

HOUSE BILL NO. 5610

March 10, 2020, Introduced by Reps. Berman, Garza, LaGrand and Maddock and referred to the Committee on Elections and Ethics.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 2, 412, 413, 413a, 415, 416, 417, 424, and 424a (MCL 168.2, 168.412, 168.413, 168.413a, 168.415, 168.416, 168.417, 168.424, and 168.424a), section 2 as amended by 2018 PA 603, sections 413 and 413a as amended by 2018 PA 120, sections 415 and 416 as amended by 1990 PA 32, section 424 as amended by 2014 PA 94, and section 424a as amended by 1999 PA 218.



THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Absent voter" is a voter who utilizes the process
3 described in section 759.

4 (b) "Absent voter ballot" means a ballot that is issued to a
5 voter through the absentee voter process.

6 (c) "Ballot container" is defined in section 14a.

7 (d) "Business day" or "secular day" means a day that is not a
8 Saturday, Sunday, or legal holiday.

9 (e) "Clearly observable boundaries" is defined in section
10 654a.

11 (f) "Common carrier" means a company that transports mail, on
12 reasonable request, on regular routes and at set rates.

13 (g) "Election" means an election or primary election at which
14 the electors of this state or of a subdivision of this state choose
15 or nominate by ballot an individual for public office or decide a
16 ballot question lawfully submitted to them.

17 (h) "Election precinct" is defined in section 654.

18 (i) "Fall" state and county conventions and "spring" state and
19 county conventions are assigned meanings in section 596.

20 (j) "General election" or "general November election" means
21 the election held on the November regular election date in an even
22 numbered year.

23 (k) "Identification for election purposes" means, if issued to
24 the individual presenting the card or document and if presented for
25 voting purposes the name on the card or document sufficiently
26 matches the individual's name in his or her voter registration
27 record so as to accurately identify the individual as the
28 registered elector, or if issued to the individual presenting the



1 card or document and if presented for voter registration purposes,
2 any of the following:

3 (i) An operator's or chauffeur's license issued under the
4 Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an
5 enhanced driver license issued under the enhanced driver license
6 and enhanced official state personal identification card act, 2008
7 PA 23, MCL 28.301 to 28.308.

8 (ii) An official state personal identification card issued
9 under 1972 PA 222, MCL 28.291 to 28.300, or an enhanced official
10 state personal identification card issued under the enhanced driver
11 license and enhanced official state personal identification card
12 act, 2008 PA 23, MCL 28.301 to 28.308.

13 (iii) A current operator's or chauffeur's license issued by
14 another state.

15 (iv) A current state personal identification card issued by
16 another state.

17 (v) A current state government issued photo identification
18 card.

19 (vi) A current United States passport or federal government
20 issued photo identification card.

21 (vii) A current military photo identification card.

22 (viii) A current tribal photo identification card.

23 (ix) A current student photo identification card issued by a
24 high school in this state, an institution of higher education in
25 this state described in section 4, 5, or 6 of article VIII of the
26 state constitution of 1963, a junior college or community college
27 established under section 7 of article VIII of the state
28 constitution of 1963, or another accredited degree or certificate



1 granting college or university, junior college, or community
2 college located in this state.

3 (l) "Immediate family" means an individual's father, mother,
4 son, daughter, brother, sister, and spouse and a relative of any
5 degree residing in the same household as that individual.

6 (m) "**Judgeship number**" means the number the secretary of state
7 assigns to a particular judicial office.

8 Sec. 412. A general nonpartisan primary election ~~shall~~**must** be
9 held in every county of this state on the Tuesday ~~succeeding~~**after**
10 the first Monday in August ~~prior to~~**before** the general election at
11 which judges of the circuit court are elected, at which time the
12 qualified and registered electors may vote for nonpartisan
13 candidates for ~~the office of circuit court judge. of the circuit~~
14 ~~court.~~If, upon the expiration of the time for filing petitions or
15 incumbency affidavits of candidacy for the primary election ~~of said~~
16 ~~judge of the circuit court in any~~**for circuit court judge in a**
17 judicial circuit, ~~it shall appear that there are not to exceed~~
18 ~~twice the number of candidates as there are persons to be elected,~~
19 ~~then the~~**at least 3 candidates for each judgeship number, then all**
20 **of the following must occur:**

