

## **BILL ANALYSIS**

C.S.H.B. 204  
By: Bell  
Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that voters should be notified when a candidate whose name appears on an election ballot has died or been declared ineligible to ensure that voters are casting ballots that will have an impact on the election outcome. C.S.H.B. 204 seeks to address this issue by authorizing the secretary of state to provide for such a notice to voters.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the secretary of state in SECTIONS 1, 2, 3, 4, 5, and 6 of this bill.

### **ANALYSIS**

C.S.H.B. 204 amends the Election Code to authorize the secretary of state by rule to establish a procedure for issuing a certified notice to voters, to be included in the balloting materials for early voting by mail and given to each voter at each polling place during the early voting period and on election day, that a candidate whose name is printed on the ballot has died or been declared ineligible for the following candidates: a political party's nominee in the general election for state and county officers except a candidate for president or vice-president of the United States; an independent candidate in the general election for state and county officers except a candidate for president or vice-president of the United States; a candidate in a general or special election other than the general election for state and county officers; a candidate in a general primary election; a candidate in a runoff primary election; and a candidate in a new election ordered by a court in an election contest in which the contested election is declared void.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 204 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

85R 27410

17.119.281

Substitute Document Number: 85R 11522

SECTION 1. Section 145.035, Election Code, is amended to read as follows:  
Sec. 145.035. PLACEMENT OF WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME ON ~~[OMITTED FROM]~~ BALLOT. (a) A candidate's name shall be omitted from the ballot if the candidate withdraws, dies, or is declared ineligible on or before the 74th day before election day.

SECTION 2. Section 145.039, Election Code, is transferred to Section 145.035, Election Code, redesignated as Section 145.035(b), and amended to read as follows:  
~~(b) [Sec. 145.039. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT.]~~ If a candidate dies or is declared ineligible after the 74th day before election day, the candidate's name shall be placed on the ballot.

SECTION 3. Section 145.035, Election Code, is amended by adding Subsection (c) to read as follows:  
(c) The secretary of state by rule may establish a procedure for issuing a certified notice to voters on election day that a candidate whose name is printed on the ballot has ~~withdrawn~~, died, or been declared ineligible.

SECTION 4. The heading to Section 145.064, Election Code, is amended to read as follows:  
Sec. 145.064. PLACEMENT OF WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME ON ~~[OMITTED FROM]~~ BALLOT.

SECTION 5. Section 145.065, Election Code, is transferred to Section 145.064, Election Code, redesignated as Section 145.064(c), and amended to read as follows:  
~~(c) [Sec. 145.065. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT.]~~ If a candidate dies or is declared ineligible after the 74th day before election day, the candidate's name shall be placed on the ballot.

No equivalent provision.

SECTION 1. Section 145.039, Election Code, is amended to read as follows:  
Sec. 145.039. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT.

(a) If a candidate dies or is declared ineligible after the 74th day before election day, the candidate's name shall be placed on the ballot.

(b) The secretary of state by rule may establish a procedure for issuing a certified notice to voters, to be included in the balloting materials for early voting by mail and given to each voter at each polling place during the early voting period and on election day, that a candidate whose name is printed on the ballot has died or been declared ineligible.

No equivalent provision.

SECTION 2. Section 145.065, Election Code, is amended to read as follows:  
Sec. 145.065. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT.

(a) If a candidate dies or is declared ineligible after the 74th day before election day, the candidate's name shall be placed on the ballot.

SECTION 6. Section 145.064, Election Code, is amended by adding Subsection (d) to read as follows:

(d) The secretary of state by rule may establish a procedure for issuing a certified notice to voters on election day that a candidate whose name is printed on the ballot has withdrawn, died, or been declared ineligible.

SECTION 7. Section 145.094, Election Code, is amended to read as follows:

Sec. 145.094. PLACEMENT OF WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME ON [OMITTED FROM] BALLOT. (a) Except as provided by Subsection (c), the [The] name of a candidate shall be omitted from the ballot if the candidate:

(1) dies before the second day before the date of the deadline for filing the candidate's application for a place on the ballot;

(2) withdraws or is declared ineligible within the time prescribed by Section 145.092(a), in an election subject to that section;

(3) withdraws or is declared ineligible within the time prescribed by Section 145.092(b), in an election subject to that section; or

(4) withdraws or is declared ineligible before 5 p.m. of the 71st day before election day, in an election subject to Section 145.092(f).

