

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 280

INTRODUCER: Ethics and Elections Committee and Senator Arrington

SUBJECT: Candidate Qualification

DATE: March 11, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 280 creates a substantive requirement that:

- A person seeking to qualify for nomination as a candidate of a political party must have been a registered member of the political party for which the person is seeking nomination as a candidate for at least 365 consecutive days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.
- A person seeking to qualify for nomination as a candidate with no party affiliation must be registered without any party affiliation and may not have been a registered member of any political party for at least 365 consecutive days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.

This substantive requirement is in addition to an existing requirement that a person seeking qualification as a candidate make such a sworn party affiliation statement in writing.

The bill also creates a private right of action by which a political party or other candidate for the office sought may bring an action for declaratory and injunctive relief based on a claim that a person seeking to qualify as a candidate did not comply with the party affiliation requirement. If a circuit court determines that the person did not comply, he or she is disqualified from placement on the ballot.

The bill takes effect July 1, 2025.

II. Present Situation:

Each candidate for an elected office in Florida must take and subscribe to in writing an oath or affirmation.¹ Current law specifies oath formats for a candidate for federal office,² a candidate for a non-federal office other than a judicial office,³ and a candidate for a state judicial office.⁴ Generally, the oath or affirmation must, in substance:

- Provide the name of the office for which the candidate is running;
- Affirm that the candidate is a qualified elector of the county or court jurisdiction, as applicable;
- Affirm that the candidate is qualified under the State Constitution and laws of Florida to hold the office for which he or she is running;
- Affirm that the candidate has not qualified for any other public office in the state for which the term runs concurrently and that he or she has resigned from any office from which he or she is required to resign;⁵ and
- Affirm that the candidate will support the constitutions of the United States and the State of Florida.⁶

In addition, any person seeking to qualify for nomination as a candidate of any political party must, at the time of subscribing to the oath or affirmation, also state in writing certain information about his or her party affiliation, specifically:

- The party of which the person is a member;
- That the person has been a registered member of the political party for 365 days before the beginning of qualifying preceding the general election for which the person seeks to qualify; and
- That the person has paid the assessment levied against him or her, if any, as a candidate for said office by the executive committee of the party of which he or she is a member.⁷

Similarly, a person seeking to qualify for office as a candidate with *no* party affiliation must state in writing that he or she:

- Is registered without a party affiliation; and
- Has not been a registered member of any political party for 365 days before the beginning of qualifying preceding the general election for which the person seeks to qualify.⁸

Although current law requires candidates to state this information, courts have found no mechanism by which the provision can be enforced if the person seeking to qualify did not

¹ Sections 99.021(1)(a) and 105.031(4), F.S.

² Section 99.021(1)(a)2., F.S.

³ Section 99.021(1)(a)1., F.S.

⁴ Section 105.031(4)(b), F.S.

⁵ Section 99.012(3)(a), F.S., states, “No officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other without resigning from the office he or she presently holds.”

⁶ Sections 99.021(1)(a)1. and 105.031(4), F.S.

⁷ Section 99.021(1)(b), F.S.

⁸ Section 99.021(c), F.S.

actually comply with the requirement.⁹ Therefore, a person who complies with the facial requirement of the written statement cannot be disqualified from placement on the ballot, even if his or her statement is untrue.

III. Effect of Proposed Changes:

The bill creates a substantive requirement that:

- A person seeking to qualify for nomination as a candidate of a political party must have been a registered member of the political party for which the person is seeking nomination as a candidate for at least 365 consecutive days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.
- A person seeking to qualify for nomination as a candidate with no party affiliation must be registered without any party affiliation and may not have been a registered member of any political party for at least 365 consecutive days before the beginning of the qualifying period preceding the general election for which the person seeks to qualify.

The bill authorizes a political party or other candidate for the office sought to bring an action for declaratory and injunctive relief based on a claim that a person seeking to qualify for nomination as a candidate of such political party or as a candidate with no party affiliation did not comply with the requirement. An action for declaratory relief is an action in which a court pronounces the legal status or ownership of an item.¹⁰ To obtain injunctive relief, someone must demonstrate that there is no adequate and complete remedy at law available and that an injury will be irreparable unless the relief sought is granted.¹¹

The bill specifies that if a final judgment of a circuit court determines that a person did not comply with the requirement, the person may not be qualified as a candidate and his or her name may not appear on the ballot.

The bill makes a conforming change to the existing written statement requirement, which is contained in s. 99.021, F.S.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁹ See *Torres v. Shaw*, 345 So.3d 970 (Fla. 1st DCA 2022), holding that voters and political party had no private right of action to challenge qualifications of a congressional candidate under the candidate oath requirement; and *Jones v. Schiller*, 345 So.3d 406 (Fla. 1st DCA 2020), holding that a candidate cannot challenge the veracity of the opposing candidate's sworn party affiliation statement.

¹⁰ BLACK'S LAW DICTIONARY (12th ed. 2024).

¹¹ *Id.*

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 99.021, Florida Statutes.

This bill creates section 99.013, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Ethics and Elections on March 3, 2025:

The committee substitute:

- Makes clear that the 365-day required period of party affiliation or no party affiliation is the 365 consecutive days immediately preceding the qualifying period.

- Makes a conforming change to the language to the written statement a candidate must make.
- Revises the entities who may bring a claim.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
