

JAN 17 2025

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 citizens of this
2 State have the right to expect that public servants be people of
3 integrity, and not people who have committed actions that
4 threaten democracy or undermine the vote of the people. Section
5 3 of the Fourteenth Amendment to the United States Constitution,
6 and article XVI, section 3, of the Hawaii State Constitution,
7 are two mechanisms by which these people may be found ineligible
8 to hold public office. Section 3 of the Fourteenth Amendment to
9 the United States Constitution bars any person who engages in
10 insurrection or rebellion against the United States after taking
11 an oath to uphold the United States Constitution from
12 subsequently holding any state or federal office. Article XVI,
13 section 3, of the Hawaii State Constitution bars any person
14 convicted of any act to overthrow, attempt to overthrow, or
15 conspiracy to overthrow the federal or state government by force
16 or violence from holding any public office or employment.



1 The legislature further finds that although the United
2 States Supreme Court held in *Trump v. Anderson*, 601 U.S. 100,
3 144 S. Ct. 662, 218 L. Ed. 2d 1 (2024), that Congress enjoys
4 exclusive power to enforce section 3 of the Fourteenth Amendment
5 of the United States Constitution with respect to federal
6 offices, the court reiterated that states retain the authority
7 to enforce that section with respect to state offices. Thus,
8 the legislature seeks to codify its authority to disqualify
9 persons holding or attempting to hold state office, while
10 leaving the disqualification of candidates for federal office to
11 the United States Congress as required by *Trump v. Anderson*.

12 Accordingly, the purpose of this Act is to:

13 (1) Specify that election ballots issued by the chief
14 election officer or county clerk shall exclude any
15 candidate who is disqualified by:

16 (A) Section 3 of the Fourteenth Amendment to the
17 Constitution of the United States;

18 (B) Article XVI, section 3, of the Hawaii State
19 Constitution; or

20 (C) Another constitutional or statutory provision;



- 1 (2) Provide for a process for challenging a candidate's
- 2 inclusion or exclusion on a ballot issued by the chief
- 3 election officer or a county clerk;
- 4 (3) Include the grounds referenced in paragraph (1) as
- 5 grounds for a complaint regarding an election contest;
- 6 and
- 7 (4) Specify that electors of presidential and vice
- 8 presidential candidates shall not be individuals who
- 9 are disqualified by grounds referenced in paragraph
- 10 (1), and provide for contests of nominations of
- 11 individuals disqualified based upon those grounds.

12 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
13 by adding a new section to part VIII to be appropriately
14 designated and to read as follows:

15 "§11- Candidates on ballots; inclusion and exclusion;
16 challenges. (a) Each ballot issued by the chief election
17 officer and each clerk shall include the name of each qualified
18 candidate and exclude the name of any disqualified candidate;
19 provided that the chief election officer or clerk shall exclude
20 any candidate who is disqualified by:



1 (1) Section 3 of the Fourteenth Amendment to the
2 Constitution of the United States;

3 (2) Article XVI, section 3, of the Hawaii State
4 Constitution; or

5 (3) Another constitutional or statutory provision.

6 (b) Any challenge to the inclusion or exclusion of any
7 candidate on a ballot issued by the chief election officer or
8 clerk that is not filed pursuant to section 12-8 shall be in
9 writing and, no later than the fifty-seventh day before the
10 general election, shall be filed with the supreme court. The
11 challenge shall provide notice in a summary manner of the
12 grounds that give rise to the complaint. No later than the
13 fifty-fourth day prior to the general election, the supreme
14 court shall hold a hearing regarding the challenge. The supreme
15 court shall assess the validity of the complaint and shall issue
16 findings of fact and conclusions of law no later than the
17 fifty-third day before the general election. The party filing
18 the challenge shall have the burden to sustain the challenge by
19 a preponderance of the evidence, unless a higher burden is
20 required by constitutional law.



1 (c) This section shall not apply to a candidate for
2 election to any federal office."

3 SECTION 3. Section 11-172, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§11-172 Contests for cause; generally.** (a) With respect
6 to any election, any candidate, or qualified political party
7 directly interested, or any thirty voters of any election
8 district, may file a complaint in the supreme court.

9 (b) The complaint shall set forth any cause or causes,
10 ~~[such as but not limited to, provable]~~ including:

11 (1) Provable fraud, overages, or underages, that could
12 cause a difference in the election results~~[-]~~; or

13 (2) A candidate's disqualification pursuant to:

14 (A) Section 3 of the Fourteenth Amendment to the
15 Constitution of the United States;

16 (B) Article XVI, section 3, of the Hawaii State
17 Constitution; or

18 (C) Another constitutional or statutory provision;

19 provided that a complaint filed pursuant to this
20 subsection shall be dismissed if the facts alleged

21 cannot be proven by a preponderance of the evidence,



1 or by any higher burden of proof required by
2 constitutional law, or if the complaint is based on
3 facts or substantially similar facts that could have
4 previously been raised pursuant to section 11- ,
5 section 12-8, or this paragraph, and the previous
6 action failed.

7 (c) The complaint shall also set forth any reasons for
8 reversing, correcting, or changing the decisions of the voter
9 service center officials or the officials at a counting center
10 in an election using the electronic voting system.

