



**House
Legislative
Analysis
Section**

Manufacturer's Bank Building, 12th Floor
Lansing, Michigan 48909
Phone: 517.373-6466

LATE FILING FOR JUDGESHIP

House Bill 5167 (Substitute H-2)
First Analysis (12-13-89)

Sponsor: Rep. Richard Bandstra
Committee: Elections

RECEIVED

MAR 05 1990

Mich. State Law Library

H.B. 5167 (12-13-89)

THE APPARENT PROBLEM:

A recent election for a judgeship in Grand Rapids was reportedly thrown into near chaos by the death of the incumbent (who, tragically, was shot by her husband) too close to the election to allow additional candidates to file. Because no other candidates had been running for the office, the result was a write-in election with many contestants that apparently caused much confusion. Some method ought to be available to deal with such, admittedly rare, situations, one that preserves the right of the people to elect their judges rather than have them appointed.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Election Law to allow a person to qualify as a candidate for a judgeship after the normal filing deadline if the death or disqualification of a candidate more than 65 days before the election results in there being fewer candidates for nomination or nominees for the office than offices to be filled. The filing deadline would be 4 p.m. on the 21st day following the death or disqualification of the candidate or 4 p.m. on the 60th day preceding the general November election, whichever is earlier. Petitions would have to contain 1 000 signatures or one-half the minimum number normally required, whichever is less. (Affidavits of candidacy would not be permitted; all candidates would have to file signatures.) If the candidate who dies or is disqualified is an incumbent judge, then the judgeship would be regarded on the ballot as one for which an incumbent is not seeking re-election (even if someone is appointed to fill the office and seeks the office through a late filing). The bill would also specify that if there are fewer nominees for a judgeship than judgeships to be filled due to the death or disqualification of a candidate less than 66 days before the general November election, then no one would be elected to the office for which there is not a candidate. (In such cases, the governor would appoint a successor, who would serve until the next election.) The bill would apply to candidates for court of appeals, circuit court, municipal court, probate court, and district court.

MCL 168 325 et al.

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The bill presents an orderly method of electing a judge in cases where a candidate for a judgeship dies (or is otherwise disqualified) and there are not enough candidates to fill the available offices. The bill preserves for the citizenry the right to elect its judges, but balances that against the needs of those who administer elections. Late filing of candidates would be allowed if a candidate died or was disqualified more than 65 days before the general election but not later than that.

POSITIONS:

There are no positions at present.