

ASSEMBLY BILL NO. 461—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE SECRETARY OF STATE)

MARCH 23, 2015

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing elections.
(BDR 24-614)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to elections; providing certain remedies and penalties in preelection challenges to the qualifications of a candidate; increasing the penalty for a candidate who files certain documents containing a false statement; revising the forms for declarations of candidacy, acceptances of candidacy and declarations of residency; requiring certain proofs of identity and residency when filing for candidacy; making conforming changes to the definition of “actual residence” for purposes of candidacy; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, there are several different types of preelection court actions
2 that may be brought to challenge a candidate on grounds that the candidate fails to
3 meet any qualification required for the office, including actions for a declaratory
4 judgment or a writ of mandamus. (NRS 281.050, 293.182, 293C.186; *DeStefano v.*
5 *Berkus*, 121 Nev. 627, 628-31 (2005); *Child v. Lomax*, 124 Nev. 600, 604-05
6 (2008)) **Section 1** of this bill provides that in any preelection action where the court
7 finds that a candidate fails to meet any qualification required for the office: (1) the
8 candidate is disqualified from taking office; and (2) the court may order the
9 candidate to pay the attorney’s fees and costs of the party who brought the action,
10 including the Attorney General or a district attorney or city attorney.

11 Existing law: (1) requires a candidate to file a declaration or acceptance of
12 candidacy before his or her name may appear on a ballot; and (2) provides that a
13 candidate who knowingly and willfully files a declaration or acceptance of



14 candidacy which contains a false statement regarding residency is guilty of a gross
15 misdemeanor. (NRS 293.1755, 293.177, 293C.185, 293C.200) Existing law also
16 requires a candidate for election to the Legislature to file a declaration of residency
17 with his or her declaration or acceptance of candidacy. (NRS 293.181) **Sections**
18 **1.5, 2, 3, 5 and 7** of this bill provide that a candidate who knowingly and willfully
19 files a declaration of candidacy, acceptance of candidacy or declaration of
20 residency which contains a false statement is guilty of a category E felony.

21 Existing law specifies the forms for a declaration or acceptance of candidacy
22 and a declaration of residency and requires certain information to be included on
23 the forms. Existing law also requires a candidate to present the filing officer with
24 one type of acceptable identification or documentation as proof of the candidate's
25 identity and residency when the candidate files a declaration or acceptance of
26 candidacy. (NRS 293.177, 293.181, 293C.185)

27 **Sections 2, 3 and 5** revise the forms for a declaration or acceptance of
28 candidacy and a declaration of residency to include a statement that the candidate
29 understands that knowingly and willfully filing such a document which contains a
30 false statement is a crime punishable as a category E felony and also subjects the
31 candidate to a civil action disqualifying the candidate from taking office and
32 making the candidate liable upon order of the court to pay the attorney's fees and
33 costs of the party who brings the action. **Sections 2 and 5** also require the candidate
34 to present the filing officer with two types of acceptable identification and
35 documentation as proof of the candidate's identity and residency.

36 Existing law defines the term "actual residence" to mean the place where a
37 candidate is legally domiciled and maintains a permanent habitation, and when a
38 candidate maintains more than one place of permanent habitation, the place
39 designated by the candidate as his or her principal permanent habitation is deemed
40 to be the candidate's actual residence. (NRS 281.050) The Nevada Supreme Court
41 has held that the place designated by the candidate as his or her principal permanent
42 habitation must be the place where the candidate actually resides and is legally
43 domiciled in order for the candidate to be eligible to the office. (*Williams v. Clark*
44 *County Dist. Att'y*, 118 Nev. 473, 484-86 (2002); *Chachas v. Miller*, 120 Nev. 51,
45 53-56 (2004)) **Section 8** of this bill amends existing law to reflect the Supreme
46 Court's holding.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 293 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. In addition to any other remedy or penalty provided by law,*
4 *if a court of competent jurisdiction finds in any preelection action*
5 *that a person who is a candidate for any office fails to meet any*
6 *qualification required for the office pursuant to the Constitution*
7 *or laws of this State:*

8 *(a) The person is disqualified from entering upon the duties of*
9 *the office for which he or she filed a declaration of candidacy or*
10 *acceptance of candidacy; and*

11 *(b) The court may order the person to pay the reasonable*
12 *attorney's fees and costs of the party who brought the action,*



1 *including, without limitation, the Attorney General or a district*
2 *attorney or city attorney.*

