

Act No. 208  
Public Acts of 2009  
Approved by the Governor  
January 4, 2010  
Filed with the Secretary of State  
January 4, 2010  
EFFECTIVE DATE: January 4, 2010

**STATE OF MICHIGAN  
95TH LEGISLATURE  
REGULAR SESSION OF 2009**

Introduced by Senator Stamas

# **ENROLLED SENATE BILL No. 23**

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending section 433 (MCL 168.433), as amended by 1999 PA 218.

*The People of the State of Michigan enact:*

Sec. 433. (1) Except as otherwise provided in this subsection, to obtain the printing of the name of a person as a candidate for nomination for the office of judge of probate upon the official nonpartisan primary ballots, there shall be filed with the county clerk of each county nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in the county as determined under section 544f or by the filing of an affidavit according to section 433a. In the case of a probate court district, to obtain the printing of the name of a person as a candidate for nomination for the office of judge of probate upon the official nonpartisan primary ballots, there shall be filed with the secretary of state nominating petitions containing the signatures, addresses, and dates of signing of a number of qualified and registered electors residing in the probate court district as determined under section 544f or by the filing of an affidavit according to section 433a. The county clerk or, in the case of a probate court district, the secretary of state shall receive nominating petitions up to 4 p.m. on the fourteenth Tuesday before the August primary. The provisions of sections 544a and 544b apply.

(2) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with section 435a(2):

- (a) An unspecified existing judgeship for which the incumbent judge is seeking election.
- (b) An unspecified existing judgeship for which the incumbent judge is not seeking election.
- (c) A new judgeship.

(3) A person who files nominating petitions for election to more than 1 probate judgeship shall have not more than 3 days following the close of filing to withdraw from all but 1 filing.

(4) In a primary and general election for 2 or more judgeships where more than 1 of the categories in subsection (2) could be selected, a candidate shall apply to the bureau of elections for a written statement of office designation to correspond to the judgeship sought by the candidate. The office designation provided by the secretary of state shall be included in the heading of all nominating petitions. Nominating petitions containing an improper office designation are invalid.

(5) The secretary of state shall issue an office designation of incumbent position for any judgeship for which the incumbent judge is eligible to seek reelection. If an incumbent judge does not file an affidavit of candidacy by the deadline, the secretary of state shall notify all candidates for that office that a nonincumbent position exists. All nominating petitions circulated for the nonincumbent position after the deadline shall bear an office designation of nonincumbent position. All signatures collected before the affidavit of candidacy filing deadline may be filed with the nonincumbent nominating petitions.

(6) If a candidate for nomination for the office of judge of probate receives incorrect or inaccurate written information from the county clerk or, in the case of a probate court district, the secretary of state concerning the number of nominating petition signatures required under section 544f and that incorrect or inaccurate written information is published or distributed by the county clerk or, in the case of a probate court district, the secretary of state, the candidate may bring an action in a court of competent jurisdiction for equitable relief. A court may grant equitable relief to a candidate under this subsection if all of the following occur:

(a) The candidate brings the action for equitable relief within 6 days after the candidate is notified by the county clerk or, in the case of a probate court district, the secretary of state that the candidate's nominating petition contains insufficient signatures.

(b) The candidate files an affidavit certifying that he or she contacted and received from the county clerk or, in the case of a probate court district, the secretary of state incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f.

(c) The county clerk or, in the case of a probate court district, the secretary of state published or distributed the incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f before the filing deadline under subsection (1).

(d) The county clerk or, in the case of a probate court district, the secretary of state did not inform the candidate at least 14 days before the filing deadline under subsection (1) that incorrect or inaccurate written information concerning the number of nominating petition signatures required under section 544f had been published or distributed.

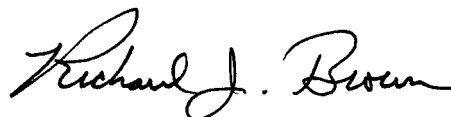
(7) If a court grants equitable relief to a candidate under subsection (6), the candidate shall be given the opportunity to obtain additional nominating petition signatures to meet the requirements under section 544f. The additional nominating petition signatures obtained by a candidate shall be filed with the county clerk or, in the case of a probate court district, the secretary of state no later than 4 p.m. on the fifth business day after the date that the court order granting equitable relief is filed.

(8) The nominating petition signatures filed pursuant to this section are subject to challenge as provided in section 552.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

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Governor