (a) If a political party's district executive committee fails to nominate a replacement candidate to fill a vacancy in a nomination for a district office, the state executive committee may nominate a candidate to fill the vacancy.

(b) The state chair must deliver the certification of the replacement nominee not later than 5 p.m. of the 69th day before election day.

(c) A certification of a replacement nominee that is delivered by mail is considered to be delivered at the time of its receipt by the secretary of state.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 103, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 9, eff. September 1, 2005.



Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 21, eff. September 1, 2011.

Sec. 145.039. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT. If a candidate dies or is declared ineligible after the 74th day before election day, the candidate's name shall be placed on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 10, eff. September 1, 2005.

SUBCHAPTER C. INDEPENDENT CANDIDATE IN GENERAL ELECTION FOR  
STATE AND COUNTY OFFICERS

Sec. 145.061. APPLICABILITY OF SUBCHAPTER. This subchapter applies to an independent candidate in the general election for state and county officers except a candidate for president or vice-president of the United States.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 145.062. DEADLINE FOR WITHDRAWAL. A candidate may not

withdraw from the general election after the 74th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 11, eff. September 1, 2005.

Sec. 145.063. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED.

A candidate must file a withdrawal request with the authority with whom the candidate's application for a place on the ballot is required to be filed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 145.064. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT. (a) Except as provided by Subsection (b), a candidate's name shall be omitted from the ballot if the candidate withdraws, dies, or is declared ineligible on or before the 74th day before election day.

(b) The name of a deceased candidate may not be omitted if:

(1) the decedent was the incumbent in the office for which the decedent was a candidate; or

(2) no other candidate's name is to appear on the ballot

in the race in which the decedent was a candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 104, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 11, eff. September 1, 2005.

Sec. 145.065. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT. If a candidate dies or is declared ineligible after the 74th day before election day, the candidate's name shall be placed on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 11, eff. September 1, 2005.

SUBCHAPTER D. CANDIDATE IN ELECTION OTHER THAN GENERAL ELECTION  
FOR STATE AND COUNTY OFFICERS

Sec. 145.091. APPLICABILITY OF SUBCHAPTER. This subchapter applies to a candidate in a general or special election, except the general election for state and county officers.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 145.092. DEADLINE FOR WITHDRAWAL. (a) Except as otherwise provided by this section, a candidate may not withdraw from an election after 5 p.m. of the fifth day after the deadline for filing the candidate's application for a place on the ballot.

(b) A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 62nd day before election day may not withdraw from the election after 5 p.m. of the 57th day before election day.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1164, Sec. 44, eff. September 1, 2011.

(d) A candidate in a runoff election may not withdraw from the election after 5 p.m. of the third day after the date of the final canvass for the main election.

(e) Section 1.006 does not apply to this section.

(f) A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 78th day before election day may not withdraw from the election after 5 p.m. of the 71st day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 40, eff. Sept. 1, 1987;

Acts 1991, 72nd Leg., ch. 203, Sec. 2.59; Acts 1991, 72nd Leg., ch. 554, Sec. 30, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 925, Sec. 5, eff. Nov. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 12, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 31, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 44, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 22, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. [904](#)), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. [1703](#)), Sec. 13, eff. September 1, 2015.

Sec. 145.093. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED.

(a) A candidate must file a withdrawal request with the authority with whom applications for a place on the ballot are required to be filed.

(b) If the authority with whom applications for a place on

the ballot are required to be filed is not responsible for having the official ballot prepared for the election, on the filing of a withdrawal request, the authority shall certify the candidate's name in writing as a withdrawn candidate and promptly deliver the certification to the authority responsible for having the official ballot prepared.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 145.094. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT. (a) The name of a candidate shall be omitted from the ballot if the candidate:

(1) dies before the second day before the date of the deadline for filing the candidate's application for a place on the ballot;

(2) withdraws or is declared ineligible within the time prescribed by Section 145.092(a), in an election subject to that section;

(3) withdraws or is declared ineligible within the time prescribed by Section 145.092(b), in an election subject to that section; or

(4) withdraws or is declared ineligible before 5 p.m. of the 71st day before election day, in an election subject to Section

145.092 (f).

(b) This section does not apply to a runoff election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 41, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.60; Acts 1991, 72nd Leg., ch. 554, Sec. 31, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 925, Sec. 6, eff. Nov. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 13, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 32, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 23, eff. September 1, 2011.

