

Amendment No. 557

Assembly Amendment to Assembly Bill No. 21
(BDR 24-2)

Proposed by: Assembly Committee on Legislative Operations and Elections

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

KCP



Date: 4/24/2017

A.B. No. 21—Makes various changes relating to elections. (BDR 24-2)



ASSEMBLY BILL NO. 21—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE SECRETARY OF STATE)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes relating to elections. (BDR 24-2)

FISCAL NOTE: Effect on Local Government: May Have Fiscal Impact.
Effect on the State: Yes.

~

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 a preelection challenge to the qualifications of a candidate; 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; clarifying the deadlines for filing written challenges of the qualifications of candidates and determining if probable cause exists to support such challenges; requiring, under certain circumstances, that a candidate, committee for political action, committee sponsored by a political party and committee for the recall of a public officer open and maintain a separate account in ~~in a financial institution located in this State;~~ **certain financial institutions**; making changes to the definition of “actual residence” for purposes of candidacy; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, several different statutes provide that if a court finds that a candidate fails to meet certain qualifications required for office: (1) the candidate is disqualified from taking office; and (2) the name of the candidate must not appear on the ballot, except that if the candidate’s name cannot be removed from the ballot because the statutory deadline for changing the ballot has passed, a sign must be posted at each polling place where the candidate’s name will appear on the ballot informing voters that the candidate is disqualified from taking office. (NRS 293.177, 293.182, 293C.185, 293C.186) Existing law also sets forth the same remedies if a candidate files a declaration or acceptance of candidacy which contains a false statement. (NRS 293.184, 293C.1865) Finally, under existing law, there are different types of preelection court actions that may be brought to challenge a candidate on grounds that the candidate fails to meet any qualification required for ~~the~~ office. (NRS 281.050, 293.182, 293C.186 ~~in Section 11~~); *DeStefano v. Berkus*, 121 Nev. 627, 628-31 (2005); *Child v. Lomax*, 124 Nev. 600, 604-05 (2008))

To ensure consistency in this existing law, this bill revises and clarifies the remedies that are available when a candidate fails to meet any qualification required for office or files a declaration or acceptance of candidacy which contains a false statement. Sections 1.3, 1.5, 3 and 5-7.5 of this bill reorganize existing law so that the remedies available in preelection court actions are set forth clearly in section 1.3, which provides that in any preelection action where the court finds that a candidate fails to meet any qualification required for ~~that~~ office: (1) the candidate is disqualified from taking office; ~~and~~ (2) the name of the candidate must not appear on the ballot, except that if the candidate's name cannot be removed from the ballot because the statutory deadline for changing the ballot has passed, a sign must be posted at each polling place where the candidate's name will appear on the ballot informing voters that the candidate is disqualified from taking office; and (3) the court may order the candidate to pay the attorney's fees and costs of the party who brought the action, ~~including~~ other than the Attorney General or a district attorney or city attorney. Section 1.5 provides that the amount of any attorney's fees and costs awarded must be determined under the provisions of existing law governing attorney's fees and costs and the Nevada Rules of Civil Procedure.

Under existing constitutional law, Section 6 of Article 4 of the Nevada Constitution invests each House of the Legislature with certain plenary and exclusive constitutional powers which may be exercised only by that House and which cannot be usurped, infringed or impaired by the other House or by any other branch of Nevada's State Government. (*Heller v. Legislature*, 120 Nev. 456 (2004); *Commission on Ethics v. Hardy*, 125 Nev. 285 (2009); *Mason's Manual of Legislative Procedure* §§ 560-564 (2010)) To provide assistance to the reader of the statutes who may be unfamiliar with the existing constitutional law, section 1.7 of this bill reiterates well-established principles of constitutional law that any statutes relating to the qualifications, elections and returns of members or members-elect of the Legislature do not apply to the extent that they conflict or are otherwise inconsistent with any provision of Section 6 of Article 4 of the Nevada Constitution.

