

Act No. 128
Public Acts of 2012
Approved by the Governor
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Reps. Kowall, Bumstead, Goike, Wayne Schmidt and Denby

ENROLLED HOUSE BILL No. 4992

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, 560, 560b, 568, 591, 706, and 764a (MCL 168.558, 168.560, 168.560b, 168.568, 168.591, 168.706, and 168.764a), section 558 as amended and section 560b as added by 2002 PA 163, sections 568 and 706 as amended by 1985 PA 160, section 591 as amended by 1990 PA 109, and section 764a as amended by 1996 PA 207, and by adding sections 736b, 736c, 736d, 736e, 736f, 736g, and 764; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 558. (1) When filing a nominating petition, qualifying petition, filing fee, or affidavit of candidacy for a federal, county, state, city, township, village, or school district office in any election, a candidate shall file with the officer with whom the petitions, fee, or affidavit is filed 2 copies of an affidavit of identity. A candidate nominated for a federal, state, county, city, township, or village office at a political party convention or caucus shall file an affidavit of identity within 1 business day after being nominated with the secretary of state. The affidavit of identity filing requirement does not apply to a candidate nominated for the office of president of the United States or vice president of the United States.

(2) An affidavit of identity shall contain the candidate's name, address, and ward and precinct where registered, if qualified to vote at that election; a statement that the candidate is a citizen of the United States; the candidate's 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; the manner in which the candidate wishes to have his or her name appear on the ballot; and a statement that the candidate either is or is not using a name, whether a given name, a surname, or otherwise, that is not a name that he or she was given at birth. If a candidate is using a name that is not a name that he or she was given at birth, the candidate shall include on the affidavit of identity the candidate's full former name.

(3) The requirement to indicate a name change on the affidavit of identity does not apply if the name in question is 1 of the following:

- (a) A name that was formally changed at least 10 years before filing as a candidate.
- (b) A name that was changed in a certificate of naturalization issued by a federal district court at the time the individual became a naturalized citizen at least 10 years before filing as a candidate.
- (c) A name that was changed because of marriage.
- (d) A name that was changed because of divorce, but only if to a legal name by which the individual was previously known.
- (e) A name that constitutes a common law name as provided in section 560b.

(4) An affidavit of identity shall include a statement that as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate's election under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282, have been filed or paid; 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 of identity 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 of identity by first-class mail. The county clerk shall immediately forward 1 copy of the affidavit of identity for state and federal 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.

(5) If petitions or filing fees are filed by or in behalf of a candidate for more than 1 office, either federal, 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 each 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 ensuing primary or general election shall not be counted and is void.

Sec. 560. Ballots other than those furnished by the board of election commissioners, according to the provisions of this act, shall not be used, cast, or counted in any election precinct at any election. The size of all official ballots shall be as the board of election commissioners prescribes.

Sec. 560b. (1) A candidate required to indicate a name change on the affidavit of identity under section 558 shall be listed on the ballot with his or her current name and former name as prescribed by the secretary of state.

(2) Subject to subsections (3) and (4), both a candidate's given name and surname that he or she was given at birth, and only those names, shall appear on the ballot, except under 1 of the following circumstances:

(a) The name in question, whether a given name, a surname, or otherwise, is a name that was formally changed.

(b) The candidate is subject to subsection (1).

(c) The name in question, whether a given name, a surname, or otherwise, is 1 of the following:

(i) A name that was changed in a certificate of naturalization issued by a federal district court at the time the individual became a naturalized citizen at least 10 years before filing as a candidate.

(ii) A name that was changed because of marriage.

(iii) A name that was changed because of divorce, but only if to a legal name by which the individual was previously known.

(3) A candidate may specify that both his or her given name and middle name, or only a middle name, shall appear on the ballot. A candidate may specify that either an initial or a recognized diminutive for the candidate's given or middle name, or for both, shall appear on the ballot. In addition, a candidate may specify that a common law name used in accordance with Michigan department of state guidelines for use of a common law name on a driver license or state personal identification card shall appear on that ballot.

