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HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 400

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO PRIMARY ELECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 3101, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3101. Nomination, withdrawal, and primary election dates.

The following schedule applies for all candidates:

(1) Notification of candidacy shall be on or before 12:00 noon of the ~~second Tuesday in July~~ fourth Tuesday in February.

(2) Such notification of candidacy may be withdrawn on or before 4:30 p.m. on the first Friday after the ~~second Tuesday in July~~ fourth Tuesday in February. In the event the first Friday after the ~~second Tuesday in July~~ fourth Tuesday in February is a legal holiday, then the final day to withdraw is the next day which is not a Saturday, Sunday, or a legal holiday.

(3) Primary elections for all political parties shall be conducted on the ~~second Tuesday after the first Monday in September~~ fourth Tuesday in April.

(4) [Repealed.]

Section 2. Amend § 3103, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(c) The state chair, county chair and city chairs of each political party shall notify the State Election Commissioner and the Department of the amount of the filing fee set pursuant to this section. The notification shall be no later than ~~July 1~~ February 1 of each general election year.

Section 3. Amend § 3106, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(g) All candidates for statewide office, the General Assembly, or any elected county office must request a criminal history background check no earlier than the first date an individual may file as a candidate and no later than the filing

23 deadline from the State Bureau of Identification and provide proof that the criminal history background check has been
24 requested before giving notice under subsection (a) of this section.

25 (5) The Commissioner must determine, by ~~August 1~~ March 15 of each general election year that a candidate is
26 qualified under § 21 of Article II of the Delaware Constitution before the candidate's name may be listed on a ballot in
27 a primary election.

28 Section 4. Amend § 3301, Title 15 of the Delaware Code by making deletions as shown by strike through and
29 insertions as shown by underline as follows:

30 § 3301. Certificates of nomination.

31 (e) For minor political parties not required to select candidates under Chapter 31 of this title, each party shall select
32 its candidates at the party's state or county nominating convention held on or before ~~August 1~~ March 15 in the year of a
33 general election and shall file the certificates of nomination of the selected candidates within 10 business days of the
34 nominating convention. To be removed from a general election ballot, the candidate must withdraw the certificate of
35 nomination on or before 4:30 p.m. on the first Friday after the day the certificate of nomination is submitted.

36 Section 5. Amend § 3303, Title 15 of the Delaware Code by making deletions as shown by strike through and
37 insertions as shown by underline as follows:

38 § 3303. Time of filing certificates.

39 (a) (1) Except as provided under paragraphs (a)(2) and (a)(4) of this section and §§ 3002(b) and 3301(e) of this
40 title, a certification of nomination must be filed before the close of the official business day on or before ~~September 1~~ April
41 1 of the year of any general election, as follows:

42 a. For statewide office, with the State Election Commissioner.

43 b. For nonstatewide office, with the Department office for the county in which the nominee resides.

44 (2) If ~~September 1~~ April 1 is a Sunday or legal holiday, a certificate of nomination under paragraph (a)(1) of
45 this section must be filed on the next official business day.

46 (3) A certificate of nomination must be on the form specified by the State Election Commissioner.

47 (4) A nominee nominated for office by a national nominating convention must be named on a certificate of
48 nomination to be filed before 12:00 noon on the earlier of the following:

49 a. The Tuesday following the national nominating convention.

50 b. September 15 of the election year.

(b) Except as provided under §§ 3002(b) and 3301(e) of this title, to be removed from a general election ballot, a nominee must withdraw the certificate of nomination on or before 4:30 p.m. of the first Friday after the deadline for filing the certificate under subsection (a) of this section.

Section 6. Amend § 2049, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2049. Change of party designation; procedure.

(a) Any duly registered voter may apply to change that registered voter's political affiliation by completing and submitting a voter registration application to the Department ~~except in the year of a general election during the period from the last Saturday in May through the day of the primary election.~~ except during the 59 days before the day of the primary election. The application shall be upon a form provided by the Commissioner and shall be signed by the registrant and returned by mail or delivered to the Department. An appropriately addressed envelope shall be supplied by the Department for return of the executed application. Upon receipt of the executed application, the Department shall cause the signature to be compared with the original registration record of such applicant, and if such signature appears to be the same, such change of affiliation shall be made in the voter registration records and the applicant shall be immediately notified. If the Department is not satisfied as to the signature on the application, the applicant shall be notified by mail to appear at any office of the Department to answer under oath such questions as may be deemed necessary.

(b) Applications received that change a person's political party affiliation during a period in which a person may not change that person's own political party affiliation in accordance with provisions of this title shall be held by the Department and processed when the period to change a person's political party affiliation reopens.

(c) Notwithstanding subsection (a) of this section a person may change his or her party affiliation in the year of a general election ~~during the period from the last Saturday in May through September 1~~ 59 days before the day of the primary election if:

(1) The statewide and county chair of a political party provide a written affidavit to the Department stating that such person has asked or agreed to be a candidate for office of that political party and the statewide and county chair of a political party want the person to be a candidate for office representing the political party; and

(2) The person provides an affidavit to the Department stating that such person is changing political parties to be a candidate for office of the political party providing the affidavit described in paragraph (c)(1) of this section and a withdrawal form for any other candidacies.

Section 7. This Act is applicable to all primary elections after December 31, 2025.

SYNOPSIS

This Act moves the date of primary elections for statewide office, county office, and municipal office to the fourth Tuesday in April, which is the date of the presidential primary (in presidential election years). The dates for submitting and withdrawing notification of candidacy have been adjusted accordingly, as have the dates for notice of filing fees and background checks. Section 4 changes the “closed” period in which a voter is not allowed to change his or her political affiliation to match the 60-day limit in 15 Del. C. § 3189 for presidential primaries. This Act is applicable to all primary elections after December 31, 2025.