

JAN 24 2024

A BILL FOR AN ACT

RELATING TO ELECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the statutory
2 criteria for determining residency under the elections laws of
3 the State is formulated to be consistent with the common law
4 concept of domicile. Under both, a person establishes a new
5 residence only when the person is physically present at the new
6 location while concurrently holding the intent to make, at that
7 moment, that new location the person's new permanent residence.
8 Since both elements - physical presence and present intention -
9 are required to establish a new residence, a person's absence
10 from an established residence does not destroy it, so long as
11 there is no present intention to reside in the other location.

12 The legislature further finds, however, that under the
13 statutory criteria and common law, an absence may be for a
14 prolonged period of time, if the person continuously lacks the
15 requisite intention to make another location a permanent
16 residence. The legislature is concerned that there are
17 situations where a person is allowed to vote by simply claiming



1 to be absent, while simultaneously living in another singular
2 location for a prolonged duration. The legislature does
3 recognize that there may be bona fide, but rare, instances in
4 which a person has multiple successive temporary absences that
5 collectively span a prolonged period of time. Nonetheless, the
6 ability of a person, who spends a prolonged absence in another
7 singular location, to vote adequately highlights the need to
8 clarify the statutory criteria for determining residency under
9 the State's elections laws.

10 Accordingly, the purpose of this Act is to, under the
11 criteria for determining residency for election purposes,
12 establish a rebuttable presumption that a person has established
13 a new residence in a place if that person has been absent for a
14 prolonged period of time during which the person has only been
15 in one place.

16 SECTION 2. Section 11-13, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§11-13 Rules for determining residency.** For the purpose
19 of this title, there can be only one residence for an
20 individual, but in determining residency, a person may treat



1 oneself separate from the person's spouse. The following rules
2 shall determine residency for election purposes only:

3 (1) The residence of a person is that place in which the
4 person's habitation is fixed, and to which, whenever
5 the person is temporarily absent, the person has the
6 intention to return;

7 (2) A person does not gain residence in any precinct into
8 which the person comes without the present intention
9 of establishing the person's permanent dwelling place
10 within such precinct;

11 (3) If a person resides with the person's family in one
12 place, and does business in another, the former is the
13 person's place of residence; but any person having a
14 family, who establishes the person's dwelling place
15 other than with the person's family, with the
16 intention of remaining there shall be considered a
17 resident where the person has established such
18 dwelling place;

19 (4) The mere intention to acquire a new residence without
20 physical presence at such place, does not establish
21 residency, neither does mere physical presence without



1 the concurrent present intention to establish such
2 place as the person's residence;

3 (5) If a person has been absent for a prolonged period of
4 time during which the person has only been in one
5 place, there shall be a rebuttable presumption that
6 the person intended to establish the person's
7 permanent dwelling place and has established a new
8 residence at that place;

9 ~~[(5)]~~ (6) A person does not gain or lose a residence solely
10 by reason of the person's presence or absence while
11 employed in the service of the United States or of
12 this State, or while a student of an institution of
13 learning, or while kept in an institution or asylum,
14 or while confined in a prison;

15 ~~[(6)]~~ (7) No member of the armed forces of the United
16 States, the member's spouse or the member's dependent
17 is a resident of this State solely by reason of being
18 stationed in the State; and

19 ~~[(7)]~~ (8) A person loses the person's residence in this
20 State if the person votes in an election held in
21 another state by absentee ballot or in person.



1 In case of question, final determination of residence shall be
2 made by the clerk, subject to appeal to the board of
3 registration under part III of this chapter."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be "J. M. ...", written over a horizontal line.

S.B. NO. 3353

Report Title:

Elections; Residency; Rebuttable Presumption; Prolonged Absence

Description:

Establishes a rebuttable presumption that a person established a new residence in a place if that person has been absent for a prolonged period of time during which the person has only been in one place.

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