

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4221**

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 558, 799a, 803, and 933 (MCL 168.558, 168.799a, 168.803, and 168.933), section 558 as amended by 1996 PA 583, section 799a as amended by 1992 PA 8, and section 803 as amended by 1985 PA 160.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 558. (1) A candidate filing nominating petitions or a  
2 filing fee for a county, state, national, city, township, vil-  
3 lage, or school district office in any election, at the time of  
4 filing the nominating petitions or filing fee, shall file with  
5 the officer with whom the petitions or fee is filed 2 copies of  
6 an affidavit. The affidavit shall contain the candidate's name;  
7 address; ward and precinct where registered, if qualified to vote  
8 at that election; A STATEMENT THAT THE CANDIDATE IS A CITIZEN OF

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1 THE UNITED STATES; number of years of residence in the state and  
2 county; ~~and~~ other information that may be required to satisfy  
3 the officer as to the identity of the candidate; AND A STATEMENT  
4 THAT THE CANDIDATE ACKNOWLEDGES THAT MAKING A FALSE STATEMENT IN  
5 THE AFFIDAVIT IS PERJURY, PUNISHABLE BY A FINE UP TO \$1,000.00 OR  
6 IMPRISONMENT FOR UP TO 5 YEARS, OR BOTH. If a candidate files  
7 the affidavit with an officer other than the county clerk or sec-  
8 retary of state, the officer shall immediately forward to the  
9 county clerk 1 copy of the affidavit by first class mail. The  
10 county clerk shall immediately forward 1 copy of the affidavit  
11 for state and national candidates to the secretary of state by  
12 first class mail. ~~A candidate filing a nominating petition or~~  
13 ~~filing fee for an elective office under this act, at the time of~~  
14 ~~filing the affidavit under this subsection, shall present to the~~  
15 ~~filing official a birth certificate, naturalization papers, or a~~  
16 ~~passport as proof of citizenship.~~ An officer shall not certify  
17 to the board of election commissioners the name of ~~any~~ A candi-  
18 date who fails to comply with this section. ~~A copy of the proof~~  
19 ~~of citizenship presented under this subsection shall be kept on~~  
20 ~~file by the filing official.~~

21 (2) If petitions or filing fees are filed by or in behalf of  
22 a candidate for more than 1 office, either national, state,  
23 county, city, village, township, or school district, the terms of  
24 which run concurrently or overlap, the candidate so filing, or in  
25 behalf of whom petitions or fees were so filed, shall select the  
26 1 office to which his or her candidacy is restricted within 3  
27 days after the last day for the filing of petitions or filing

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1 fees unless the petitions or filing fees are filed for 2 offices  
2 that are combined or for offices that are not incompatible.  
3 Failure to make the selection disqualifies a candidate with  
4 respect to any office for which petitions or fees were so filed  
5 and the name of the candidate shall not be printed upon the  
6 ballot for those offices. A vote cast for that candidate at the  
7 primary or general election ensuing shall not be counted and  
8 ~~shall be~~ IS void.

9       Sec. 799a. (1) This section governs the recounting of a  
10 ballot on which a voter has made a selection by means of a punch,  
11 mark, or stamp.

12       (2) If the electronic voting system requires that the elec-  
13 tor cast a vote by punching out a hole in a ballot, the vote  
14 shall not be considered valid unless the portion of the ballot  
15 designated as a voting position is completely removed or is hang-  
16 ing by 1 or 2 corners or the equivalent.

17       (3) If the electronic voting system requires that the elec-  
18 tor cast a vote by marking or stamping a predefined area on the  
19 ballot, the vote shall not be considered valid unless THERE IS A  
20 MARK OR STAMP WITHIN THE PREDEFINED AREA AND it is clearly evi-  
21 dent that the intent of the voter was to cast a vote. In deter-  
22 mining intent of the voter, the board of canvassers OR ELECTION  
23 OFFICIAL shall compare the mark or stamp subject to recount with  
24 other marks or stamps appearing on the ballot.

25       (4) Unless a petition for recount has been filed and the  
26 recount has not been completed, ballots, ballot labels, programs,  
27 test results, and other sealed materials may be released from

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1 their original seal after 7 days following the final  
2 determination of the board of canvassers with respect to the  
3 election at which the ballots were voted. However, the released  
4 materials shall be secured and preserved for the time period  
5 required by this act and the rules promulgated by the secretary  
6 of state.

