

SENATE AMENDMENTS

2nd Printing

By: Guillen, et al.

H.B. No. 4555

A BILL TO BE ENTITLED

AN ACT

relating to an application for a place on a ballot filed by a person convicted of a felony.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 141.031, Election Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A person who has been convicted of a felony shall include in the application proof that the person is eligible for public office under Section 141.001(a)(4).

SECTION 2. The change in law made by this Act applies to an application for a place on the ballot filed on or after the effective date of this Act. An application for a place on the ballot filed before the effective date of this Act is covered by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2021.

ADOPTED

MAY 25 2021

By:

J. J. Hing

Lacey Law
Secretary of the Senate

H.B. No. 4555

Substitute the following for H.B. No. 4555 :

By:

Ladislav Lucio

C.S. H.B. No. 4555

A BILL TO BE ENTITLED

AN ACT

relating to an application for a place on a ballot filed by a person convicted of a felony and to the general requirements of an application for a place on a ballot; decreasing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 141.031, Election Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A candidate's application for a place on the ballot that is required by this code must:

(1) be in writing;

(2) be signed and sworn to before a person authorized to administer oaths in this state by the candidate and indicate the date that the candidate swears to the application;

(3) be timely filed with the appropriate authority;

and

(4) include:

(A) the candidate's name;

(B) the candidate's occupation;

(C) the office sought, including any place number or other distinguishing number;

(D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have

1 place numbers or other distinguishing numbers;

2 (E) a statement that the candidate is a United
3 States citizen;

4 (F) a statement that the candidate has not been
5 determined by a final judgment of a court exercising probate
6 jurisdiction to be:

7 (i) totally mentally incapacitated; or
8 (ii) partially mentally incapacitated
9 without the right to vote;

10 (G) an indication [~~a statement~~] that the
11 candidate has either not been finally convicted of a felony or if so
12 convicted [~~from which the candidate~~] has [~~not~~] been pardoned or
13 otherwise released from the resulting disabilities;

14 (H) the candidate's date of birth;

15 (I) the candidate's residence address or, if the
16 residence has no address, the address at which the candidate
17 receives mail and a concise description of the location of the
18 candidate's residence;

19 (J) the candidate's length of continuous
20 residence in the state and in the territory from which the office
21 sought is elected as of the date the candidate swears to the
22 application;

23 (K) the statement: "I, _____, of _____
24 County, Texas, being a candidate for the office of _____,
25 swear that I will support and defend the constitution and laws of
26 the United States and of the State of Texas";

27 (L) a statement that the candidate is aware of

1 the nepotism law, Chapter 573, Government Code; and

2 (M) a public mailing address at which the
3 candidate receives correspondence relating to the candidate's
4 campaign, if available, and an electronic mail address at which the
5 candidate receives correspondence relating to the candidate's
6 campaign, if available.

7 (a-1) A person who has been convicted of a felony shall
8 include in the application proof that the person is eligible for
9 public office under Section 141.001(a)(4).

10 SECTION 2. Section 141.039, Election Code, is amended to
11 read as follows:

12 Sec. 141.039. OFFICIAL APPLICATION FORM. In addition to
13 the other statements and spaces for entering information that
14 appear on an officially prescribed form for an application for a
15 place on the ballot, each official form for an application that a
16 candidate is required to file under this code must include:

17 (1) a space for indicating the form in which the
18 candidate's name is to appear on the ballot;

19 (2) a space for the candidate's public mailing
20 address;

21 (3) spaces for the candidate's home and office
22 telephone numbers and e-mail address at which the candidate
23 receives correspondence relating to the candidate's campaign;
24 [~~and~~]

25 (4) a statement informing candidates that the
26 furnishing of the telephone numbers is optional;

27 (5) a statement informing candidates that knowingly

1 providing false information on the application under Section
2 141.031(a)(4)(G) constitutes a Class B misdemeanor; and

3 (6) a statement informing candidates that a candidate
4 who indicates under Section 141.031(a)(4)(G) that the candidate has
5 been convicted of a felony must comply with the requirements of
6 Section 141.031(a-1).