21 (a) The secretary of state shall certify to the county board
22 of election commissioners the ~~name of such candidate~~**names of the**
23 **candidates for each judgeship number** for circuit court judge whose
24 petitions or affidavits have been properly filed. ~~and such~~
25 ~~candidate shall be~~

26 (b) **Those candidates are** the ~~nominee~~**nominees** for the ~~judge of~~
27 the circuit court **for that judgeship number** and ~~shall~~**must** be ~~so~~
28 certified **as the candidates for that judgeship number.** ~~As to such~~
29 ~~office, there shall be~~



1 **(c) There is** no primary election ~~and this office shall for~~
 2 **that specified judgeship number and the judgeship number must** be
 3 omitted from the judicial primary ballot.

4 Sec. 413. (1) To obtain the printing of the name of ~~a person~~
 5 **an individual** as a candidate for nomination for the office of judge
 6 of the circuit court upon the official nonpartisan primary ballots,
 7 there must be filed with the secretary of state nominating
 8 petitions containing the signatures, addresses, and dates of
 9 signing of a number of qualified and registered electors residing
 10 in the judicial circuit as determined under section 544f or by the
 11 filing of an affidavit according to section 413a. The secretary of
 12 state shall receive the nominating petitions up to 4 p.m. of the
 13 fifteenth Tuesday before the primary. The provisions of sections
 14 544a and 544b apply. **Nominating petitions filed under this**
 15 **subsection are valid only if the nominating petitions clearly**
 16 **indicate the judicial office and judgeship number for which the**
 17 **candidate is filing.**

18 (2) If a candidate for nomination for the office of judge of
 19 the circuit court receives incorrect or inaccurate written
 20 information from the secretary of state or the bureau of elections
 21 concerning the number of nominating petition signatures required
 22 under section 544f and that incorrect or inaccurate written
 23 information is published or distributed by the secretary of state
 24 or the bureau of elections, the candidate may bring an action in a
 25 court of competent jurisdiction for equitable relief. A court may
 26 grant equitable relief to a candidate under this subsection if all
 27 of the following occur:

28 (a) The candidate brings the action for equitable relief
 29 within 6 days after the candidate is notified by the secretary of



1 state or the bureau of elections that the candidate's nominating
2 petition contains insufficient signatures.

3 (b) The candidate files an affidavit certifying that he or she
4 contacted and received from the secretary of state or the bureau of
5 elections incorrect or inaccurate written information concerning
6 the number of nominating petition signatures required under section
7 544f.

8 (c) The secretary of state or the bureau of elections
9 published or distributed the incorrect or inaccurate written
10 information concerning the number of nominating petition signatures
11 required under section 544f before the filing deadline under
12 subsection (1).

13 (d) The secretary of state or bureau of elections did not
14 inform the candidate at least 14 days before the filing deadline
15 under subsection (1) that incorrect or inaccurate written
16 information concerning the number of nominating petition signatures
17 required under section 544f had been published or distributed.

18 (3) If a court grants equitable relief to a candidate under
19 subsection (2), the candidate must be given the opportunity to
20 obtain additional nominating petition signatures to meet the
21 requirements under section 544f. The additional nominating petition
22 signatures obtained by a candidate must be filed with the secretary
23 of state no later than 4 p.m. on the fifth business day after the
24 date that the court order granting equitable relief is filed.

25 (4) The nominating petition signatures filed under this
26 section are subject to challenge as provided in section 552.

27 Sec. 413a. (1) ~~Any~~**An** incumbent circuit court judge may become
28 a candidate in the primary election for the office **and judgeship**
29 **number** of which he or she is an incumbent by filing with the



1 secretary of state an affidavit of candidacy not less than 134 days
 2 before the date of the primary election. However, if an incumbent
 3 judge of the circuit court was appointed to fill a vacancy and the
 4 judge entered upon the duties of office less than 137 days before
 5 the date of the primary election but before the fifteenth Tuesday
 6 before the primary election, the incumbent judge may file the
 7 affidavit of candidacy not more than 3 days after entering upon the
 8 duties of office.

