

1 HOUSE BILL NO. 479

2 INTRODUCED BY L. SCHUBERT, S. KELLY, S. KLAKKEN, E. ALBUS, K. LOVE, T. SHARP, C. HINKLE, G.
3 KMETZ, B. MITCHELL, Z. WIRTH, J. HINKLE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CANDIDATES TO DISCLOSE THEIR CITIZENSHIP
6 STATUS; REQUIRING CANDIDATES TO LIST THEIR OTHER NATION OR NATIONS OF CITIZENSHIP;
7 REQUIRING CANDIDATE CITIZENSHIP INFORMATION TO BE PUBLICLY AVAILABLE; AMENDING
8 SECTIONS 13-10-201, 13-10-211, AND 13-14-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
9 DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 13-10-201, MCA, is amended to read:

14 **"13-10-201. Declaration for nomination -- term limitations.** (1) Each candidate in the primary
15 election, except nonpartisan candidates filing under the provisions of Title 13, chapter 14, shall file a declaration
16 for nomination with the secretary of state or election administrator. Except for a candidate under 13-38-201(4)
17 or a candidate covered under 7-1-205, a candidate may not file for more than one public office. Each candidate
18 for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

19 (2) A declaration for nomination must be filed in the office of:

20 (a) the secretary of state for placement of a name on the ballot for the presidential preference
21 primary, a congressional office, a state or district office to be voted for in more than one county, a member of
22 the legislature, or a judge of the district court; or

23 (b) the election administrator for a county, municipal, precinct, or district office (other than a
24 member of the legislature or a judge of the district court) to be voted for in only one county.

25 (3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case
26 of an indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the
27 secretary of state, the declaration for nomination must be acknowledged by an officer empowered to
28 acknowledge signatures or by the officer of the office at which the filing is made.

1 (4) (a) The declaration for nomination must include an oath of the candidate that includes wording
2 substantially as follows: "I hereby affirm that I possess, or will possess within constitutional and statutory
3 deadlines, the qualifications prescribed by the Montana constitution and the laws of the United States and the
4 state of Montana." The candidate affirmation included in this oath is presumed to be valid unless proven
5 otherwise in a court of law.

6 (b) The declaration for nomination must include a question that the candidate is required to
7 complete about whether the candidate has citizenship of any nation except the United States or a federally
8 recognized Indian tribe. The question must also require the candidate to list their other nation or nations of
9 citizenship, as applicable.

10 (c) The information required in subsection (4)(b) must be posted online in a publicly available place
11 by the secretary of state.

12 (5) The declaration, when filed, is conclusive evidence that the elector is a candidate for
13 nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one
14 party's nomination.

15 (6) (a) The declaration for nomination must be in the form and contain the information prescribed
16 by the secretary of state.

17 (b) A person seeking nomination to the legislature shall provide the secretary of state with a street
18 address, legal description, or road designation to indicate the person's place of residence. If a candidate for the
19 legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state
20 on a form prescribed by the secretary of state.

21 (c) The secretary of state and election administrator shall furnish declaration for nomination forms
22 to individuals requesting them.

23 (7) Except as provided in 13-10-211, a candidate's declaration for nomination must be filed no
24 sooner than 145 days before the election in which the office first appears on the ballot and no later than 5 p.m.,
25 85 days before the date of the primary election.

26 (8) A properly completed and signed declaration for nomination form may be sent by facsimile
27 transmission, electronically mailed, delivered in person, or mailed to the election administrator or to the
28 secretary of state.

(9) For the purposes of implementing Article IV, section 8, of the Montana constitution, the secretary of state shall apply the following conditions:

(a) A term of office for an official serving in the office or a candidate seeking the office is considered to begin on January 1 of the term for which the official is elected or for which the candidate seeks election and to end on December 31 of the term for which the official is elected or for which the candidate seeks election.

(b) A year is considered to start on January 1 and to end on the following December 31.

(c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning provided in 2-16-214."

Section 2. Section 13-10-211, MCA, is amended to read:

"13-10-211. Declaration of intent for write-in candidates. (1) A person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. Except for a candidate under 13-38-201(4) or a candidate covered under 7-1-205, a candidate may not file for more than one public office. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. When a county election administrator is conducting the election for a school district, the school district clerk or school district office that receives the declaration of intent shall notify the county election administrator of the filing. Except as provided in 13-1-403, 13-1-503, 20-3-305(3)(b), and subsection (2) of this section, the declaration must be filed no later than 5 p.m. on the 10th day before the earliest date established under 13-13-205 on which a ballot must be available and must contain:

(a) the candidate's name, including:

(i) the candidate's first and last names;

(ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;

(iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name;

and

(iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last

1 name;
2 (b) the candidate's mailing address;
3 (c) a statement declaring the candidate's intention to be a write-in candidate;
4 (d) the title of the office sought;
5 (e) the date of the election;
6 (f) the date of the declaration; and
7 (g) the candidate's status as a citizen of any nation except the United States or a federally
8 recognized Indian tribe. The declaration must also include the candidate's nation or nations of citizenship and a
9 list of the nation or nations of citizenship, as applicable.

10 ~~(g)~~(h) the candidate's signature.

11 (2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later
12 than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the
13 office that the write-in candidate is seeking dies or is charged with a felony offense and if the election has not
14 been canceled as provided by law.

15 (3) The secretary of state shall notify each election administrator of the names of write-in
16 candidates who have filed a declaration of intent with the secretary of state. Each election administrator shall
17 notify the election judges in the county or district of the names of write-in candidates who have filed a
18 declaration of intent.

19 (4) A properly completed and signed declaration of intent may be provided to the election
20 administrator or secretary of state:

21 (a) by facsimile transmission;
22 (b) in person;
23 (c) by mail; or
24 (d) by electronic mail.

25 (5) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the
26 secretary of state or the election administrator.

27 (6) A write-in candidate who files a declaration of intent for a general election may not file with a
28 partisan, nonpartisan, or independent designation.

(7) The information required in subsection (1)(g) must be posted online in a publicly available place by the secretary of state."

Section 3. Section 13-14-112, MCA, is amended to read:

"13-14-112. Declarations for nomination -- fee -- filing. (1) Nonpartisan candidates shall file declarations for nomination as required by the primary election laws in a form prescribed by the secretary of state except as provided in 13-14-113. Except for a candidate covered under 7-1-205, a candidate may not file for more than one public office.

(2) Declarations may not indicate political affiliation. The candidate may not state in the declaration any principles or measures that the candidate advocates or any slogans.

(3) (a) The declaration for nomination must include a question that the candidate is required to complete about whether the candidate has citizenship of any nation except the United States or a federally recognized Indian tribe. The question must also require the candidate to list their other nation or nations of citizenship, as applicable.

(b) The information required in subsection (3)(a) must be posted online in a publicly available place by the secretary of state.

~~(3)~~(4) Each individual filing a declaration shall pay the fee prescribed by law for the office that the individual seeks.

~~(4)~~(5) Declarations must be filed:

(a) in the office of the secretary of state or the appropriate election administrator as provided in 13-10-201; and

(b) within the filing period provided in 13-10-201(7) for the office that the individual seeks."

NEW SECTION. **Section 4. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

- END -