7 SECTION 3. Section 37.10(c), Penal Code, is amended by
8 amending Subdivision (1) and adding Subdivision (5) to read as
9 follows:

10 (c)(1) Except as provided by Subdivisions (2), (3), ~~[and]~~
11 (4), and (5), and by Subsection (d), an offense under this section
12 is a Class A misdemeanor unless the actor's intent is to defraud or
13 harm another, in which event the offense is a state jail felony.

14 (5) An offense under this section is a Class B
15 misdemeanor if the governmental record is an application for a
16 place on the ballot under Section 141.031, Election Code, and the
17 actor knowingly provides false information under Subsection
18 (a)(4)(G) of that section.

19 SECTION 4. The change in law made by this Act applies to an
20 application for a place on the ballot filed on or after the
21 effective date of this Act. An application for a place on the
22 ballot filed before the effective date of this Act is covered by the
23 law in effect on the date the application was filed, and the former
24 law is continued in effect for that purpose.

25 SECTION 5. This Act takes effect September 1, 2021.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 27, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4555 by Guillen (Relating to an application for a place on a ballot filed by a person convicted of a felony and to the general requirements of an application for a place on a ballot; decreasing a criminal penalty.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

This bill would amend the Election Code as it relates to an application for a place on a ballot filed by a person convicted of a felony. Under the provisions of the bill, a candidate with a previous felony conviction would have to provide proof of eligibility for public office in their application for candidacy. Providing false information would constitute a Class B Misdemeanor.

The Secretary of State indicates the modifications outlined in the bill's provisions would not result in a significant fiscal impact. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Local Government Impact

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 307 Secretary of State

LBB Staff: JMc, CMA, SMAT, GP, SLE, LM, MP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 22, 2021

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4555 by Guillen (relating to an application for a place on a ballot filed by a person convicted of a felony and to the general requirements of an application for a place on a ballot; decreasing a criminal penalty.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

This bill would amend the Election Code as it relates to an application for a place on a ballot filed by a person convicted of a felony. Under the provisions of the bill, a candidate with a previous felony conviction would have to provide proof of eligibility for public office in their application for candidacy. Providing false information would constitute a Class B Misdemeanor.

The Secretary of State indicates the modifications outlined in the bill's provisions would not result in a significant fiscal impact. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Local Government Impact

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 307 Secretary of State

LBB Staff: JMc, SMAT, GP, SLE, LM, MP

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 19, 2021

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4555 by Guillen (Relating to an application for a place on a ballot filed by a person convicted of a felony.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

This bill would amend the Election Code as it relates to an application for a place on a ballot filed by a person convicted of a felony. Under the provisions of the bill, a candidate with a previous felony conviction would have to provide proof of eligibility for public office in their application for candidacy.

The Secretary of State indicates the modifications outlined in the bill's provisions would not result in a significant fiscal impact. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 307 Secretary of State

LBB Staff: JMc, SMAT, SLE, LM, MP

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 6, 2021

TO: Honorable Briscoe Cain, Chair, House Committee on Elections

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4555 by Guillen (relating to an application for a place on a ballot filed by a person convicted of a felony.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

This bill would amend the Election Code as it relates to an application for a place on a ballot filed by a person convicted of a felony. Under the provisions of the bill, a candidate with a previous felony conviction would have to provide proof of eligibility for public office in their application for candidacy.

The Secretary of State indicates the modifications outlined in the bill's provisions would not result in a significant fiscal impact. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 307 Secretary of State

LBB Staff: JMc, SLE, LM, MP

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 28, 2021

TO: Honorable Briscoe Cain, Chair, House Committee on Elections

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4555 by Guillen (Relating to a person running for office that has been convicted of a felony.), **As Introduced**

No significant fiscal implication to the State is anticipated.

This bill would amend the Election Code as it relates to a person running for office that has been convicted of a felony. Under the provisions of the bill, a candidate with a previous felony conviction would have to provide certain information and acknowledge the conviction certain applications. A person filing as a candidate in an election who fails to acknowledge the felony conviction would commit an offense.

