

Regular Session, 2014

HOUSE BILL NO. 443

BY REPRESENTATIVE HUVAL

SECRETARY OF STATE: Requires the secretary of state to compare the names of candidates with certain criminal history records and to inform the district attorney of his findings under certain circumstances

1 AN ACT

2 To amend and reenact R.S. 44:9(F) and (G) and to enact R.S. 18:470(A)(4) and 491(D),
3 relative to elections; to provide relative to qualifying for an election; to provide
4 relative to the authority and duties of the secretary of state; to provide relative to the
5 authority and duties of district attorneys; to require the secretary of state to compare
6 the names of candidates with certain criminal history records and to inform the
7 appropriate district attorney of his findings under certain circumstances; to require
8 the district attorney to determine whether an action objecting to candidacy should be
9 initiated under certain circumstances; to require the district attorney to initiate an
10 action objecting to candidacy under certain circumstances; and to provide for related
11 matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 18:470(A)(4) and 491(D) are hereby enacted to read as follows:

14 §470. Disposition of notices of candidacy; qualifying fees; nomination petitions

15 A. Notices of candidacy.

16 * * *

17 (4)(a) Upon receipt of a notice of candidacy and upon receiving the certified
18 list of candidates from the clerk of court, the secretary of state shall compare the
19 name of each candidate against the records of the Department of Public Safety and

1 Corrections maintained pursuant to R.S. 44:9(F) and (G) to determine whether any
2 candidate might be disqualified from seeking or holding public office pursuant to
3 Article I, Section 10 of the Constitution of Louisiana.

4 (b) If the secretary of state determines there is reason to believe that a
5 candidate might be disqualified from seeking or holding public office pursuant to
6 Article I, Section 10 of the Constitution of Louisiana, the secretary of state shall
7 inform the district attorney in the appropriate parish.

8 * * *

9 §491. Standing to object to candidacy

10 * * *

11 D. If a district attorney receives information concerning a candidate from the
12 secretary of state pursuant to R.S. 18:470(A)(4), the district attorney shall determine
13 whether there are grounds for objecting to such candidacy, and if the district attorney
14 determines that such grounds exist, the district attorney shall file an action objecting
15 to such candidacy as provided in this Subpart.

16 Section 2. R.S. 44:9(F) and (G) are hereby amended and reenacted to read as follows:

17 §9. Records of violations of municipal ordinances and of state statutes classified as
18 a misdemeanor or felony

19 * * *

20 F. For investigative purposes only, the Department of Public Safety and
21 Corrections may maintain a confidential, nonpublic record of the arrest and
22 disposition. Upon specific request therefor and on a confidential basis, the
23 information contained in this record may be released to the following entities who
24 shall maintain the confidentiality of such record: any law enforcement agency,
25 criminal justice agency, the office of financial institutions, the Louisiana State Board
26 of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State
27 Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the
28 Louisiana Board of Pharmacy, the Louisiana State Board of Social Work Examiners,
29 the Emergency Medical Services Certification Commission, Louisiana Attorney

U.S. or of any foreign government or country of a crime which, if committed in La., would be a felony and who has exhausted all legal remedies and has not afterwards been pardoned either by the governor of La. or by the officer of the state, nation, government or country having such authority to pardon in the place where the person was convicted and sentenced.

- (2) A person actually under an order of imprisonment for conviction of a felony.

Present constitution provides, however, that a person who desires to qualify as a candidate for or hold an elective office, who has been convicted of a felony and who has served his sentence, but has not been pardoned for such felony, shall be permitted to qualify as a candidate for or hold such office if the date of his qualifying for such office is more than 15 years after the date of the completion of his original sentence.

Present law (R.S. 18:461 and 463) requires a person who desires to become a candidate in an election to qualify by timely filing notice of his candidacy. Provides for the content of the notice; requires, among other things, the candidate's name, the office he seeks, the address of his domicile, and the parish, ward, and precinct where he is registered to vote.

Present law (R.S. 18:462) provides that state candidates qualify with the secretary of state and that local and municipal candidates qualify with the clerk of court for the parish in which the candidate is registered to vote.

Present law (R.S. 18:470) provides that after the close of the qualifying period, the secretary of state shall transmit a list of the candidates who have qualified with him to the clerk of court in each parish in which the office is to be voted on. Provides that after the close of the qualifying period for candidates in a primary election, the clerk of court shall immediately transmit to the secretary of state a certified list of the candidates for each office who have qualified with him. Requires the list to include the name of each candidate as the candidate designated his name to appear on the ballot on his notice of candidacy form.

Proposed law provides that upon receipt of a notice of candidacy and upon receiving the certified list of candidates from the clerk of court, the secretary of state shall compare the name of each candidate against the records of the Dept. of Public Safety and Corrections maintained pursuant to present law (R.S. 44:9(F) and (G)) to determine whether any candidate might be disqualified from seeking or holding public office pursuant to present constitution. Provides that if the secretary of state determines there is reason to believe that a candidate might be disqualified from seeking or holding public office pursuant to present constitution, the secretary of state shall inform the district attorney in the appropriate parish.

Present law (R.S. 18:491) relative to objections to candidacy provides that a registered voter may bring an action objection to the candidacy of a person who qualified as a candidate in an election for an office for which the voter is qualified to vote. Provides that a registered voter may present evidence that a candidate has illegally qualified for elective office to the respective parish district attorney, who shall determine whether or not the evidence presented establishes grounds for objecting to such candidacy and if the district attorney makes such a determination he shall file an action objecting to candidacy within the time limitation provided in present law (R.S. 18:493).

Proposed law retains present law and additionally provides that if a district attorney receives information concerning a candidate from the secretary of state pursuant to proposed law, the district attorney shall determine whether there are grounds for objecting to such candidacy, and if the district attorney determines that such grounds exist, the district attorney shall file an action objecting to candidacy as provided in present law.

Present law (R.S. 44:9) provides for the expungement of records of arrest and conviction. Provides for expungement of felony convictions under certain limited circumstances. Provides procedures and requirements. Provides that for investigative purposes, the Dept.

of Public Safety and Corrections may maintain a confidential, nonpublic record of arrest and disposition. Provides that upon specific request, the information in the record may be released to certain specified entities.

Proposed law retains present law and adds the secretary of state to the list of entities that may access the expungement records of the Dept. of Public Safety and Corrections.

(Amends R.S. 44:9(F) and (G); Adds R.S. 18:470(A)(4) and 491(D))