

2020 Regular Session

HOUSE BILL NO. 110

BY REPRESENTATIVE GREGORY MILLER

ELECTIONS/CANDIDATES: Provides relative to methods of service of process regarding actions objecting to candidacy and contesting an election

1 AN ACT

2 To amend and reenact R.S. 18:1408, relative to actions objecting to candidacy and
3 contesting elections; to provide relative to the notification of the defendant in such
4 an action; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 18:1408 is hereby amended and reenacted to read as follows:

7 §1408. Service of process; sending notice and copies; documents to be filed

8 A. If service of process is to be made on the appointed agent, as authorized
9 by R.S. 18:1407, such service shall be made by serving citation on this agent, but at
10 the same time that service is made on the appointed agent, a diligent effort shall be
11 made to make personal service on the defendant at his domiciliary address as shown
12 by his qualifying papers on his notice of candidacy.

13 B. ~~When service is made on the appointed agent, he shall immediately send~~
14 ~~notice thereof, together with a copy of the citation, by certified mail, return receipt~~
15 ~~requested, or by commercial courier as defined in R.S. 13:3204(D), when the person~~
16 ~~to be served is located outside of this state, to addressee only, to the defendant at his~~
17 ~~domiciliary address as listed in his notice of candidacy. If the appointed agent has~~
18 ~~reason to believe that the candidate is temporarily absent from his domiciliary~~
19 ~~address as listed in his notice of candidacy, he shall give additional notice to the~~
20 ~~candidate in the manner required by this Subsection by mailing a copy of the citation~~

1 ~~to any place where the candidate temporarily resides.~~ When service is made on the
 2 appointed agent, he shall immediately notify the defendant by telephone and send
 3 notice thereof, together with a copy of the citation, by electronic mail to the address
 4 listed on his notice of candidacy. If the defendant did not list an electronic mail
 5 address on his notice of candidacy, the appointed agent shall mail a copy of the
 6 citation to the defendant at his domiciliary address as listed on his notice of
 7 candidacy.

8 ~~C. Proof of mailing, certified by the official mark of the United States Postal~~
 9 ~~Service, or by commercial courier as defined in R.S. 13:3204(D), when the person~~
 10 ~~to be served is located outside of this state, along with the return receipt if received~~
 11 ~~by the agent, shall be filed in the proceedings.~~

12 ~~D. C.~~ Service of process on and citation of the appointed agent, together with
 13 the posting of the petition as provided in R.S. 18:1406, shall be sufficient service to
 14 give the trial court jurisdiction over the person of the defendant.

15 Section 2. This Act shall become effective on February 1, 2021.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 110 Engrossed

2020 Regular Session

Gregory Miller

Abstract: Relative to elections, provides relative to the notification of a defendant regarding an action objecting to candidacy or contesting an election.

Present law provides for qualifying for elective office and conducting of elections including procedures for objecting to candidacy and contesting an election. Provides that by filing notice of candidacy, a candidate appoints the clerk of court for each parish in which he is to be voted on as his agent for service of process in any action objecting to his candidacy or contesting his election.

Present law provides that if service of process is made on the appointed agent in an action objecting to candidacy or contesting an election, service is made by serving a citation. Requires that a diligent effort be made to make personal service on the defendant at his domiciliary address as shown by his qualifying papers.

Proposed law retains present law.

Present law provides that when service is made on the appointed agent, he shall send notice, together with a copy of the citation, by certified mail, return receipt requested, or by commercial courier when the person to be served is located outside of this state, to addressee

only, to the defendant at his domiciliary address as listed in his notice of candidacy. If the appointed agent has reason to believe that the candidate is temporarily absent from his domiciliary address, the agent shall mail a copy of the citation to any place where the candidate temporarily resides.

Proposed law provides instead that when service is made on the appointed agent, he shall immediately notify the defendant by telephone and send notice thereof, together with a copy of the citation, by electronic mail to the address listed on his notice of candidacy. If the defendant did not list an electronic mail address on his notice of candidacy, the appointed agent shall mail a copy of the citation to the defendant at his domiciliary address as listed on his notice of candidacy.

Present law requires that proof of mailing be filed in the proceedings. Proposed law repeals present law.

Effective February 1, 2021.

(Amends R.S. 18:1408)