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Senate Bill 212 (as enacted)  
Sponsor: Senator Ruth Johnson  
Senate Committee: Elections  
House Committee: Elections and Ethics

**PUBLIC ACT 158 of 2021**

Date Completed: 12-22-22

**RATIONALE**

Public Acts 653 and 654 of 2018 amended the Michigan Election Law to allow an individual to pay a filing fee instead of submitting a nominating petition to the appropriate clerk in order to appear on a primary election ballot. Before these amendments, an individual had to fill out a nominating petition, which included prescribed information, such as political affiliation. Some people indicated that certain information that was available on the nominating petition is no longer available to local clerks under the filing fee process, which posed a challenge for clerks when assessing how to place an individual on a ballot. To address this, it was suggested that the pertinent information be included in an affidavit of identity.

**CONTENT**

**The bill amended the Michigan Election Law to do the following:**

- **Require an affidavit of identity to contain the title of the office sought, including the jurisdiction, district, circuit, or ward; the candidate's political party or a statement indicating no party affiliation if the candidate is running without political party affiliation; the term of office; and the date of the election in which the candidate wishes to appear on the ballot.**
- **Require an affidavit of identity for a candidate for a precinct delegation to include his or her precinct number on the affidavit.**
- **Require an affidavit of identity for a judicial candidate to include whether the office sought is an incumbent position, a nonincumbent position, or a new judgeship.**
- **Require an affidavit of identity to be signed and notarized.**
- **Require copies of an affidavit of identity to be sent to the county clerk or the Secretary of State (SOS) by first-class mail, as currently required, or by facsimile or electronic transmission.**

The bill took effect on December 27, 2021.

Currently, when filing a nominating petition, qualifying petition, filing fee, or affidavit of candidacy for a Federal, county, State, city, township, village, metropolitan district, or school district office in any election, a candidate must file with the office with whom the petitions, fee, or affidavit is filed two copies of an affidavit of identity. A candidate nominated for a Federal, State, county, city, township, or village office at a political party convention or caucus must file an affidavit of identity with the SOS within one business day after being nominated. The affidavit of identity filing requirement does not apply to a candidate nominated for the office of President or Vice President of the United States.

An affidavit of identity must contain the candidate's name and residential address; a statement that the candidate is a citizen of the United States; a statement that the candidate meets the constitutional statutory qualifications for the office sought; other information that may be required to satisfy the office as to the identity of the candidate; and the manner in which the candidate

wishes to have his or her name appear on the ballot. If a candidate is using a name that is not a name that he or she was given at birth, the candidate must include on the affidavit of identity the candidate's full former name.

The Law also requires the affidavit to include the title of the office sought. Under the bill, this includes the jurisdiction, district, circuit, or ward. The bill also requires the affidavit of identity to include the candidate's political party or a statement indicating no party affiliation if the candidate is running without political party affiliation; the term of office; and the date of the election in which the candidate wishes to appear on the ballot.

If the affidavit is for a candidate for precinct delegate, the candidate must include his or her precinct number on the affidavit of identity. If the affidavit is for a judicial candidate, the candidate must include on the affidavit whether the office sought is an incumbent position, a nonincumbent position, or a new judgeship.

The Law requires an affidavit of identity to include a statement that, as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate's election under the Campaign Finance Act, have been filed or paid; and a statement that the candidate acknowledges that making a false statement on the affidavit is perjury, punishable by a fine up to \$1,000 or imprisonment for up to five years, or both. Under the bill, the affidavit must be signed and notarized.

The Law specifies that if a candidate files the affidavit of identity with an officer other than the county clerk or SOS, the officer must immediately forward to the county clerk one copy of the affidavit of identity. The county clerk must immediately forward one copy of the affidavit for State and Federal candidates to the Secretary of State. In either case, these copies must be sent by first-class mail. Under the bill, in either case, a copy must be sent by first-class mail, facsimile, or electronic transmission.

MCL 168.558

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

After amending the Election Law to allow for the payment of a filing fee instead of filing a nominating petition, it became clear that the information that had to be provided to a clerk through a nominating petition now was not available. This complicated the process of placing an individual on a primary ballot. The bill provides an avenue for clerks to fill that information gap. Requiring a candidate to provide all the necessary information for the ballot on his or her affidavit of identity will make local clerks' jobs easier by not requiring them to track down additional partisan, district, and incumbency information they need to properly list certain types of candidates on the ballot. The bill ensures that elections continue to operate as effectively and efficiently as possible.

Legislative Analyst: Stephen P. Jackson

## **FISCAL IMPACT**

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco, Jr.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.