Why a Hostile Takeover-and-Rebrand of the Libertarian Party Would Forfeit Its Ballot Access

A memorandum on the legal and operational realities of renaming a ballot-qualified minor party

For publication. This memorandum explains, state by state, why a plan to seize control of the Libertarian Party's state affiliates and rename the party on the ballot would not inherit the Party's hard-won ballot access. On the contrary, in the states where that access is most valuable, a rebrand would **destroy** it — triggering the very re-qualification burden the maneuver is meant to avoid. The analysis rests on each state's election code and the controlling case law, cited throughout.

The core point: ballot access does not travel with a new name

The appeal of taking over the Libertarian Party is its near-universal ballot access, built over decades. The premise of a rebrand is that a new leadership can keep that access while discarding the name. **That premise is wrong as a matter of law in most states.**

Ballot-qualified status is a creature of each state's statute. It is earned either by electoral performance or by voter registration under a **specific party name**, and almost no state has enacted a mechanism to carry that status across a change of name. The only appellate court to address the question squarely rejected the idea that a renamed successor inherits its predecessor's support, reasoning that it "cannot be inferred that political support and organization for a unique, previously existing, but now defunct recognized political party translates into support for a later would-be-party byproduct." (Const. Party of Kansas v. Kobach, 695 F.3d 1140 (10th Cir. 2012)) That logic is fatal to the rebrand theory: the new name has no track record, no registered members, and no statutory claim to the old party's line.

Two independent legal realities compound the problem.

First, qualified status is temporary and performance-based. It is re-tested every one or two election cycles and lapses when the thresholds are missed. Courts enforce this strictly: a party that stops running candidates "cease[s] to exist as an established political party," and its prior vote totals become "irrelevant to its right to nominate candidates" going forward. (Foster v. Mun. Officers Electoral Bd., 113 Ill. App. 3d 721, 724–725, 447 N.E.2d 990, 992–993 (1983)) A party that falls below the vote threshold simply "lost this status." (Libertarian Party of New Hampshire v. Gardner, 638 F.3d 6, 13 (1st Cir. 2011)) There is no permanent asset for a new name to inherit.

Second, control of a party line is governed by the party's own rules, not by a declaration of takeover. When factions have fought over a minor party's ballot line, courts have awarded control based on the governing party rules in effect at qualification — not on who seized the organization. (Indep. Party of CT-State Cent. v. Merrill, 330 Conn. 681, 694–695, 200 A.3d 1118, 1130–1131 (2019)) Competing claims to a party's name are resolved by the state under its statutes and petition-designation rules, with the line often split or denied rather than handed to the insurgents. (Scofield v. Kiffmeyer, 620 N.W.2d 24, 25–28 (Minn. 2000)) A hostile takeover thus invites precisely the kind of contested, state-adjudicated fight that can leave the renamed group with nothing on the ballot.

Where a rebrand destroys ballot access: the "secured" states

The counterintuitive heart of this analysis: **the states where the Libertarian Party is strongest are the states where a rebrand is most destructive.** "Secured" status means there is a qualified ballot line to lose, and in roughly twenty states there is no statutory path to keep that line through a name change.

Only **two** states let a qualified minor party change its ballot name by amendment and keep its line:

- **Florida**, where a change to the party's name or officers is filed as an amendment to the existing certificate within five days. (Fla. Stat. Ann. § 103.095 (West))
- **Nevada**, where the party files an amended certificate of existence within five days of any change to its name or officers. (Nev. Rev. Stat. Ann. § 293.171 (West))

A third, **Minnesota**, protects a rename only through a formal convention process, after which "the party under its new name shall have all the rights that it had under its former name." (Minn. Stat. Ann. § 202A.11 (West)) **Oregon** offers only partial protection — the organization survives a leadership change, but a rename resets the membership count used to maintain qualified status, which can itself drop the party below the line. (Or. Rev. Stat. Ann. § 248.008 (West); Or. Rev. Stat. Ann. § 248.009 (West)) **Wisconsin** permits a name change effective on certification, but bars duplicating an existing national party's name. (Wis. Stat. Ann. § 8.19 (West))

Everywhere else that the Party is secured, a rebrand forfeits the line. Two patterns make this especially severe:

