

204B.44 ERRORS AND OMISSIONS; REMEDY.

(a) Any individual may file a petition in the manner provided in this section for the correction of any of the following errors, omissions, or wrongful acts which have occurred or are about to occur:

(1) an error or omission in the placement or printing of the name or description of any candidate or any question on any official ballot, including the placement of a candidate on the official ballot who is not eligible to hold the office for which the candidate has filed;

(2) any other error in preparing or printing any official ballot;

(3) failure of the chair or secretary of the proper committee of a major political party to execute or file a certificate of nomination;

(4) any wrongful act, omission, or error of any election judge, municipal clerk, county auditor, canvassing board or any of its members, the secretary of state, or any other individual charged with any duty concerning an election.

(b) The petition shall describe the error, omission, or wrongful act and the correction sought by the petitioner. The petition shall be filed with any judge of the supreme court in the case of an election for state or federal office or any judge of the district court in that county in the case of an election for county, municipal, or school district office. The petitioner shall serve a copy of the petition on the officer, board or individual charged with the error, omission, or wrongful act, on all candidates for the office in the case of an election for state, federal, county, municipal, or school district office, and on any other party as required by the court. Upon receipt of the petition the court shall immediately set a time for a hearing on the matter and order the officer, board or individual charged with the error, omission or wrongful act to correct the error or wrongful act or perform the duty or show cause for not doing so. In the case of a review of a candidate's eligibility to hold office, the court may order the candidate to appear and present sufficient evidence of the candidate's eligibility. The court shall issue its findings and a final order for appropriate relief as soon as possible after the hearing. Failure to obey the order is contempt of court.

(c) Any service required by this section on a candidate may be accomplished by electronic mail sent to the address the candidate provided on the candidate's affidavit of candidacy pursuant to section 204B.06, subdivision 1b, or by any other means permitted by law.

(d) If all candidates for an office and the officer, board, or individual charged with the error, omission, or wrongful act unanimously agree in writing:

(1) that an error, omission, or wrongful act occurred; and

(2) on the appropriate correction for the error, omission, or wrongful act,

then the officer, board, or individual charged with the error, omission, or wrongful act must correct the error in the manner agreed to without an order from the court. Such agreement must address, at a minimum, how the correction will take place and, if the correction involves a change to a ballot, how voters who have received or returned an incomplete ballot will be notified of the change and what, if any, steps voters who have returned an incorrect ballot can take to receive a corrected replacement ballot.

The officer, board, or individual must notify the secretary of state in writing of the error and proposed correction within one business day of receiving notification of the candidate's written agreement and must not distribute any ballots reflecting the proposed correction for two business days unless the secretary of state waives this notice period. Nothing in this paragraph shall be construed to preclude any person from

filing a petition under this section alleging that the written agreement constitutes an error, omission, or wrongful act that requires correction by the court.

(e) Any candidate for an office who does not enter into an agreement under paragraph (d) and who does not prevail at any subsequent proceeding involving a petition filed under this section must pay the costs and disbursements of the prevailing party or parties unless the court determines that the candidate's position was substantially justified or such costs and disbursements would impose undue hardship or otherwise be inequitable.

(f) Notwithstanding any other provision of this section, an official may correct any official ballot without order from the court if the ballot is not in compliance with sections 204B.35 to 204B.37 or any rules promulgated under sections 204B.35 to 204B.37.

History: 1981 c 29 art 4 s 44; 1986 c 444; 1990 c 453 s 6; 2014 c 204 s 1; 2015 c 70 art 1 s 31; 2025 c 39 art 8 s 58