

1 AN ACT relating to appellate judges.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 118A.010 is amended to read as follows:

4 As used in this chapter, unless the context otherwise requires:

- 5 (1) "Ballot" or "official ballot" means the voting machine ballot label, ballot cards,
6 paper ballots, an absentee ballot, a special ballot, or a supplemental paper ballot
7 which has been authorized for the use of the voters in any primary,
8 **regular**~~general~~, or special election by the Secretary of State or the county clerk;
- 9 (2) "Ballot card" means a tabulating card on which votes may be recorded by a voter by
10 use of a voting device or by marking with a pen or special marking device;
- 11 (3) "Ballot label" means the cards, papers, booklet, pages, or other material on which
12 appear the names of candidates and the questions to be voted on by means of ballot
13 cards or voting machines;
- 14 (4) "Election" refers only to elections for offices of the Court of Justice;~~and~~
- 15 (5) **"Retention election" means a nonpartisan vote during a regular election on the**
16 **ballot question of whether to retain a Justice of the Supreme Court or a Judge of**
17 **the Court of Appeals for a succeeding term in the same office when his or her**
18 **current term expires; and**
- 19 **(6)** "Voting machine" or "machine" shall include lever machines and, as far as
20 applicable, any electronic or electromechanical unit and supplies utilized or relied
21 upon by a voter in casting ~~a~~^{his} vote in an election.

22 No provisions of KRS Chapter 118 existing on March 10, 1976, except KRS 118.015
23 through 118.045 shall apply to such elections. All other provisions of the election laws
24 not inconsistent with this chapter shall **apply**~~be applicable thereto~~.

25 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO
26 READ AS FOLLOWS:

27 **(1) (a) A Justice of the Supreme Court or a Judge of the Court of Appeals seeking**

1 to retain the same judicial office for a succeeding term when his or her
 2 current term expires shall file a declaration of candidacy for a retention
 3 election in the office of the Secretary of State. The form for declaring
 4 candidacy for a retention election shall be prescribed and provided by the
 5 State Board of Elections through the promulgation of administrative
 6 regulations.

7 **(b) If a declaration of candidacy for a retention election is filed, the Secretary**
 8 **of State shall:**

- 9 **1. Certify that the candidate for a retention election continues to possess**
 10 **all the constitutional and statutory requirements for the office; and**
 11 **2. Certify to county clerks of the respective counties entitled to participate**
 12 **in the retention election, the name and place of residence of each**
 13 **candidate seeking retention in each office.**

14 **(2) (a) The ballot question of retaining the justice or judge shall be submitted to**
 15 **the voters eligible to vote within the affected district at the regular election**
 16 **next preceding the expiration of that judicial term of office.**

17 **(b) The declaration of candidacy for a retention election shall be filed with the**
 18 **Secretary of State not earlier than the first Wednesday after the first**
 19 **Monday in November of the year preceding the year in which the question**
 20 **of retaining the justice or judge will appear on the ballot, and not later than**
 21 **the second Tuesday in August preceding the day fixed by law for the**
 22 **holding of the regular election at which the ballot question will appear.**

23 **(3) The question on the ballot shall read as follows:**
 24 **"Are you in favor of retaining Justice or Judge.....**
 25 **(Here the name of the justice or judge shall be inserted)**
 26 **of the.....**
 27 **(Here the title of the court shall be inserted)**

1 in office? Yes No

2 **(4) (a) If a majority of those voting on the question of whether to retain the justice**
 3 **or judge vote against retaining the person in office, an initial appointment**
 4 **of a new justice or judge for the succeeding term of office shall be made by**
 5 **the Governor as provided in Section 118 of the Constitution of Kentucky.**

6 **(b) If a majority of those voting on the question of whether to retain the justice**
 7 **or judge vote to retain the person in office, the justice or judge shall remain**
 8 **in that office for an additional full term or until a vacancy in the office**
 9 **occurs, whichever occurs first.**