Existing law: (1) requires a candidate to file a declaration or acceptance of candidacy before his or her name may appear on a ballot; and (2) provides that a candidate who knowingly and willfully files a declaration or acceptance of candidacy which contains a false statement regarding residency is guilty of a gross misdemeanor. (NRS 293.1755, 293.177, 293C.185, 293C.200) Existing law also requires a candidate for election to the Legislature to file a declaration of residency with his or her declaration or acceptance of candidacy. (NRS 293.181) ~~Sections~~ To ensure consistency in this existing law, sections 2-4, 6 and 8 of this bill use uniform language to provide that a candidate who knowingly and willfully files a declaration of candidacy, acceptance of candidacy or declaration of residency which contains a false statement is guilty of a gross misdemeanor.

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

Sections 3, 4 and 6 revise the forms for a declaration or acceptance of candidacy and a declaration of residency to include a statement that the candidate understands that knowingly and willfully filing such a document which contains a false statement is a crime punishable as a gross misdemeanor and also subjects the candidate to a civil action disqualifying the candidate from taking office and making the candidate liable upon order of the court to pay the attorney's fees and costs of the party who brings the action. Sections 3 and 6 also require the candidate to present the filing officer with two types of acceptable identification and documentation as proof of the candidate's identity and residency. ~~Sections 5 and 7 of this bill clarify the~~ However, in certain limited circumstances, sections 3 and 6 allow the candidate to present the filing officer with alternative proof of the candidate's residency when a street address has not been assigned to the candidate's residence or when the rural or remote location of the candidate's residence makes it impracticable to present any of the traditional types of documentation as proof of residency.

Existing law establishes deadlines for filing certain written challenges ~~to~~ to the qualifications of candidates and ~~for~~ determining ~~whether~~ whether probable cause exists to support such challenges. ~~It~~ but the deadlines are not consistent. (NRS 293.182, 293C.186)

Sections 5 and 7 remedy the inconsistencies in the deadlines to make the deadlines uniform for all such challenges.

Existing law defines the term “actual residence” to mean the place where a candidate is legally domiciled and maintains a permanent habitation, and when a candidate maintains more than one place of permanent habitation, the place designated by the candidate as his or her principal permanent habitation is deemed to be the candidate’s actual residence. (NRS 281.050) The Nevada Supreme Court has held that the place designated by the candidate as his or her principal permanent habitation must be the place where the candidate actually resides and is legally domiciled in order for the candidate to be eligible to the office. (*Williams v. Clark County Dist. Att’y*, 118 Nev. 473, 484-86 (2002); *Chachas v. Miller*, 120 Nev. 51, 53-56 (2004)) Section 10 of this bill amends existing statutory law to reflect the holdings from the Supreme Court and also to adopt and codify the legal principles from its cases that are used for determining whether a place of permanent habitation is the place where a person actually resides and is legally domiciled.

Existing law requires a candidate to open and maintain a separate account in a financial institution for the deposit of campaign contributions once the candidate receives minimum contributions of \$100. (NRS 294A.130) Section 9 of this bill requires that the separate account be in a financial institution located in ~~this State~~, the United States. Section 9 also requires every committee for political action, committee sponsored by a political party and committee for the recall of a public officer that receives minimum contributions the sum of which, in the aggregate, is \$1,000 or more, to open a separate account in a financial institution located in ~~this State~~, the United States. Section 11 of this bill provides that every candidate, every committee for political action and committee for the recall of a public officer that is registered with the Secretary of State on July 1, 2017, and every committee sponsored by a political party that exists on July 1, 2017, must comply with the requirements of section 9 on or before June 30, 2018.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ the provisions set forth as sections 1.3, 1.5 and 1.7 of this act.

