

**MICHIGAN ELECTION LAW (EXCERPT)**  
**Act 116 of 1954**

**168.409b Judge of court of appeals other than incumbent; candidate; nominating petitions; validity of filed petitions; using petition specifying new or existing judgeship to qualify candidate for another judicial office of same court prohibited; filing for election to more than 1 judgeship; incumbent judge as candidate in primary election; affidavit of candidacy; contents; primary and general election for 2 or more judgeships; listing categories of candidates on ballot; death or disqualification of incumbent judge; application of subsection (8).**

Sec. 409b. (1) To obtain the printing of the name of a qualified person other than an incumbent judge of the court of appeals as a candidate for nomination for the office of judge of the court of appeals upon the official nonpartisan primary ballots, there must 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 appellate court district as determined under section 544f. The provisions of sections 544a and 544b apply. The secretary of state shall receive nominating petitions up to 4 p.m. on the fifteenth Tuesday before the primary.

(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 subsection (8):

- (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) Nominating petitions specifying a new or existing court of appeals judgeship may not be used to qualify a candidate for another judicial office of the same court in the same judicial district. A person who files nominating petitions for election to more than 1 court of appeals judgeship has 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 must 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 subsequent to the deadline must 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) An incumbent judge of the court of appeals may become a candidate in the primary election for the office of which he or she is the incumbent by filing with the secretary of state an affidavit of candidacy not less than 134 days before the date of the primary election. However, if an incumbent judge of the court of appeals was appointed to fill a vacancy and the judge entered upon the duties of the office less than 137 days before the date of the primary election but before the fifteenth Tuesday before the primary election, the incumbent judge may file the affidavit of candidacy not more than 3 days after entering upon the duties of office. The affidavit of candidacy must contain statements that the affiant is an incumbent judge of the court of appeals, is domiciled within the district, will not attain the age of 70 by the date of election, and is a candidate for election to the office of judge of the court of appeals.

(7) In the primary and general November election for 2 or more judgeships of the court of appeals in a judicial district, each of the following categories of candidates must be listed separately on the ballot, consistent with subsection (8):

- (a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election.
- (b) The names of candidates for the judgeship or judgeships for which the incumbent is not seeking election.
- (c) The names of candidates for a newly created judgeship or judgeships.

(8) If the death or disqualification of an incumbent judge triggers the application of section 409d(2), then for the purposes of subsections (2) and (7), that judgeship must be regarded as a judgeship for which the incumbent judge is not seeking election. The application of this subsection includes, but is not limited to, circumstances in which the governor appoints an individual to fill the vacancy and that individual seeks to

qualify as a nominee under section 409d(2).

**History:** Add. 1963, 2nd Ex. Sess., Act 60, Imd. Eff. Dec. 27, 1963;—Am. 1970, Act 10, Imd. Eff. Mar. 31, 1970;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1982, Act 149, Imd. Eff. May 6, 1982;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1990, Act 32, Imd. Eff. Mar. 21, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2018, Act 120, Eff. Dec. 31, 2018.

**Popular name:** Election Code