9 (2) The affidavit of candidacy must contain statements that
 10 the affiant is an incumbent circuit court judge for the circuit in
 11 which election is sought, that he or she is domiciled within the
 12 circuit, and that he or she will not attain the age of 70 by the
 13 date of election, and must contain a declaration that he or she is
 14 a candidate for election to the office **and specified judgeship**
 15 **number** of circuit court judge.

16 Sec. 415. (1) The **2** candidates for ~~the office of a specified~~
 17 **judgeship number of a circuit court** judge ~~of the circuit court~~
 18 receiving the largest number of votes at ~~any a~~ primary election, ~~to~~
 19 ~~a number equal to twice the number of persons to be elected as set~~
 20 ~~forth in the report of the board of state canvassers,~~ based on the
 21 returns from the various county boards of canvassers and election
 22 precincts or as determined by the board of state canvassers as the
 23 result of a recount, ~~shall~~**must** be declared the nominees for the
 24 office at the next general election. The board of state canvassers
 25 shall certify the nomination to the county election commissions.

26 (2) If, after the deadline for filing nominating petitions
 27 under section 413, there are fewer **than 2** candidates for nomination
 28 ~~or nominees for the office of~~**specified judgeship number of circuit**
 29 **court** judge ~~of the circuit court than there are persons to be~~



1 elected at the general November election because of the death or
 2 disqualification of a candidate more than 65 days before the
 3 general November election, then ~~a person,~~ **an individual**, whether or
 4 not an incumbent, may qualify as a nominee for that ~~office~~
 5 **judgeship number of circuit court judge** at the general November
 6 election by filing nominating petitions as required by section 413.
 7 However, the filing ~~shall~~ **must** be made before 4 p.m. on the twenty-
 8 first day following the death or disqualification of the candidate
 9 or 4 p.m. on the sixtieth day ~~preceding~~ **before** the general November
 10 election, whichever is earlier, and the minimum number of
 11 signatures required is 1,000 or 1/2 the minimum number required
 12 under section 413, whichever is less.

13 (3) The secretary of state shall certify the nomination of
 14 each ~~person~~ **individual** who qualifies as a nominee under subsection
 15 (2) to the board of election commissioners specified by section 687
 16 for the general November election.

17 Sec. 416. (1) Except as otherwise provided in this section, a
 18 judge or judges of the circuit court shall be elected in each
 19 judicial circuit at the general election in which judges of the
 20 circuit court are to be elected. ~~as provided by law.~~

21 (2) If there ~~are fewer nominees for the office of~~ **is not at**
 22 **least 1 candidate for a specified judgeship number of circuit court**
 23 ~~judge of the circuit court than there are persons~~ to be elected at
 24 the general November election because of the death or
 25 disqualification of a nominee less than 66 days before the general
 26 November election, then ~~a person shall~~ **an individual must** not be
 27 elected at that general November election ~~to any office of~~ **for the**
 28 **specified judgeship number of circuit court** judge. ~~of the circuit~~
 29 ~~court for which there is no nominee.~~



1 Sec. 417. The board of state canvassers shall determine which
 2 candidate ~~or candidates~~ for the office of **a specified judgeship**
 3 **number for circuit court** judge ~~of the circuit court~~ received the
 4 greatest number of votes and shall declare ~~such~~**that** candidate ~~or~~
 5 ~~candidates~~ duly elected. The ~~said~~ board shall forthwith make and
 6 subscribe on its statement of returns a certificate of ~~such~~**the**
 7 determination and deliver the same to the secretary of state. **An**
 8 **election result certification must include the name of the**
 9 **individual elected, the judicial office, and the judgeship number.**

10 Sec. 424. (1) If a vacancy occurs in the office of circuit
 11 judge, the governor shall appoint a successor to fill the vacancy.
 12 ~~Except as otherwise provided in section 424a(3), the person~~**The**
 13 **individual** appointed by the governor ~~shall be~~**is** considered an
 14 incumbent for purposes of this act. The ~~person~~**individual** appointed
 15 by the governor shall hold office until 12 noon of January 1
 16 following the next general November election at which a successor
 17 is elected and qualified.

18 (2) Except as otherwise provided in section 415(2), if the
 19 vacancy occurs more than 7 days before the nominating petition
 20 filing deadline as provided in section 413 for the general November
 21 election that is not the general November election at which a
 22 successor in office would be elected if there were no vacancy, the
 23 ~~person~~**individual** appointed shall hold office only until a
 24 successor is elected at the next general November election in the
 25 manner provided in this chapter for the election of circuit judges.
 26 The ~~person~~**individual** elected shall hold office for the remainder
 27 of the unexpired term.