11 (d) A copy of the complaint shall be delivered to the
12 chief election officer or the clerk in the case of county
13 elections."

14 SECTION 4. Section 14-21, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§14-21 Nomination of presidential electors and**
17 **alternates; certification by parties; notification of nominees;**
18 **pledge.** (a) In each year when electors of president and vice
19 president of the United States are to be chosen, each of the
20 political parties or parties or groups qualified under section
21 11-113 shall hold a state party or group convention pursuant to



1 the constitution, bylaws, and rules of the party or group; and
2 nominate as candidates for its party or group as many electors,
3 and a first and second alternate for each elector, of president
4 and vice president of the United States as the State is then
5 entitled. The electors and alternates shall be registered
6 voters of the State[~~-~~] and shall not be individuals who are
7 disqualified by section 3 of the Fourteenth Amendment to the
8 Constitution of the United States; article XVI, section 3, of
9 the Hawaii State Constitution; or another constitutional or
10 statutory provision. The names and addresses of the nominees
11 shall be certified by the chairperson and secretary of the
12 convention of the respective parties or groups and submitted to
13 the chief election officer no later than 4:30 p.m. on the
14 sixtieth day before the general election of the same year. The
15 chief election officer upon receipt thereof, shall immediately
16 notify each of the nominees for elector and alternate elector of
17 the nomination.

18 (b) Each elector nominee and alternate elector nominee of
19 a political party or group shall execute the following pledge:
20 "If selected for the position of elector, I agree to serve and
21 to mark my ballots for president and vice president for the



1 nominees for those offices of the party or group that nominated
2 ~~[me"]~~ me, except that I may decline to vote for any nominee who
3 has died." The executed pledges shall accompany the submission
4 of the corresponding names to the chief election officer.
5 Electors shall be released from their pledge if the presidential
6 candidate whom they are pledged to vote for dies. Electors
7 shall not be released from their pledge under any circumstance
8 other than the death of the presidential candidate for whom they
9 are pledged to vote."

10 SECTION 5. Section 14-22, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§14-22 Contested nominations of presidential electors and**
13 **alternates. (a) If ~~[more]~~:**

14 (1) More than one certificate of choice and selection of
15 presidential electors and alternate electors of the
16 same political party or group; or

17 (2) Any party, individual, or group with a candidate on
18 the presidential ballot; or any group of not less than
19 thirty voters of any election district asserts that an
20 elector or alternate is disqualified pursuant to:



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1 (A) Section 3 of the Fourteenth Amendment to the
2 Constitution of the United States;

3 (B) Article XVI, section 3, of the Hawaii State
4 Constitution; or

5 (C) Another constitutional or statutory provision,
6 and a complaint is filed with the chief election officer, as
7 chairperson of the contested presidential electors' committee
8 hereby constituted, the chief election officer shall notify the
9 state comptroller and attorney general, who are the remaining
10 members of the committee, of the date, time, and place of ~~the~~
11 a hearing ~~[to]~~.

12 (b) The hearing shall be held for the purposes of ~~[making~~
13 ~~a determination of which]~~ determining:

14 (1) Which set of electors and alternative electors were
15 lawfully chosen and selected by the political party or
16 group~~[-]~~; or

17 (2) Whether an elector or alternate is disqualified as
18 described in subsection (a) (2),
19 as the case may be.

20 (c) Notice of the hearing shall be given to the
21 chairperson of the state central committee of each political



1 party and the chairperson of each party or group qualified under
2 section 11-113, contestants for the positions of electors and
3 alternate electors by written notice, and to all other
4 interested parties by public notice at least once. A
5 determination shall be made by the contested presidential
6 electors' committee by majority vote [~~not~~] no later than 4:30
7 p.m. on October 30 of the same year and the determination shall
8 be final. Notice of the results shall be given to the nominees
9 duly determined to have been chosen. The contested presidential
10 electors' committee shall have all the powers enumerated in
11 section 11-43."

12 SECTION 6. Section 14-23, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§14-23 Time for election, number to be chosen.** In each
15 presidential election year there shall be elected at large, at
16 the general election, by the voters of the State, as many
17 electors and alternates of president and vice president of the
18 United States as the State is then entitled to elect, in the
19 manner provided under section 11-113. The electors and the
20 alternates [~~must~~] shall be registered voters of the State[+] and
21 shall not be individuals who are disqualified by section 3 of



1 the Fourteenth Amendment to the Constitution of the United
2 States; article XVI, section 3, of the Hawaii State
3 Constitution; or another constitutional or statutory provision.

4 The election shall be conducted and the results thereof
5 determined in conformity with the laws governing general
6 elections except as otherwise provided."

7 SECTION 7. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 8. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 9. This Act shall take effect upon its approval.

13

INTRODUCED BY:





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Report Title:

Elections; Candidates; Ballots; Electors; Disqualification

Description:

Specifies that election ballots issued by the Chief Election Officer or county clerk shall exclude any candidate who is disqualified by a constitutional or statutory provision. Provides for a process for challenging an inclusion or exclusion of a candidate from a ballot. Includes a candidate's disqualification as grounds for an election contest complaint. Specifies that electors of presidential and vice presidential candidates shall not be individuals who are disqualified by a constitutional or statutory provision.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