Registration-defined states. In states where qualified status depends on the number of voters registered under the party's name, the new name begins with **zero** qualifying registrations. The registrations sit under "Libertarian"; they do not migrate to a new label by

fiat. States that qualify minor parties by registration include Arizona, (Graham v. Tamburri, 240 Ariz. 126, 377 P.3d 323 (2016)) Colorado, (Colo. Rev. Stat. Ann. § 1-4-1303 (West)) Delaware, (Del. Code Ann. tit. 15, § 3001 (West)) Louisiana, (La. Stat. Ann. § 18:441) Maine, (Me. Rev. Stat. Ann. tit. 21-A, § 301) Maryland, (Maryland State Bd. of Elections v. Libertarian Party of Maryland, 426 Md. 488, 490–495, 44 A.3d 1002, 1003–1006 (2012)) Nebraska, (Neb. Rev. Stat. Ann. § 32-610 (West)) New Mexico, (N.M. Stat. Ann. § 1-7-2 (West)) North Carolina, (Libertarian Party of N. Carolina v. State, 200 N.C. App. 323, 326–328, 688 S.E.2d 700, 704–705 (2009)) South Dakota, (S.D. Codified Laws § 12-1-3) and Utah. (Utah Code Ann. § 20A-8-102 (West)) In each, an administrative rebrand can collapse the party below its qualification threshold overnight.

Vote-threshold states. In states where the Party earned a fixed-term line by its past vote — Indiana, (Populist Party v. Orr, 595 F. Supp. 760, 761–762 (S.D. Ind. 1984)) Kansas, (Kan. Stat. Ann. § 25-302a (West)) Michigan, (Socialist Workers Party v. Sec'y of State, 412 Mich. 571, 582–583, 317 N.W.2d 1, 4 (1982)) Missouri, (Mo. Ann. Stat. § 115.317 (West)) Oklahoma, (Libertarian Pol. Org. of Oklahoma v. Clingman, 2007 OK CIV APP 51, 162 P.3d 948) Texas, (Hughs v. Dikeman, 631 S.W.3d 362, 368 (Tex. App. 2020)) and Wyoming (Wyo. Stat. Ann. § 22-1-102 (West)) — that status was earned under the Libertarian name. No statute transfers it to a renamed entity, and the controlling dicta says it does not carry over. (Const. Party of Kansas v. Kobach, 695 F.3d 1140 (10th Cir. 2012)) South Carolina presents the same problem for its certified, convention-nominating party: a re-certified party's name must be "substantially different" from any previously certified party, with no amendment path. (S.C. Libertarian Party v. S.C. State Election Comm'n, 407 S.C. 612, 614–617, 757 S.E.2d 707, 707–709 (2014); S.C. Code Ann. § 7-9-10)

The upshot is stark. In Arizona, Colorado, Delaware, Idaho, Indiana, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Mexico, North Carolina, Oklahoma, South Carolina, South Dakota, Texas, Utah, and Wyoming, a rebrand would require the renamed party to **re-qualify from scratch** — the opposite of what the maneuver promises.

Where a rebrand gains nothing: the petition states

In a large group of states the Libertarian Party is not a durably qualified party at all — it reaches the ballot by petition or nominating papers each cycle. These include Alabama, (Ala. Code § 17-6-22) Arkansas, (Libertarian Party of Arkansas v. Thurston, 962 F.3d 390, 396–397 (8th Cir. 2020)) Connecticut, (Reale v. Bysiewicz, 298 Conn. 808, 813–814, 6 A.3d 1138, 1140–1141 (2010)) the District of Columbia, (D.C. Code Ann. § 1-1001.08

(West)) Georgia, (Ga. Code Ann. § 21-2-2 (West)) Hawaii, (Haw. Rev. Stat. Ann. § 11-62 (West)) Illinois, (10 Ill. Comp. Stat. Ann. 5/7-2) Kentucky, (Libertarian Party of Kentucky v. Grimes, 194 F. Supp. 3d 568, 572 (E.D. Ky. 2016)) Montana, (Larson v. State By & Through Stapleton, 2019 MT 28, 394 Mont. 167, 434 P.3d 241) New Hampshire, (Libertarian Party New Hampshire v. State, 154 N.H. 376, 378–379, 910 A.2d 1276, 1278–1279 (2006)) New Jersey, (N.J. Stat. Ann. § 19:5-1 (West)) New York, (O'Connor v. Sharpe, 208 A.D.3d 1458, 1458–1459, 174 N.Y.S.3d 489, 491 (2022)) North Dakota, (N.D. Cent. Code Ann. § 16.1-11-30 (West)) Pennsylvania, (25 Pa. Stat. Ann. § 2831 (West)) Rhode Island, (17 R.I. Gen. Laws Ann. § 17-1-2 (West)) Tennessee, (Green Party of Tennessee v. Hargett, 791 F.3d 684 (6th Cir. 2015)) and Virginia. (Va. Code Ann. § 24.2-101 (West))

New York is the cautionary example: after the 2020 election the Libertarian Party **lost** its recognized-party status, and its statewide candidates now must gather roughly 45,000 signatures by independent petition. (O'Connor v. Sharpe, 208 A.D.3d 1458, 1458–1459, 174 N.Y.S.3d 489, 491 (2022)) In states like these a rebrand "works" only in the trivial sense that there was never a durable line to keep — the insurgents would still have to mount the full petition drive each cycle, under a brand with no history, no ballot record, and no name recognition. They inherit the Party's burdens and none of its assets.