10 **(5) If a sitting Justice of the Supreme Court or Judge of the Court of Appeals does**
 11 **not file a declaration of candidacy for a retention election before the deadline, an**
 12 **initial appointment of a new justice or judge for the succeeding term of office**
 13 **shall be made by the Governor as provided in Section 118 of the Constitution of**
 14 **Kentucky.**

15 ➔Section 3. KRS 118A.020 is amended to read as follows:

16 Justices of the Supreme Court shall be **initially appointed by the Governor under Section**
 17 **118 of the Constitution of Kentucky or, following an initial or vacancy appointment,**
 18 **elected through retention elections under Section 2 of this Act,** from the Supreme Court
 19 districts established by KRS Chapter 21A.

20 ➔Section 4. KRS 118A.030 is amended to read as follows:

21 ~~{(1)}~~ Judges of the Court of Appeals shall be **initially appointed by the Governor under**
 22 **Section 118 of the Constitution of Kentucky or, following an initial or vacancy**
 23 **appointment,** elected **through retention elections under Section 2 of this Act,** from the
 24 same districts as are justices of the Supreme Court.

25 ~~{(2)}~~ ~~In each Court of Appeals district there shall be, for election purposes, numbered~~
 26 ~~divisions corresponding to the number of Court of Appeals Judges in the district.~~
 27 ~~Each judge shall be elected at large from the entire district.~~

1 ~~(3) Each numbered division of a district shall be voted upon and shall be tallied~~
2 ~~separately.]~~

3 ➔Section 5. KRS 118A.060 is amended to read as follows:

4 (1) Except as provided in *Section 2 of this Act regarding Justices of the Supreme*
5 *Court or Judges of the Court of Appeals, or* KRS 118A.100, no person's name
6 shall appear on a ballot label or absentee ballot for an office of the Court of Justice
7 without first having been nominated as provided in this section.

8 (2) Each candidate for nomination shall file a petition for nomination with the Secretary
9 of State not earlier than the first Wednesday after the first Monday in November of
10 the year preceding the year in which the office will appear on the ballot and not later
11 than the last Tuesday in January preceding the day fixed by law for holding the
12 primary~~election~~ for the office. The petition shall be sworn to before an officer
13 authorized to administer an oath by the candidate and by not less than two (2)
14 registered voters from the district or circuit from which he or she seeks nomination.
15 Signatures for nomination papers shall not be affixed on the document to be filed
16 prior to the first Wednesday after the first Monday in November of the year
17 preceding the year in which the office will appear on the ballot. The petition shall
18 be filed no later than 4 p.m. local time at the place of filing when filed on the last
19 date on which the papers are permitted to be filed.

20 (3) The petition for nomination shall be in the form prescribed by the State Board of
21 Elections. The petition shall include a declaration sworn to by the candidate, that he
22 or she possesses all the constitutional and statutory requirements of the office for
23 which the candidate has filed. Titles, ranks, or spurious phrases shall not be
24 accepted on the petition and shall not be printed on the ballots as part of the
25 candidate's name; however, nicknames, initials, and contractions of given names
26 may be acceptable as the candidate's name.

27 (4) The Secretary of State shall examine the petition of each candidate to determine

1 whether it is regular on its face. If there is an error, the Secretary of State shall
2 notify the candidate by certified mail within twenty-four (24) hours of filing. The
3 order of names on the ballot for each district or circuit, and numbered division~~]~~
4 ~~thereof]~~ if divisions exist, shall be determined by lot at a public drawing to be held
5 in the office of the Secretary of State at 2 p.m., standard time, on the Thursday
6 following the last Tuesday in January preceding the primary~~election]~~.

7 (5) Not later than the date set forth in KRS 118.215(1)(a) preceding the primary~~]~~
8 ~~election]~~, and after the order of names on the ballot has been determined as required
9 in subsection (4) of this section, the Secretary of State shall:

10 (a) Certify to the county clerks of the respective counties entitled to participate in
11 the election of the various candidates, the name and place of residence of each
12 candidate for each office, by district or circuit, and numbered division~~]~~
13 ~~thereof]~~ if divisions exist, as specified in the petitions for nomination filed
14 with him or her; and

15 (b) Designate for the county clerks the office of the Court of Justice with which
16 the names of candidates shall be printed and the order in which they are to
17 appear on the ballot.

