

118.176 Challenging bona fides of candidate.

- (1) A "bona fide" candidate means one who is seeking nomination in a primary or election in a special or regular election according to law.
- (2) The bona fides of any candidate seeking nomination as the nominee of a political party or a nonpartisan or judicial nominee in a primary or election to an office as a member of a political organization, political group, or as an independent in a special or regular election may be questioned by any qualified voter entitled to vote for the candidate or by an opposing candidate by summary proceedings consisting of a motion before the Circuit Court of the judicial circuit in which the candidate whose bona fides is questioned resides. An action regarding the bona fides of the nominee of a political party or a nonpartisan or judicial nominee may be commenced at any time prior to the primary. An action regarding the bona fides for election to an office as a member of a political organization, political group, or as an independent may be commenced at any time prior to a special or regular election. The motion shall be tried summarily and without delay. Proof may be heard orally, and upon motion of either party shall be officially reported. If the Circuit Judge of the circuit in which the proceeding is filed is disqualified or absent from the county or is herself or himself a candidate, the proceeding may be presented to, heard and determined by the Circuit Judge of any adjoining judicial circuit.
- (3) In any action or proceeding under this section the burden of proof as to the bona fides of a candidate shall be on the person challenging the bona fides of a candidate.
- (4) If the court finds the candidate is not a bona fide candidate it shall so order, and certify the fact to the board of elections, and the candidate's name shall be stricken from the written designation of election officers filed with the board of elections or the court may refuse recognition or relief in a mandatory or injunctive way. The order of the Circuit Court shall be entered on the order book of the court and shall be subject to a motion to set aside in the Court of Appeals. The motion shall be heard by the Court of Appeals or a judge thereof in the manner provided for dissolving or granting injunctions, except that the motion shall be made before the court or judge within five (5) days after the entry of the order in the Circuit Court, and may be heard and tried upon the original papers, and the order of the Court of Appeals or judge thereof shall be final.
- (5) No person shall approach the Circuit Judge for the purpose or view of influencing his or her decision on the motion pending before the Circuit Judge or to be tried by him or her.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 197, sec. 76, effective June 29, 2021. -- Amended 2010 Ky. Acts ch. 123, sec. 1, effective July 15, 2010. -- Amended 2001 Ky. Acts ch. 52, sec. 1, effective June 21, 2001. -- Amended 1984 Ky. Acts ch. 413, sec. 2, effective April 11, 1984. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 131, effective January 2, 1978. -- Amended 1976 Ky. Acts ch. 62, sec. 86, effective June 19 1976; and ch. 247, sec. 7, effective June 19 1976. -- Created 1974 Ky. Acts ch. 130, sec. 107, effective June 21, 1974.