

SECOND REGULAR SESSION

# SENATE BILL NO. 683

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAY.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3122S.011

## AN ACT

To repeal sections 115.353, 115.365, 115.511, 115.515, 115.517, 115.531, 115.555, 115.575, 115.603, 478.010, 478.320, and 478.330, RSMo, and to enact in lieu thereof twelve new sections relating to the election of circuit and associate circuit judges, with a contingent effective date.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 115.353, 115.365, 115.511, 115.515, 115.517, 115.531, 115.555, 115.575, 115.603, 478.010, 478.320, and 478.330, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 115.353, 115.365, 115.511, 115.515, 115.517, 115.531, 115.555, 115.575, 115.603, 478.010, 478.320, and 478.330, to read as follows:

115.353. All declarations of candidacy shall be filed as follows:

(1) For presidential elector, United States senator, representative in Congress, statewide office, circuit judge [not subject to the provisions of Article V, Section 25 of the Missouri Constitution], state senator and state representative, in the office of the secretary of state;

(2) For all county offices which for the purpose of election procedures shall include associate circuit judges [not subject to the provisions of Article V, Section 25 of the Missouri Constitution], in the office of the county election authority;

(3) For all county offices, in the office of the county election authority. In any county in which there are two boards of election commissioners, the county clerk shall be deemed to be the election authority for purposes of this section.

115.365. 1. The nominating committee authorized to select a candidate for nomination or election to office pursuant to section 115.363 shall be one of the following:

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

4 (1) To select a candidate for county office, the nominating committee shall  
5 be the county committee of the party;

6 (2) To select a candidate for state representative, the nominating  
7 committee shall be the legislative district committee of the party;

8 (3) To select a candidate for state senator, the nominating committee shall  
9 be the senatorial district committee of the party;

10 (4) To select a candidate for circuit court judge [not subject to the  
11 provisions of Article V, Section 25 of the State Constitution], the nominating  
12 committee shall be the judicial district committee of the party;

13 (5) To select a candidate for representative in Congress, the nominating  
14 committee shall be the congressional district committee of the party;

15 (6) To select a candidate for statewide office, the nominating committee  
16 shall be the state committee of the party.

17 2. After any decennial redistricting, the nominating committee shall be  
18 composed from the new districts, and the new district lines shall be used in the  
19 selection of a candidate; provided, however, that members of nominating  
20 committees for candidates for special elections to fill vacancies conducted  
21 pursuant to section 21.130 shall be from the old districts.

115.511. 1. The secretary of state shall convene the board of state  
2 canvassers to total the abstracts of each primary election and the board shall, not  
3 later than two weeks after receiving all required abstracts from the primary  
4 election, issue a statement announcing the results of the primary election for  
5 federal officers, governor, lieutenant governor, state senators and representatives,  
6 circuit judges, secretary of state, attorney general, state treasurer and state  
7 auditor.

8 2. The secretary of state shall convene the board of state canvassers to  
9 total the abstracts of each general election and the board shall, not later than the  
10 second Tuesday in December following the general election, issue a statement  
11 announcing the results of the general election for federal officers, governor,  
12 lieutenant governor, state senators and representatives, circuit judges, **and**  
13 appellate [and circuit] judges subject to the provisions of Article V, Section 25 of  
14 the State Constitution, secretary of state, attorney general, state treasurer and  
15 state auditor.

16 3. The secretary of state shall convene the board of state canvassers to  
17 total the abstracts of each special election at which the name of a candidate for  
18 nomination or election to the office of United States senator, representative in

19 Congress, governor, lieutenant governor, state senator, state representative,  
20 circuit judge [not subject to the provisions of Article V, Section 25 of the State  
21 Constitution], secretary of state, attorney general, state treasurer or state  
22 auditor, or at which an initiative, referendum or constitutional amendment  
23 appears on the ballot, and the board shall, not later than two weeks after  
24 receiving all required abstracts from the election, issue a statement announcing  
25 the results of the election for such office or on such question.

