

SUBSTITUTE FOR
SENATE BILL NO. 803

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 523, 759, and 761 (MCL 168.523, 168.759, and
168.761), sections 523 and 761 as amended by 2005 PA 71 and
section 759 as amended by 1995 PA 261, and by adding section
766a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 523. (1) At each election, before being given a ballot,
2 each registered elector offering to vote shall identify himself
3 or herself by presenting an official state identification card
4 issued to that individual ~~pursuant to Act No. 222 of the Public~~
5 ~~Acts of 1972, being sections 28.291 to 28.295 of the Michigan~~
6 ~~Compiled Laws, UNDER 1972 PA 222, MCL 28.291 TO 28.300, an~~
7 operator's or chauffeur's license issued to that individual

1 ~~pursuant to~~ **UNDER** the Michigan vehicle code, ~~Act No. 300 of the~~
2 ~~Public Acts of 1949, being sections 257.1 to 257.923 of the~~
3 ~~Michigan Compiled Laws, 1949 PA 300, MCL 257.1 TO 257.923, or~~
4 other generally recognized picture identification card and by
5 executing an application, ~~showing his or her signature or mark~~
6 ~~and address of residence~~ **ON A FORM PRESCRIBED BY THE SECRETARY OF**
7 **STATE**, in the presence of an election official ~~. WHICH INCLUDES~~
8 **ALL OF THE FOLLOWING:**

9 (A) THE NAME OF THE ELECTOR.

10 (B) THE ELECTOR'S ADDRESS OF RESIDENCE.

11 (C) THE ELECTOR'S DATE OF BIRTH.

12 (D) AN AFFIRMATIVE STATEMENT BY THE ELECTOR INDICATING THAT
13 HE OR SHE IS A CITIZEN OF THE UNITED STATES.

14 (E) THE ELECTOR'S SIGNATURE OR MARK.

15 (2) IF AN ELECTOR DOES NOT AFFIRMATIVELY STATE ON THE
16 APPLICATION THAT HE OR SHE IS A CITIZEN OF THE UNITED STATES,
17 THAT ELECTOR SHALL BE CHALLENGED BY AN ELECTION INSPECTOR. IF THE
18 ELECTOR FAILS TO STATE UNDER OATH THAT HE OR SHE IS A CITIZEN OF
19 THE UNITED STATES, THAT ELECTOR SHALL NOT BE ISSUED A BALLOT.

20 (3) If an elector's signature contained in the qualified
21 voter file is available in the polling place, the election
22 official shall compare the signature upon the application with
23 the digitized signature provided by the qualified voter file. If
24 an elector's signature is not contained in the qualified voter
25 file, the election official shall process the application in the
26 same manner as applications are processed when a voter
27 registration list is used in the polling place. If voter

1 registration lists are used in the precinct, the election
2 inspector shall determine if the name on the application to vote
3 appears on the voter registration list. If the name appears on
4 the voter registration list, the elector shall provide further
5 identification ~~by giving his or her date of birth or other~~
6 information stated upon the voter registration list. ~~In precincts~~
7 ~~using voter registration lists, the date of birth may be required~~
8 ~~to be placed on the application to vote.~~ If the signature or an
9 item of information, **OTHER THAN CITIZENSHIP**, does not correspond,
10 the vote of the person shall be challenged, and the same
11 procedure shall be followed as provided in this act for the
12 challenging of an elector. ~~If the person offering to vote has~~
13 ~~signed the registration card or application by making a mark, the~~
14 ~~person shall identify himself or herself by giving his or her~~
15 ~~date of birth, which shall be compared with the date of birth~~
16 ~~stated upon the registration card or voter registration list, or~~
17 ~~shall give other identification as may be referred to upon the~~
18 ~~registration card or voter registration list.~~ If the elector does
19 not have an official state identification card, operator's or
20 chauffeur's license, ~~as required in this subsection,~~ or other
21 generally recognized picture identification card **AS REQUIRED**
22 **UNDER THIS SUBSECTION**, the individual shall sign an affidavit to
23 that effect before an election inspector and be allowed to vote
24 as otherwise provided in this act. However, an elector being
25 allowed to vote without the identification required under this
26 subsection is subject to challenge as provided in section 727.

