

### **120.065 Evidence in primary contest -- Trial -- Judgment.**

Each party to a contest instituted under KRS 120.055 shall be entitled, in the production of evidence to be used on the trial thereof, to all the remedies allowed in cases at law and in equity. In trying the contest the court shall hear and determine all questions of law and fact without the intervention of a jury, and may examine the witnesses orally or require or permit the parties to take the evidence by depositions. If the evidence is taken orally either party may require it to be taken by the official reporter for the court, to be taken and transcribed and paid for as evidence in other civil actions. The court may require the contestant, or the person who has the burden of proof under the issue joined, to complete his proof in not less than fifteen (15) days after service of summons, and the contestee, or the person not having the burden, to complete his proof in not less than ten (10) days after filing an answer. Each party may be given one (1) day additional for producing evidence in rebuttal and no greater time shall be extended, unless the court is satisfied that the ends of justice demand it. The court shall, immediately after the evidence is concluded, consider the contest and determine it. If it appears from an inspection of the whole record that there has been such fraud, intimidation, bribery or violence in the conduct of the election that neither contestant nor contestee can be adjudged to have been fairly nominated, the court may adjudge that there has been no election, in which event the nomination shall be deemed vacant. The judgment of the court shall be filed in the office of the Circuit Court clerk.

**History:** Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 133. -- Created 1974 Ky. Acts ch. 130, sec. 159.