



STATE OF KANSAS

## Office of the Attorney General

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Curt T. Schneider  
Attorney General

July 23, 1976

ATTORNEY GENERAL OPINION NO. 76-230

Mr. Leonard M. Robinson  
Wabaunsee County Attorney  
Courthouse  
Alma, Kansas 66401

RE: Elections -- Nomination -- Sheriff's Qualifications

SYNOPSIS: A person may lack one of the specified qualifications within K.S.A. 1975 Supp. 19-801b at the time of his filing nomination papers or a declaration of candidacy provided that he fulfills the qualifications prior to nomination, i.e., at the primary election or convention of delegates.

\* \* \*

Dear Mr. Robinson:

You inquire whether a person who lacks one of the required qualifications at the time of filing for sheriff becomes eligible for nomination by fulfilling the required qualifications subsequent to his filing, but prior to the primary election.

K.S.A. 1975 Supp. 19-801b provides that no person shall be eligible for nomination to the office of sheriff unless he meets the specified qualifications. Thus, the question is whether a person is considered nominated at the time of his filing or at the time of the primary election. K.S.A. 25-202 provides the methods of nomination which include (1) primary election, (2) independent nomination papers signed and filed accordingly, and (3) delegate or mass conventions. Parsons v. Ryan, 144 Kan. 370 (1936); State ex rel. v. Lutz, et al., 116 Kan. 621.

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It is the opinion of this office that the word "nomination" in K.S.A. 19-801b refers to the methods of nomination enumerated in K.S.A. 25-202. The filing of a declaration of candidacy or nomination papers other than independent nomination papers does not constitute a "nomination".

The procedure which entails the filing of nomination papers with a specified officer is a step required by one seeking nomination. 25 Am.Jur.2d 831, Elections, § 140. This does not mean the person has been nominated. Therefore, the person must have met the requirements prescribed by K.S.A. 19-801b by the time of the primary election.

You ask whether a person who lacked one of the required qualifications at the time of filing his declaration of candidacy would be ineligible for nomination. As stated above, as long as the candidate fulfilled the requirements prior to nomination, he would not be ineligible because he lacked one of the qualifications at the time of filing.

Very truly yours,



CURT T. SCHNEIDER  
Attorney General

CTS:DLW:ksn