

Regular Session, 2010

SENATE BILL NO. 396

BY SENATOR N. GAUTREAUX

ELECTION CODE. Provides relative to disqualifications from candidacy for elected office.  
(1/1/11)

1 AN ACT

2 To enact R.S. 18:462.1, relative to qualifying for primary elections; to provide for  
3 statements relative to felony convictions for certain candidates; to provide for the  
4 functions and duties of certain officials relative thereto; to provide relative to  
5 objections to candidacy under certain circumstances; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 18:462.1 is hereby enacted to read as follows:

9 **§462.1. Statement of felony conviction of candidate; duties of qualifying official**  
10 **and district attorney**

11 **A. A candidate in a primary election may submit a statement to the**  
12 **qualifying official by 4:30 p.m. on the next business day after the close of**  
13 **qualifying stating that another candidate for the same office at the same election**  
14 **has a felony conviction that would prohibit the person from qualifying as a**  
15 **candidate. The statement shall be in writing, signed by the candidate making**  
16 **the statement, and shall include information relating to the felony conviction of**  
17 **the other candidate. The statement shall be submitted on the form provided by**

1           the secretary of state or on any form that contains the same information as  
2           required by the form prepared by the secretary of state.

3           B. Upon the timely receipt of the completed and signed statement  
4           provided for in Subsection A of this Section, the qualifying official shall hand  
5           deliver or transmit by facsimile a copy of the statement and a copy of the notice  
6           of candidacy of the candidate alleged to have a felony conviction to the district  
7           attorney whose jurisdiction includes the office for which the candidate has  
8           sought to qualify. The copies of the statement and the notice of candidacy shall  
9           be delivered or transmitted by the qualifying official to the district attorney on  
10           the same day that the qualifying official received the statement. The district  
11           attorney shall investigate and determine if an action objecting to the candidacy  
12           of such person shall be filed pursuant to R.S. 18:495.

13           Section 2. This act shall become effective on January 1, 2011.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Alden A. Clement, Jr.

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#### DIGEST

N. Gautreaux (SB 396)

Present law provides that a person who desires to become a candidate in a primary election must qualify as a candidate by timely filing notice of his candidacy, which must be accompanied either by a nominating petition or by the qualifying fee and any additional fee imposed.

Proposed law retains present law.

Present law further provides that a candidate whose notice of candidacy is accompanied by a nominating petition will not be required to pay any qualifying fee or any additional fee.

Proposed law retains present law.

Present law provides that no person, whether or not currently registered as a voter with the registrar of voters, can qualify to become a candidate if he is under an order of imprisonment for conviction of a felony.

Proposed law retains present law.

Proposed law provides that a candidate in a primary election may submit a statement to the qualifying official by 4:30 p.m. on the next business day after the close of qualifying stating that another candidate for the same office at the same election has a felony conviction that would prohibit the person from qualifying as a candidate. Proposed law further provides that the statement must be in writing, must be signed by the candidate making the statement, and must include information relating to the felony conviction of the other candidate. Proposed law provides that the statement must be submitted on the form provided by the secretary of

state or on any form that contains the same information as required by the form prepared by the secretary of state.

Proposed law provides that, upon the timely receipt of the completed and signed statement provided for in proposed law, the qualifying official is to hand deliver or transmit by facsimile a copy of the statement and a copy of the notice of candidacy of the candidate alleged to have a felony conviction to the district attorney whose jurisdiction includes the office for which the candidate has sought to qualify. Proposed law further provides that the copies of the statement and the notice of candidacy are to be delivered or transmitted by the qualifying official to the district attorney on the same day that the qualifying official received the statement. Proposed law provides that the district attorney is to investigate and determine if an action objecting to the candidacy of such person is to be filed pursuant to present law.

Effective January 1, 2011.

(Adds R.S. 18:462.1)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill.

1. Deletes provisions of proposed law providing that any other candidate in a primary election may request a criminal background check on any other candidate and that the challenging candidate will be required to pay the cost of such criminal background check.
2. Deletes provision of proposed law that each person who desires to become a candidate in a primary election must sign a form prescribed by the secretary of state authorizing the qualifying official to forward the person's name and identifying information to the office of state police for purposes of a criminal background check.
3. Deletes provision of proposed law that on the day following the close of qualifying for a primary election, the qualifying official is to forward the name of and all identifying information in his possession regarding each candidate who qualified with his office for that election to the office of state police.
4. Deletes provisions of proposed law that, upon receipt of the name of and identifying information regarding a candidate from a qualifying official, the office of state police is to conduct a criminal background check on the candidate, that such criminal background check is to be paid for out of the qualifying fee provided for by present law or the criminal background check fee paid by the candidate to the qualifying official pursuant to proposed law, and that the qualifying official is to forward such funds to the office of state police at the same time as the name and identifying information are forwarded.
5. Deletes provision of proposed law that, if the criminal background check on a candidate reveals that the candidate has been convicted of a felony, the office of state police is to immediately send the information regarding the candidate and the relevant portions of the criminal background check to the district attorney whose jurisdiction includes the office for which the candidate has sought to qualify, and that if a district attorney receives information from a sheriff in accordance with proposed law, he is to

immediately proceed in accordance with present law relative to an action objecting to the candidacy of the person.

6. Provides that a candidate in a primary election may submit a statement to the qualifying official by 4:30 p.m. on the next business day after the close of qualifying stating that another candidate for the same office at the same election has a felony conviction that would prohibit the person from qualifying as a candidate. Provides that the statement must be in writing, must be signed by the candidate making the statement, and must include information relating to the felony conviction of the other candidate. Provides that the statement must be submitted on the form provided by the secretary of state or on any form that contains the same information as required by the form prepared by the secretary of state.
7. Provides that, upon the timely receipt of the completed and signed statement provided for in proposed law, the qualifying official is to hand deliver or transmit by facsimile a copy of the statement and a copy of the notice of candidacy of the candidate alleged to have a felony conviction to the district attorney whose jurisdiction includes the office for which the candidate has sought to qualify. Provides that the copies of the statement and the notice of candidacy are to be delivered or transmitted by the qualifying official to the district attorney on the same day that the qualifying official received the statement. Provides that the district attorney is to investigate and determine if an action objecting to the candidacy of such person is to be filed pursuant to present law.
8. Changes effective date from August 15, 2010, to January 1, 2011.