(b) Except as provided by Subsection (c), a candidate's name shall be placed on the ballot if the candidate:

(1) dies on or after the second day before the deadline for filing the candidate's application for a place on the ballot;

(2) is declared ineligible after 5 p.m. of the fifth day after the deadline for filing the candidate's application for a place on the ballot, in an election subject to Section 145.092(a);

(3) is declared ineligible after 5 p.m. of the 57th day before election day, in an election subject to Section 145.092(b); or

(4) is declared ineligible after 5 p.m. of the 71st day before election day, in an election subject to Section 145.092(f).

(b) The secretary of state by rule may establish a procedure for issuing a certified notice to voters, to be included in the balloting materials for early voting by mail and given to each voter at each polling place during the early voting period and on election day, that a candidate whose name is printed on the ballot has died or been declared ineligible.

SECTION 3. Section 145.096, Election Code, is amended by adding Subsection (c) to read as follows:

(c) If a candidate in a runoff election dies or is declared ineligible before runoff election day, the candidate's name shall be placed on the runoff election ballot.

(d) The secretary of state by rule may establish a procedure for issuing a certified notice to voters on election day that a candidate whose name is printed on the ballot has withdrawn, died, or been declared ineligible [This section does not apply to a runoff election].

SECTION 8. Section 172.057, Election Code, is amended to read as follows:

Sec. 172.057. PLACEMENT OF WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME ON [OMITTED FROM] GENERAL PRIMARY BALLOT. (a) A candidate's name shall be omitted from the general primary election ballot if the candidate withdraws, dies, or is declared ineligible on or before the first day after the date of the regular filing deadline.

(b) If a candidate who has made an application for a place on the general primary election ballot that complies with the applicable requirements dies or is declared ineligible after the first day after the date of the regular filing deadline, the candidate's name shall be placed on the ballot.

(c) The secretary of state by rule may establish a procedure for issuing a certified notice to voters on election day that a candidate whose name is printed on the ballot has withdrawn, died, or been declared ineligible.

SECTION 9. The heading to Section 172.058, Election Code, is amended to read as follows:

Sec. 172.058. EFFECT OF VOTES CAST FOR DECEASED OR INELIGIBLE CANDIDATE [CANDIDATE'S NAME TO APPEAR ON GENERAL PRIMARY BALLOT].

SECTION 10. Section 172.058(a), Election Code, is amended to read as follows:

(c) The secretary of state by rule may establish a procedure for issuing a certified notice to voters, to be included in the balloting materials for early voting by mail and given to each voter at each polling place during the early voting period and on election day, that a candidate whose name is printed on the ballot has died or been declared ineligible.

SECTION 4. Section 172.058, Election Code, is amended by adding Subsection (d) to read as follows:

(d) The secretary of state by rule may establish a procedure for issuing a certified notice to voters, to be included in the balloting materials for early voting by mail and given to each voter at each polling place during the early voting period and on election day, that a candidate whose name is printed on the ballot has died or been declared ineligible.

No equivalent provision.

No equivalent provision.

(a) If ~~the [a candidate who has made an application for a place on the general primary election ballot that complies with the applicable requirements dies or is declared ineligible after the first day after the date of the regular filing deadline, the candidate's]~~ name of a deceased or ineligible candidate is ~~[shall be]~~ placed on the ballot, ~~[and]~~ the votes cast for the candidate shall be counted and entered on the official election returns in the same manner as for the other candidates.

No equivalent provision.

No equivalent provision.

SECTION 11. Section 145.096, Election Code, is repealed.

SECTION 12. This Act takes effect September 1, 2017.

SECTION 5. Section 172.060, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The secretary of state by rule may establish a procedure for issuing a certified notice to voters, to be included in the balloting materials for early voting by mail and given to each voter at each polling place during the early voting period and on election day, that a candidate whose name is printed on the ballot has died or been declared ineligible.

SECTION 6. Section 232.045, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The secretary of state by rule may establish a procedure for issuing a certified notice to voters, to be included in the balloting materials for early voting by mail and given to each voter at each polling place during the early voting period and on election day, that a candidate whose name is printed on the ballot has died or been declared ineligible.

No equivalent provision.

SECTION 7. Same as introduced version.