

SENATE BILL NO. 598

October 19, 2023, Introduced by Senator ALBERT and referred to the Committee on Oversight.

A bill to regulate political activity; to require certain elected state supreme court justices and judges to file financial reports; to prescribe the powers and duties of certain state officers and agencies; to impose fees; to prescribe penalties and civil sanctions; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "judicial branch
2 financial disclosure act".

3 Sec. 2. As used in this act:

1 (a) "Beneficial interest" includes, but is not limited to, the
2 interest in a trust of a qualified trust beneficiary or a trust
3 beneficiary as those terms are defined in section 7103 of the
4 estates and protected individuals code, 1998 PA 386, MCL 700.7103.

5 (b) "Blind trust" means a qualified blind trust or qualified
6 diversified trust as those terms are defined in 5 CFR 2634.403.

7 (c) "Earned income" means salaries, tips, or other
8 compensation or net earnings from self-employment for the taxable
9 year.

10 (d) "Income" means money or any thing of value received, or to
11 be received as a claim on future services, whether in the form of a
12 fee, salary, expense, allowance, forbearance, forgiveness,
13 interest, dividend, royalty, rent, capital gain, or any other form
14 of recompense that is considered income under the internal revenue
15 code of 1986, 26 USC 1 to 9834.

16 (e) "Liabilities" means what a person owes to another person,
17 including, but not limited to, mortgages or other debts.

18 (f) "Lobbyist" means that term as defined in section 5 of 1978
19 PA 472, MCL 4.415.

20 (g) "Lobbyist agent" means that term as defined in section 5
21 of 1978 PA 472, MCL 4.415.

22 (h) "State judicial official" means an individual who is
23 serving in the office of justice of the supreme court or judge of
24 the court of appeals.

25 Sec. 3. (1) If an individual is a state judicial official at
26 any time during a calendar year, that individual shall
27 electronically file with the secretary of state a report that meets
28 the requirements of section 4. The report required to be filed
29 under this subsection must first be filed by May 15, 2024 and by

1 May 15 of each year thereafter. This subsection does not apply to
2 an individual who was a state judicial official only on the first
3 day of the calendar year, or who, under any of the following acts,
4 files a report in the current calendar year:

5 (a) State senator financial disclosure act.

6 (b) State representative financial disclosure act.

7 (c) Executive branch financial disclosure act.

8 (2) If an individual required to file a report under this act
9 receives notice from the secretary of state under section 6(1)(g),
10 the individual shall, within 9 business days after receiving the
11 notice, file corrections to the errors or omissions or file the
12 report, as applicable.

13 Sec. 4. (1) Subject to subsection (4) and except as provided
14 in section 5, a report required under section 3 must include a
15 complete statement of all of the following:

16 (a) The full name, mailing address, occupation of, and the
17 state office held or sought by, the individual filing the report.

18 (b) The name of each member of the immediate family of the
19 individual filing the report.

20 (c) The name, address, and principal activity of each employer
21 of the individual filing the report during the calendar year
22 covered by the report if the individual's or member's total earned
23 income from the employer equals \$5,000.00 or more during that
24 calendar year.

25 (d) The source and type of earned income received during the
26 preceding calendar year by the individual filing the report if the
27 total earned income from that source equals \$5,000.00 or more
28 during that calendar year.

29 (e) The source and type of all other income not reported under

1 subdivision (d) that is received during the preceding calendar year
2 by the individual filing the report if the total income from that
3 source equals \$5,000.00 or more during that calendar year.

4 (f) Excluding a primary residence, the address of each parcel
5 of real property held during the preceding calendar year by the
6 individual filing the report if the real property had a fair market
7 value of \$50,000.00 or more at any time the real property was held
8 during the preceding calendar year. An individual filing a report
9 may exclude the street number of a parcel of real property listed
10 under this subdivision.

11 (g) A description of any stocks, bonds, commodities, futures,
12 shares in mutual funds, or other forms of securities held by the
13 individual filing the report during the preceding calendar year, if
14 the security has a total aggregate fair market value of \$10,000.00
15 or more on the date the report is filed.

16 (h) A description of any interest in any of the following
17 types of assets held by the individual filing the report, if the
18 interest in the asset has a value of \$10,000.00 or more on the date
19 the report is filed:

20 (i) A qualified or nonqualified annuity.

21 (ii) A benefit under a qualified or nonqualified plan of
22 deferred compensation.

23 (iii) An account in, or benefit payable under, any pension,
24 profit-sharing, stock bonus, or other qualified retirement plan.

25 (iv) An individual retirement account or trust.

26 (v) A benefit under a plan or arrangement that is established
27 under section 401, 403, 408, 408A, or 457 of the internal revenue
28 code of 1986, 26 USC 401, 403, 408, 408A, and 457, or a similar
29 provision of the internal revenue code of 1986, 26 USC 1 to 9834.