Where there is no party line at all: the top-two states

In California, (Rubin v. Padilla, 233 Cal. App. 4th 1128, 1135, 183 Cal. Rptr. 3d 373, 377 (2015)) Washington, (Washington State Grange v. Locke, 153 Wash. 2d 475, 478–480, 105 P.3d 9, 11–12 (2005)) and Alaska, (Kohlhaas v. State, 518 P.3d 1095, 1100 (Alaska 2022)) the state uses a top-two or top-four primary in which minor parties have no guaranteed general-election line for most offices. A rebrand changes a registration label; it captures no ballot line because none exists to capture. Washington, notably, awards a disputed party name to the faction with "prior established public use of the name …by a party composed of or led by the same individuals or individuals in documented succession" — a standard a hostile insurgent group would struggle to meet against the incumbent organization. (Wash. Rev. Code Ann. § 29A.56.650 (West))

Two obstacles that apply everywhere

The takeover must run through the Party's own governing rules. Control of a ballot line is determined by the party rules operative at qualification, not by an announcement of new leadership. (Indep. Party of CT-State Cent. v. Merrill, 330 Conn. 681, 694–695, 200 A.3d 1118, 1130–1131 (2019)) An insurgent faction that cannot win control under the Party's

constitution and bylaws has no claim to the line, and any dispute is resolved by the state — frequently by splitting or denying the line rather than awarding it to the newcomers. (**Scofield v. Kiffmeyer, 620 N.W.2d 24, 25–28 (Minn. 2000)**)

The new name must clear every state's name-collision bar. A majority of states prohibit a new or renamed party from adopting a name identical or confusingly similar to an existing party. North Carolina's board must reject any name containing a word that appears in an existing party's name. (**N.C. Gen. Stat. Ann. § 163-96**) New York bars a name "likely to create confusion." (**N.Y. Elec. Law § 2-124 (McKinney)**) Ohio bars a name "similar …as to confuse or mislead." (**Ohio Rev. Code Ann. § 3517.01 (West)**) Nebraska bars a name that includes "any word forming any part of the name of any political party then in existence." (**Neb. Rev. Stat. Ann. § 32-716 (West)**) Wyoming bars a name "identical to, nor similar to" an existing qualified party. (**Wyo. Stat. Ann. § 22-4-402 (West)**) Kansas, (**Kan. Stat. Ann. § 25-302a (West)**) Arkansas, (**Ark. Code Ann. § 7-1-101 (West)**) Illinois, (**10 Ill. Comp. Stat. Ann. 5/10-5**) Tennessee, (**Tenn. Code Ann. § 2-13-107 (West)**) and Louisiana (**La. Stat. Ann. § 18:441**) impose comparable bars. A rebrand that stays close enough to "Libertarian" to trade on its recognition risks rejection under these statutes; one that breaks cleanly from the name abandons whatever goodwill the takeover was meant to exploit.

Conclusion: the rebrand is self-defeating

The strategy fails on its own terms. In the states where the Libertarian Party's ballot access is most valuable — the "secured" states — a rebrand would **forfeit** that access and force re-qualification under a nameless, memberless new label, because only Florida and Nevada allow a qualified party to change its ballot name without re-qualifying. In the petition states, the rebrand inherits the Party's burdens and none of its advantages. In the top-two states, there is no line to capture. And everywhere, the insurgents must first win control under the Party's own rules and then clear a thicket of name-collision statutes that bar trading on the Libertarian name.

A political party's ballot access is not a transferable asset that changes hands with a change of name. It is a status earned, name by name, under each state's law — and the law does not let a new owner keep it while discarding the name that earned it. Anyone contemplating this maneuver should understand that it does not preserve the Libertarian Party's ballot access. It destroys it.

This memorandum is a legal analysis of publicly available election statutes and case law. It is not legal advice for any particular party or candidate, and the ballot-qualification status

of any minor party changes from cycle to cycle; current status should be confirmed with each state's election authority.