3 *2. The provisions of this section apply to any preelection*
4 *action brought to challenge a person who is a candidate for any*
5 *office on the grounds that the person fails to meet any*
6 *qualification required for the office pursuant to the Constitution*
7 *or laws of this State, including, without limitation, any action*
8 *brought pursuant to NRS 281.050, 293.182 or 293C.186 or any*
9 *action brought for:*

10 *(a) Declaratory or injunctive relief pursuant to chapter 30 or*
11 *33 of NRS;*

12 *(b) Writ relief pursuant to chapter 34 of NRS; or*

13 *(c) Any other legal or equitable relief.*

14 **Sec. 1.5.** NRS 293.1755 is hereby amended to read as follows:

15 293.1755 1. In addition to any other requirement provided by
16 law, no person may be a candidate for any office unless, for at least
17 the 30 days immediately preceding the date of the close of filing of
18 declarations of candidacy or acceptances of candidacy for the office
19 which the person seeks, the person has, in accordance with NRS
20 281.050, actually, as opposed to constructively, resided in the State,
21 district, county, township or other area prescribed by law to which
22 the office pertains and, if elected, over which he or she will have
23 jurisdiction or will represent.

24 2. Any person who knowingly and willfully files ~~an~~
25 ~~acceptance of candidacy or~~ a declaration of candidacy *or*
26 *acceptance of candidacy* which contains a false statement ~~in this~~
27 ~~respect~~ *regarding the person's residency in violation of this*
28 *section* is guilty of a ~~gross misdemeanor~~ *category E felony and*
29 *shall be punished as provided in NRS 193.130.*

30 3. The provisions of this section do not apply to candidates for
31 the office of district attorney.

32 **Sec. 2.** NRS 293.177 is hereby amended to read as follows:

33 293.177 1. Except as otherwise provided in NRS 293.165, a
34 name may not be printed on a ballot to be used at a primary election
35 unless the person named has filed a declaration of candidacy or an
36 acceptance of candidacy, and has paid the fee required by NRS
37 293.193 not earlier than:

38 (a) For a candidate for judicial office, the first Monday in
39 January of the year in which the election is to be held ~~not~~ *and not*
40 later than 5 p.m. on the second Friday after the first Monday in
41 January; and

42 (b) For all other candidates, the first Monday in March of the
43 year in which the election is to be held ~~not~~ *and not* later than
44 5 p.m. on the second Friday after the first Monday in March.



2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the Party nomination for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am registered as a member of the Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since December 31 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the



office; *that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is a crime punishable as a category E felony as provided in NRS 193.130 and also subjects me to a civil action disqualifying me from entering upon the duties of the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action;* and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this day of the month of of the year

.....
Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I




am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; *that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is a crime punishable as a category E felony as provided in NRS 193.130 and also subjects me to a civil action disqualifying me from entering upon the duties of the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action;* and *that I understand that* my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this day of the month of of the year

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if  *the candidate fails to comply with the following:*



(a) The *candidate shall not list the* candidate's address ~~is listed~~ as a post office box unless a street address has not been assigned to his or her residence; ~~for~~ *and*

(b) The candidate ~~does not~~ *shall* present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; ~~for~~ *and*

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number, ~~for~~ driver's license or identification card number *or account number* of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.



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7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

8. Any person who knowingly and willfully files a declaration of candidacy or acceptance of candidacy which contains a false statement in violation of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 3. NRS 293.181 is hereby amended to read as follows:

293.181 1. A candidate for the office of State Senator, Assemblyman or Assemblywoman must execute and file with his or her declaration of candidacy or acceptance of candidacy a declaration of residency which must be in substantially the following form:

I, the undersigned, do swear or affirm under penalty of perjury that I have been a citizen resident of this State as required by NRS 218A.200 ; ***that I understand that knowingly and willfully filing a declaration of residency which contains a false statement is a crime punishable as a category E felony as provided in NRS 193.130 and also subjects me to a civil action disqualifying me from entering upon the duties of the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action;*** and ***that I*** have actually, as opposed to constructively, resided at the following residence or residences since November 1 of the preceding year:

.....
Street Address

.....
Street Address

.....
City or Town

.....
City or Town

.....
State

.....
State

From To
Dates of Residency

From To.....
Dates of Residency



1
2	Street Address	Street Address
3
4	City or Town	City or Town
5
6	State	State
7		
8	From To	From To
9	Dates of Residency	Dates of Residency
10	(Attach additional sheet or sheets of residences as necessary)	
11		

12 2. Each address of a candidate which must be included in the
13 declaration of residency pursuant to subsection 1 must be the street
14 address of the residence where the candidate actually, as opposed to
15 constructively, resided or resides in accordance with NRS 281.050,
16 if one has been assigned. The declaration of residency must not be
17 accepted for filing if any of the candidate's addresses are listed as a
18 post office box unless a street address has not been assigned to the
19 residence.