18 (6) The ballot position of a candidate shall not be changed after the ballot position has
19 been designated by the Secretary of State.

20 (7) The county clerk~~clerks]~~ of each county shall cause to be printed on the ballot labels
21 for the voting machines and on the special ballots for the primary the names of the
22 candidates for offices in the Court of Justice.

23 (8) The names of the candidates shall be placed on the voting machine in a separate
24 column or columns or in a separate line or lines and identified by the words
25 "Judicial Ballot." The words "Vote for one," or "Vote for one in each division,"
26 shall be printed on the ballot in an appropriate location. The office, numbered
27 division~~]~~ ~~thereof]~~ if divisions exist, and the candidates~~]~~ ~~therefor]~~ shall be clearly

1 labeled. No party designation or emblem of any kind, nor any sign indicating any
2 candidate's political belief or party affiliation, shall be used on voting machines or
3 special ballots.

4 (9) The two (2) candidates receiving the highest number of votes for nomination for
5 ~~justice or~~ judge of a district or circuit, or numbered division thereof if divisions
6 exist, shall be nominated. Certificates of nomination shall be issued as provided in
7 KRS 118A.190.

8 (10) If it appears after expiration of the time for filing petitions for nomination that there
9 are not more than two (2) candidates who have filed the necessary petitions for a
10 place on the ballot in the regular election, no drawing for ballot position shall be
11 held and the Secretary of State shall immediately issue and file in the Secretary's
12 office certificates of nomination, and send copies to the candidates.

13 ➔Section 6. KRS 118A.100 is amended to read as follows:

14 (1) *Except for Justices of the Supreme Court or Judges of the Court of Appeals,*
15 candidates for an unexpired term of a judicial office to be filled at a regular election
16 shall be nominated at the primary next preceding the regular election in the manner
17 prescribed in KRS 118A.060 if the vacancy occurs not later than the second
18 Tuesday in January preceding the primary. If the vacancy occurs on or after that
19 date, the election to fill the unexpired term shall be held in accordance with the
20 procedures described in this section and Section 152 of the Constitution of
21 Kentucky.

22 (2) If in a regular election for judicial office no candidates nominated as provided in
23 KRS 118A.060 are available due to death, incapacity, or withdrawal, and the
24 candidates have not been replaced as provided in KRS 118A.060, the election to fill
25 the regular term shall be conducted in the manner prescribed in subsections (3)
26 through (11) of this section.

27 (3) Each candidate shall file a petition for nomination with the Secretary of State not

1 earlier than the first Wednesday after the first Monday in November of the year
2 preceding the year in which the election for the unexpired term will be held and not
3 later than the second Tuesday in August preceding the day fixed by law for holding
4 the regular election for the unexpired term. The petition shall be sworn to by the
5 candidate and by not less than two (2) registered voters from the district or circuit
6 from which he or she seeks nomination, before an officer authorized to administer
7 an oath. Signatures for nomination papers shall not be affixed on the document to
8 be filed prior to the first Wednesday after the first Monday in November of the year
9 preceding the year in which the office will appear on the ballot. The petition shall
10 be filed no later than 4 p.m. local time at the place of filing when filed on the last
11 date on which the papers are permitted to be filed.

12 (4) The petition for nomination shall be in the form prescribed and provided by the
13 State Board of Elections through the promulgation of administrative regulations.
14 The petition shall include a declaration sworn to by the candidate, that he or she
15 possesses all the constitutional and statutory requirements of the office for which
16 the candidate has filed. Titles, ranks, or spurious phrases shall not be accepted on
17 the petition and shall not be printed on the ballots as part of the candidate's name;
18 however, nicknames, initials, and contractions of given names may be acceptable as
19 the candidate's name.

20 (5) The Secretary of State shall examine the petition of each candidate to determine
21 whether it is regular on its face. If there is an error, the Secretary of State shall
22 notify the candidate by certified mail within twenty-four (24) hours of filing.