(4) A candidate is prohibited from specifying that a nickname that is not a recognized diminutive of the candidate's common law name, given name, or middle name appear on the ballot. A married individual is prohibited from specifying that his or her spouse's given name, or an alternative for that given name otherwise permitted under subsection (3), appear on the ballot.

(5) A ballot that would violate this section shall not be produced, printed, or distributed.

Sec. 568. (1) The official primary election ballots shall be prepared in a form prescribed by the secretary of state based upon the voting equipment being used in each county.

(2) The order of the offices on the ballot shall be the same, as near as may be, as is required by law in making up the ballot used at general elections. The title of the office shall be immediately above the names of the candidate or candidates for the nomination of each office, and under the title the words "Vote for not more than," followed by the number "1" or "2" or such other identifier as will designate the number of candidates for the nomination to the office that may be voted for.

Sec. 591. (1) Except as provided in subsection (2) and section 532, the state convention of all political parties for the nomination of candidates for state offices in the even numbered years shall commence not less than 60 days before the general November election. The date, time, and location of the state convention shall be designated by the state central committees of the various political parties in their call for a state convention. The calls shall be issued at least 60 days before the August primaries.

(2) In 2012 only, the state convention of all political parties for the nomination of candidates for state offices shall commence not less than 58 days before the general November election. The date, time, and location of the state convention shall be designated by the state central committees of the various political parties in their call for a state convention. The calls shall be issued at least 60 days before the August primaries.

Sec. 706. The arrangement of the ballot containing the names of candidates for office shall be prescribed by the secretary of state based upon the voting equipment being used in each county.

Sec. 736b. Each ballot secrecy sleeve used at a primary election shall either contain the following ballot marking instructions printed on the front of the ballot secrecy sleeve or shall have a clear plastic pocket on the front of the ballot secrecy sleeve that contains a printed copy of the following ballot marking instructions:

PRIMARY ELECTION

TO VOTE: Completely darken the oval opposite each choice.

— OR —

TO VOTE: Complete the arrow opposite each choice.

IMPORTANT: To mark your ballot, use only a black or blue ink pen. DO NOT USE ANY OTHER INK COLOR!

PARTISAN SECTION: There are two party sections on the ballot: Republican Party and Democratic Party. Select the party section of your choice. YOU MAY VOTE IN ONE PARTY SECTION ONLY; YOU CANNOT “SPLIT YOUR TICKET.” IF YOU VOTE IN MORE THAN ONE PARTY SECTION, YOUR PARTISAN BALLOT WILL BE REJECTED.

DO NOT vote for more candidates than indicated under each office title.

WRITE-IN CANDIDATES: To vote for a candidate whose name is not printed on the ballot, write or place the name of that candidate in the blank space provided and (completely darken the oval) or (complete the arrow). Do not cast a write-in vote for a candidate whose name is already printed on the ballot for that office.

CHECK BOTH SIDES OF BALLOT: This ballot has two sides. Be certain to check the reverse side of the ballot.

WHEN YOU HAVE COMPLETED VOTING: Place the ballot in the secrecy sleeve so that votes cannot be seen and the numbered stub is visible. Return the ballot to the election official stationed at the tabulator. (If voting by absentee ballot, follow the instructions provided by the clerk for returning the ballot.)

NOTE: If you make a mistake, return your ballot to the election official and obtain a new ballot. Do not attempt to erase or correct any marks made in error.

Sec. 736c. Each ballot secrecy sleeve used at a general election shall either contain the following ballot marking instructions printed on the front of the ballot secrecy sleeve or shall have a clear plastic pocket on the front of the ballot secrecy sleeve that contains a printed copy of the following ballot marking instructions:

GENERAL ELECTION

TO VOTE: Completely darken the oval opposite each choice.

— OR —

TO VOTE: Complete the arrow opposite each choice.

IMPORTANT: To mark your ballot, use only a black or blue ink pen. DO NOT USE ANY OTHER INK COLOR!

PARTISAN SECTION: To vote the partisan section of the ballot, you may cast a “straight ticket,” a “split ticket,” or a “mixed ticket.”

