

HOUSE BILL NO. 5987

July 23, 2020, Introduced by Reps. Guerra, Hammoud, Brenda Carter, Camilleri, Cherry, Stone, Hoadley, Bolden, Brixie, Pagan, Yancey, Hope, Gay-Dagnogo and Koleszar and referred to the Committee on Elections and Ethics.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 759a, 764a, and 765 (MCL 168.759a, 168.764a, and 168.765), section 759a as amended by 2012 PA 523, section 764a as amended by 2012 PA 128, and section 765 as amended by 2020 PA 95.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 759a. (1) An absent uniformed services voter or an



1 overseas voter who is not registered, but possessed the
 2 qualifications of an elector under section 492, may apply for
 3 registration by using the federal postcard application. The
 4 department of state, bureau of elections, is responsible for
 5 disseminating information on the procedures for registering and
 6 voting to an absent uniformed services voter and an overseas voter.

7 (2) Upon the request of an absent uniformed services voter or
 8 an overseas voter, the clerk of a county, city, township, or
 9 village shall electronically transmit a blank voter registration
 10 application or blank absent voter ballot application to the voter.
 11 The clerk of a county, city, township, or village shall accept a
 12 completed voter registration application or completed absent voter
 13 ballot application electronically transmitted by an absent
 14 uniformed services voter or overseas voter. A voter registration
 15 application or absent voter ballot application submitted by an
 16 absent uniformed services voter or overseas voter ~~shall~~**must**
 17 contain the signature of the voter.

18 (3) A spouse or dependent of an overseas voter who is a
 19 citizen of the United States, is accompanying that overseas voter,
 20 and is not a qualified and registered elector anywhere else in the
 21 United States, may apply for an absent voter ballot even though the
 22 spouse or dependent is not a qualified elector of a city or
 23 township of this state.

24 (4) An absent uniformed services voter or an overseas voter,
 25 whether or not registered to vote, may apply for an absent voter
 26 ballot. Upon receipt of an application for an absent voter ballot
 27 under this section that complies with this act, a county, city,
 28 village, or township clerk shall forward to the applicant the
 29 absent voter ballots requested, the forms necessary for



1 registration, and instructions for completing the forms. If the
 2 ballots are not yet available at the time of receipt of the
 3 application, the clerk shall immediately forward to the applicant
 4 the registration forms and instructions, ~~and~~ and forward the ballots
 5 as soon as they are available. If a federal postcard application or
 6 an application from the official United States ~~department~~
 7 **Department** of ~~defense~~**Defense** website is filed, the clerk shall
 8 accept the federal postcard application or the application from the
 9 official United States ~~department~~**Department** of ~~defense~~**Defense**
 10 website as the registration application and shall not send any
 11 additional registration forms to the applicant. If the ballots and
 12 registration forms are received before the close of the polls on
 13 election day and if the registration complies with the requirements
 14 of this act, the absent voter ballots ~~shall~~**must** be delivered to
 15 the proper election board to be **counted and** tabulated. **If the**
 16 **absent voter ballot return envelope containing a marked absent**
 17 **voter ballot is postmarked before or on election day and the absent**
 18 **voter ballot is received by the city or township clerk within 48**
 19 **hours after the close of the polls on election day, the city or**
 20 **township clerk shall count and tabulate that absent voter ballot.**
 21 **Not later than the third day after election day, each city and**
 22 **township clerk shall transmit the results of the absent voter**
 23 **ballots tabulated after the election to the board of county**
 24 **canvassers of the county in which that city or township is located.**
 25 If the registration does not comply with the requirements of this
 26 act, the clerk shall retain the absent voter ballots until the
 27 expiration of the time that the voted ballots must be kept and
 28 shall then destroy the ballots without opening the envelope. The
 29 clerk may retain registration forms completed under this section in



1 a separate file. The address in this state shown on a registration
2 form is the residence of the registrant.

3 (5) Not later than 45 days before an election, a county, city,
4 township, or village clerk shall electronically transmit or mail as
5 appropriate an absent voter ballot to each absent uniformed
6 services voter or overseas voter who applied for an absent voter
7 ballot 45 days or more before the election.

8 (6) Upon the request of an absent uniformed services voter or
9 overseas voter, the clerk of a county, city, township, or village
10 shall electronically transmit an absent voter ballot to the voter.
11 The voter shall print the absent voter ballot and return the voted
12 ballot by mail to the appropriate clerk.

