

Act No. 137
Public Acts of 1997
Approved by the Governor
November 17, 1997
Filed with the Secretary of State
November 17, 1997
EFFECTIVE DATE: November 17, 1997

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1997

Introduced by Reps. Brackenridge, Gernaat, Gilmer, Hammerstrom, McBryde and Jelinek

ENROLLED HOUSE BILL No. 4221

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending sections 558, 799a, 803, and 933 (MCL 168.558, 168.799a, 168.803, and 168.933), section 558 as amended by 1996 PA 583, section 799a as amended by 1992 PA 8, and section 803 as amended by 1985 PA 160.

The People of the State of Michigan enact:

Sec. 558. (1) A candidate filing nominating petitions or a filing fee for a county, state, national, city, township, village, or school district office in any election, at the time of filing the nominating petitions or filing fee, shall file with the officer with whom the petitions or fee is filed 2 copies of an affidavit. The affidavit shall contain the candidate's name; address; ward and precinct where registered, if qualified to vote at that election; a statement that the candidate is a citizen of the United States; number of years of residence in the state and county; other information that may be required to satisfy the officer as to the identity of the candidate; and a statement that the candidate acknowledges that making a false statement in the affidavit is perjury, punishable by a fine up to \$1,000.00 or imprisonment for up to 5 years, or both. If a candidate files the affidavit with an officer other than the county clerk or secretary of state, the officer shall immediately forward to the county clerk 1 copy of the affidavit by first class mail. The county clerk shall immediately forward 1 copy of the affidavit for state and national candidates to the secretary of state by first class mail. An officer shall not certify to the board of election commissioners the name of a candidate who fails to comply with this section.

(2) If petitions or filing fees are filed by or in behalf of a candidate for more than 1 office, either national, state, county, city, village, township, or school district, the terms of which run concurrently or overlap, the candidate so filing, or in behalf of whom petitions or fees were so filed, shall select the 1 office to which his or her candidacy is restricted within 3 days after the last day for the filing of petitions or filing fees unless the petitions or filing fees are filed for 2

offices that are combined or for offices that are not incompatible. Failure to make the selection disqualifies a candidate with respect to any office for which petitions or fees were so filed and the name of the candidate shall not be printed upon the ballot for those offices. A vote cast for that candidate at the primary or general election ensuing shall not be counted and is void.

Sec. 799a. (1) This section governs the recounting of a ballot on which a voter has made a selection by means of a punch, mark, or stamp.

(2) If the electronic voting system requires that the elector cast a vote by punching out a hole in a ballot, the vote shall not be considered valid unless the portion of the ballot designated as a voting position is completely removed or is hanging by 1 or 2 corners or the equivalent.

(3) If the electronic voting system requires that the elector cast a vote by marking or stamping a predefined area on the ballot, the vote shall not be considered valid unless there is a mark or stamp within the predefined area and it is clearly evident that the intent of the voter was to cast a vote. In determining intent of the voter, the board of canvassers or election official shall compare the mark or stamp subject to recount with other marks or stamps appearing on the ballot.

(4) Unless a petition for recount has been filed and the recount has not been completed, ballots, ballot labels, programs, test results, and other sealed materials may be released from their original seal after 7 days following the final determination of the board of canvassers with respect to the election at which the ballots were voted. However, the released materials shall be secured and preserved for the time period required by this act and the rules promulgated by the secretary of state.

Sec. 803. (1) Except as otherwise provided in this act, the following rules shall govern the counting and recounting of votes:

(a) If it is clearly evident from an examination of any ballot that the ballot has been mutilated for the purpose of distinguishing it or that there has been placed on the ballot some mark, printing, or writing for the purpose of distinguishing it, then that ballot is void and shall not be counted.

(b) A cross, the intersection of which is within or on the line of the proper circle or square, or a check mark, the angle of which is within a circle or square, is valid. Crosses or check marks otherwise located on the ballot are void.

(c) Marks other than crosses or check marks used to designate the intention of the voter shall not be counted.

(d) A cross is valid even though 1 or both lines of the cross are duplicated, if the lines intersect within or on the line of the square or circle.

(e) Two lines meeting within or on the line of the square or circle, although not crossing each other, are valid if it is apparent that the voter intended to make a cross.

(f) A failure to properly mark a ballot as to 1 or more candidates does not alone invalidate the entire ballot if the ballot has been properly marked as to other candidates, unless the improper marking is determined to be a distinguishing mark as described in this subsection.

(g) Erasures and corrections on a ballot made by the elector in a manner frequently used for this purpose shall not be considered distinguishing marks or mutilations.

(h) Any ballot or part of a ballot from which it is impossible to determine the elector's choice of candidate is void as to the candidate or candidates affected by that determination.

(i) Any votes cast for a deceased candidate are void and shall not be counted, except that votes cast for a candidate for governor who has died, and for whom a replacement has not been made, shall be counted for the candidate for lieutenant governor of that party.

(j) All ballots cast that are not counted shall be marked by the inspector "not counted", kept separate from the others by being tied or held in 1 package, and placed in the ballot box with the counted ballots.

(k) A vote shall not be counted for any candidate unless a cross or a check mark has been placed by the voter in the circle at the head of the party ticket, if any, on which the name of the candidate has been printed, written, or placed or unless a cross or a check mark has been placed by the voter in the square before the space in which the name of the candidate has been printed, written, or placed.

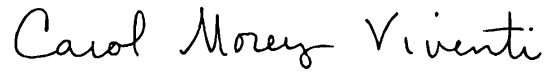
(2) If an electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area and it is clearly evident that the intent of the voter was to cast a vote. In determining intent of the voter, the board of canvassers or election official shall compare the mark with other marks appearing on the ballot.

Sec. 933. A person who makes a false affidavit or swears falsely while under oath for the purpose of securing registration, for the purpose of voting at an election, or for the purpose of qualifying as a candidate for elective office under section 558 is guilty of perjury.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved -----

Governor.