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James M. Biernat Jr., Chief Judge
16th Judicial Circuit Court,
Macomb County Probate Court,
42nd District Courts

News



For Immediate Release

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RESIGNATION OF MACOMB COUNTY PROSECUTOR

Former Macomb County Prosecutor Eric Smith provided notice to Chief Judge James M. Biernat, Jr. containing the effective date of his resignation today (March 30, 2020) as contemplated by MCL 168.205. Chief Judge Biernat, Jr. accepted this resignation. Under the Michigan Constitution, any vacancy in the elected office of Prosecuting Attorney may be filled by the Judges of the Circuit Court. Michigan Constitution, Article 6, Section 14; and see also MCL 168.209.

Prior to his resignation, Prosecutor Smith submitted to the Macomb County Clerk's Office a "Statement of Appointments" identifying all assistant prosecuting attorneys "in the order in which they shall rank in discharging the functions and performing the duties of the office of prosecuting attorney." MCL 49.33. Per this document, Jean Cloud, Chief Trial Lawyer, is designated as the next ranking Assistant Prosecuting Attorney. In light of this "Statement of Appointments," there is no immediate lack of an "officer duly authorized to execute the duties" of Prosecuting Attorney. MCL 201.15. Accordingly, there is no need for an interim appointment by the Chief Judge prior to the entire Circuit Court Bench convening to appoint a Prosecutor to finish the term until the next election.

The 16th Judicial Circuit Court Judges will be accepting applications and set a remote meeting to fulfill their constitutional role in appointing a new Macomb County Prosecutor. More information will be provided as dates are determined.

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