

120.095 Recount of primary.

- (1) Any candidate voted for at a primary held under KRS 118.015 to 118.035 and 118.105 to 118.255 may request a recount of the ballots by filing a petition with the same court that contest petitions are required to be filed with, within ten (10) days after the day of the primary, or, if the candidate is qualified to bring a contest proceeding under KRS 120.055, by including a request for a recount in his or her petition instituting the contest proceedings. Any candidate who is a contestee in a contest proceeding under KRS 120.055 may request a recount in his or her answer filed in the contest proceeding, but in that case the answer shall be filed within five (5) days after the service of process on the petition. When a request for a recount is made, the State Board of Elections or the county board of elections, whichever would issue the certificate of nomination, shall be made a party defendant. The party requesting the recount shall execute a bond with approved surety for the costs of the recount, in an amount to be fixed by the Circuit Judge. Upon the bond being filed, the clerk shall immediately notify the Circuit Judge of the request and the filing of the bond, and the judge shall at once enter an order directing custody of the voting machines, voting equipment, or voting system, the ballots, boxes, and all papers pertaining to the election to be transferred to the Circuit Court, and fix a day for the recount proceedings to begin. A copy of the order shall be served upon the parties or their counsel in the same manner as notices are required to be served, which shall be deemed sufficient notice of the proceeding. On the day fixed, the court shall proceed to recount the ballots if their integrity is satisfactorily shown and shall complete the recount as soon as practicable, and file and enter of record the results thereof, and direct the state board or county board, whichever would issue the certificate of nomination, to issue a certificate to the party entitled thereto as shown by the recount.
- (2) Any party may appeal from the judgment to the Court of Appeals, in the same manner as provided in KRS 120.075, all of the provisions of which statute shall be applicable.
- (3) If a proceeding for recount is asked and prosecuted in a contest proceeding, it shall not await the preparation or trial of the contest in the Circuit Court or in the Court of Appeals. The action of the courts shall be final, concluding the parties as to the question of a recount of the ballots, and certificates shall then be issued to the parties entitled thereto.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 197, sec. 67, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 88, sec. 9, effective July 15, 2020. -- Amended 1992 Ky. Acts ch. 288, sec. 43, effective July 14, 1992. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 135, effective January 2, 1978. -- Created 1974 Ky. Acts ch. 130, sec. 162.