13 (7) The secretary of state shall prescribe electronic absent
14 voter ballot formats and electronic absent voter ballot
15 transmission methods. Each county, city, township, or village clerk
16 shall employ the prescribed electronic ballot formats to fulfill an
17 absent voter ballot request received from an absent uniformed
18 services voter or overseas voter who wishes to receive his or her
19 absent voter ballot through an electronic transmission. The
20 secretary of state shall establish procedures to implement the
21 requirements in this section and for the processing of a marked
22 absent voter ballot returned by an absent uniformed services voter
23 or overseas voter who obtained his or her absent voter ballot
24 through an electronic transmission.

25 (8) The secretary of state shall modify the printed statement
26 provided under section 761(4) and the absent voter ballot
27 instructions provided under section 764a as appropriate to
28 accommodate the procedures developed for electronically
29 transmitting an absent voter ballot to an absent uniformed services



1 voter or overseas voter. A statement ~~shall~~**must** be included in the
2 certificate signed by the absent voter who obtained his or her
3 absent voter ballot through an electronic transmission that the
4 secrecy of the absent voter ballot may be compromised during the
5 duplication process. The absent voter ballot instructions provided
6 to an absent uniformed services voter or overseas voter ~~shall~~**must**
7 include the proper procedures for returning the absent voter ballot
8 to the appropriate clerk.

9 (9) The size of a precinct ~~shall~~**must** not be determined by
10 registration forms completed under this section.

11 (10) An absent uniformed services voter or an overseas voter
12 who submits an absent voter ballot application is eligible to vote
13 as an absent voter in any local, state, or federal election
14 occurring in the calendar year in which the election is held for
15 that ballot requested if the absent voter ballot application is
16 received by the county, city, village, or township clerk not later
17 than 2 p.m. of the Saturday before the election. A county, city, or
18 township clerk receiving an absent voter ballot application from an
19 absent uniformed services voter or overseas voter shall transmit to
20 a village clerk and the school district election coordinators,
21 where applicable, the necessary information to enable the village
22 clerk and school district election coordinators to forward an
23 absent voter ballot for each applicable election in that calendar
24 year to the absent voter. A village clerk receiving an absent voter
25 ballot application from an absent uniformed services voter or
26 overseas voter shall transmit to the township clerk and the school
27 district election coordinators, where applicable, the necessary
28 information to enable the city or township clerk and school
29 district election coordinators to forward an absent voter ballot



1 for each applicable election in that calendar year to the absent
2 voter. If the local elections official rejects a voter registration
3 application or absent voter ballot application submitted by an
4 absent uniformed services voter or overseas voter, the election
5 official shall notify the voter of the rejection.

6 (11) An electronic mail address provided by an absent
7 uniformed services voter or overseas voter for the purposes of this
8 section is confidential and exempt from disclosure under the
9 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

10 (12) Under the uniformed and overseas citizens absentee voting
11 act, the state director of elections shall approve a ballot form
12 and registration procedures for absent uniformed services voters
13 and overseas voters.

14 (13) An absent uniformed services voter or an overseas voter
15 may use the federal write-in absentee ballot, in accordance with
16 the provisions of the uniformed and overseas citizens absentee
17 voting act, at a regular election or special election to vote for a
18 local, state, or federal office or on a ballot question. An absent
19 uniformed services voter or an overseas voter who uses the federal
20 write-in absentee ballot shall return his or her voted federal
21 write-in absentee ballot by mail to the appropriate clerk. The
22 state bureau of elections shall do both of the following:

23 (a) Make the ballot format for each election available to
24 absent uniformed services voters and overseas voters by electronic
25 mail or on an internet website maintained by the department of
26 state.

27 (b) Make the ballot information, including the offices, names
28 of candidates, and ballot proposals, for each election available to
29 absent uniformed services voters and overseas voters on an internet



1 website maintained by the department of state.

2 (14) The clerk of a city, village, or township shall submit to
3 the county clerk of the county in which that city, village, or
4 township is located a written statement no later than 45 days
5 before each election indicating whether absent voter ballots were
6 issued to absent uniformed services voters or overseas voters in
7 compliance with this section and the uniformed and overseas
8 citizens absentee voting act. The city, village, or township clerk
9 shall provide to the county clerk a written explanation describing
10 remedial actions taken by the city, village, or township clerk if
11 the city, village, or township clerk fails to comply with this
12 section and the uniformed and overseas citizens absentee voting
13 act. Not later than 42 days before each election, each county clerk
14 shall submit to the state bureau of elections a written report
15 compiled from the written statements submitted by the city,
16 village, and township clerks. The written report ~~shall~~**must**
17 identify the cities, villages, and townships that complied with the
18 45-day deadline under this subsection, the cities, villages, and
19 townships that did not comply with the 45-day deadline under this
20 subsection, but provided a written explanation, and those cities,
21 villages, and townships that did not comply with the 45-day
22 deadline under this subsection and that did not provide a written
23 explanation. The state bureau of elections may require the clerk of
24 a city, village, or township that did not comply with the 45-day
25 deadline under this subsection, but provided a written explanation,
26 to provide additional information. The state bureau of elections
27 shall require the clerk of a city, village, or township that did
28 not comply with the 45-day deadline and that did not provide a
29 written explanation to file a written explanation, describing the



1 remedial actions taken by the city, village, or township clerk,
2 within 1 business day after the state bureau of elections notifies
3 the clerk of that city, village, or township.

