A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 765, 765a, and 765b (MCL 168.765, 168.765a, and 168.765b), sections 765 and 765a as amended by 2020 PA 95, section 765b as added by 2018 PA 127, and by adding sections 14b and 24k.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 14b. As used in this act, "absent voter ballot secrecy envelope container" means a container described in section 24k that is used for storing and securing absent voter ballot secrecy envelopes that are removed from the absent voter ballot return envelopes on the day before election day as provided in section 765.
Sec. 24k. (1) An absent voter ballot secrecy envelope container includes a ballot bag, box, transfer case, or other container used to store and secure absent voter ballot secrecy envelopes.

(2) A manufacturer or distributor of an absent voter ballot secrecy envelope container shall submit an absent voter ballot secrecy envelope container to the secretary of state for approval under the requirements of subsection (3) before the container is sold to a city or township for use at an election.

(3) The secretary of state shall not approve an absent voter ballot secrecy envelope container unless the container meets both of the following requirements:

(a) The container is made of metal, plastic, fiberglass, or other material, that provides resistance to tampering.

(b) The container is capable of being sealed.

(4) Before October 1, 2020, each board of county canvassers shall examine the absent voter ballot secrecy envelope containers to be used at the November 3, 2020 general election conducted under this act. The board of county canvassers shall designate on the absent voter ballot secrecy envelope container that the absent voter ballot secrecy envelope container does or does not meet the requirements under subsection (3). An absent voter ballot secrecy envelope container that is not approved by a board of county canvassers must not be used to store and secure any absent voter ballot secrecy envelopes.

(5) A city or township clerk may procure, at the expense of the respective city or township, absent voter ballot secrecy envelope containers that are approved under this section.

(6) A city or township clerk who uses or permits the use of an
absent voter ballot secrecy envelope container that is not approved under this section is guilty of a misdemeanor.

(7) This section does not apply after December 31, 2020.

Sec. 765. (1) A–Except as otherwise provided in subsection (6), a clerk who receives an absent voter ballot return envelope containing the marked ballots of an absent voter shall not open that envelope before delivering the envelope to the board of election inspectors as provided in this section. The–Except as otherwise provided in subsection (6), the city or township clerk shall safely keep in his or her office until election day any absent voter ballot return envelopes received by the clerk before election day containing the marked ballots of an absent voter.

(2) Before the opening of the polls on election day or as soon after the opening of the polls as possible, the clerk shall deliver the absent voter ballot return envelopes to the chairperson or other member of the board of election inspectors in the absent voter's precinct, together with the signed absent voter ballot applications received by the clerk from any voters of that precinct and the clerk's list or record kept relative to those absent voters. However, if higher numbered ballots are used under section 717, the clerk shall retain the applications and lists in his or her office and shall keep the applications and lists open to public inspection at all reasonable hours. Absent voter ballots must not be tabulated before the opening of the polls on election day.

(3) The city or township clerk, or authorized designee of the clerk, shall call for and receive absent voter ballots from the post office at which the city or township clerk regularly receives mail addressed to the city or township clerk on election day. Any envelopes containing absent voter ballots that are received from
the post office or from voters who voted by absentee ballot in
person in the clerk's office on election day must be delivered to
the board of election inspectors or, except as otherwise provided
in section 764d, the absent voter counting boards to be tabulated.

(4) If a marked absent voter ballot is received by the clerk
after the close of the polls, the clerk shall plainly mark the
envelope with the time and date of receipt and shall file the
evervelope in his or her office.

(5) On or before 8 a.m. on election day, the clerk shall post
in the clerk's office or otherwise make public the number of absent
voter ballots the clerk distributed to absent voters and the number
of absent voter ballot return envelopes containing the marked
ballots of absent voters received by the clerk before election day
and to be delivered to the board of election inspectors or the
absent voter counting boards under this act. On or before 9 p.m. on
election day, the clerk shall post in the clerk's office or
otherwise make public the number of absent voter ballot return
envelopes containing the marked ballots of absent voters received
by the clerk on election day and delivered to the board of election
inspectors, under subsection (3), along with the total number of
absent voter ballot return envelopes containing the marked ballots
of absent voters received by the clerk both before and on election
day and delivered to the board of election inspectors or the absent
voter counting boards under this act. As soon as possible after all
precincts in the city or township are processed, the clerk shall
post in the clerk's office or otherwise make public the number of
absent voter ballot return envelopes containing the marked ballots
of absent voters received by the election inspectors at the
precincts on election day, along with the total number of absent
voter ballot return envelopes containing the marked ballots of
absent voters received in the city or township for that election.
This subsection applies only to elections in which a federal or
state office appears on the ballot.