20 ***3. Any person who knowingly and willfully files a declaration***
21 ***of residency which contains a false statement in violation of this***
22 ***section is guilty of a category E felony and shall be punished as***
23 ***provided in NRS 193.130.***

24 **Sec. 4.** NRS 293.182 is hereby amended to read as follows:

25 293.182 1. After a person files a declaration of candidacy or
26 an acceptance of candidacy to be a candidate for an office, and not
27 later than 5 **working** days after the last day the person may withdraw
28 his or her candidacy pursuant to NRS 293.202, an elector may file
29 with the filing officer for the office a written challenge of the person
30 on the grounds that the person fails to meet any qualification
31 required for the office pursuant to the Constitution or ~~the~~ **laws**
32 **of this State .** ~~including, without limitation, a requirement~~
33 ~~concerning age or residency.~~ Before accepting the challenge from
34 the elector, the filing officer shall notify the elector that if the
35 challenge is found by a court to be frivolous, the elector may be
36 required to pay the reasonable attorney's fees and ~~the~~ costs of
37 the ~~challenged person.~~ **person who is being challenged.**

38 2. A challenge filed pursuant to subsection 1 must:

- 39 (a) Indicate each qualification the person fails to meet;
40 (b) Have attached all documentation and evidence supporting
41 the challenge; and
42 (c) Be in the form of an affidavit, signed by the elector under
43 penalty of perjury.



1 3. Upon receipt of a challenge pursuant to subsection 1:
2 (a) The Secretary of State shall immediately transmit the
3 challenge to the Attorney General.

4 (b) A filing officer other than the Secretary of State shall
5 immediately transmit the challenge to the district attorney.

6 4. If the Attorney General or district attorney determines that
7 probable cause exists to support the challenge, the Attorney General
8 or district attorney shall, not later than 5 working days
9 after receiving the challenge, petition a court of competent
10 jurisdiction to order the person to appear before the court. Upon
11 receipt of such a petition, the court shall enter an order directing the
12 person to appear before the court at a hearing, at a time and place to
13 be fixed by the court in the order, to show cause why the challenge
14 is not valid. A certified copy of the order must be served upon the
15 person. The court shall give priority to such proceedings over all
16 other matters pending with the court, except for criminal
17 proceedings.

18 5. If, at the hearing, the court determines by a preponderance of
19 the evidence that the challenge is valid or that the person otherwise
20 fails to meet any qualification required for the office pursuant to the
21 Constitution or ~~the statute~~ *laws* of this State, or if the person fails to
22 appear at the hearing:

23 (a) The name of the person must not appear on any ballot for the
24 election for the office for which the person filed the declaration of
25 candidacy or acceptance of candidacy; and

26 (b) The person is ~~disqualified from entering upon the duties of~~
27 ~~the office for which he or she filed the declaration of candidacy or~~
28 ~~acceptance of candidacy.~~ *subject to the provisions of section 1 of*
29 *this act.*

30 6. If, at the hearing, the court determines that the challenge is
31 frivolous, the court may order the elector who filed the challenge to
32 pay the reasonable attorney's fees and ~~the court~~ costs of the
33 ~~challenged person.~~ *person who was challenged.*

34 **Sec. 5.** NRS 293C.185 is hereby amended to read as follows:

35 293C.185 1. Except as otherwise provided in NRS 293C.115
36 and 293C.190, a name may not be printed on a ballot to be used at a
37 primary city election unless the person named has filed a declaration
38 of candidacy or an acceptance of candidacy and has paid the fee
39 established by the governing body of the city not earlier than 70
40 days before the primary city election and not later than 5 p.m. on the
41 60th day before the primary city election.

42 2. A declaration of candidacy required to be filed by this
43 section must be in substantially the following form:



DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

City of.....

For the purpose of having my name placed on the official ballot as a candidate for the office of, I,, the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; *that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is a crime punishable as a category E felony as provided in NRS 193.130 and also subjects me to a civil action disqualifying me from entering upon the duties of the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action;* and *that I understand that* my name will appear on all ballots as designated in this declaration.