27 (4) ~~(2)~~—If, upon a comparison of the signature or other

1 identification as required in ~~subsection (1)~~, **THIS SECTION**, it is
2 found that the applicant is entitled to vote, the election
3 officer having charge of the registration list shall approve the
4 application and write his or her initials on the application,
5 after which the number on the ballot issued shall be noted on the
6 application. The application shall serve as 1 of the 2 poll lists
7 required to be kept as a record of a person who has voted. The
8 application shall be filed with the township, city, or village
9 clerk. If voter registration cards are used in the precinct, the
10 date of the election shall be noted by 1 of the election
11 officials upon the precinct registration card of each elector
12 voting at an election. If voter registration lists are used in
13 the precinct, the election official shall clearly indicate upon
14 the list each elector voting at that election. The clerk of a
15 city, village, or township shall maintain a record of voting
16 participation for each registered elector.

17 Sec. 759. (1) At any time during the 75 days before a
18 primary or special primary, but not later than 2 p.m. of the
19 Saturday immediately before the primary or special primary, an
20 elector who qualifies to vote as an absent voter, as defined in
21 section 758, may apply for an absent voter ballot. The elector
22 shall apply in person or by mail with the clerk of the township,
23 city, or village in which the elector is registered. An
24 application received before a primary or special primary may be
25 for either that primary only, or for that primary and the
26 election that follows.

27 (2) Except as otherwise provided in subsection (1), at

1 anytime during the 75 days before an election, but not later than
2 2 p.m. of the Saturday before the election, an elector who
3 qualifies to vote as an absent voter, as defined in section 758,
4 may apply for an absent voter ballot. The elector shall apply in
5 person or by mail with the clerk of the township, city, or
6 village in which the voter is registered.

7 (3) An application for an absent voter ballot under this
8 section may be made in any of the following ways:

9 (a) By a written request signed by the voter stating the
10 statutory grounds for making the application.

11 (b) On an absent voter ballot application form provided for
12 that purpose by the clerk of the city, township, or village.

13 (c) On a federal postcard application.

14 (4) An applicant for an absent voter ballot shall sign the
15 application. A clerk or assistant clerk shall not deliver an
16 absent voter ballot to an applicant who does not sign the
17 application. A person ~~other than~~ **SHALL NOT BE IN POSSESSION OF A**
18 **SIGNED ABSENT VOTER BALLOT APPLICATION EXCEPT FOR** the applicant;
19 a member of the applicant's immediate family; a person residing
20 in the applicant's household; a person whose job normally
21 includes the handling of mail, but only during the course of his
22 or her employment; a registered elector requested by the
23 applicant **TO RETURN THE APPLICATION**; or a clerk, assistant of the
24 clerk, or other authorized election official. ~~shall not be in~~
25 ~~possession of a signed absent voter ballot application. A~~
26 registered elector who is requested by the applicant to return
27 his or her absent voter ballot application shall sign the

1 certificate on the absent voter ballot application.

2 (5) The clerk of ~~the~~**A** city, township, or village shall have
3 absent voter ballot application forms available in the **CLERK'S**
4 office ~~of the clerk~~ at all times and shall furnish an absent
5 voter ballot application form to anyone upon a verbal or written
6 request. The absent voter ballot application shall be in
7 substantially the following form:

8 "Application for absent voter ballot for:

9 [] The primary or special primary election to be held on
10, 19.... **(DATE)**.

11 [] The election to be held on, 19....
12 **(DATE)**.

13 (Check applicable election or elections)

14 I,, a qualified and
15 registered elector of the precinct of the township
16 of or village of or of the
17 ward of the city of, in the
18 county of and state of
19 Michigan, apply for an official ballot, or ballots, to be voted
20 by me at the election or elections as requested in this
21 application.

22 **ARE YOU A CITIZEN OF THE UNITED STATES? [] YES [] NO**

23 The statutory grounds on which I base my request are:

24 [] I expect to be absent from the community in which I am
25 registered for the entire time the polls are open on election
26 day.

27 [] I am physically unable to attend the polls without the

1 assistance of another.

2 [] I cannot attend the polls because of the tenets of my
3 religion.

4 [] I have been appointed an election precinct inspector in
5 a precinct other than the precinct where I reside.

6 [] I am 60 years of age or older.

7 [] I cannot attend the polls because I am confined to jail
8 awaiting arraignment or trial.

9 (Check applicable reason)

10 Send absent voter ballot to me at:

11
12 (Street No. or R.R.)