(6) For the November 3, 2020 general election only, if the
clerk of a city or township with a population of at least 25,000
provides written notice in compliance with this subsection to the
secretary of state 20 days or more before election day, that city
or township clerk, or his or her authorized designee, may between
the hours of 10 a.m. and 8 p.m. on the day before election day
perform certain absent voter ballot pre-processing activities as
described in this subsection. The written notice provided to the
secretary of state must include the location and hours that the
absent voter ballot return envelopes will be opened in that city or
township. The secretary of state shall post any written notice
received from the clerk of a city or township under this subsection
on the department of state website. In addition, the clerk of the
city or township shall post the written notice provided to the
secretary of state on the city or township website. The board of
election commissioners shall appoint election inspectors to the
location where absent voter ballot return envelopes will be opened
in that city or township not less than 21 days or more than 40 days
before the day at which they are to be used. Election inspectors
may be appointed by the board of election commissioners under this
subsection before written notice, that includes the location and
hours that the absent voter ballot return envelopes will be opened
in that city or township, is provided to the secretary of state.
Sections 673a and 674 apply to the appointment of election
inspectors under this subsection. All requirements for election
inspectors appointed to an absent voter counting board under section 765a apply to election inspectors appointed under this subsection. At all times, at least 1 election inspector from each major political party must be present at the location and the policies and procedures adopted by the secretary of state regarding the handling of absent voter ballot return envelopes and absent voter ballot secrecy envelopes must be followed. After providing written notice to the secretary of state in compliance with this subsection, a city or township clerk, or his or her authorized designee, is only authorized to open absent voter ballot return envelopes on the day before election day and is not authorized to remove absent voter ballots from the absent voter ballot secrecy envelopes. If an opened absent voter ballot return envelope contains an absent voter ballot that is not contained in an absent voter ballot secrecy envelope, the city or township clerk, or his or her designee, shall immediately insert that absent voter ballot into an absent voter ballot secrecy envelope. The opening of absent voter ballot return envelopes must be done at a location designated by the city or township clerk, and the location and opening of absent voter ballot return envelopes must be accessible to challengers as described in section 730. The election inspectors appointed to the location where absent voter ballot return envelopes will be opened in that city or township must never leave the absent voter ballot secrecy envelopes unattended. Once the absent voter ballot return envelopes have been opened as provided in this subsection, the absent voter ballot secrecy envelopes containing the absent voter ballots to be counted must be stored and secured in an absent voter ballot secrecy envelope container, as described in section 24k, and sealed. The city or township clerk
shall record the seal number in the poll book, or an addendum to
the poll book, and follow all other policies and procedures adopted
by the secretary of state regarding absent voter ballots. The poll
book, or an addendum to the poll book, must be signed and dated by
1 election inspector from each major political party who is present
at the location on the day before election day. The city or
township clerk shall store the absent voter ballot secrecy envelope
container containing the absent voter ballot secrecy envelopes in a
secure location until election day.

(7) The election inspectors who are appointed under subsection
(6) shall record in the poll book, or an addendum to the poll book,
all of the following:

(a) The number of absent voter ballot return envelopes that
were opened on the day before election day.

(b) The number of absent voter ballot return envelopes
delivered to the election inspectors that did not contain an
elector's signature and that were returned to the city or township
clerk.

(c) The number of absent voter ballot return envelopes that
were challenged, not opened by the election inspectors, and set
aside to be processed by the election inspectors on election day.