.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this day of the month of of the year

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if ~~the~~ *the candidate fails to comply with the following:*

(a) The *candidate shall not list the* candidate's address ~~is listed~~ as a post office box unless a street address has not been assigned to the residence; ~~or~~ *and*

(b) The candidate ~~does not~~ *shall* present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; ~~or~~ *and*

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number , ~~or~~ driver's license or identification card number *or account number* of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally



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1 delivering to and leaving with the city clerk duplicate copies of the
2 process. The city clerk shall immediately send, by registered or
3 certified mail, one of the copies to the candidate at the specified
4 address, unless the candidate has designated in writing to the city
5 clerk a different address for that purpose, in which case the city
6 clerk shall mail the copy to the last address so designated.

7 6. If the city clerk receives credible evidence indicating that a
8 candidate has been convicted of a felony and has not had his or her
9 civil rights restored by a court of competent jurisdiction, the city
10 clerk:

11 (a) May conduct an investigation to determine whether the
12 candidate has been convicted of a felony and, if so, whether the
13 candidate has had his or her civil rights restored by a court of
14 competent jurisdiction; and

15 (b) Shall transmit the credible evidence and the findings from
16 such investigation to the city attorney.

17 7. The receipt of information by the city attorney pursuant to
18 subsection 6 must be treated as a challenge of a candidate pursuant
19 to subsections 4 and 5 of NRS 293C.186. If the ballots are printed
20 before a court of competent jurisdiction makes a determination that
21 a candidate has been convicted of a felony and has not had his or her
22 civil rights restored by a court of competent jurisdiction, the city
23 clerk must post a notice at each polling place where the candidate's
24 name will appear on the ballot informing the voters that the
25 candidate is disqualified from entering upon the duties of the office
26 for which the candidate filed the declaration of candidacy or
27 acceptance of candidacy.

28 *8. Any person who knowingly and willfully files a declaration*
29 *of candidacy or acceptance of candidacy which contains a false*
30 *statement in violation of this section is guilty of a category E*
31 *felony and shall be punished as provided in NRS 193.130.*

32 **Sec. 6.** NRS 293C.186 is hereby amended to read as follows:

33 293C.186 1. After a person files a declaration of candidacy or
34 an acceptance of candidacy to be a candidate for an office, and not
35 later than 5 working days after the last day the person may withdraw
36 his or her candidacy pursuant to NRS 293C.195, an elector may file
37 with the city clerk a written challenge of the person on the grounds
38 that the person fails to meet any qualification required for the office
39 pursuant to the constitution or ~~{a statute}~~ laws of this State . ~~};~~
40 ~~including, without limitation, a requirement concerning age or~~
41 ~~residency.}~~ Before accepting the challenge from the elector, the
42 filing officer shall notify the elector that if the challenge is found by
43 a court to be frivolous, the elector may be required to pay the
44 reasonable attorney's fees and ~~{court}~~ costs of the ~~{challenged~~
45 ~~person.}~~ *person who is being challenged.*



- 1 2. A challenge filed pursuant to subsection 1 must:
2 (a) Indicate each qualification the person fails to meet;
3 (b) Have attached all documentation and evidence supporting
4 the challenge; and
5 (c) Be in the form of an affidavit, signed by the elector under
6 penalty of perjury.

7 3. Upon receipt of a challenge pursuant to subsection 1, the
8 city clerk shall immediately transmit the challenge to the city
9 attorney.

10 4. If the city attorney determines that probable cause exists to
11 support the challenge, the city attorney shall, not later than 5
12 *working* days after receiving the challenge, petition a court of
13 competent jurisdiction to order the person to appear before the court.
14 Upon receipt of such a petition, the court shall enter an order
15 directing the person to appear before the court at a hearing, at a time
16 and place to be fixed by the court in the order, to show cause why
17 the challenge is not valid. A certified copy of the order must be
18 served upon the person. The court shall give priority to such
19 proceedings over all other matters pending with the court, except for
20 criminal proceedings.