1 (i) The identity of all compensated positions held by the
2 individual filing the report during the preceding calendar year as
3 an officer, director, member, trustee, partner, proprietor,
4 representative, employee, or consultant of a corporation, limited
5 liability company, limited partnership, partnership, or other
6 business enterprise; of a nonprofit organization; of a labor
7 organization; or of an educational or other institution other than
8 this state, if the total compensation received from a position
9 equals \$1,000.00 or more during that calendar year. A position
10 reported under this subdivision must include the title of the
11 position, the name of the entity within which the position exists,
12 and the principal activity of the entity. A position held in any
13 religious, social, fraternal, or political entity, or a position
14 that is solely of an honorary nature, is excluded under this
15 subdivision.

16 (j) A description of any interest the individual filing the
17 report had during the preceding calendar year in a legal entity
18 that conducts business in this state, if the interest has a book
19 value of \$10,000.00 or more, unless the entity has shares that are
20 listed or traded over the counter or on an organized exchange.

21 (k) A description of all liabilities owed by the individual
22 filing the report and the identity of each creditor. For purposes
23 of this subdivision, the individual filing the report is required
24 to report a liability under this subparagraph only if the liability
25 owed to each creditor is \$5,000.00 or more during the preceding
26 calendar year.

27 (l) The date, parties to, and general terms of any agreements
28 or arrangements with respect to future employment, a leave of
29 absence while serving as a state official, continuation or deferral

1 of payments by a former or current employer other than this state,
2 or continuing participation in an employee welfare or benefit plan
3 maintained by a former employer.

4 (m) A list of all gifts and expenditures for food and
5 beverages reported by a lobbyist or lobbyist agent under state law.

6 (n) A list of all travel and lodging expenses paid for or
7 reimbursed by a lobbyist or lobbyist agent that are required to be
8 reported by the lobbyist or lobbyist agent under state law.

9 (o) A description of each payment made by a lobbyist or
10 lobbyist agent to a charity in lieu of honoraria.

11 (2) Subject to subsection (4), information an individual is
12 required to report under this section includes information with
13 respect to the income from a trust or other financial arrangement
14 from which income is received by, or with respect to which a
15 beneficial interest in principal or income is held by, an
16 individual required to file a report under this section.

17 (3) An individual is not required to disclose the value of any
18 real or personal property disclosed under subsection (1).

19 (4) If an individual required to file a report under section 3
20 holds a beneficial interest in a blind trust, the individual is not
21 required to include the interests or assets of the blind trust in
22 the individual's statement under subsection (1). However, the
23 individual must indicate in the individual's report that the
24 individual holds a beneficial interest in a blind trust.

25 Sec. 5. An individual filing a report under section 3 may omit
26 any of the following:

27 (a) Information an individual is required to report under the
28 Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

29 (b) An item otherwise required to be reported under section

1 4(1) (f) or (g) if both of the following apply:

2 (i) The item is not in any way, past or present, derived from
3 the income, assets, or activities of the individual filing the
4 report.

5 (ii) The individual filing the report does not derive, or
6 expect to derive, financial benefit from the item.

7 (c) An item that concerns a spouse who is living separate and
8 apart from the individual filing the report with the intention of
9 terminating the marriage or maintaining a legal separation.

10 (d) An item that concerns income of the individual filing the
11 report arising from dissolution of the individual's or member's
12 marriage.

13 (e) Compensation from a publicly held corporation that has
14 shares that are listed or traded over the counter or on an
15 organized exchange paid to a business owned by the individual
16 filing the report or in which the individual filing the report has
17 an interest, if the report under section 4 includes a complete
18 statement of the identity and value of that business.

19 (f) Benefits received under the social security act, chapter
20 531, 49 Stat 620.

21 Sec. 6. (1) The secretary of state shall do all of the
22 following:

23 (a) Make available through the secretary of state's offices
24 appropriate forms, instructions, and manuals required by this act.

25 (b) Create and operate an electronic, internet-accessible
26 system to receive all statements and reports required by this act
27 to be filed with the secretary of state.

28 (c) Prepare forms, instructions, and manuals required under
29 this act.

1 (d) Issue declaratory rulings to implement this act under the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
3 24.328.

4 (e) On receiving a written request and the required filing,
5 waive payment of a late filing fee if the request for the waiver is
6 based on good cause and accompanied by adequate documentation. One
7 or more of the following reasons constitute good cause for a late
8 filing fee waiver:

9 (i) The incapacitating physical illness, hospitalization,
10 accident involvement, death, or incapacitation for medical reasons
11 of an individual required to file a report or an individual whose
12 participation is essential to the preparation of the report.

13 (ii) Other unique, unintentional factors beyond the
14 individual's control that are not the result of a negligent act or
15 nonaction so that a reasonably prudent person would excuse the
16 filing on a temporary basis. These factors include the loss or
17 unavailability of records because of a fire, flood, theft, or
18 similar reason and difficulties related to the transmission of the
19 filing to the secretary of state, such as exceptionally bad
20 weather.