(8) The election inspectors who are appointed to an absent
voter counting board on election day as provided in section 765a
shall do all of the following:

(a) Verify the seal number recorded in the poll book, or an
addendum to the poll book, for any absent voter ballot secrecy
envelope container delivered to the absent voter counting board.

(b) Count and record in the poll book, or an addendum to the
poll book, both of the following:
(i) The number of absent voter ballot return envelopes opened by the election inspectors on the day before election day as provided under subsection (6) and the number of absent voter ballot secrecy envelopes delivered to the absent voter counting board on election day.

(ii) The number of absent voter ballot return envelopes that were challenged, not opened by the election inspectors on the day before election day, and set aside to be processed by the election inspectors on election day.

(9) Not later than March 1, 2021, the secretary of state shall provide a written report to the house and senate committees dealing with elections that contains all of the following information:

(a) The number of cities and townships that performed absent voter ballot pre-processing activities as described in subsection (6).

(b) The names of the cities and townships that performed absent voter ballot pre-processing activities as described in subsection (6), and all of the following information for each of those cities and townships:

(i) The number of registered electors in each city or township.

(ii) The number of active registered electors in each city or township.

(iii) The number of electors who voted by absent voter ballot in each city or township.

(iv) The number of electors who voted in person on election day in each city or township.

(v) The number of absent voter ballots that were not returned in each city or township.

(vi) The number of electors on a permanent absent voter list in
each city or township, if applicable.

(vii) The number of ballots that had to be duplicated in each city or township.

(c) The total number of absent voter ballot return envelopes that were opened on the day before election day.

(d) The total number of absent voter ballot return envelopes delivered to the election inspectors that did not contain an elector's signature and that were returned to the city or township clerk.

(e) The total number of absent voter ballot return envelopes that were challenged, not opened by the election inspectors, and set aside to be processed by the election inspectors on election day.

(f) The total number of absent voter ballot secrecy envelopes that were stored in an absent voter ballot secrecy envelope container.

(g) For each city or township that performed absent voter ballot pre-processing activities as described in subsection (6), whether the number of absent voter ballot return envelopes opened on the day before election day matched the number of absent voter ballot secrecy envelopes delivered to the absent voter counting board on election day.

Sec. 765a. (1) Subject to section 764d, if a city or township decides to use absent voter counting boards, the board of election commissioners of that city or township shall establish an absent voter counting board for each election day precinct in that city or township. The ballot form of an absent voter counting board must correspond to the ballot form of the election day precinct for which it is established. After the polls close on election day, the
county, city, or township clerk responsible for producing the
accumulation report of the election results submitted by the boards
of precinct election inspectors shall format the accumulation
report to clearly indicate all of the following:

(a) The election day precinct returns.
(b) The corresponding absent voter counting board returns.
(c) A total of each election day precinct return and each
corresponding absent voter counting board return.

(2) Subject to section 764d, the board of election
commissioners shall establish the absent voter counting boards.
Subject to section 764d, the board of election commissioners shall
appoint the election inspectors to those absent voter counting
boards not less than 21 days or more than 40 days before the
election at which they are to be used. Sections 673a and 674 apply
to the appointment of election inspectors to absent voter counting
boards under this section. The board of election commissioners
shall determine the number of ballots that may be expeditiously
counted by an absent voter counting board in a reasonable period of
time, taking into consideration the size and complexity of the
ballot to be counted pursuant to the guidelines of the secretary of
state. Combined ballots must be regarded as the number of ballots
as there are sections to the ballot.

(3) If more than 1 absent voter counting board is to be used,
the city or township clerk shall determine the number of electronic
voting systems or the number of ballot boxes and the number of
election inspectors to be used in each of the absent voter counting
boards and to which absent voter counting board the absent voter
ballots for each precinct are assigned for counting.

