

1 **§3-5-7. Filing announcements of candidacies; requirements;**
2 **withdrawal of candidates when section applicable.**

3 (a) Any person who is eligible and seeks to hold an office or
4 political party position to be filled by election in any primary or
5 general election held under the provisions of this chapter shall
6 file a certificate of announcement declaring his or her candidacy
7 for the nomination or election to the office.

8 (b) The certificate of announcement shall be filed as follows:

9 (1) Candidates for the House of Delegates or the state Senate
10 and any other office or political position to be filled by the
11 voters of more than one county shall file a certificate of
12 announcement with the Secretary of State.

13 (2) Candidates for an office or political position to be
14 filled by the voters of a single county or a subdivision of a
15 county, except for candidates for the House of Delegates or State
16 Senate, shall file a certificate of announcement with the clerk of
17 the county commission.

18 (3) Candidates for an office to be filled by the voters of a
19 municipality shall file a certificate of announcement with the
20 recorder or city clerk.

21 (c) The certificate of announcement shall be filed with the
22 proper officer not earlier than the second Monday in January next
23 preceding the primary election day, and not later than the last

1 Saturday in January next preceding the primary election day, and
2 must be received before midnight, eastern standard time, of that
3 day or, if mailed, shall be postmarked by the United States Postal
4 Service before that hour.

5 (d) The certificate of announcement shall be on a form
6 prescribed by the Secretary of State on which the candidate shall
7 make a sworn statement before a notary public or other officer
8 authorized to administer oaths, containing the following
9 information:

10 (1) The date of the election in which the candidate seeks to
11 appear on the ballot;

12 (2) The name of the office sought; the district, if any; and
13 the division, if any;

14 (3) The legal name of the candidate and the exact name the
15 candidate desires to appear on the ballot, subject to limitations
16 prescribed in section thirteen, article five of this chapter;

17 (4) The county of residence and a statement that the candidate
18 is a legally qualified voter of that county; and the magisterial
19 district of residence for candidates elected from magisterial
20 districts or under magisterial district limitations;

21 (5) The specific address designating the location at which the
22 candidate resides at the time of filing, including number and
23 street or rural route and box number and city, state and zip code;

1 (6) For partisan elections, the name of the candidate's
2 political party and a statement that the candidate: (A) Is a member
3 of and affiliated with that political party as evidenced by the
4 candidate's ~~current~~ registration as a voter affiliated with that
5 party, and (B) Has ~~not~~ been registered as a voter affiliated with
6 ~~any other~~ that political party for a period of sixty days before
7 the date of filing the announcement.

8 (7) For candidates for delegate to national convention, the
9 name of the presidential candidate to be listed on the ballot as
10 the preference of the candidate on the first convention ballot; or
11 a statement that the candidate prefers to remain "uncommitted";

12 (8) A statement that the person filing the certificate of
13 announcement is a candidate for the office in good faith;

14 (9) The words "subscribed and sworn to before me this _____
15 day of _____, 20____" and a space for the signature of the
16 officer giving the oath.

17 (e) The Secretary of State or the board of ballot
18 commissioners, as the case may be, may refuse to certify the
19 candidacy or may remove the certification of the candidacy upon
20 receipt of a certified copy of the voter's registration record of
21 the candidate showing that the candidate was registered as a voter
22 in a party other than the one named in the certificate of
23 announcement during the sixty days immediately preceding the filing

1 of the certificate: *Provided*, That unless a signed formal
2 complaint of violation of this section and the certified copy of
3 the voter's registration record of the candidate are filed with the
4 officer receiving that candidate's certificate of announcement no
5 later than ten days following the close of the filing period, the
6 candidate may not be refused certification for this reason.

7 (f) The certificate of announcement shall be subscribed and
8 sworn to by the candidate before some officer qualified to
9 administer oaths, who shall certify the same. Any person who
10 knowingly provides false information on the certificate is guilty
11 of false swearing and shall be punished in accordance with section
12 three, article nine of this chapter.

13 (g) Any candidate for delegate to a national convention may
14 change his or her statement of presidential preference by notifying
15 the Secretary of State by letter received by the Secretary of State
16 no later than the third Tuesday following the close of candidate
17 filing. When the rules of the political party allow each
18 presidential candidate to approve or reject candidates for delegate
19 to convention who may appear on the ballot as committed to that
20 presidential candidate, the presidential candidate or the
21 candidate's committee on his or her behalf may file a list of
22 approved or rejected candidates for delegate and the Secretary of
23 State shall list as "uncommitted" any candidate for delegate who is

1 disapproved by the presidential candidate.

2 (h) A person may not be a candidate for more than one office
3 or office division at any election: *Provided*, That a candidate for
4 an office may also be a candidate for President of the United
5 States, for membership on political party executive committees or
6 for delegate to a political party national convention.

7 (i) A candidate who files a certificate of announcement for
8 more than one office or division and does not withdraw, as provided
9 by section eleven, article five of this chapter, from all but one
10 office prior to the close of the filing period may not be certified
11 by the Secretary of State or placed on the ballot for any office by
12 the board of ballot commissioners.

13 (j) The provisions of this section enacted during the regular
14 session of the Legislature in the year 1991 shall apply to the
15 primary election held in the year 1992 and every primary election
16 held thereafter. The provisions of this section enacted during the
17 regular session of the Legislature in the year 2009 shall apply to
18 the primary election held in the year 2010 and every primary
19 election held thereafter.

20 **§3-5-22. Other party nominations; procedure.**

21 Any political party which polled less than ten percent of the
22 total vote cast only for Governor at the general election
23 immediately preceding may nominate candidates and select committees

1 by party conventions, provided such nominations are made and the
2 certificates thereof filed within the time and in the manner
3 provided in section twenty-four of this article. ~~or by certificate~~
4 ~~in the same manner as groups of citizens may make nominations as~~
5 ~~provided in the following section~~

6 No delegate or person participating in the selection of
7 delegates under this section shall vote in any primary election
8 held in that year.

9 A political party choosing to nominate candidates by
10 convention under this section may not also nominate candidates by
11 primary election in the same election year. If a political party
12 with the option of nominating candidates under this section chooses
13 to nominate candidates by primary election, it must provide written
14 notice of intent to conduct a primary election to the Secretary of
15 State no later than twenty-eight days before the start of the
16 candidate filing period and is thereupon precluded from nominating
17 candidates by convention under this section. A political party
18 failing to provide such notice of intent to the Secretary of State
19 may only nominate candidates by convention under this section.

NOTE: The purpose of this bill is to require a candidate in a partisan election to have been affiliated with the same political party for a period of sixty days before filing a certificate of announcement of candidacy. The bill also provides that a political party may not nominate candidates both by party convention pursuant to §3-5-22 and by primary election during the same election year,

and the party must provide notice to the Secretary of State if nominating by primary election. Language in §3-5-22 which is inconsistent with §3-5-23 is also removed.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.