21 (f) As soon as practicable, but not later than 5 business days
22 after a report required to be filed under this act is received,
23 make the report or all of the contents of the report available
24 without charge to the public on the internet at a single website.

25 (g) Within 9 business days after the deadline for filing a
26 report under this act, notify, by registered mail, an individual of
27 any error or omission in the individual's report or that the
28 individual failed to file the required report.

29 (2) The secretary of state shall issue a declaratory ruling

1 under this section only if the person requesting the ruling has
2 provided a reasonably complete statement of facts necessary for the
3 ruling or if the person requesting the ruling has, with the
4 permission of the secretary of state, supplied supplemental facts
5 necessary for the ruling. Within 2 days after receiving a request
6 for a declaratory ruling, the secretary of state shall make the
7 request available in the manner provided for under subsection
8 (1)(f). An interested person may submit written comments regarding
9 the request to the secretary of state within 10 business days after
10 the date the request is made available to the public. Within 45
11 business days after receiving a declaratory ruling request, the
12 secretary of state shall make a proposed response available in the
13 manner provided for under subsection (1)(f). An interested person
14 may submit written comments regarding the proposed response to the
15 secretary of state within 5 business days after the date the
16 proposal is made available to the public. Except as otherwise
17 provided in this section, the secretary of state shall issue a
18 declaratory ruling within 60 business days after receiving a
19 request for a declaratory ruling. If the secretary of state refuses
20 to issue a declaratory ruling, the secretary of state shall notify
21 the person making the request of the reasons for the refusal and
22 issue an interpretative statement providing an informational
23 response to the question presented within the 60-day period. A
24 declaratory ruling or interpretative statement issued under this
25 section must not state a general rule of law, other than that which
26 is stated in this act or under judicial order.

27 (3) Under extenuating circumstances, the secretary of state
28 may issue a notice extending, for not more than 30 business days,
29 the period during which the secretary of state shall respond to a

1 request for a declaratory ruling. The secretary of state shall not
2 issue more than 1 notice of extension for a particular request. A
3 person requesting a declaratory ruling may waive, in writing, the
4 time limitations provided by this section.

5 (4) The secretary of state shall make available to the public
6 an annual summary of the declaratory rulings and interpretative
7 statements issued by the secretary of state under this section.

8 Sec. 7. (1) The secretary of state shall make a report filed
9 under this act available without charge to the public on a separate
10 internet webpage or on its website homepage.

11 (2) A report that is made available to the public under this
12 act must not be used for any commercial purpose.

13 (3) The secretary of state shall preserve a report filed under
14 this act for 15 years after the date the report is filed. If the
15 secretary of state or attorney general determines that a violation
16 of this act occurred, the secretary of state shall preserve all
17 complaints, orders, decisions, or other documents related to that
18 violation for 15 years after the date of the determination or the
19 date the violation is corrected, whichever is later. Reports filed
20 under this act may be reproduced in accordance with the records
21 reproduction act, 1992 PA 116, MCL 24.401 to 24.406. After the
22 required preservation period, the reports, or the reproductions of
23 the reports, may be disposed of in the manner prescribed in the
24 management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, and
25 section 11 of the Michigan history center act, 2016 PA 470, MCL
26 399.811.

27 (4) The secretary of state shall not collect a charge for the
28 filing of a report under this act, except a late filing fee
29 required by this act.

1 (5) The secretary of state shall determine whether a statement
2 or report filed under this act complies, on its face, with the
3 requirements of this act. The secretary of state shall determine
4 whether a statement or report that is required to be filed under
5 this act is in fact filed.

6 (6) A report required to be filed under this act must be filed
7 not later than 5 p.m. of the day it is required to be filed.

8 Sec. 8. (1) An individual who fails to file a report as
9 required under this act shall pay a late filing fee determined as
10 follows:

11 (a) Twenty-five dollars for each of the first 10 business days
12 that the report remains unfiled.

13 (b) Fifty dollars for each business day after the first 10
14 business days that the report remains unfiled.

15 (c) In addition to the late filing fees imposed under
16 subdivisions (a) and (b), \$5,000.00 if the report remains unfiled
17 for more than 105 business days.

18 (2) If an individual required to file a report under this act
19 knowingly files an incomplete or inaccurate report, the individual
20 shall be ordered to pay a civil fine of not more than \$10,000.00.

21 (3) A late filing fee collected under this act must be
22 deposited into the state official financial disclosure fund created
23 in section 9 of the state representative financial disclosure act.
24 A late filing fee assessed under this act that remains unpaid for
25 more than 180 days must be referred to the department of treasury
26 for collection.

27 Enacting section 1. This act takes effect December 31, 2023.