

January 9, 1974

OPINION LETTER NO. 96  
Answer by Letter - Klaffenbach

Honorable James A. Noland, Jr.  
Missouri Senate, 33rd District  
Rural Route 1  
Osage Beach, Missouri 65065



Dear Senator Noland:

This letter is in response to your question asking:

"What is the duty of a county clerk when a candidate for prosecuting attorney who is not a resident of the county files for re-nomination and reelection?"

Section 56.010, as amended by Senate Bill No. 13, effective January 1, 1973, provides:

"At the general election to be held in this state in the year A.D. 1880, and every two years thereafter, there shall be elected in each county of this state a prosecuting attorney, who shall be a person learned in the law, duly licensed to practice as an attorney at law in this state, and enrolled as such, at least twenty-one years of age, and who has been a bona fide resident of the county in which he seeks election for twelve months next preceding the date of the general election at which he is a candidate for such office and shall hold his office for two years, and until his successor is elected, commissioned and qualified; except that at the general election in 1974, and every four years

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thereafter, in counties of the first class not having a charter form of government, and in counties of the second class, the prosecuting attorney shall be elected for a term of four years."

The declaration of candidacy for the office of prosecuting attorney is to be filed with the county clerk under the provisions of Section 120.370, RSMo.

Your question is answered by our Opinion No. 87, dated April 11, 1972, to Usrey, copy enclosed, in which we held that a county clerk may refuse to place the name of a candidate he believes to be ineligible on the ballot and his action is subject to review by the courts.

Very truly yours,

JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 87  
4-11-72, Usrey