Sec. 145.095. EFFECT OF WITHDRAWAL FROM RUNOFF. If a runoff candidate withdraws, the remaining candidate is considered to be elected and the runoff election for that office is not held.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 145.096. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON BALLOT. (a) Except as provided by Subsection (b) or

Section 145.098(b), a candidate's name shall be placed on the ballot if the candidate:

(1) dies on or after the second day before the deadline for filing the candidate's application for a place on the ballot;

(2) is declared ineligible after 5 p.m. of the fifth day after the deadline for filing the candidate's application for a place on the ballot, in an election subject to Section 145.092(a);

(3) is declared ineligible after 5 p.m. of the 57th day before election day, in an election subject to Section 145.092(b);  
or

(4) is declared ineligible after 5 p.m. of the 71st day before election day, in an election subject to Section 145.092(f).

(b) If a candidate in a runoff election dies or is declared ineligible before runoff election day, the candidate's name shall be placed on the runoff election ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 42, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.61; Acts 1991, 72nd Leg., ch. 554, Sec. 32, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 925, Sec. 7, eff. Nov. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 14, eff.



September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 24, eff.

September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. [910](#)), Sec. 14, eff.

September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. [1703](#)), Sec. 14, eff.

September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 172 (H.B. [1067](#)), Sec. 1, eff.

May 24, 2019.

Sec. 145.097. HOME-RULE CITY CANDIDATE. Provisions governing the withdrawal, death, or ineligibility of candidates for city offices prescribed by a home-rule city charter supersede this chapter to the extent of any conflict, except that this subchapter prevails in regard to an election subject to Section 145.092(f).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 15, eff.

September 1, 2005.

Sec. 145.098. WITHDRAWAL OR DEATH OF CANDIDATE BEFORE CERTAIN EVENTS OCCUR. (a) If a candidate files a withdrawal request after

the deadline prescribed by Section 145.092, and the candidate complies with each requirement under Section 145.001 except that the candidate's filing to withdraw is untimely, the authority responsible for preparing the ballots may choose to omit the candidate from the ballot if at the time the candidate files the withdrawal request:

(1) the ballots have not been prepared; and

(2) if using a voting system to which Chapter 129 applies, public notice of the test of logic and accuracy has not been published.

(b) If a candidate dies on or before the deadline for filing an application for a place on the ballot:

(1) the authority responsible for preparing the ballots may choose to omit the candidate from the ballot; and

(2) if the authority omits the candidate's name under Subdivision (1), the filing deadline for an application for a place on the ballot for the office sought by the candidate is extended until the fifth day after the filing deadline.

Added by Acts 2017, 85th Leg., R.S., Ch. 1032 (H.B. [1661](#)), Sec. 2, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 172 (H.B. [1067](#)), Sec. 2, eff.

May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1191 (H.B. [4129](#)), Sec. 1, eff.

September 1, 2019.

ELECTION CODE

TITLE 10. POLITICAL PARTIES

SUBTITLE C. PARTIES NOMINATING BY CONVENTION

CHAPTER 181. PARTY WITH STATE ORGANIZATION

SUBCHAPTER A. NOMINATING BY CONVENTION GENERALLY

Sec. 181.001. APPLICABILITY OF CHAPTER. This chapter applies to a political party making nominations by convention except a party making nominations only for county and precinct offices under Chapter 182.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 181.002. NOMINATING BY CONVENTION AUTHORIZED. A political party may make nominations for the general election for state and county officers by convention, as provided by this chapter, if the party is authorized by Section 172.002 to make nominations by primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 181.003. NOMINATING BY CONVENTION REQUIRED. A political party must make nominations for the general election for state and

county officers by convention, as provided by this chapter, if the party is not required or authorized to nominate by primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 181.004. PARTY ORGANIZATION. (a) A political party making nominations under this chapter shall:

(1) establish a state executive committee;

(2) establish a county executive committee for each county in which the party will hold a county convention; and

(3) select a precinct chair for each election precinct in which the party will hold a precinct convention.

(b) The party shall provide by rule for the selection of a chair of the state executive committee and each county executive committee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 188, eff. Sept. 1, 1997.