Sec. 1.3. 1. In addition to any other remedy or penalty provided by law, but except as otherwise provided in section 1.7 of this act, if a court of competent jurisdiction finds in any preelection action that a person who is a candidate for any office fails to meet any qualification required for the office pursuant to the Constitution or laws of this State:

(a) The name of the person must not appear on any ballot for the election for which the person filed a declaration of candidacy or acceptance of candidacy, except that if the statutory deadline for making changes to the ballot has passed, the provisions of subsection 2 apply;

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

~~(b)~~ (c) The court may order the person to pay the reasonable attorney’s fees and costs of the party who brought the action, ~~including, without limitation,~~ unless the party who brought the action is the Attorney General or a district attorney or city attorney.

2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election because the statutory deadline for making changes to the ballot has passed, the appropriate election officers shall post a sign at each polling place where the

person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of the office.

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

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

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

(c) Any other legal or equitable relief.

Sec. 1.5. If any provision of this chapter provides for the payment of reasonable attorney's fees or costs, the reasonable attorney's fees or costs must be determined in accordance with chapter 18 of NRS and the Nevada Rules of Civil Procedure.

Sec. 1.7. 1. The provisions of this chapter or any other provision of law relating to the qualifications, elections and returns of members or members-elect of the Legislature do not apply to the extent that they conflict or are otherwise inconsistent with any provision of Section 6 of Article 4 of the Nevada Constitution, including, without limitation, any provision relating to the jurisdiction and power of each House of the Legislature to judge of the qualifications, elections and returns of its members, punish its members for disorderly conduct or expel or remove its members from office.

2. Each House of the Legislature has plenary and exclusive jurisdiction and power concerning any matter relating to any provision of Section 6 of Article 4 of the Nevada Constitution, and a member or member-elect of the Legislature cannot be disqualified from entering upon, taking, holding or exercising any powers or duties of the office unless disqualified by his or her own House.

3. A person becomes a member-elect of the Legislature on the day next after his or her election pursuant to Sections 3 and 4 of Article 4 of the Nevada Constitution and, on and after that date:

(a) Each House of the Legislature has plenary and exclusive jurisdiction and power with regard to the member-elect concerning any matter relating to any provision of Section 6 of Article 4 of the Nevada Constitution; and

(b) No action may be brought or maintained against the member-elect or the House concerning any matter relating to any provision of Section 6 of Article 4 of the Nevada Constitution.

4. If there is a conflict between any other provision of law and the provisions of this section, the provisions of this section control.

Sec. 2. NRS 293.1755 is hereby amended to read as follows:

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

2. Any person who knowingly and willfully files ~~an acceptance of candidacy or~~ a declaration of candidacy ~~or acceptance of candidacy~~ which contains a false statement ~~in this respect~~ regarding the person's residency in violation of this section is guilty of a gross misdemeanor.

3. The provisions of this section do not apply to candidates for ~~the~~ :

(a) Any federal office.

(b) The office of district attorney.

Sec. 3. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165 ~~and~~ and 293.166, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

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

(b) For all other candidates, the first Monday in March of the year in which the election is to be held ~~not~~ and not later than 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 gross misdemeanor 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 gross misdemeanor 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~~ provisions of this subsection or, if applicable, the provisions of subsection 4:

(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; ~~and~~

(b) ~~The~~ Except as otherwise provided in subsection 4, 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; ~~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. If the candidate executes an oath or affirmation under penalty of perjury stating that the candidate is unable to present to the filing officer the proof of residency required by subsection 3 because a street address has not been assigned to the candidate's residence or because the rural or remote location of the candidate's residence makes it impracticable to present the proof of residency required by subsection 3, the candidate shall present to the filing officer:

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

(b) Alternative proof of the candidate's residential address that the filing officer determines is sufficient to verify where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050. The Secretary of State may adopt regulations establishing the forms of alternative proof of the candidate's residential address that the filing officer may accept to verify where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050.

