

CHAPTER 52**(HB 85)**

AN ACT relating to actions to challenge the qualifications of candidates for office.

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

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

- (1) A "bona fide" candidate means one who is seeking nomination in a primary or election in a general election according to law.
- (2) The bona fides of any candidate seeking nomination or election in a primary or general election may be questioned by any qualified voter entitled to vote for such candidate or by an opposing candidate by summary proceedings consisting of a motion before the Circuit Court of the judicial circuit in which the candidate whose bona fides is questioned resides. ***An action regarding the bona fides of any candidate seeking nomination or election in a primary or general election may be commenced at any time prior to the general election.*** The motion shall be tried summarily and without delay. Proof may be heard orally, and upon motion of either party shall be officially reported. If the Circuit Judge of the circuit in which the proceeding is filed is disqualified or absent from the county or is himself a candidate, the proceeding may be presented to, heard and determined by the Circuit Judge of any adjoining judicial circuit.
- (3) In any action or proceeding under this section the burden of proof as to the bona fides of a candidate shall be on the person challenging the bona fides of a candidate.
- (4) If the court finds the candidate is not a bona fide candidate it must so order, and certify the fact to the board of elections, and the candidate's name shall be stricken from the written designation of election officers filed with the board of elections or the court may refuse recognition or relief in a mandatory or injunctive way. The order of the Circuit Court shall be entered on the order book of the court and shall be subject to a motion to set aside in the Court of Appeals. The motion shall be heard by the Court of Appeals or a judge thereof in the manner provided for dissolving or granting injunctions, except that the motion must be made before the court or judge within five (5) days after the entry of the order in the Circuit Court, and may be heard and tried upon the original papers, and the order of the Court of Appeals or judge thereof shall be final.
- (5) No person shall approach the Circuit Judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him.

Approved March 15, 2001