

Legislative Analysis



INCLUDE FELONIES ON CANDIDATE AFFIDAVITS OF IDENTITY

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House Bill 4825 as passed by the House
Sponsor: Rep. Klint Kesto
Committee: Elections and Ethics

Second Analysis (4-14-14)

BRIEF SUMMARY: The bill would require that candidates who run for public office list any felony convictions within the preceding 10 years on their affidavits of identity.

FISCAL IMPACT: The bill would have no significant fiscal impact for the state or local units of government.

THE APPARENT PROBLEM:

Currently the law and custom in American politics require that an elected official resign from office if convicted of a felony while serving. However, there is no law that precludes a former felon from running for office. Neither is there a law that requires former felons to reveal their criminal histories to the voters when they campaign for office.

Near the outset of a political campaign, a candidate who runs for public office files with the local elections clerk the candidate's nominating petition, an affidavit of candidacy, an affidavit of identity, and, generally, a filing fee. The affidavit of identity requires the candidate to list, for the public record, his or her name, address (including ward and/or precinct), and length of residency, as well as to attest to registered voter status, and to U.S. citizenship. This information helps a voter to know the candidate is a local citizen.

Legislation has been introduced that would require, beginning with the August 5, 2014 primary election, a candidate to include information about previous felonies (that had not been expunged) when completing the affidavit of identity that is filed with the local election clerk.

THE CONTENT OF THE BILL:

House Bill 4825 (H-2, as amended on the House floor) would amend the Michigan Election Law to require that candidates who run for public office list any felony convictions within the preceding 10 years on their affidavits of identity. A more detailed description of the bill follows.

Now under the law, when candidates run for public office they file nominating petitions, filing fees, affidavits of candidacy, and affidavits of identity. An affidavit of identity contains, among other things, a candidate's name, address, and the ward and precinct where the candidate is registered to vote; a statement that the candidate is a citizen of the United States; the candidate's number of years of residence in the state and county; the manner in which the candidate wishes to have his or her name appear on the ballot; and a statement that the candidate either is or is not using a name given at birth.

Further, the affidavit of identity includes a statement that the candidate has filed all statements and reports, and paid all late filing fees and fines, as required by the Michigan Campaign Finance Act. And, finally, the affidavit of identity contains a statement that false statements constitute perjury, punishable by a fine up to \$1,000 or imprisonment for up to 5 years, or both.

House Bill 4825 (H-2) would retain all of these provisions. In addition, the bill would require that an affidavit of identity also contain a statement requiring the candidate to indicate whether he or she had been convicted of a felony within the immediately preceding 10 years. If convicted of a felony, then the candidate would be required to list each felony on the affidavit. However, the candidate would not be required to list any juvenile adjudications or any felony convictions that had been expunged, set aside, or excluded from the public record before the date of filing the affidavit of identity.

In addition, the bill specifies that within 45 days after this legislation goes into effect (assuming it is enacted into law), a candidate who will appear on the August 5, 2014, primary ballot must file two copies of an updated affidavit of identity that includes all of the information noted above.

MCL 168.558

ARGUMENTS:

For:

Proponents of the bill say running for office is similar to applying for a job. As a voter becomes more fully informed about the candidates' expertise, energy, and interests, the voter "hires" one of the candidates by going to the polls and casting a ballot for the candidate who most favorably impresses the voter, or "employer." Proponents note that just as employers must know the criminal background of their potential employees, so, too, must voters know the background of their potential elected officials.

This bill would help voters, and also journalists, more easily learn whether the candidates running for political office had felony convictions on their records during the past 10 years (excluding juvenile adjudications and expunged convictions). Instead of having to search public record databases for felony convictions, the voter (and also the journalist) would need only to review the affidavit of identity filed with the local elections clerk. Then, more fully informed about the candidates' backgrounds, the journalist could make known via various media the candidate's criminal record, while the voter could cast a ballot for the best candidate to serve in public office.

POSITIONS:

The Secretary of State is neutral on the bill. (1-21-14)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.