13
14 (Post Office) (State) (ZIP CODE)

15 My registered address
16 (Street No. or R.R.)

17
18 (Post Office) (State) (ZIP CODE)

19 Date.....

20 I ~~declare~~**CERTIFY** that the statements in this absent voter
21 ballot application are true.

22
23 (Signature)

24 WARNING

25 IF YOU ANSWER THAT YOU ARE NOT A CITIZEN OF THE UNITED
26 STATES, YOU WILL NOT BE ISSUED AN ABSENT VOTER BALLOT. IF YOU DO
27 NOT ANSWER THE CITIZENSHIP QUESTION ON THIS APPLICATION, AN
28 ABSENT VOTER BALLOT WILL BE ISSUED TO YOU, BUT THE BALLOT WILL
29 NOT BE COUNTED UNLESS YOU ANSWER THE CITIZENSHIP QUESTION IN

1 **WRITING TO THE CLERK BEFORE THE POLLS CLOSE ON ELECTION DAY.**

2 A person making a false statement in this absent voter
 3 ballot application is guilty of a misdemeanor. It is a violation
 4 of Michigan election law for a person other than those listed in
 5 the instructions to return, offer to return, agree to return, or
 6 solicit to return your absent voter ballot application to the
 7 clerk. An assistant authorized by the clerk who receives absent
 8 voter ballot applications at a location other than the **CLERK'S**
 9 office ~~of the clerk~~ must have credentials signed by the clerk.
 10 Ask to see his or her credentials before entrusting your
 11 application with a person claiming to have the clerk's
 12 authorization to return your application.

13 Certificate of Authorized Registered
 14 Elector Returning Absent Voter
 15 Ballot Application

16 I certify that my name is , my address
 17 is , and my date of birth is ;
 18 that I am delivering the absent voter ballot application of
 19 at his or her request; that I did not
 20 solicit or request to return the application; that I have not
 21 made any markings on the application; that I have not altered the
 22 application in any way; that I have not influenced the applicant;
 23 and that I am aware that a false statement in this certificate is
 24 a violation of Michigan election law.

25 _____
 26 (Date)

 (Signature) "

1 (6) The following instructions for an applicant for an
2 absent voter ballot shall be included with each application
3 furnished an applicant:

4 INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

5 Step 1. After completely filling out the application, sign
6 and date the application in the place designated. Your signature
7 must appear on the application or you will not receive an absent
8 voter ballot.

9 Step 2. Deliver the application by 1 of the following
10 methods:

11 (a) Place the application in an envelope addressed to the
12 appropriate clerk and place the necessary postage upon the return
13 envelope and deposit it in the United States mail or with another
14 public postal service, express mail service, parcel post service,
15 or common carrier.

16 (b) Deliver the application personally to the **CLERK'S**
17 office, ~~of the clerk,~~ to the clerk, or to an authorized assistant
18 of the clerk.

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

24 (d) ~~In the event~~ **IF** an applicant cannot return the
25 application in any of the above methods, the applicant may select

1 any registered elector to return the application. The person
2 returning the application must sign and return the certificate at
3 the bottom of the application.

4 (7) A person who prints and distributes absent voter ballot
5 applications shall print on the application the warning,
6 certificate of authorized registered elector returning absent
7 voter ballot application, and instructions required by this
8 section.

9 (8) A person who makes a false statement in an absent voter
10 ballot application is guilty of a misdemeanor. A person who
11 forges a signature on an absent voter ballot application is
12 guilty of a felony. A person who is not authorized in this act
13 and who both distributes absent voter ballot applications to
14 absent voters and returns those absent voter ballot applications
15 to a clerk or assistant of the clerk is guilty of a misdemeanor.

16 Sec. 761. (1) ~~If~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS**
17 **SUBSECTION, IF** the clerk of a city, township, or village receives
18 an application for an absent voter ballot from a person
19 registered to vote in that city, township, or village and if the
20 signature on the application agrees with the signature for the
21 person contained in the qualified voter file or on the
22 registration card as required in subsection (2), the clerk
23 immediately upon receipt of the application or, if the
24 application is received before the printing of the absent voter
25 ballots, as soon as the ballots are received by the clerk, shall
26 forward by mail, postage prepaid, or shall deliver personally 1
27 of the ballots or set of ballots if there is more than 1 kind of