The Secretary of State indicates the modifications outlined in the bill's provisions would not result in a significant fiscal impact. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 307 Secretary of State

LBB Staff: JMc, SLE, LM, MP

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

87TH LEGISLATIVE REGULAR SESSION

May 22, 2021

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4555 by Guillen (relating to an application for a place on a ballot filed by a person convicted of a felony and to the general requirements of an application for a place on a ballot; decreasing a criminal penalty.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressed by this analysis would amend various codes as they relate to an application for a place on a ballot filed by a person convicted of a felony and to the general requirements of an application for a place on a ballot. Under the provisions of the bill, tampering with a governmental record would be punishable as a class B misdemeanor if the governmental record is an application for a place on the ballot. Under current statute, this would be punishable as a Class A misdemeanor.

A Class A Misdemeanor is punishable by a fine of not more than \$4,000, confinement in a county jail for a term not to exceed one year, or both. A Class B misdemeanor is punishable by confinement in county jail for a term not to exceed 180 days and in addition to confinement, an optional fine not to exceed \$2,000. This analysis assumes the provisions of the bill would not result in a significant impact on the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, SMAT, LM, MP, SLE

LEGISLATIVE BUDGET BOARD**Austin, Texas****CRIMINAL JUSTICE IMPACT STATEMENT****87TH LEGISLATIVE REGULAR SESSION****May 19, 2021****TO:** Honorable Bryan Hughes, Chair, Senate Committee on State Affairs**FROM:** Jerry McGinty, Director, Legislative Budget Board**IN RE: HB4555** by Guillen (Relating to an application for a place on a ballot filed by a person convicted of a felony.), **As Engrossed**

The provisions of the bill addressed by this analysis would amend the election code as it relates to an application for a place on a ballot filed by a person convicted of a felony.

This analysis assumes implementing the provisions of the bill would not result in a significant impact on the demand for state correctional resources. The bill does not expressly create a felony offense, increase the punishment for an existing misdemeanor to that of a felony, increase the punishment for an existing felony offense or category of felony-level offenses, or change the eligibility of a person for felony community supervision, parole, or mandatory supervision.

Source**Agencies:****LBB Staff:** JMc, SMAT, LM, SLE, MP

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

87TH LEGISLATIVE REGULAR SESSION

May 6, 2021

TO: Honorable Briscoe Cain, Chair, House Committee on Elections

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4555 by Guillen (relating to an application for a place on a ballot filed by a person convicted of a felony.), **Committee Report 1st House, Substituted**

The provisions of the bill addressed by this analysis would amend the election code as it relates to an application for a place on a ballot filed by a person convicted of a felony. Under the provisions of the bill, a person filing as a candidate who has been convicted of a felony is required to submit proof of eligibility for office with their application.

This analysis assumes implementing the provisions of the bill would not result in a significant impact on the demand for state correctional resources. The bill does not expressly create a felony offense, increase the punishment for an existing misdemeanor to that of a felony, increase the punishment for an existing felony offense or category of felony-level offenses, or change the eligibility of a person for felony community supervision, parole, or mandatory supervision.

Source

Agencies:

LBB Staff: JMc, SLE, LM, MP

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

87TH LEGISLATIVE REGULAR SESSION

April 28, 2021

TO: Honorable Briscoe Cain, Chair, House Committee on Elections

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4555 by Guillen (Relating to a person running for office that has been convicted of a felony.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the election code as it relates to a person running for office that has been convicted of a felony and expanding the criminal offense of tampering with a governmental record. Under the provisions of the bill, a person filing as a candidate who has been convicted of a felony who fails to acknowledge a felony conviction on any form would have committed a state jail felony or a Class A misdemeanor. Under current statute, the related offense of tampering with a governmental record is punishable as a Class A misdemeanor unless the intent is to defraud or harm another, in which case it is punishable as a state jail felony.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A misdemeanor punishment. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Creating an offense for which a criminal penalty is applied is expected to result in additional demands upon the correctional resources of counties or of the State due to an increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. In fiscal years 2018 through 2020, 796 people were arrested, 175 were placed onto community supervision, and 104 were admitted into state correctional institutions for tampering with a governmental record under existing statute. The universe of people who could potentially be found to have committed the expanded offense is limited to those who have filed for an election and who have previously committed a felony offense. This is further reduced to those who do not appropriately acknowledge the felony offense on the governmental record. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, SLE, LM, MP