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

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

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

7 ~~5.4~~ 6. By filing the declaration or acceptance of candidacy, the candidate
8 shall be deemed to have appointed the filing officer for the office as his or her agent
9 for service of process for the purposes of a proceeding pursuant to NRS 293.182.
10 Service of such process must first be attempted at the appropriate address as
11 specified by the candidate in the declaration or acceptance of candidacy. If the
12 candidate cannot be served at that address, service must be made by personally
13 delivering to and leaving with the filing officer duplicate copies of the process. The
14 filing officer shall immediately send, by registered or certified mail, one of the
15 copies to the candidate at the specified address, unless the candidate has designated
16 in writing to the filing officer a different address for that purpose, in which case the
17 filing officer shall mail the copy to the last address so designated.

18 ~~6.4~~ 7. If the filing officer receives credible evidence indicating that a
19 candidate has been convicted of a felony and has not had his or her civil rights
20 restored by a court of competent jurisdiction, the filing officer:

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

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

28 ~~7.4~~ 8. The receipt of information by the Attorney General or district attorney
29 pursuant to subsection ~~6.4~~ 7 must be treated as a challenge of a candidate pursuant
30 to subsections 4 and 5 of NRS 293.182. ~~1. If the ballots are printed before a court of~~
31 ~~competent jurisdiction makes a determination that a candidate has been convicted~~
32 ~~of a felony and has not had his or her civil rights restored by a court of competent~~
33 ~~jurisdiction, the filing officer must post a notice at each polling place where the~~
34 ~~candidate's name will appear on the ballot informing the voters that the candidate is~~
35 ~~disqualified from entering upon the duties of the office for which the candidate~~
36 ~~filed the declaration of candidacy or acceptance of candidacy.~~

37 ~~8.4~~ to which the provisions of section 1.3 of this act apply.

38 9. *Any person who knowingly and willfully files a declaration of candidacy*
39 *or acceptance of candidacy which contains a false statement in violation of this*
40 *section is guilty of a gross misdemeanor.*

41 **Sec. 4.** NRS 293.181 is hereby amended to read as follows:

42 293.181 1. A candidate for the office of State Senator, Assemblyman or
43 Assemblywoman must execute and file with his or her declaration of candidacy or
44 acceptance of candidacy a declaration of residency which must be in substantially
45 the following form:

46
47 I, the undersigned, do swear or affirm under penalty of perjury that I have
48 been a citizen resident of this State as required by NRS 218A.200 ; *that I*
49 *understand that knowingly and willfully filing a declaration of residency*
50 *which contains a false statement is a crime punishable as a gross*
51 *misdemeanor and also subjects me to a civil action disqualifying me from*
52 *entering upon the duties of the office and making me liable upon order of*
53 *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.....	From To.....
Dates of Residency	Dates of Residency
.....	
Street Address	Street Address
.....	
City or Town	City or Town
.....	
State	State
.....	
From To.....	From To.....
Dates of Residency	Dates of Residency
(Attach additional sheet or sheets of residences as necessary)	

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

3. Any person who knowingly and willfully files a declaration of residency which contains a false statement in violation of this section is guilty of a gross misdemeanor.

Sec. 5. NRS 293.182 is hereby amended to read as follows:

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

2. A challenge filed pursuant to subsection 1 must:

- (a) Indicate each qualification the person fails to meet;
- (b) Have attached all documentation and evidence supporting the challenge;

and
(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1:

(a) The Secretary of State shall immediately transmit the challenge to the Attorney General.

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

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

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

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

~~(b) The person is disqualified from entering upon the duties of the office for which he or she filed the declaration of candidacy or acceptance of candidacy.~~ subject to the provisions of section ~~1.3~~ 1.3 of this act.

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

Sec. 5.5. NRS 293.184 is hereby amended to read as follows:

293.184 1. In addition to any other *remedy or* penalty provided by law, if a person *knowingly and* willfully files a declaration of candidacy or acceptance of candidacy ~~knowing that the declaration of candidacy or acceptance of candidacy~~ which contains a false statement:

(a) ~~Except as otherwise provided in NRS 293.165 and 293.166, the~~ *The* name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy ~~the~~ *, except that if the statutory deadline for making changes to the ballot has passed, the provisions of subsection 2 apply;* and

(b) The person is disqualified from entering upon the duties of the office for which ~~he or she was a candidate;~~ *the person filed the declaration of candidacy or acceptance of candidacy.*

2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election ~~he~~ *is* disqualified because the *statutory* deadline ~~set forth in NRS 293.165 and 293.166~~ for making changes to the ballot has passed, the ~~Secretary of State and county clerk must~~ *appropriate election officers shall* post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of *the* office.