28 Sec. 424a. ~~(1) In the primary and general election for 2 or~~
 29 ~~more judgeships of the circuit court, each of the following~~



1 ~~categories of candidates shall be listed separately on the ballot,~~
 2 ~~consistent with subsection (3):~~

3 ~~(a) The names of candidates for the judgeship or judgeships~~
 4 ~~for which the incumbent is seeking election.~~

5 ~~(b) The names of candidates for an existing judgeship or~~
 6 ~~judgeships for which the incumbent is not seeking election.~~

7 ~~(c) The names of candidates for a newly created judgeship or~~
 8 ~~judgeships.~~

9 ~~(2) Nominating petitions filed under section 413 are valid~~
 10 ~~only if they clearly indicate for which of the following offices~~
 11 ~~the candidate is filing, consistent with subsection (3):~~

12 ~~(a) An unspecified existing judgeship for which the incumbent~~
 13 ~~judge is not seeking election.~~

14 ~~(b) A new judgeship.~~

15 ~~(c) An unspecified existing judgeship for which the incumbent~~
 16 ~~judge is seeking election.~~

17 ~~(3) If the death or disqualification of an incumbent judge~~
 18 ~~triggers the application of section 415(2), then for the purposes~~
 19 ~~of subsections (1) and (2), that judgeship shall be regarded as a~~
 20 ~~judgeship for which the incumbent judge is not seeking election.~~
 21 ~~The application of this subsection includes, but is not limited to,~~
 22 ~~circumstances in which the governor appoints an individual to fill~~
 23 ~~the vacancy and that individual seeks to qualify as a nominee under~~
 24 ~~section 415(2).~~

25 **(1) If the office of judge of the circuit court in any**
 26 **judicial circuit appears on the ballot, that office must be**
 27 **designated with a judgeship number. The judgeship number is**
 28 **designated whether or not there is an incumbent in that office**
 29 **seeking election. Beginning with the elections held after December**



1 31, 2019, the judgeship number is determined at each election as
2 follows:

3 (a) Subject to subdivisions (b) and (c), the first office of
4 judge of the circuit court in the judicial circuit scheduled to be
5 filled by election is designated position number 1, the next is
6 designated position number 2, and the remaining offices of judge of
7 the circuit court must be designated in the same manner.

8 (b) If more than 1 office of judge of the circuit court in the
9 judicial circuit is scheduled to be filled at the same election,
10 the office held by the circuit judge with the largest number of
11 years of continuous service is designated with the lowest judgeship
12 number.

13 (c) If 2 or more offices of judge of the circuit court in the
14 judicial circuit are scheduled to be filled at the same election
15 and the incumbents have the same number of years of continuous
16 service, the office held by the circuit judge with the last name
17 with the lowest alphabetical letter is designated with the lowest
18 judgeship number.

19 (2) The judgeship number along with the candidates' names for
20 the specified judgeship number must be listed separately on the
21 ballot. In the primary or general election for a circuit court
22 judge, an incumbent judge who is a candidate shall have printed
23 upon the ballot under the name of the candidate the designation of
24 that office.

25 (3) ~~(4) A person~~ **An individual** who files nominating petitions
26 for election to more than 1 circuit judgeship ~~shall have~~ **number has**
27 not more than 3 days following the close of filing to withdraw from
28 all but 1 filing.

29 ~~(5) In a primary and general election for 2 or more judgeships~~



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

8 ~~(6) The secretary of state shall issue an office designation~~
9 ~~of incumbent position for any judgeship for which the incumbent~~
10 ~~judge is eligible to seek reelection. If an incumbent judge does~~
11 ~~not file an affidavit of candidacy by the deadline, the secretary~~
12 ~~of state shall notify all candidates for that office that a~~
13 ~~nonincumbent position exists. All nominating petitions circulated~~
14 ~~for the nonincumbent position subsequent to the deadline shall bear~~
15 ~~an office designation of nonincumbent position. All signatures~~
16 ~~collected prior to the affidavit of candidacy filing deadline may~~
17 ~~be filed with the nonincumbent nominating petitions.~~