4 (15) For a presidential primary election, the secretary of
5 state shall prescribe procedures for contacting an elector who is
6 an absent uniformed services voter or an overseas voter, as
7 described in this section, and who is eligible to receive an absent
8 voter ballot or who applies for an absent voter ballot for the
9 presidential primary election, offering the elector the opportunity
10 to select a political party ballot for the presidential primary
11 election.

12 (16) The secretary of state shall order a city, village, or
13 township clerk to extend the ballot receipt deadline for any
14 absentee voter ballots under this section that were not transmitted
15 to an absent uniformed services voter or overseas voter in
16 compliance with subsection (5). The extension ~~shall~~**must** equal the
17 total number of days beyond the deadline as provided in subsection
18 (5) that the city, village, or township clerk transmitted the
19 requested absentee voter ballots. These absentee voter ballots
20 received during the extension time ~~shall~~**must** be counted and
21 tabulated for the final results of the election provided that the
22 absentee voter ballots are executed and sent by the close of the
23 polls on election day. The election may be formally certified
24 before the end of the extension time if the number of outstanding
25 absentee voter ballots under this subsection will not alter the
26 outcome of the election.

27 (17) As used in this section:

28 (a) "Absent uniformed services voter" means any of the
29 following:



1 (i) A member of a uniformed service on active duty who, by
2 reason of being on active duty, is absent from the place of
3 residence where the member is otherwise qualified to vote.

4 (ii) A member of the merchant marine who, by reason of service
5 in the merchant marine, is absent from the place of residence where
6 the member is otherwise qualified to vote.

7 (iii) A spouse or dependent of a member referred to in
8 subparagraph (i) or (ii) who, by reason of the active duty or service
9 of the member, is absent from the place of residence where the
10 spouse or dependent is otherwise qualified to vote.

11 (b) "Member of the merchant marine" means an individual, other
12 than a member of a uniformed service or an individual employed,
13 enrolled, or maintained on the Great Lakes or the inland waterways,
14 who is either of the following:

15 (i) Employed as an officer or crew member of a vessel
16 documented under the laws of the United States, a vessel owned by
17 the United States, or a vessel of foreign-flag registry under
18 charter to or control of the United States.

19 (ii) Enrolled with the United States for employment or training
20 for employment, or maintained by the United States for emergency
21 relief service, as an officer or crew member of a vessel documented
22 under the laws of the United States, a vessel owned by the United
23 States, or a vessel of foreign-flag registry under charter to or
24 control of the United States.

25 (c) "Overseas voter" means any of the following:

26 (i) An absent uniformed services voter who, by reason of active
27 duty or service, is absent from the United States on the date of an
28 election.

29 (ii) A person who resides outside of the United States and is



1 qualified to vote in the last place in which the person was
2 domiciled before leaving the United States.

3 (iii) A person who resides outside of the United States and who,
4 but for such residence outside of the United States, would be
5 qualified to vote in the last place in which he or she was
6 domiciled before leaving the United States.

7 (d) "Uniformed services" means the ~~army, navy, air force,~~
8 ~~marine corps, coast guard,~~ **Army, Navy, Air Force, Marine Corps, or**
9 **Coast Guard**, the ~~commissioned corps~~ **Commissioned Corps** of the
10 ~~public health service,~~ **Public Health Service**, the ~~commissioned~~
11 ~~corps~~ **Commissioned Corps** of the ~~national oceanic~~ **National Oceanic**
12 ~~and atmospheric administration,~~ **Atmospheric Administration**, a
13 reserve component of a uniformed service, or the Michigan ~~national~~
14 ~~guard~~ **National Guard** as **that term is** defined in section 105 of the
15 Michigan military act, 1967 PA 150, MCL 32.505.

16 Sec. 764a. The following instructions for an absent voter
17 ~~shall~~ **must** be included with each ballot or set of ballots furnished
18 an absent voter:

19
20 INSTRUCTIONS FOR ABSENT VOTERS

21
22 Step 1. Enclosed you will find voting instructions as to the
23 method of voting. Read these carefully and then vote the ballot.

