

DECLARATION OF NO PARTY AFFILIATION

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House Bill 4861 as reported from committee

Sponsor: Rep. Pat Outman

Committee: Election Integrity

Complete to 11-4-25

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4861 would amend the Michigan Election Law to exclude nonpartisan candidates from a requirement that an affidavit of identity must indicate the candidate's party affiliation, or state that they do not have a party affiliation, for purposes of the applicable election.

The act requires candidates¹ to file an affidavit of identity when filing a nominating petition, qualifying petition, filing fee, or affidavit of candidacy, as applicable, or upon being nominated by a political party.

Among other information required to be included in an affidavit of identity, candidates must indicate their political party or, if they are running without political party affiliation, include a statement indicating that they have no political party affiliation.²

The bill would modify the above requirement so that it would apply only to candidates seeking nomination or election to a partisan office.

MCL 168.558

BRIEF DISCUSSION:

According to committee testimony, the provision requiring candidates who are not affiliated with a party to declare as much on their affidavit of identity has been a confusing challenge for candidates running in completely nonpartisan races since it was enacted in 2021. The legal right of several candidates in nonpartisan elections to appear on the ballot has been challenged on the basis that the candidates, evidently assuming that this provision applied only to partisan races, left this part of their affidavit blank. Courts have held that, in doing so, these candidates failed to meet the requirements of the above provision, which does not make a distinction between partisan and nonpartisan elections.³ Along the way, the courts have also noted that the current law is not entirely clear when it comes to candidates who are known from the start to have no political affiliation.⁴ For example, in concurring with a 2022 Michigan Supreme Court order denying an appeal in a case based

¹ Except candidates for president and vice president.

² This requirement was added in 2021. See <https://www.legislature.mi.gov/Bills/Bill?ObjectName=2021-SB-0212>

³ At least two candidates have been ordered removed from the ballot on this basis, while others have been allowed to remain on the ballot only because the challenge to their candidacy was made too late in the election process.

⁴ Judges, for example, are prohibited across the board from running with a party affiliation.

on this issue, Justice David Viviano wrote that “Statutory requirements for appearing on ballots must be followed, but those requirements should be clear and easy to understand... I strongly encourage the Legislature to correct this problem before the next election cycle.”⁵

Supporters of the bill argue that it would provide needed clarity for candidates filing affidavits of candidacy by no longer requiring those seeking a nonpartisan office to have to attest that they are doing so without a party affiliation.

BACKGROUND:

The forms used by candidates to file an affidavit of identity in 2020 and 2022 contained a blank line above the caption “political party, if a partisan office. if running without party affiliation list ‘No Party Affiliation.’”⁶

The forms were amended, by at least October 2023, to include clearer guidance for judicial and other nonpartisan candidates.⁷ The form now includes this checklist option for declaring a political party:⁸

Select one

- ☐ I am running for a partisan office, and my political party is: _____
- ☐ I am running for a nonpartisan office without party affiliation (*judicial office: see note above*)
- ☐ I am running for a partisan office without party affiliation.

Judicial candidates are directed to use another form, which contains a single checkbox next to the statement “I am running for a nonpartisan office without party affiliation.”⁹

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

POSITIONS:

Judges of the Third Circuit Court testified in support of the bill. (10-21-25)

The following entities indicated support for the bill:

- Department of State (10-21-25)
- Michigan Judges Association (10-21-25)
- State Court Administrative Office (10-21-25)

⁵ https://www.courts.michigan.gov/49d801/siteassets/case-documents/uploads/sct/public/orders/164564_58_01.pdf

⁶ See <https://www.bloomfieldtwp.org/media/uidcgut4/candidate-affidavit-of-identity-4-20.pdf>

⁷ <https://www.kalcounty.gov/DocumentCenter/View/2025/Affidavit-of-Identity-PDF>

⁸ This version of the affidavit of identity form was revised in April of 2025. https://www.michigan.gov/sos/-/media/Project/Websites/sos/25delrio/ED104_Aff_ID_Fil_Rec_Vendor_83725_7.pdf

⁹ The checkbox is the same in the forms for incumbent and nonincumbent candidates. https://www.michigan.gov/-/media/Project/Websites/sos/02mc Alpine/Aff_Judicial_Const_Qual_Supr_Crt_2020_REDO.pdf

- Michigan Association of Municipal Clerks (10-21-25)
- Michigan Association of County Clerks (10-28-25)
- Pure Integrity Michigan Elections (10-21-25)

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