3. The provisions of this section may be enforced in any preelection action to which the provisions of section 1.3 of this act apply.

Sec. 6. NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS 293C.115 and 293C.190, a name may not be printed on a ballot to be used at a primary city election unless the person named has filed a declaration of candidacy or an acceptance of

1 candidacy and has paid the fee established by the governing body of the city not
2 earlier than 70 days before the primary city election and not later than 5 p.m. on the
3 60th day before the primary city election.

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

6
7 DECLARATION OF CANDIDACY OF FOR THE
8 OFFICE OF
9

10 State of Nevada

11
12 City of

13
14 For the purpose of having my name placed on the official ballot as a
15 candidate for the office of, I,, the undersigned do
16 swear or affirm under penalty of perjury that I actually, as opposed to
17 constructively, reside at, in the City or Town of,
18 County of, State of Nevada; that my actual, as opposed to
19 constructive, residence in the city, township or other area prescribed by law
20 to which the office pertains began on a date at least 30 days immediately
21 preceding the date of the close of filing of declarations of candidacy for this
22 office; that my telephone number is, and the address at which I
23 receive mail, if different than my residence, is; that I am a
24 qualified elector pursuant to Section 1 of Article 2 of the Constitution of the
25 State of Nevada; that if I have ever been convicted of treason or a felony,
26 my civil rights have been restored by a court of competent jurisdiction; that
27 if nominated as a candidate at the ensuing election I will accept the
28 nomination and not withdraw; that I will not knowingly violate any election
29 law or any law defining and prohibiting corrupt and fraudulent practices in
30 campaigns and elections in this State; that I will qualify for the office if
31 elected thereto, including, but not limited to, complying with any limitation
32 prescribed by the Constitution and laws of this State concerning the number
33 of years or terms for which a person may hold the office; *that I understand*
34 *that knowingly and willfully filing a declaration of candidacy or*
35 *acceptance of candidacy which contains a false statement is a crime*
36 *punishable as a gross misdemeanor and also subjects me to a civil action*
37 *disqualifying me from entering upon the duties of the office and making*
38 *me liable upon order of the court to pay the reasonable attorney's fees*
39 *and costs of the party who brings the action; and that I understand that*
40 *my name will appear on all ballots as designated in this declaration.*

41
42
43 (Designation of name)

44
45
46 (Signature of candidate for office)

47
48 Subscribed and sworn to before me
49 this day of the month of of the year

50
51
52 Notary Public or other person
53 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 candidate fails to comply with the following~~ provisions of this subsection or, if applicable, the provisions of subsection 4:

(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; ~~and~~

(b) ~~The~~ Except as otherwise provided in subsection 4, 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; ~~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. If the candidate executes an oath or affirmation under penalty of perjury stating that the candidate is unable to present to the filing officer the proof of residency required by subsection 3 because a street address has not been assigned to the candidate's residence or because the rural or remote location of the candidate's residence makes it impracticable to present the proof of residency required by subsection 3, the candidate shall present to the filing officer:

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

(b) Alternative proof of the candidate's residential address that the filing officer determines is sufficient to verify where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050. The Secretary of State may adopt regulations establishing the forms of alternative proof of the candidate's residential address that the filing officer may accept to verify where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050.

5. 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 ~~or~~ 4. Such a copy:

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

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

~~5.6~~ 6. 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 delivering to and leaving with the city clerk duplicate copies of the process. The city clerk 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 city clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.

~~6.7~~ 7. If the city clerk 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 city clerk:

(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 city attorney.