115.515. 1. If two or more persons receive an equal number of votes for  
2 nomination as a party's candidate for any federal office, governor, lieutenant  
3 governor, secretary of state, attorney general, state treasurer, state auditor,  
4 circuit judge [not subject to the provisions of Article V, Sections 25(a) to 25(g) of  
5 the State Constitution], state senator or state representative, and a higher  
6 number of votes than any other candidate for the same office on the same party  
7 ballot, the governor shall, immediately after the results of the election have been  
8 announced, issue a proclamation stating the fact and ordering a special primary  
9 election to determine the party's nominee for the office. The proclamation shall  
10 set the date of the election, which shall be not less than fourteen or more than  
11 thirty days after the proclamation is issued, and shall be sent by the governor to  
12 each election authority responsible for conducting the special primary election. In  
13 the proclamation, the governor shall specify the name of each candidate for the  
14 office to be voted on at the election, and the special primary election shall be  
15 conducted and the votes counted as in other primary elections.

16 2. If two or more persons receive an equal number of votes for nomination  
17 as a party's candidate for any other office, except party committeeman or  
18 committeewoman, and a higher number of votes than any other candidate for the  
19 same office on the same party ballot, the officer with whom such candidates filed  
20 their declarations of candidacy shall, immediately after the results of the election  
21 have been certified, issue a proclamation stating the fact and ordering a special  
22 primary election to determine the party's nominee for the office. The  
23 proclamation shall set the date of the election, which shall be not less than  
24 fourteen or more than thirty days after the proclamation is issued, and shall be  
25 sent by the officer to each election authority responsible for conducting the special  
26 primary election. In the proclamation, the officer shall specify the name of each  
27 candidate for the office to be voted on at the election, and the special primary  
28 election shall be conducted and the votes counted as in other primary elections.

29 3. As an alternative to the procedure prescribed in subsections 1 and 2 of

30 this section, if the candidates who received an equal number of votes in such  
31 election agree to the procedure prescribed in this subsection, the officer with  
32 whom such candidates filed their declarations of candidacy may, after notification  
33 of the time and place of such drawing given to each such candidate at least five  
34 days before such drawing, determine the winner of such election by lot. Any  
35 candidate who received an equal number of votes may decline to have his or her  
36 name put into such drawing.

115.517. 1. If two or more persons receive an equal number of votes for  
2 election to the office of governor, lieutenant governor, secretary of state, state  
3 auditor, state treasurer or attorney general, and a higher number of votes than  
4 any other candidate for the same office, the secretary of state shall, immediately  
5 after the results of the election have been announced, issue a proclamation  
6 stating the fact, and the general assembly shall, by joint vote and without delay  
7 at its next regular session, choose one of such persons for the office. The speaker  
8 of the house shall file a certificate declaring which person has been elected to the  
9 office with the secretary of state.

10 2. If two or more persons receive an equal number of votes for election to  
11 federal office, state senator, state representative or circuit judge [not subject to  
12 the provisions of Article V, Section 25 of the State Constitution], and a higher  
13 number of votes than any other candidate for the same office, the governor shall,  
14 immediately after the results of the election have been announced, issue a  
15 proclamation stating the fact and ordering a special election to determine which  
16 candidate is elected to the office. The proclamation shall set the date of the  
17 election and shall be sent by the governor to each election authority responsible  
18 for conducting the special election. In his proclamation, the governor shall  
19 specify the name of each candidate for the office to be voted on at the election,  
20 and the special election shall be conducted and the votes counted as in other  
21 elections.