Straight Ticket: Vote the party of your choice. Nothing further need be done in the partisan section.

Split Ticket: You may vote a straight ticket AND vote for individual candidates of your choice.

Mixed Ticket: Vote for the individual candidates of your choice in each office.

NONPARTISAN and PROPOSAL SECTIONS of the ballot (if any) must be voted separately.

DO NOT vote for more candidates than indicated under each office title.

WRITE-IN CANDIDATES: To vote for a candidate whose name is not printed on the ballot, write or place the name of that candidate in the blank space provided and (completely darken the oval) or (complete the arrow). This must be done even if you cast a straight party vote. Do not cast a write-in vote for a candidate whose name is already printed on the ballot for that office.

CHECK BOTH SIDES OF BALLOT: This ballot has two sides. Be certain to check the reverse side of the ballot.

WHEN YOU HAVE COMPLETED VOTING: Place the ballot in the secrecy sleeve so that votes cannot be seen and the numbered stub is visible. Return the ballot to the election official stationed at the tabulator. (If voting by absentee ballot, follow the instructions provided by the clerk for returning the ballot.)

NOTE: If you make a mistake, return your ballot to the election official and obtain a new ballot. Do not attempt to erase or correct any marks made in error.

Sec. 736d. Each ballot secrecy sleeve used at a nonpartisan election shall either contain the following ballot marking instructions printed on the front of the ballot secrecy sleeve or shall have a clear plastic pocket on the front of the ballot secrecy sleeve that contains a printed copy of the following ballot marking instructions:

NONPARTISAN ELECTION

TO VOTE: Completely darken the oval opposite each choice.

— OR —

TO VOTE: Complete the arrow opposite each choice.

IMPORTANT: To mark your ballot, use only a black or blue ink pen. **DO NOT USE ANY OTHER INK COLOR!**

DO NOT vote for more candidates than indicated under each office title.

WRITE-IN CANDIDATES: To vote for a candidate whose name is not printed on the ballot, write or place the name of that candidate in the blank space provided and (completely darken the oval) or (complete the arrow). Do not cast a write-in vote for a candidate whose name is already printed on the ballot for that office.

CHECK BOTH SIDES OF BALLOT: This ballot has two sides. Be certain to check the reverse side of the ballot.

WHEN YOU HAVE COMPLETED VOTING: Place the ballot in the secrecy sleeve so that votes cannot be seen and the numbered stub is visible. Return the ballot to the election official stationed at the tabulator. (If voting by absentee ballot, follow the instructions provided by the clerk for returning the ballot.)

NOTE: If you make a mistake, return your ballot to the election official and obtain a new ballot. Do not attempt to erase or correct any marks made in error.

Sec. 736e. Each ballot secrecy sleeve used at a special election shall either contain the following ballot marking instructions printed on the front of the ballot secrecy sleeve or shall have a clear plastic pocket on the front of the ballot secrecy sleeve that contains a printed copy of the following ballot marking instructions:

SPECIAL ELECTION

TO VOTE: Completely darken the oval opposite each choice.

— OR —

TO VOTE: Complete the arrow opposite each choice.

IMPORTANT: To mark your ballot, use only a black or blue ink pen. **DO NOT USE ANY OTHER INK COLOR!**

CHECK BOTH SIDES OF BALLOT: This ballot has two sides. Be certain to check the reverse side of the ballot.

WHEN YOU HAVE COMPLETED VOTING: Place the ballot in the secrecy sleeve so that votes cannot be seen and the numbered stub is visible. Return the ballot to the election official stationed at the tabulator. (If voting by absentee ballot, follow the instructions provided by the clerk for returning the ballot.)

NOTE: If you make a mistake, return your ballot to the election official and obtain a new ballot. Do not attempt to erase or correct any marks made in error.

Sec. 736f. The ballot marking instructions as provided in sections 736b, 736c, 736d, 736e, and 764, are the only written ballot marking instructions that shall be provided to an elector.