~~7.7. 8. The receipt of information by the city attorney pursuant to subsection 7 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. 1. 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 city clerk 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.~~

~~8.1 to which the provisions of section 1.3 of this act apply.~~

9. 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 gross misdemeanor.

Sec. 7. NRS 293C.186 is hereby amended to read as follows:

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

2. A challenge filed pursuant to subsection 1 must:

(a) Indicate each qualification the person fails to meet;

(b) Have attached all documentation and evidence supporting the challenge; and

(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

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

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

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the constitution or ~~the statute~~ **laws** of this State, or if the person fails to appear at the hearing, ~~1.~~

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

~~(b) The the person is ~~disqualified from entering upon the duties of the office for which he or she filed the declaration of candidacy or acceptance of candidacy.~~ subject to the provisions of section ~~44~~ 1.3 of this act.~~

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

Sec. 7.5. NRS 293C.1865 is hereby amended to read as follows:

293C.1865 1. In addition to any other remedy or penalty provided by law, if a person knowingly and willfully files a declaration of candidacy or acceptance of candidacy ~~knowing that the declaration of candidacy or acceptance of candidacy~~ which contains a false statement:

(a) ~~Except as otherwise provided in NRS 292.165 or 292.166, the~~ The name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy ~~44~~ , except that if the statutory deadline for making changes to the ballot has passed, the provisions of subsection 2 apply; and

(b) The person is disqualified from entering upon the duties of the office for which ~~he or she was a candidate.~~ the person filed the declaration of candidacy or acceptance of candidacy.

2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election ~~in~~ disqualified because the statutory deadline ~~set forth in NRS 292.165 and 292.166~~ for making changes to the ballot has passed, the ~~Secretary of State and city clerk must~~ appropriate election officers shall post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of the office.

3. The provisions of this section may be enforced in any preelection action to which the provisions of section 1.3 of this act apply.

Sec. 8. NRS 293C.200 is hereby amended to read as follows:

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

2. Any person who knowingly and willfully files a declaration of candidacy or ~~an~~ acceptance of candidacy ~~that~~ which contains a false statement ~~in this respect~~ regarding the person's residency in violation of this section is guilty of a gross misdemeanor.

Sec. 9. NRS 294A.130 is hereby amended to read as follows:

294A.130 1. Every candidate shall, not later than 1 week after receiving minimum contributions of \$100, open and maintain a separate account in a financial institution located in this State the United States for the deposit of any contributions received. The candidate shall not commingle the money in the account with money collected for other purposes.

2. The candidate may close the separate account if the candidate:

- (a) Was a candidate in a special election, after that election;
- (b) Lost in the primary election, after the primary election; or
- (c) Won the primary election, after the general election,

and as soon as all payments of money committed have been made.

3. Every committee for political action, committee sponsored by a political party and committee for the recall of a public officer shall, not later than 1 week after receiving contributions the sum of which, in the aggregate, is \$1,000 or more, open and maintain a separate account in a financial institution located in ~~this State~~ the United States for the deposit of any contributions received. The committee for political action, committee sponsored by a political party or committee for the recall of a public officer shall not commingle the money in the account with money collected for other purposes.

Sec. 10. NRS 281.050 is hereby amended to read as follows:

281.050 1. The residence of a person with reference to his or her eligibility to any office is the person's actual residence within the State, ~~for~~ county, ~~for~~ district, ward, subdistrict or any other unit prescribed by law, as the case may be, during all the period for which residence is claimed by the person. ~~For~~

2. Except as otherwise provided in subsections 3 and 4, if any person absents himself or herself from the jurisdiction of that person's actual residence with the intention in good faith to return without delay and continue such actual residence, the period of absence must not be considered in determining the question of residence.

~~For~~ 3. If a person who has filed ~~as a candidate~~ a declaration of candidacy or acceptance of candidacy for any elective office moves the person's actual residence out of the State, county, district, ward, subdistrict or any other unit prescribed by law ~~for which the person is a candidate and~~, as the case may be, in which the person is required actually, as opposed to constructively, to reside ~~in order for the person to be eligible to the office~~, a vacancy is created thereby and the appropriate action for filling the vacancy must be taken. ~~For~~

4. Once a person's actual residence is fixed, the person shall be deemed to have moved the person's actual residence for the purposes of this section if:

(a) The person has acted affirmatively ~~to remove~~ and has actually removed himself or herself from ~~one place, and~~ the place of permanent habitation where the person actually resided and was legally domiciled;

(b) The person has an intention to abandon the place of permanent habitation where the person actually resided and was legally domiciled; and

(c) The person has an intention to remain in another place. ~~For~~

~~2. The~~ of permanent habitation where the person actually resides and is legally domiciled.

5. Except as otherwise provided in this subsection and section 1.7 of this act, the district court has jurisdiction to determine the question of residence in ~~for~~ any preelection action for declaratory judgment. ~~For~~

~~4. If~~ brought against a person who has filed a declaration of candidacy or acceptance of candidacy for any elective office. If the question of residence relates to whether an incumbent meets any qualification concerning residence required for the term of office in which the incumbent is presently serving, the district court does not have jurisdiction to determine the question of residence in an action for declaratory judgment brought by a person pursuant to this section but has jurisdiction to determine the question of residence only in an action to declare the office vacant that is authorized by NRS 283.040 and brought by the Attorney General or the appropriate district attorney pursuant to that section.

6. Except as otherwise provided in section 1.7 of this act, if in any preelection action for declaratory judgment, the district court finds that a person who has filed a declaration of candidacy or acceptance of candidacy for any elective office fails to meet any qualification concerning residence required for

1 *the office pursuant to the Constitution or laws of this State, the person is subject*
2 *to the provisions of section ~~HH~~ 1.3 of this act.*

3 ~~HH~~ 7. *For the purposes of this section, in determining whether a place of*
4 *permanent habitation is the place where a person actually resides and is legally*
5 *domiciled:*

6 *(a) It is the public policy of this State to avoid sham residences and to ensure*
7 *that the person actually, as opposed to constructively, resides in the area*
8 *prescribed by law for the office so the person has an actual connection with the*
9 *constituents who reside in the area and has particular knowledge of their*
10 *concerns.*

11 *(b) The person may have more than one residence but only one legal*
12 *domicile, and the person's legal domicile requires both the fact of actual living in*
13 *the place and the intention to remain there as a permanent residence. If the*
14 *person temporarily leaves the person's legal domicile, or leaves for a particular*
15 *purpose, and does not take up a permanent residence in another place, then the*
16 *person's legal domicile has not changed. Once the person's legal domicile is*
17 *fixed, the fact of actual living in another place, the intention to remain in the*
18 *other place and the intention to abandon the former legal domicile must all exist*
19 *before the person's legal domicile can change.*

20 *(c) Evidence of the person's legal domicile includes, without limitation:*

21 *(1) The place where the person lives the majority of the time and the*
22 *length of time the person has lived in that place.*

23 *(2) The place where the person lives with the person's spouse or domestic*
24 *partner, if any.*

25 *(3) The place where the person lives with the person's children,*
26 *dependents or relatives, if any.*

27 *(4) The place where the person lives with any other individual whose*
28 *relationship with the person is substantially similar to a relationship with a*
29 *spouse, domestic partner, child, dependent or relative.*

30 *(5) The place where the person's dogs, cats or other pets, if any, live.*

31 *(6) The place listed as the person's residential address on the voter*
32 *registration card issued to the person pursuant to NRS 293.517.*

33 *(7) The place listed as the person's residential address on any driver's*
34 *license or identification card issued to the person by the Department of Motor*
35 *Vehicles, any passport or military identification card issued to the person by a*
36 *United States or any other form of identification issued to the person by a*
37 *governmental agency.*