Sec. 181.0041. REGISTRATION OF PARTY REQUIRED. A political party that intends to make nominations under this chapter for the general election for state and county officers must register with the secretary of state, in the manner prescribed by the secretary,

not later than January 2 of the election year.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 70, eff. Sept. 1, 1993.

Sec. 181.005. QUALIFYING FOR PLACEMENT ON BALLOT BY PARTY REQUIRED TO NOMINATE BY CONVENTION. (a) To be entitled to have the names of its nominees placed on the general election ballot, a political party required to make nominations by convention must file with the secretary of state, not later than the 75th day after the date of the precinct conventions held under this chapter, lists of precinct convention participants indicating that the number of participants equals at least one percent of the total number of votes received by all candidates for governor in the most recent gubernatorial general election. The lists must include each participant's residence address and voter registration number.

(b) A political party is entitled to have the names of its nominees placed on the ballot, without qualifying under Subsection (a), in each subsequent general election following a general election in which the party had a nominee for a statewide office who received a number of votes equal to at least five percent of the total number of votes received by all candidates for that office.

(c) A political party is entitled to have the names of its nominees placed on the general election ballot, without qualifying under Subsection (a) or (b), if the party had a nominee for a statewide office who received a number of votes equal to at least two percent of the total number of votes received by all candidates for that office at least once in the five previous general elections.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 48, eff. Sept. 1, 1987.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 822 (H.B. [2504](#)), Sec. 2, eff. September 1, 2019.

Sec. 181.006. PETITION SUPPLEMENTING PRECINCT CONVENTION LISTS. (a) If the number of precinct convention participants indicated on the lists filed under Section 181.005 is fewer than the number required for the political party to qualify to have the names of its nominees placed on the ballot, the party may qualify by filing a petition as provided by this section.

(b) A petition must:

(1) satisfy the requirements prescribed by Section 141.062 for a candidate's petition;

(2) contain signatures in a number that, when added to the number of convention participants indicated on the lists, equals at least one percent of the total number of votes received by all candidates for governor in the most recent gubernatorial general election; and

(3) be filed with the secretary of state by the state chair before the deadline for filing the lists of precinct convention participants.

(c) Except as provided by this section, the petition is subject to the applicable provisions of Subchapter C, Chapter 141.

(d) A signer's voter registration is not required to be in any particular territory.

(e) A copy of a request for the withdrawal of a signature must be delivered to the state chair at the time the withdrawal request is filed.

(f) The following statement must appear at the top of each page of the petition: "I know that the purpose of this petition is to entitle the \_\_\_\_\_ Party to have its nominees placed on the ballot in the general election for state and county officers. I have not voted in a primary election or participated in a convention of another party during this voting year, and I understand that I become ineligible to do so by signing this



petition. I understand that signing more than one petition to entitle a party to have its nominees placed on the general election ballot in the same election is prohibited."

(g) A person who has voted in a primary election or participated in a convention of another party during the voting year in which the petition is circulated is ineligible to sign the petition, and the signature of such a person is invalid.

(h) A signature is invalid if the person signed the petition subsequent to signing a petition to qualify another political party to have the names of its nominees placed on the ballot for the same election, whether the other party is circulating the petition under this chapter or under Chapter 182.

(i) On signing the petition, the person becomes ineligible to affiliate with another party during the voting year in which the petition is signed.

(j) The petition may not be circulated until after the date of the party's precinct conventions held under this chapter. A signature obtained on or before that date is invalid.

(k) The secretary of state shall post a notice of the receipt of a petition on the secretary of state's Internet website and may post the notice on a bulletin board used for posting notice of meetings of state governmental bodies. Any person may challenge

the validity of the petition by filing a written statement of the challenge with the secretary of state not later than the fifth day after the date notice is posted. The secretary of state may verify the petition signatures regardless of whether the petition is timely challenged.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 189, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 64, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1052 (H.B. [933](#)), Sec. 13, eff. September 1, 2019.

Sec. 181.007. NOTICE OF QUALIFYING PARTIES. (a) The secretary of state shall deliver to the authority responsible for having the official general election ballot prepared in each county written notice of the name of each party required to nominate by convention that qualifies to have the names of its nominees placed on the general election ballot.

(b) The notice shall be delivered at the same time as the secretary of state's certification of nominees for statewide and district offices for placement on the general election ballot.

(c) The names of the nominees of a party required to nominate

by convention may not be placed on the ballot without the notice.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

#### SUBCHAPTER B. APPLICATION FOR NOMINATION

Sec. 181.031. APPLICATION REQUIRED. (a) To be entitled to be considered for nomination by a convention held under this chapter, a person must make an application for nomination.

(b) An application must comply with the requirements prescribed by Section 141.031 for an application for a place on the ballot, with changes appropriate to indicate that the application is for nomination by a convention instead of for a place on the ballot.

(c) This section does not apply to a nomination for an unexpired term if the vacancy occurs after the 10th day before the date of the regular deadline for filing an application for convention nomination.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 181.0311. FILING FEE OR PETITION REQUIRED. (a) In addition to any other requirements, to be considered for nomination by convention, a candidate must:

(1) pay a filing fee to the secretary of state for a statewide or district office or the county judge for a county or precinct office; or

(2) submit to the secretary of state for a statewide or district office or the county judge for a county or precinct office a petition in lieu of a filing fee that satisfies the requirements prescribed by Subsection (e) and Section 141.062.

(b) The amount of the filing fee is the amount prescribed by Section 172.024 for a candidate for nomination for the same office in a general primary election.

(c) A filing fee received by the secretary of state shall be deposited in the state treasury to the credit of the general revenue fund.

(d) A filing fee received by the county judge shall be deposited in the county treasury to the credit of the county general fund.

(e) The minimum number of signatures that must appear on the petition authorized by Subsection (a) is the number prescribed by Section 172.025 to appear on a petition of a candidate for nomination for the same office in a general primary election.

(f) The secretary of state shall adopt rules as necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 822 (H.B. [2504](#)), Sec. 1, eff. September 1, 2019.

Transferred, redesignated and amended from Election Code, Section 141.041 by Acts 2021, 87th Leg., R.S., Ch. 149 (S.B. [2093](#)), Sec. 1, eff. September 1, 2021.

Sec. 181.032. AUTHORITY WITH WHOM APPLICATION FILED. (a) An application for nomination by a convention must be filed with:

(1) the state chair, for a statewide or district office;

or

(2) the county chair, for a county or precinct office.

(b) Not later than the 10th day after the date of the filing deadline prescribed by Section 181.033, the authority with whom an application is filed shall deliver to the secretary of state a list containing:

(1) each candidate's name;

(2) each candidate's residence address;

(3) the office sought by the candidate;

(4) the date on which the candidate filed the application; and

(5) any additional information required by the secretary of state.

(c) A list delivered under Subsection (b) must be in a format prescribed by the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 190, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 360 (H.B. [1265](#)), Sec. 2, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1130 (H.B. [2628](#)), Sec. 4, eff. September 1, 2019.

Sec. 181.033. FILING DEADLINE. (a) Except as provided by Subsection (b), an application for nomination by a convention must be filed not later than the regular deadline for candidates to file applications for a place on the general primary ballot.

(b) A political party by rule may extend the filing deadline for applications for nomination for an office for which a candidate who has made an application withdraws, dies, or is declared ineligible.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 23, eff. Sept. 1, 1987.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1055 (H.B. [3103](#)), Sec. 11, eff. June 14, 2013.

Sec. 181.034. DISPOSITION OF APPLICATIONS. (a) A political party shall provide by rule for transmitting information regarding applications for nomination to the chair of the appropriate convention.

(b) If an application is delivered to a convention, it shall be returned to the authority with whom it was filed not later than the 10th day after the date of the convention.

(c) The authority with whom an application is filed shall preserve each application for two years after the date of the appropriate convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 191, eff. Sept. 1, 1997.

#### SUBCHAPTER C. CONVENTIONS

Sec. 181.061. CONVENTIONS AT WHICH NOMINATIONS MADE. (a) A political party nominating by convention must make its nominations for statewide offices at a state convention held on the second Saturday in April of the election year, except that if the Sunday

after the second Saturday in April in an election year is the date of the Easter holiday, the state convention must be held on the third Saturday in April of that year. The state convention consists of delegates selected at the county conventions held under Subsection (c).

(b) A party nominating by convention must make its nominations for offices of districts situated in more than one county at district conventions held on the second Saturday after the second Tuesday in March. A district convention consists of delegates selected at the county conventions held under Subsection (c).