23 (6) The order of names on the ballot for each district or circuit, and numbered division~~f~~
24 ~~thereof~~ if divisions exist, shall be determined by lot at a public drawing to be held
25 in the office of the Secretary of State at 2 p.m., standard time, on the Thursday
26 following the second Tuesday in August preceding the regular election.

27 (7) Not later than the date set forth in KRS 118.215 and after the order of names on the

1 ballot has been determined as required in subsection (6) of this section, the
2 Secretary of State shall:

3 (a) Certify to the county clerks of the respective counties entitled to participate in
4 the election of the various candidates, the name and place of residence of each
5 candidate for each office, by district or circuit, and numbered division~~]~~
6 ~~thereof]~~ if divisions exist, as specified in the petitions for nomination filed
7 with the Secretary of State; and

8 (b) Designate for the county clerks the office of the Court of Justice with which
9 the names of candidates shall be printed and the order in which they are to
10 appear on the ballot.

11 (8) The ballot position of a candidate shall not be changed after the ballot position has
12 been designated by the county clerk.

13 (9) The county clerk~~[clerk]~~ of each county shall cause to be printed on the ballot labels
14 for the voting machines and on the absentee ballots for the regular election the
15 names of the candidates for offices of the Court of Justice.

16 (10) The names of the candidates shall be placed on the voting machine in a separate
17 column or columns or in a separate line or lines and identified by the words
18 "Judicial Ballot," and in a manner so that the casting of a vote for all of the
19 candidates of a political party will not operate to cast a vote for judicial candidates.
20 The words "Vote for one" or "Vote for one in each division," shall be printed on the
21 appropriate location. The office, numbered division~~]~~~~thereof]~~ if divisions exist, and
22 the candidates~~]~~~~therefor]~~ shall be clearly labeled. No party designation or emblem of
23 any kind, nor any sign indicating any candidate's political belief or party affiliation,
24 shall be used on voting machines or special ballots.

25 (11) The candidate receiving the highest number of votes cast at the regular election for a
26 district or circuit, or for a numbered division~~]~~~~thereof]~~ if divisions exist, shall be
27 elected.

1 (12) A judge who elected to retire as a Senior Status Special Judge in accordance with
 2 KRS 21.580 shall not become a candidate or a nominee for any elected office
 3 during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the
 4 number of days served by the judge acting as a Senior Status Special Judge.

5 ➔Section 7. KRS 118A.140 is amended to read as follows:

6 (1) The Secretary of State shall keep a book entitled "Register of Candidates for
 7 Nomination to Offices of the Court of Justice," and shall enter in that book the
 8 name and place of residence of each candidate for nomination to the office of
 9 justice or judge in the primary~~[-election]~~ and the date of receipt of his or her
 10 nomination papers. The book shall be a public record.

11 (2) Petitions for candidacy filed pursuant to KRS 118A.100 or a declaration of
 12 candidacy for a retention election filed under Section 2 of this Act shall also be
 13 entered in this book.

14 ➔Section 8. KRS 21A.020 is repealed, reenacted, and amended to read as
 15 follows:

16 Terms of office~~[Elections]~~ for Justices of the Supreme Court shall begin on the first
 17 Monday in January~~[be held at the regular elections]~~, and every eight (8) years thereafter,
 18 as follows:

19 (1) In the seventh district, in 2021~~[In the fifth district, in 1976];~~

20 (2) In the first and second districts, in 2023~~[In the third district, in 1978];~~

21 (3) In the fourth and sixth districts, in 2025~~[In the seventh district, in 1980];~~ and

22 (4) In the third and fifth districts, in 2027~~[In the first, second, fourth and sixth~~
 23 ~~districts, in 1982].~~

24 ➔Section 9. This Act shall take effect on January 1, 2020, only upon the
 25 ratification, in the regular election of November 6, 2018, of a constitutional amendment
 26 providing for the appointing of appellate judges. If such an amendment is not ratified, this
 27 Act shall be void.