(4) In a city or township that uses absent voter counting
boards under this section, absent voter ballots must be counted in
the manner provided in this section and, except as otherwise
provided in section 764d, absent voter ballots must not be
delivered to the polling places. Subject to section 764d, the board
of election commissioners shall provide a place for each absent
voter counting board to count the absent voter ballots. Section 662
applies to the designation and prescribing of the absent voter
counting place or places in which the absent voter counting board
performs its duties under this section, except the location may be
in a different jurisdiction if the county provides a tabulator for
use at a central absent voter counting board location in that
county. The places must be designated as absent voter counting
places. Except as otherwise provided in this section, laws relating
to paper ballot precincts, including laws relating to the
appointment of election inspectors, apply to absent voter counting
places. The provisions of this section relating to placing of
absent voter ballots on electronic voting systems apply. More than
1 absent voter counting board may be located in 1 building.

(5) The clerk of a city or township that uses absent voter
counting boards shall supply each absent voter counting board with
supplies necessary to carry out its duties under this act. The
supplies must be furnished to the city or township clerk in the
same manner and by the same persons or agencies as for other
precincts.

(6) Subject to section 764d, absent voter ballots received by
the clerk before election day must be delivered to the absent voter
counting board by the clerk or the clerk's authorized assistant at
the time the election inspectors of the absent voter counting
boards report for duty, which time must be established by the board
of election commissioners. Except as otherwise provided in section 764d, absent voter ballots received by the clerk before the time set for the closing of the polls on election day must be delivered to the absent voter counting boards. Absent voter ballots must be delivered to the absent voter counting boards or combined absent voter counting boards in the sealed absent voter ballot return envelopes in which they were returned to the clerk. Written or stamped on each of the return envelopes must be the time and the date that the envelope was received by the clerk and a statement by the clerk that the signatures of the absent voters on the envelopes have been checked and found to agree with the signatures of the voters on the registration cards or the digitized signatures of voters contained in the qualified voter file as provided under section 766. If a signature on the registration card or a digitized signature contained in the qualified voter file and on the absent voter ballot return envelope does not agree as provided under section 766, if the absent voter failed to sign the envelope, or if the statement of the absent voter is not properly executed, the clerk shall mark the envelope "rejected" and the reason for the rejection and shall place his or her name under the notation. An envelope marked "rejected" must not be delivered to the absent voter counting board or combined absent voter counting board but must be preserved by the clerk until other ballots are destroyed in the manner provided in this act. The clerk shall also comply with section 765(5).

(7) This chapter does not prohibit an absent voter from voting in person within the voter's precinct at an election, notwithstanding that the voter may have applied for an absent voter
ballot and the ballot may have been mailed or otherwise delivered to the voter. The voter, the election inspectors, and other election officials shall proceed in the manner prescribed in section 769. The clerk shall preserve the canceled ballots for 2 years.

(8) The absent voter counting boards and combined absent voter counting boards shall process the ballots and returns in as nearly as possible the same manner as ballots are processed in paper ballot precincts. The poll book may be combined with the absent voter list or record required by section 760, and the applications for absent voter ballots may be used as the poll list. The processing and tallying of absent voter ballots may commence at 7 a.m. on the day of the election.

(9) An election inspector, challenger, or any other person in attendance at an absent voter counting place or combined absent voter counting place at any time after the processing of ballots has begun shall take and sign the following oath that may be administered by the chairperson or a member of the absent voter counting board or combined absent voter counting board:

"I (name of person taking oath) do solemnly swear (or affirm) that I shall not communicate in any way any information relative to the processing or tallying of votes that may come to me while in this counting place until after the polls are closed."

(10) The oaths administered under subsection (9) must be placed in an envelope provided for the purpose and sealed with the red state seal. Following the election, the oaths must be delivered to the city or township clerk. Except as otherwise provided in subsection (12), a person in attendance at the absent voter counting place or combined absent voter counting place shall not
leave the counting place after the tallying has begun until the
polls close. A person who causes the polls to be closed or who
discloses an election result or in any manner characterizes how any
ballot being counted has been voted in a voting precinct before the
time the polls can be legally closed on election day is guilty of a
felony.

(11) Voted absent voter ballots must be placed in an approved
ballot container, and the ballot container must be sealed in the
manner provided by this act for paper ballot precincts. The seal
numbers must be recorded on the statement sheet and in the poll
book.