(c) A party nominating by convention must make its nominations for county and precinct offices and for offices of districts not situated in more than one county at county conventions held on the first Saturday after the second Tuesday in March. A county convention consists of delegates selected at precinct conventions held on the second Tuesday in March in the regular county election precincts.

(d) A party by rule may limit the delegates making nominations to those from the territory from which the office sought is elected.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended



by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 24, eff. Sept. 1, 1987.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 576 (S.B. [817](#)), Sec. 3, eff. June 14, 2013.

Sec. 181.062. NUMBER OF DELEGATES SELECTED. A political party shall provide by rule for the number of delegates to be selected at the precinct conventions for the county conventions and the number of delegates to be selected at the county conventions for the district conventions and the state convention held under this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 181.063. HOUR AND PLACE OF PRECINCT AND COUNTY CONVENTIONS. The hours and places for convening the county convention and precinct conventions held under this chapter shall be set as provided by Section 174.022 for setting the hours and places of precinct conventions of a party holding a primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. [3102](#)), Sec. 29, eff. June 14, 2013.

Sec. 181.064. NOTICE OF HOUR AND PLACE. Notice of the hour and place for convening the county convention and precinct conventions held under this chapter shall be posted and delivered as provided by Section 174.023 for posting and delivering notice of the hour and place for convening precinct conventions for a party holding a primary election, except that notice of a county convention shall:

(1) be posted for the 10 days immediately preceding the date of the county convention; and

(2) be delivered to the county clerk not later than the 10th day before the date of the county convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 181.065. PARTICIPANT TO BE REGISTERED VOTER. To be eligible to participate in a precinct convention held under this chapter, a person must be a registered voter of the precinct or a precinct resident who is eligible to vote a limited ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 181.066. ORGANIZING PRECINCT CONVENTION. (a) Unless the state executive committee has adopted rules providing that the precinct chair is the permanent chair, the precinct chair is the temporary chair of a precinct convention held under this chapter. If the precinct chair is absent or declines the position, a participant may act as a temporary chair.

(b) Before conducting business, the precinct chair or temporary chair shall prepare a list containing the name and residence address of each person who is admitted to participate in the convention. In preparing the list, the chair shall use information from preregistration if the party has adopted a preregistration process under Section 162.017.

(c) The precinct chair or temporary chair shall call the convention to order.

(d) The convention shall select a convention chair if a temporary chair is acting as chair. The convention may select any other officers considered necessary to conduct the convention's business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 192, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. [3102](#)), Sec. 30,

eff. June 14, 2013.

Sec. 181.067. DELIVERY OF LIST OF PRECINCT CONVENTION PARTICIPANTS. (a) The chair of a precinct convention shall sign and make a copy of the list of precinct convention participants required by Section 181.066(b).

(b) The convention chair shall deliver the original and copy to the county chair not later than the third day after the date of the precinct convention, except that if delivered by mail they shall be deposited in the mail not later than the second day after the date of the precinct convention.

(c) If the party is required to nominate by convention, the convention chair shall make an additional copy of the list and deliver it to the state chair not later than the third day after the date of the precinct convention.

(d) An electronic submission to the county chair through a system created by party rule constitutes a complete delivery under Subsection (b).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 193, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. [3102](#)), Sec. 31,

eff. June 14, 2013.

Sec. 181.068. PARTY'S CERTIFICATION OF NOMINEES. (a) The presiding officer of each convention held under this chapter shall certify, in a format prescribed by the secretary of state, for placement on the general election ballot the name and address of each candidate nominated by the convention.

(b) Not later than the 20th day after the date of the convention making the nomination, the presiding officer shall deliver the certification to:

(1) the authority responsible for having the official general election ballot prepared in the county, for certification of a county or precinct office; or

(2) the secretary of state, for certification of a statewide or district office.

(c) A presiding officer may not certify a candidate's name if, before delivering the certification, the presiding officer learns that the name is to be omitted from the ballot under Section 145.035.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1130 (H.B. [2628](#)), Sec. 5, eff.

September 1, 2019.

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Bar No. 24046279

jcortiaus@gamb.com

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Associated Case Party: WhitneyC.Bilyeu

Name	BarNumber	Email	TimestampSubmitted	Status
Whitney C.Bilyeu		jleblanc@gamb.com	8/15/2022 3:08:01 PM	SENT

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