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

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

29 Step 4. Sign and date the return envelope in the place



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

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

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

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

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

20 (d) You may request by telephone that the clerk who issued the
21 ballot provide assistance in returning the ballot. The clerk is
22 required to provide assistance if you are unable to return your
23 absent voter ballot as specified in (a), (b), or (c) above, if it
24 is before 5 p.m. on the Friday immediately preceding the election,
25 and if you are asking the clerk to ~~pickup~~ **pick up** the absent voter
26 ballot within the jurisdictional limits of the city, township, or
27 village in which you are registered. Your absent voter ballot will
28 then be picked up by the clerk or an election assistant sent by the
29 clerk. All persons authorized to pick up absent voter ballots are



1 required to carry credentials issued by the clerk. If using this
2 absent voter ballot return method, do not give your ballot to
3 anyone until you have checked their credentials.

4 Step 6. The **absent voter ballot return envelope containing a**
5 **marked absent voter** ballot must **be postmarked before or on election**
6 **day and must** reach the clerk or an authorized assistant of the
7 clerk ~~before the close of the polls on~~ **within 48 hours after the**
8 **close of the polls on** election day. ~~An~~ **If the return envelope**
9 **containing an** absent voter ballot **is postmarked after election day**
10 **or is** received by the clerk or assistant of the clerk ~~after the~~
11 ~~close of the polls on~~ **more than 48 hours after the close of the**
12 **polls on** election day, **the absent voter ballot** will not be counted.
13

14 WARNING
15

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

18 (1) To vote an absent voter ballot at a meeting or gathering
19 at which other people are voting absent voter ballots.

20 (2) For a person who is assisting an absent voter in marking
21 the ballot to suggest or in any manner attempt to influence the
22 absent voter on how he or she should vote.

23 (3) For a person who is present and knows that a person is
24 voting an absent voter ballot to suggest or in any manner attempt
25 to influence the absent voter on how he or she should vote.

26 (4) For a person other than those listed in these instructions
27 to return, offer to return, agree to return, or solicit to return
28 an absent voter ballot to the clerk.

29 (5) For a person other than the absent voter; a person listed



1 in these instructions; or a person whose job it is to handle mail
2 before, during, or after being transported by a public postal
3 service, express mail service, parcel post service, or common
4 carrier, but only during the normal course of his or her employment
5 to be in possession of a voted or unvoted absent voter ballot.

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

14 (2) Before the opening of the polls on election day or as soon
15 after the opening of the polls as possible, the clerk shall deliver
16 the absent voter ballot return envelopes to the chairperson or
17 other member of the board of election inspectors in the absent
18 voter's precinct, together with the signed absent voter ballot
19 applications received by the clerk from any voters of that precinct
20 and the clerk's list or record kept relative to those absent
21 voters. However, if higher numbered ballots are used under section
22 717, the clerk shall retain the applications and lists in his or
23 her office and shall keep the applications and lists open to public
24 inspection at all reasonable hours. Absent voter ballots must not
25 be tabulated before the opening of the polls on election day.

26 (3) The city or township clerk, or authorized designee of the
27 clerk, shall call for and receive absent voter ballots from the
28 post office at which the city or township clerk regularly receives
29 mail addressed to the city or township clerk on election day. Any



1 envelopes containing absent voter ballots that are received from
 2 the post office or from voters who voted by absentee ballot in
 3 person in the clerk's office on election day must be delivered to
 4 the board of election inspectors or, except as otherwise provided
 5 in section 764d, the absent voter counting boards to be tabulated.

6 (4) **If the absent voter ballot return envelope containing a**
 7 **marked absent voter ballot is postmarked before or on election day**
 8 **and the absent voter ballot is received by the city or township**
 9 **clerk within 48 hours after the close of the polls on election day,**
 10 **the city or township clerk shall count and tabulate that absent**
 11 **voter ballot. Not later than the third day after election day, each**
 12 **city and township clerk shall transmit the results of the absent**
 13 **voter ballots tabulated after the election to the board of county**
 14 **canvassers of the county in which that city or township is located.**
 15 **If the absent voter ballot return envelope containing a marked**
 16 **absent voter ballot is postmarked after election day or is** received
 17 **by the clerk more than 48 hours** after the close of the polls **on**
 18 **election day,** the clerk shall plainly mark the **return** envelope with
 19 the time and date of receipt and shall file the **return** envelope in
 20 his or her office.

21 (5) On or before 8 a.m. on election day, the clerk shall post
 22 in the clerk's office or otherwise make public the number of absent
 23 voter ballots the clerk distributed to absent voters and the number
 24 of absent voter ballot return envelopes containing the marked
 25 ballots of absent voters received by the clerk before election day
 26 and to be delivered to the board of election inspectors or the
 27 absent voter counting boards under this act. On or before 9 p.m. on
 28 election day, the clerk shall post in the clerk's office or
 29 otherwise make public the number of absent voter ballot return



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