(12) Subject to this subsection, a local election official who
has established an absent voter counting board or combined absent
voter counting board, the deputy or employee of that local election
official, an employee of the state bureau of elections, a county
clerk, an employee of a county clerk, or a representative of a
voting equipment company may enter and leave an absent voter
counting board or combined absent voter counting board after the
tally has begun but before the polls close. A person described in
this subsection may enter an absent voter counting board or
combined absent voter counting board only for the purpose of
responding to an inquiry from an election inspector or a challenger
or providing instructions on the operation of the counting board.
Before entering an absent voter counting board or combined absent
voter counting board, a person described in this subsection must
take and sign the oath prescribed in subsection (9). The
chairperson of the absent voter counting board or combined absent
voter counting board shall record in the poll book the name of a
person described in this subsection who enters the absent voter
counting board or combined absent voter counting board. A person described in this subsection who enters an absent voter counting board or combined absent voter counting board and who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a precinct before the time the polls can be legally closed on election day is guilty of a felony. As used in this subsection, "local election official" means a county, city, or township clerk.

(13) The secretary of state shall develop instructions consistent with this act for the conduct of absent voter counting boards or combined absent voter counting boards. The secretary of state shall distribute the instructions developed under this subsection to county, city, and township clerks 40 days or more before a general election in which absent voter counting boards or combined absent voter counting boards will be used. A county, city, or township clerk shall make the instructions developed under this subsection available to the public and shall distribute the instructions to each challenger in attendance at an absent voter counting board or combined absent voter counting board. The instructions developed under this subsection are binding upon the operation of an absent voter counting board or combined absent voter counting board used in an election conducted by a county, city, or township.

Sec. 765b. (1) Not later than 2–5 p.m. on the Saturday immediately before an election, an elector may submit a signed, written statement to his or her city or township clerk requesting that the clerk do both of the following:

(a) Spoil the elector's absent voter ballot.

(b) Provide or mail a new absent voter ballot to the elector.
Upon receipt of a signed, written statement from an elector as described in subsection (1), the city or township clerk shall mark the absent voter ballot return envelope of that elector as "spoiled" and retain the envelope. In addition, the city or township clerk shall provide or mail a new absent voter ballot to that elector.

An elector who has returned an absent voter ballot may, before 4 p.m. on the day before an election except Sunday or a legal holiday, appear in person at his or her city or township clerk's office to do both of the following:

(a) Spoil his or her absent voter ballot by submitting a signed, written statement to the city or township clerk indicating that the elector wishes to have his or her absent voter ballot spoiled.

(b) Vote a new absent voter ballot in the clerk's office.

Upon receipt of the signed, written statement from an elector as described in subsection (3)(a), the city or township clerk shall mark the absent voter ballot return envelope of that elector as "spoiled" and retain the envelope. In addition, the city or township clerk shall issue the elector a new absent voter ballot that must be voted by the elector in the clerk's office.

Not later than 2–5 p.m. on the Saturday immediately before an election, an elector who has lost his or her absent voter ballot or not yet received his or her absent voter ballot in the mail may submit a signed, written statement to his or her city or township clerk requesting that the clerk do both of the following:

(a) Spoil the elector's absent voter ballot.

(b) Provide or mail a new absent voter ballot to the elector.
elector as described in subsection (5), the city or township clerk
shall indicate in the qualified voter file that the original ballot
is spoiled. In addition, the city or township clerk shall provide
or mail a new absent voter ballot to that elector.

(7) An elector who has lost his or her absent voter ballot or
not yet received his or her absent voter ballot in the mail may,
before 4 p.m. on the day before an election except Sunday or a
legal holiday, appear in person at his or her city or township
clerk's office to do both of the following:

(a) Spoil his or her absent voter ballot by submitting a
signed, written statement to the city or township clerk indicating
that the elector wishes to have his or her absent voter ballot
spoiled.

(b) Vote a new absent voter ballot in the clerk's office.

(8) Upon receipt of the signed, written statement from an
elector described in subsection (7)(a), the city or township clerk
shall indicate in the qualified voter file that the original ballot
is spoiled. In addition, the city or township clerk shall issue the
elector a new absent voter ballot that must be voted by the elector
in the clerk's office.