7       Sec. 803. (1) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS  
8 ACT, THE following rules shall govern the counting and recounting  
9 of votes:

10       (a) If it is clearly evident from an examination of any  
11 ballot that the ballot has been mutilated for the purpose of dis-  
12 tinguishing it or that there has been placed on the ballot some  
13 mark, printing, or writing for the purpose of distinguishing it,  
14 then that ballot ~~shall be~~ IS void and shall not be counted.

15       (b) A cross, the intersection of which ~~shall be~~ IS within  
16 or on the line of the proper circle or square, or a check mark,  
17 the angle of which is within a circle or square, ~~shall be~~ IS  
18 valid. Crosses or check marks otherwise located on the ballot  
19 ~~shall be~~ ARE void.

20       (c) Marks other than crosses or check marks used to desig-  
21 nate the intention of the voter shall not be counted.

22       (d) A cross ~~shall be~~ IS valid even though 1 or both lines  
23 of the cross ~~shall be~~ ARE duplicated, ~~provided that~~ IF the  
24 lines intersect within or on the line of the square or circle.

25       (e) Two lines meeting within or on the line of the square or  
26 circle, although not crossing each other, ~~shall be considered to~~

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1 ~~be a~~ ARE valid ~~cross where~~ IF it is apparent that the voter  
2 intended to make a cross.

3 (f) A failure to properly mark a ballot as to 1 or more can-  
4 didates ~~shall~~ DOES not ~~of itself~~ ALONE invalidate the entire  
5 ballot if the ballot has been properly marked as to other candi-  
6 dates, unless the improper marking ~~shall constitute~~ IS DETER-  
7 MINED TO BE a distinguishing mark as ~~defined~~ DESCRIBED in this  
8 ~~section~~ SUBSECTION.

9 (g) Erasures and corrections on a ballot made by the elector  
10 in a manner frequently used for this purpose shall not be consid-  
11 ered distinguishing marks or mutilations.

12 (h) Any ballot or part of a ballot from which it is impossi-  
13 ble to determine the elector's choice of candidate ~~shall be~~ IS  
14 void as to the candidate or candidates ~~thereby~~ affected BY THAT  
15 DETERMINATION.

16 (i) Any votes cast for a deceased candidate ~~shall be~~ ARE  
17 void and SHALL not BE counted, except that votes cast for a can-  
18 didate for governor who has died, and for whom a replacement has  
19 not been made, shall be counted for the candidate for lieutenant  
20 governor of that party.

21 (j) All ballots cast ~~which~~ THAT are not counted shall be  
22 marked by the inspector "not counted", kept separate from the  
23 others by being tied or held in 1 package, and placed in the  
24 ballot box with the counted ballots.

25 (k) A vote shall not be counted for any candidate unless a  
26 cross or a check mark has been placed by the voter in the circle  
27 at the head of the party ticket, if any, on which the name of the

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1 candidate has been printed, written, or placed or unless a cross  
2 or a check mark has been placed by the voter in the square before  
3 the space in which the name of the candidate has been printed,  
4 written, or placed.

5 (2) IF AN ELECTRONIC VOTING SYSTEM REQUIRES THAT THE ELECTOR  
6 PLACE A MARK IN A PREDEFINED AREA ON THE BALLOT IN ORDER TO CAST  
7 A VOTE, THE VOTE SHALL NOT BE CONSIDERED VALID UNLESS THERE IS A  
8 MARK WITHIN THE PREDEFINED AREA AND IT IS CLEARLY EVIDENT THAT  
9 THE INTENT OF THE VOTER WAS TO CAST A VOTE. IN DETERMINING  
10 INTENT OF THE VOTER, THE BOARD OF CANVASSERS OR ELECTION OFFICIAL  
11 SHALL COMPARE THE MARK WITH OTHER MARKS APPEARING ON THE BALLOT.

12 Sec. 933. ~~Any~~ A person who makes a false affidavit or  
13 swears falsely while under oath for the purpose of securing  
14 registration, ~~or~~ for the purpose of voting at ~~any~~ AN  
15 election, or ~~primary election shall be deemed~~ FOR THE PURPOSE  
16 OF QUALIFYING AS A CANDIDATE FOR ELECTIVE OFFICE UNDER SECTION  
17 558 IS guilty of perjury.