22 3. If two or more persons receive an equal number of votes for nomination  
23 or election to any office not otherwise provided for in section 115.515 or this  
24 section, and a higher number of votes than any other candidate for nomination  
25 or election to the same office, the officer with whom such candidates filed their  
26 declarations of candidacy shall, immediately after the results of the election have  
27 been certified, issue a proclamation stating the fact and ordering a special  
28 election to determine which candidate is elected to the office. The proclamation  
29 shall set the date of the election and shall be sent by the officer to each election

30 authority responsible for conducting the special election. In his proclamation, the  
31 officer shall specify the name of each candidate for the office to be voted on at the  
32 election, and the special election shall be conducted and the votes counted as in  
33 other elections.

34 4. As an alternative to the procedure prescribed in subsections 1, 2, and  
35 3 of this section, if the candidates who received an equal number of votes in such  
36 election agree to the procedure prescribed in this subsection, the officer with  
37 whom such candidates filed their declarations of candidacy may, after notification  
38 of the time and place of such drawing given to each such candidate at least five  
39 days before such drawing, determine the winner of such election by lot. Any  
40 candidate who received an equal number of votes may decline to have his name  
41 put into such drawing.

115.531. 1. Not later than five days after the official announcement of the  
2 results of a primary election is issued by the election authority or the secretary  
3 of state, as the case may be, any candidate desiring to contest the primary  
4 election shall file a verified petition in the office of the clerk of the circuit court  
5 of any circuit in which part of the election was held and in which any alleged  
6 irregularity occurred, unless the office involved in the contest is that of a circuit  
7 or associate circuit judge [not subject to Section 25, Article V, Constitution of  
8 Missouri], in which case the verified petition shall be filed, heard, and  
9 determined by an adjoining circuit court selected by the contestant as specified  
10 in section 115.575. The contestant shall only be required to file one petition with  
11 the circuit court for each election contest regardless of the number of counties  
12 within the court's jurisdiction. The petition shall set forth the points on which  
13 the contestant wishes to contest the election and the facts the contestant will  
14 prove in support of such points, and shall pray leave to produce such proof. The  
15 judge of the court shall immediately note on the petition the date it was filed and  
16 shall immediately set a date, not later than five days after the petition is filed,  
17 for a preliminary hearing. If the petition is filed in vacation, the judge of the  
18 circuit court shall immediately convene the court in special session for the  
19 purpose of hearing the contest. If no regular judge of the court is available the  
20 supreme court shall immediately assign another judge. The circuit court in which  
21 the petition is filed shall have exclusive jurisdiction over all matters relating to  
22 the contest and may issue appropriate orders to all election authorities in the  
23 area in which the contested election was held.

24 2. If a petition contesting a primary election is filed in an incorrect circuit,

25 the court in which it is filed shall have jurisdiction and shall promptly transfer  
26 the suit to the correct circuit court.

115.555. All contested elections for the office of governor, lieutenant  
2 governor, secretary of state, attorney general, state treasurer and state auditor  
3 shall be heard and determined by the supreme court. Likewise, all contests to  
4 the results of elections on constitutional amendments, on state statutes submitted  
5 or referred to the voters, and on questions relating to the retention of appellate  
6 [and circuit] judges subject to Article V, Section 25 of the State Constitution shall  
7 be heard and determined by the supreme court.

115.575. 1. Notwithstanding any provision of this chapter to the contrary,  
2 all contested elections for the office of circuit or associate circuit judge [not  
3 subject to the provisions of Article V, Section 25 of the State Constitution],  
4 whether contested on the basis of qualification, irregularity, or other cause, or for  
5 recount other than the automatic recount provided for in section 115.601, and  
6 whether in a primary or general election, shall be filed in and heard and  
7 determined by an adjoining circuit court selected by the contestant.

8 2. All contested elections on any office or question other than those  
9 provided for in sections 115.555, 115.563 and subsection 1 of this section shall be  
10 heard and determined by the circuit court of any circuit, selected by the  
11 contestant, in which all or any part of the election was held and in which any  
12 alleged irregularity occurred. The contestant shall only be required to file one  
13 petition with the circuit court for each election contest regardless of the number  
14 of counties within the court's jurisdiction.