21 5. If, at the hearing, the court determines by a preponderance of
22 the evidence that the challenge is valid or that the person otherwise
23 fails to meet any qualification required for the office pursuant to the
24 constitution or ~~{a statute}~~ *laws* of this State, or if the person fails to
25 appear at the hearing:

26 (a) The name of the person must not appear on any ballot for the
27 election for the office for which the person filed the declaration of
28 candidacy or acceptance of candidacy; and

29 (b) The person is ~~{disqualified from entering upon the duties of~~
30 ~~the office for which he or she filed the declaration of candidacy or~~
31 ~~acceptance of candidacy.}~~ *subject to the provisions of section 1 of*
32 *this act.*

33 6. If, at the hearing, the court determines that the challenge is
34 frivolous, the court may order the elector who filed the challenge to
35 pay the reasonable attorney's fees and ~~{court}~~ costs of the
36 ~~{challenged person.}~~ *person who was challenged.*

37 **Sec. 7.** NRS 293C.200 is hereby amended to read as follows:

38 293C.200 1. In addition to any other requirement provided by
39 law, no person may be a candidate for a city office unless, for at
40 least the 30 days immediately preceding the date of the close of
41 filing of declarations or acceptances of candidacy for the office that
42 the person seeks, the person has in accordance with NRS 281.050,
43 actually, as opposed to constructively, resided in the city or other
44 area prescribed by law to which the office pertains and, if elected,



1 over which he or she will have jurisdiction or which he or she will
2 represent.

3 2. Any person who knowingly and willfully files a declaration
4 of candidacy or an acceptance of candidacy ~~that~~ *which* contains a
5 false statement ~~in this respect~~ *regarding the person's residency in*
6 *violation of this section* is guilty of a ~~gross misdemeanor~~
7 *category E felony and shall be punished as provided in*
8 *NRS 193.130.*

9 **Sec. 8.** NRS 281.050 is hereby amended to read as follows:

10 281.050 1. The residence of a person with reference to *his or*
11 *her* eligibility to *any* office is the person's actual residence within
12 the State, ~~for~~ county, ~~for~~ district, *ward, subdistrict or any other*
13 *unit prescribed by law*, as the case may be, during all the period for
14 which residence is claimed by the person. If any person absents
15 himself or herself from the jurisdiction of that person's residence
16 with the intention in good faith to return without delay and continue
17 such residence, the period of absence must not be considered in
18 determining the question of residence.

19 2. If a person who has filed ~~as a candidate~~ *a declaration of*
20 *candidacy or acceptance of candidacy* for *any* elective office
21 moves the person's residence out of the State, county, district, ward,
22 subdistrict or any other unit prescribed by law ~~for which the person~~
23 ~~is a candidate and~~ *, as the case may be*, in which the person is
24 required actually, as opposed to constructively, to reside ~~to~~ *in order*
25 *for the person to be eligible to the office*, a vacancy is created
26 thereby and the appropriate action for filling the vacancy must be
27 taken. A person shall be deemed to have moved the person's
28 residence for the purposes of this section if:

29 (a) The person has acted affirmatively to remove himself or
30 herself from one place; and

31 (b) The person has an intention to remain in another place.

32 3. The district court has jurisdiction to determine the question
33 of residence in an action for declaratory judgment.

34 4. *If, in any preelection action for declaratory judgment, the*
35 *district court finds that a person who has filed a declaration of*
36 *candidacy or acceptance of candidacy for any elective office fails*
37 *to meet any qualification concerning residence required for the*
38 *office pursuant to the Constitution or laws of this State, the person*
39 *is subject to the provisions of section 1 of this act.*

40 5. As used in this section ~~to~~ *“actual”*:

41 (a) *“Actual residence”* means the place *of permanent*
42 *habitation* where a person *actually resides and* is legally domiciled
43 ~~. and maintains a permanent habitation.~~ If the person maintains
44 more than one ~~such~~ *place of permanent* habitation, the place the
45 person declares to be the person's principal permanent habitation



* A B 4 6 1 R 1 *

1 when filing a declaration *of candidacy* or ~~affidavit pursuant to NRS~~
2 ~~293.177 or 293C.185 shall be deemed to~~ *acceptance of candidacy*
3 *for any elective office must* be the ~~person's actual residence~~ *place*
4 *where the person actually resides and is legally domiciled in order*
5 *for the person to be eligible to the office.*

6 (b) *"Declaration of candidacy or acceptance of candidacy"*
7 *means a declaration of candidacy or acceptance of candidacy filed*
8 *pursuant to chapter 293 or 293C of NRS.*

9 **Sec. 9.** This act becomes effective upon passage and approval
10 for the purpose of adopting regulations and performing any other
11 preparatory administrative tasks necessary to carry out the
12 provisions of this act, and on January 1, 2016, for all other purposes.