38 *(8) The place listed as the person's residential address on any*
39 *registration for a motor vehicle issued to the person by the Department of Motor*
40 *Vehicles or any registration for another type of vehicle or mode of transportation,*
41 *including, without limitation, any aircraft, vessels or watercraft, issued to the*
42 *person by a governmental agency.*

43 *(9) The place listed as the person's residential address on any*
44 *applications for issuance or renewal of any license, certificate, registration,*
45 *permit or similar type of authorization issued to the person by a governmental*
46 *agency which has the authority to regulate an occupation or profession.*

47 *(10) The place listed as the person's residential address on any document*
48 *which the person is authorized or required by law to file or record with a*
49 *governmental agency, including, without limitation, any deed, declaration of*
50 *homestead or other record of real or personal property, any applications for*
51 *services, privileges or benefits or any tax documents, forms or returns, but*
52 *excluding the person's declaration of candidacy or acceptance of candidacy.*

(11) The place listed as the person's residential address on any type of check, payment, benefit or reimbursement issued to the person by a governmental agency or by any type of company that provides insurance, workers' compensation, health care or medical benefits or any self-insured employer or third-party administrator.

(12) The place listed as the person's residential address on the person's paycheck, paystub or employment records.

(13) The place listed as the person's residential address on the person's bank statements, insurance statements, mortgage statements, loan statements, financial accounts, credit card accounts, utility accounts or other billing statements or accounts.

(14) The place where the person receives mail or deliveries from the United States Postal Service or commercial carriers.

(d) The evidence listed in paragraph (c) is intended to be illustrative and is not intended to be exhaustive or exclusive. The presence or absence of any particular type of evidence listed in paragraph (c) is not, by itself, determinative of the person's legal domicile, but such a determination must be based upon all the facts and circumstances of the person's particular case.

8. As used in this section ~~the~~ "actual":

(a) "Actual residence" means the place of permanent habitation where a person actually resides and is legally domiciled. ~~and maintains a permanent habitation.~~ If the person maintains more than one ~~such~~ place of permanent habitation, the place the person declares to be the person's principal permanent habitation when filing a declaration of candidacy or ~~affidavit pursuant to NRS 293.177 or 293C.185 shall be deemed to~~ acceptance of candidacy for any elective office must be the ~~person's actual residence.~~ place where the person actually resides and is legally domiciled in order for the person to be eligible to the office.

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

Sec. 11. 1. Every person who is a candidate on July 1, 2017, every committee for political action and committee for the recall of a public officer that is registered with the Secretary of State pursuant to NRS 294A.230 or 294A.250, as applicable, on July 1, 2017, and every committee sponsored by a political party that exists on July 1, 2017, shall comply with the requirements of NRS 294A.130, as amended by section 9 of this act, on or before June 30, 2018. If any such candidate or committee does not comply with the requirements of NRS 294A.130, as amended by section 9 of this act, on or before June 30, 2018, the Secretary of State may take action against the candidate or committee pursuant to NRS 294A.410 or 294A.420.

2. As soon as practicable after July 1, 2017, the Secretary of State shall notify each committee for political action and committee for the recall of a public officer that is registered with the Secretary of State pursuant to NRS 294A.230 or 294A.250, as applicable, on July 1, 2017, of:

(a) The requirements of NRS 294A.130, as amended by section 9 of this act; and

(b) The requirements of subsection 1.

3. As used in this section:

(a) "Candidate" has the meaning ascribed to it in NRS 294A.005.

(b) "Committee for political action" has the meaning ascribed to it in NRS 294A.0055.

(c) "Committee for the recall of a public officer" has the meaning ascribed to it in NRS 294A.006.

1 (d) "Committee sponsored by a political party" has the meaning ascribed to it
2 in NRS 294A.0065.

3 **Sec. 12.** This act becomes effective:

4 1. Upon passage and approval for the purpose of performing any preparatory
5 administrative tasks necessary to carry out the provisions of this act; and

6 2. On July 1, 2017, for all other purposes.