15 3. If a petition contesting any election is filed in an incorrect circuit, the  
16 court in which it is filed shall have jurisdiction and shall promptly transfer the  
17 suit to the correct circuit court.

115.603. Each established political party shall have a state committee, a  
2 congressional district committee for each congressional district in the state, a  
3 judicial district committee for each circuit judge district in the state [not subject  
4 to the provisions of Article V, Section 25 of the state constitution], a senatorial  
5 district committee for each senatorial district in the state, a legislative district  
6 committee for each legislative district in the state and a county committee for  
7 each county in the state, except any city not within a county which shall have a  
8 city committee in lieu of a county committee.

478.010. 1. [Except as provided in Section 25 of Article V of the  
2 Constitution of Missouri,] The circuit judges of the various judicial circuits shall

3 be elected at the general elections as herein provided and at the general election  
4 every six years thereafter, and shall enter upon the duties of their office on the  
5 first day in January next following their election; provided, however, that any  
6 terms commencing in 1981 and 1983 shall commence on the first Monday in  
7 January.

8 2. The circuit judge of judicial circuit number one shall be elected in 1980.

9 3. The circuit judge of judicial circuit number thirty-six shall be elected  
10 in 1984.

11 4. The circuit judges of the remaining judicial circuits, except those  
12 covered by sections 478.370 through 478.715, shall be elected in 1982.

478.320. 1. In counties having a population of thirty thousand or less,  
2 there shall be one associate circuit judge. In counties having a population of  
3 more than thirty thousand and less than one hundred thousand, there shall be  
4 two associate circuit judges. In counties having a population of one hundred  
5 thousand or more, there shall be three associate circuit judges and one additional  
6 associate circuit judge for each additional one hundred thousand inhabitants.

7 2. For purposes of this section, notwithstanding the provisions of section  
8 1.100, population of a county shall be determined on the basis of the last previous  
9 decennial census of the United States; and, beginning after certification of the  
10 year 2000 decennial census, on the basis of annual population estimates prepared  
11 by the United States Bureau of the Census, provided that the number of associate  
12 circuit judge positions in a county shall be adjusted only after population  
13 estimates for three consecutive years indicate population change in the county to  
14 a level provided by subsection 1 of this section.

15 3. [Except in circuits where associate circuit judges are selected under the  
16 provisions of Sections 25(a) to (g) of Article V of the constitution,] The election of  
17 associate circuit judges shall in all respects be conducted as other elections and  
18 the returns made as for other officers.

19 4. [In counties not subject to Sections 25(a) to (g) of Article V of the  
20 constitution,] Associate circuit judges shall be elected by the county at large.

21 5. No associate circuit judge shall practice law, or do a law business, nor  
22 shall he or she accept, during his or her term of office, any public appointment  
23 for which he or she receives compensation for his or her services.

24 6. No person shall be elected as an associate circuit judge unless he or she  
25 has resided in the county for which he or she is to be elected at least one year  
26 prior to the date of his or her election; provided that, a person who is appointed

27 by the governor to fill a vacancy may file for election and be elected  
28 notwithstanding the provisions of this subsection.

478.330. 1. When an annual judicial performance report submitted  
2 pursuant to section 477.405 indicates for three consecutive calendar years the  
3 need for two or more full-time judicial positions in any judicial circuit there shall  
4 be one additional circuit judge position authorized in such circuit, subject to  
5 appropriations made for that purpose.

6 2. [Except in circuits where circuit judges are selected under the  
7 provisions of Sections 25(a) to 25(g) of Article V of the Missouri Constitution,]  
8 The election of circuit judges authorized by this section shall be conducted in  
9 accordance with chapter 115.

Section B. Section A of this act shall become effective only upon approval  
2 by the voters of an amendment to article V of the Constitution of Missouri that  
3 requires the election of all circuit and associate circuit judges.

✓

Bill

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