
RESIDENCE AND ELECTIONS

I. Introduction

This outline summarizes Texas case law and statutes relating to legal residence. We have made every effort to ensure the accuracy of this summary outline, but this material cannot substitute for statutory source material, relevant interpretive case law, and administrative regulations. All references are to the Texas Election Code, unless otherwise noted.

II. Definition [Sec. 1.015]

A. In the context of Texas election law, "residence" has the following characteristics:

1. A voter's residence is his or her domicile, per Section 1.015 of the Code.

Strictly speaking, the non-statutory definition of legal "residence" is mere habitation or presence (temporary or otherwise) in a place. *Major v. Loy*, 155 S.W.2d 617, 621 (Tex.Civ.App.—Eastland 1941, no writ). In contrast, "domicile" is one's home and fixed place of habitation to which one intends to return after any temporary absence. *Id.*

The ancient legal distinction between these two words is significant - in common-law, one may have multiple residences at any time, but one may only have a single domicile. Despite the fact that "residence" is not synonymous with "domicile" in the common-law (and in procedural law outside the election code; see, e.g., Section 15.083, Texas Civil Practice and Remedies Code (residence in the context of venue over parties in suit in Justice Court is determined by the place where a person boards), this outline will use "residence" in its statutory sense.

2. Statutory residence (in the context of voter registration and candidacy) is domicile, and all the common-law elements evidencing domicile apply, except as otherwise provided in the Code. Throughout the remainder of this outline, "residence" will be used in its statutory sense as domicile.
3. An individual does not lose his or her residence by temporarily leaving his or her home.
4. An individual does not acquire residence by staying in a place temporarily, if he or she lacks the intention of making that temporary dwelling place home.
5. An inmate in a penal institution or an involuntary inmate in a hospital or eleemosynary institution does not acquire residence at the place where the institution is located, given the lack of intention presumed from the involuntary nature of the commitment.
6. Section 11.001(b) of the Texas Election Code provides that for a person who resides on property located in more than one territory, the person shall choose in which territory the residence of the person is located.