

5/2/23. Vermont State Ethics Commission Comments on Proposed H. 429 Language

§ 2414 CANDIDATES FOR STATE AND LEGISLATIVE OFFICE; DISCLOSURE FORM § 2415 FAILURE TO FILE; PENALTIES

§ 2414 (1) "County office" means the office of assistant judge, county clerk, county treasurer, county auditor, sheriff, high bailiff, and state's attorney.

Comment: The Ethics Commission supports the addition of candidates for county office to the language. We note the above definition varies from 17 V.S.A. § 2103 (10), which states: "County officer" means judge of Probate, assistant judge of the Superior Court, State's Attorney, sheriff, and high bailiff" through the addition of county clerk, county treasurer, and county auditor.

The Commission understands that candidates for sheriff, high bailiff, state's attorney, probate judge, assistant judge file with the county clerk and the Office of the Secretary of State is in possession of their candidate filing information, including any possible financial disclosures. However, as a practical matter, the Commission is currently lacks knowledge of how the remaining parties obtain their positions, including whether they are elected positions, and how the Commission would have access to the necessary candidate filing information to give notice of delinquency.

§ 2414 (2) "Domestic partner" means an individual with whom the candidate has an enduring domestic relationship of a spousal nature, as long as the candidate and the domestic partner:

The definition appears to have been cut off in the draft that was shared but flagging anyway for visibility. Suggest something like, "Domestic partner shall have the same meaning as in 3 V.S.A. § 1201(4)."

§ 2414 (2)(A) The Secretary of State shall post a copy of any disclosure forms and tax returns the Secretary receives under this section on the Secretary's official State website **and forward a copy of disclosures made by candidates for State office, county office, State Senator, or State Representative to the State Ethics Commission.** The forms shall remain posted on the Secretary's website until the date of the filing deadline for petition and consent forms for major party candidates for the statewide primary in the following election cycle.

Comment: As flagged in previous testimony, the Ethics Commission asks the language in bold be removed. The Ethics Commission and the Secretary of State will develop a mutually agreed upon process to share disclosure information between the two offices, needs to be discussed in more detail between the two parties.

§ 2415 (a)(4)(f) The Attorney General's office shall notify the State Ethics Commission within 10 days after receipt after a complaint under this subchapter and, **within 90 days after receipt of a complaint,** shall file a report with the Executive Director of the State Ethics Commission with the results of any

investigation undertaken under this subchapter or, if the Attorney General's office declines to initiate an investigation, a summary of the reasons why an investigation was not initiated.

Comment: As flagged in previous testimony, the Ethics Commission suggests the language in bold changed from 90 days to 180 days, or another period of time preferred by the Office of the Attorney General beyond 90 days.

§ 2415 (a); If any disclosure required of a candidate for State office, county office, State Senator, or State Representative by section 2414 of this title is not filed by **the time frames** set forth in sections 2356, 2361, and 2402 of this title, the candidate for State office, county office, State Senator, or State Representative¹ shall be addressed as follows:

(1) The State Ethics Commission shall issue a notice of delinquency to the candidate for State office, county office, State Senator, or State Representative for any disclosure required of a candidate for State office, county office, State Senator, or State Representative by section 2414 of this title that is not filed by **the time frames** set forth in sections 2356, 2361, and 2402 of this title.

Comment: We did not suggest this before, but we recommend changing the language from "the time frames" to "in the time and manner." This would address financial penalties when disclosure forms are filed in a timely manner but exclude all (or most) of the required disclosure information. For example, a candidate who files an incomplete or blank form.