Sec. 736g. If a ballot secrecy sleeve used at an election or a ballot marking instruction sheet contained in a clear plastic pocket on the front of a ballot secrecy sleeve used at an election is defaced, marred, or contains any mark on it other than the ballot marking instructions that are required under this act, the use of that ballot secrecy sleeve or that ballot marking instruction sheet contained in the clear plastic pocket on the front of the ballot secrecy sleeve shall be immediately discontinued and the ballot secrecy sleeve or ballot marking instruction sheet shall be discarded and not be further used at that election. In addition, if a clear plastic pocket on the front of a ballot secrecy sleeve used at an election is defaced, marred, or contains any mark on it, the use of that clear plastic pocket on the front of the ballot secrecy sleeve shall be immediately discontinued and the clear plastic pocket shall be discarded and not be further used at that election.

Sec. 764. In addition to the instructions provided to an absent voter under section 764a, the following ballot marking instructions for an absent voter concerning the method of voting shall be included with each absent voter ballot furnished an absent voter:

- (a) For a primary election, the ballot marking instructions as provided in section 736b.
- (b) For a general election, the ballot marking instructions as provided in section 736c.
- (c) For a nonpartisan election, the ballot marking instructions as provided in section 736d.
- (d) For a special election, the ballot marking instructions as provided in section 736e.

Sec. 764a. The following instructions for an absent voter shall be included with each ballot or set of ballots furnished an absent voter:

INSTRUCTIONS FOR ABSENT VOTERS

Step 1. Enclosed you will find voting instructions as to the method of voting. Read these carefully and then vote the ballot.

Step 2. After voting a ballot, place the ballot in the secrecy sleeve, if any. If a secrecy sleeve is not provided, refold the ballot to conceal your votes.

Step 3. Place the ballot or ballots in the return envelope and securely seal the envelope.

Step 4. Sign and date the return envelope in the place designated. Your signature must appear on the return envelope or the ballot will not be counted. If you are disabled or otherwise unable to mark the ballot and required assistance in voting your absent voter ballot, have the person who assisted you complete the section on the return envelope entitled "TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING BY ANOTHER PERSON".

Step 5. Deliver the return envelope by 1 of the following methods:

(a) Place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the envelope personally to the office of the clerk, to the clerk, or to an authorized assistant of the clerk.

(c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver a ballot to the clerk for the voter.

(d) You may request by telephone that the clerk who issued the ballot provide assistance in returning the ballot. The clerk is required to provide assistance if you are unable to return your absent voter ballot as specified in (a), (b), or (c) above, if it is before 5 p.m. on the Friday immediately preceding the election, and if you are asking the clerk to pickup the absent voter ballot within the jurisdictional limits of the city, township, or village in which you are registered. Your absent voter ballot will then be picked up by the clerk or an election assistant sent by the clerk. All persons authorized to pick up absent voter ballots are required to carry credentials issued by the clerk. If using this absent voter ballot return method, do not give your ballot to anyone until you have checked their credentials.

Step 6. The ballot must reach the clerk or an authorized assistant of the clerk before the close of the polls on election day. An absent voter ballot received by the clerk or assistant of the clerk after the close of the polls on election day will not be counted.

WARNING

All of the following actions are violations of the Michigan election law and are illegal in this state:

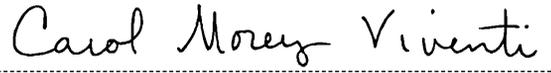
- (1) To vote an absent voter ballot at a meeting or gathering at which other people are voting absent voter ballots.
- (2) For a person who is assisting an absent voter in marking the ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.
- (3) For a person who is present and knows that a person is voting an absent voter ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.
- (4) For a person other than those listed in these instructions to return, offer to return, agree to return, or solicit to return an absent voter ballot to the clerk.
- (5) For a person other than the absent voter; a person listed in these instructions; or a person whose job it is to handle mail before, during, or after being transported by a public postal service, express mail service, parcel post service, or common carrier, but only during the normal course of his or her employment to be in possession of a voted or unvoted absent voter ballot.

Enacting section 1. Section 737 of the Michigan election law, 1954 PA 116, MCL 168.737, is repealed.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor