

RESOLUTION OF THE LIBERTARIAN PARTY OF KENTUCKY

Executive Summary: Kentucky is opposed to the National Committee moving to an online convention without a bylaws change, because doing so will cost Kentucky its ballot access.

WHEREAS, Kentucky law predicates ballot access solely on the results of the presidential race, under K.R.S. 118.015(8) and K.R.S. 118.305(1)(d); and

WHEREAS, Kentucky law requires, for ballot access purposes, a party hold “a convention or primary held by the party in accordance with its constitution and bylaws” to place candidates on the ballot under K.R.S. 118.325; and

WHEREAS, the Libertarian Party National Bylaws provides, among other things, in Article 16, that “the current edition of Robert’s Rules of Order, Newly Revised” shall govern; and

WHEREAS, Libertarian Party National Bylaws further provides only one mechanism in Article 17(1) to amend the bylaws “by a 2/3 vote of the delegates at any Regular Convention;” and

WHEREAS, the Libertarian Party National Bylaws further provides, in Article 7, that the National Committee’s actions must be “constituent with these bylaws;” and

WHEREAS, the Libertarian Party National Bylaws further provides for a Regular Convention, which is an “annual meeting” under Roberts Rules of Order 11th Edition; and

WHEREAS, the Libertarian Party National Bylaws further provides in Article 10(1) that “Regular Conventions shall be held sometime during the period of July of an odd-numbered year through August of an even-numbered year;” and

WHEREAS, the Libertarian Party National Bylaws further provides in Article 10(1) that “[a]ll business required to be conducted at Regular Conventions shall be conducted at Regular Conventions only;” and

WHEREAS, the Libertarian Party National Bylaws further provides in Article 14(1) that “[n]ominations of candidates for President and Vice-President of the United States may be made only at the Regular Convention immediately preceding a Presidential election;” and

WHEREAS, the Libertarian Party National Convention Special Rules of Order in Rule 1 define an order of business of the “Nomination of Party candidates for President and Vice-President (in appropriate years);” and

WHEREAS, the Libertarian Party National Bylaws further provides in Article 10, Section 6(e), that voting eligibility requires an identification badge for admittance into the “convention hall;” and

WHEREAS, the Libertarian Party National Bylaws further provides in Article 10(10) and in Article 15, regarding voting methods being conducted, that the special convention rules be followed; and

WHEREAS, the Libertarian Party National Convention Special Rules of Order provides an order of business, the provisions of rising votes, objections, appeals, and other items, including procedures on bylaws and platform votes, nominating speeches, and other items; and

WHEREAS, Roberts Rules of Order 11th Edition provides in Article IV, Sections 8 and Section 9, specifically does not permit online or electronically called meeting unless specifically and explicitly authorized in the bylaws; and

WHEREAS, Roberts Rules of Order 11th Edition provides in Article IV Section 9 a strong warning against the use of electronic meetings without great consideration and codification of special rules of order; and

WHEREAS, the Libertarian Party National Bylaws further provides in Article 12 that the National Committee may conduct a meeting “by teleconference or videoconference,” but no such provision exists for conventions; and

WHEREAS, the Libertarian Party National Bylaws further provides under Article 14(3), the National Committee is only permitted to fill vacancies “[i]n the event of the death, resignation, disqualification or suspension of the nomination of the Party's nominee for President;” and

WHEREAS, no Judicial Committee has been duly elected at Convention, as listed by the Libertarian Party National Convention Special Rules of Order in Rule 1, and therefore there is no internal mechanism to adjudicate any appeals or other items, including the items at issue in this resolution; and

WHEREAS, the COVID-19 outbreak has presented several difficult choices for the National Committee, including (i) calling an online convention in violation of bylaws; (ii) calling an abbreviated in person convention to make bylaws changes, (iii) postponing the 2020 national convention, and/or (iv) simply filling the positions as a vacancy under the National Committee’s vacancy filling powers; and

WHEREAS, the COVID-19 outbreak has likewise presented difficulties and choices for delegates in their ability or willingness to attend any national convention until the threat subsides; and

WHEREAS, during the COVID-19 outbreak, at least in terms of deadlines and signature requirements, the federal courts appear ready and willing to waive or reduce such requirements under the *Anderson-Burdick* test, in ballot access litigation, such as was done in Illinois,¹ Michigan,² and other states; and

WHEREAS, venues in Austin, Texas appear to be closed or at significantly-reduced capacity due to COVID-19, including the original convention hall, making the abbreviated in person convention option in May unlikely if not impossible; and

¹ <https://www.courtlistener.com/recap/gov.uscourts.ilnd.375021/gov.uscourts.ilnd.375021.26.0.pdf>

² <https://www.courtlistener.com/recap/gov.uscourts.mied.346086/gov.uscourts.mied.346086.37.0.pdf>

WHEREAS, a full blown, Roberts' compliant online convention (if such a convention were authorized in the party's bylaws, which it is currently not) with more than 1000 delegates attending, making any motions they desire, being recognized, and business conducted, is likely going to be impossible; and

WHEREAS, this state affiliate also recognizes the difficult position, the Convention Oversight Committee has been placed in; and

WHEREAS, Robert's Rules of Order 11th Edition, provide in Article IV, Sections 8, likewise requires advance notice to be given to members for annual convention; and

WHEREAS, the Libertarian Party claims to be the "party of principle," which, at a minimum, requires adherence by the National Committee to the duly enacted bylaws of its members; and

WHEREAS, the Libertarian Party of Kentucky has obtained the opinions of inside and outside legal counsel, concerning those options and their repercussions on this state affiliate and its continued ballot access;

NOW THEREFORE, the Libertarian Party of Kentucky **RESOLVES AS FOLLOWS**:

1. The National Committee *not, under any circumstances*, violate the party's own bylaws and convention rules, which (a) renders any nominations invalid and/or subject to legal challenge in Kentucky, (b) would result in the loss of four years of ballot access for this state affiliate, and (c) would demonstrate that the National Committee puts principles aside for expediency, and is no better than politicians around the country that are currently bending constitutional rules for their own expediency; and
2. Should the National Committee choose to violate the party's own bylaws and convention rules, the Kentucky affiliate will be forced to do what is necessary to protect itself against the national party's aggression, misfeasance and malfeasance, including, if necessary, calling a state level convention to nominate and place candidates for President and Vice President on the ballot line in Kentucky, whose candidates may be different than those nominated at an illegally conducted national convention; and
3. That no online convention be called without a bylaws amendment that would (i) curtail the agenda to nominations for office and voting, and (ii) would further permit such a meeting; without which an online convention is impossible, both legally, practically, and feasibly; and
4. This state affiliate respects the judgment of the Convention Oversight Committee and National Committee otherwise, in terms of scheduling an in person convention to amend the bylaws in ways sufficient permit the conducting of all other business online and curtailing the agenda otherwise; or to postpone the meeting to June or July, when it appears more likely that venues may be open for the conducting of such business; or combinations of both; and

5. This state affiliate also supports the amendment of the bylaws for this convention in a postponed convention scenario, to permit those who cannot legally travel due to COVID restrictions, or due to health conditions of a delegate at the discretion of their delegation chair, to be able to vote electronically on ballots for President, Vice President, National Committee positions, and Judicial Committee positions, with other business to be taken up by those physically present and in attendance and adjusting quorum accordingly.

IT IS SO RESOLVED, by the State Party Executive Committee, this 28 day of April, 2020, by a **unanimous vote, 11 members voting**:

/s/Chris Wiest, Chair

Attest: */s/Cristi Kendrick*, Secretary

Cristi Kendrick, Secretary