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1 ballot to be voted to the applicant. Absent voter ballots may be
2 delivered to an applicant in person at the office of the clerk.
3 IF THE CLERK OF A CITY, TOWNSHIP, OR VILLAGE RECEIVES AN ABSENT
4 VOTER BALLOT APPLICATION FROM A PERSON REGISTERED TO VOTE IN THAT
5 CITY, TOWNSHIP, OR VILLAGE AND THE PERSON INDICATES ON THE ABSENT
6 VOTER BALLOT APPLICATION THAT HE OR SHE IS NOT A CITIZEN OF THE
7 UNITED STATES, AN ABSENT VOTER BALLOT SHALL NOT BE ISSUED TO THAT
8 PERSON. IF THE CLERK OF A CITY, TOWNSHIP, OR VILLAGE RECEIVES AN
9 ABSENT VOTER BALLOT APPLICATION FROM A PERSON REGISTERED TO VOTE
10 IN THAT CITY, TOWNSHIP, OR VILLAGE AND THE PERSON DOES NOT ANSWER
11 THE CITIZENSHIP QUESTION ON THE ABSENT VOTER BALLOT APPLICATION,
12 THE CLERK SHALL ISSUE AN ABSENT VOTER BALLOT TO THAT PERSON, BUT
13 THAT ABSENT VOTER BALLOT SHALL NOT BE COUNTED ON ELECTION DAY
14 UNLESS THE PERSON ANSWERS THE CITIZENSHIP QUESTION IN WRITING TO
15 THE CLERK BEFORE THE POLLS CLOSE ON ELECTION DAY. THE CLERK OF
16 THE CITY, TOWNSHIP, OR VILLAGE SHALL INCLUDE WITH AN ABSENT VOTER
17 BALLOT ISSUED TO A PERSON WHO DID NOT ANSWER THE CITIZENSHIP
18 QUESTION ON HIS OR HER ABSENT VOTER BALLOT APPLICATION A NOTICE
19 THAT PROMINENTLY STATES THAT THE PERSON DID NOT ANSWER THE
20 CITIZENSHIP QUESTION ON HIS OR HER ABSENT VOTER BALLOT
21 APPLICATION AND THAT HIS OR HER ABSENT VOTER BALLOT WILL NOT BE
22 COUNTED ON ELECTION DAY UNLESS HE OR SHE ANSWERS THE CITIZENSHIP
23 QUESTION IN WRITING TO THE CLERK <<IN THE MANNER PROVIDED IN THE
NOTICE>> BEFORE THE POLLS CLOSE ON
24 ELECTION DAY. THE SECRETARY OF STATE SHALL PREPARE AND PROVIDE
25 COPIES OF THE NOTICE REQUIRED UNDER THIS SUBSECTION TO EACH CITY,
26 TOWNSHIP, AND VILLAGE CLERK.

27 (2) The qualified voter file shall be used to determine the

1 genuineness of a signature on an application for an absent voter
2 ballot. Signature comparisons shall be made with the digitized
3 signature in the qualified voter file. If the qualified voter
4 file does not contain a digitized signature of an elector, or is
5 not accessible to the clerk, the city or township clerk shall
6 compare the signature appearing on the application for an absent
7 voter ballot to the signature contained on the master card.

8 (3) Notwithstanding section 759, providing that no absent
9 voter applications shall be received by the clerk after 2 p.m. on
10 the Saturday before the election, a person qualified to vote as
11 an absent voter may apply in person at the clerk's office before
12 4 p.m. on a day preceding the election except Sunday or a legal
13 holiday to vote as an absent voter. ~~The~~ **SUBJECT TO SUBSECTION**
14 **(1), THE** applicant shall receive his or her absent voter ballot
15 and vote the ballot in the clerk's office. All other absent voter
16 ballots, except ballots delivered pursuant to an emergency absent
17 voter ballot application under section 759b, shall be mailed or
18 delivered to the registration address of the applicant unless the
19 application requests delivery to an address outside the city,
20 village, or township or to a hospital or similar institution, in
21 which case the absent voter ballots shall be mailed or delivered
22 to the address given in the application. However, a clerk may
23 mail or deliver an absent voter ballot, upon request of the
24 absent voter, to a post office box if the post office box is
25 where the absent voter normally receives personal mail and the
26 absent voter does not receive mail at his or her registration
27 address.

1 (4) Absent voter ballots shall be issued in the same order
 2 in which applications are received by the clerk of a city,
 3 township, or village, as nearly as may be, and each ballot issued
 4 shall bear the lowest number of each kind available for this
 5 purpose. However, this provision does not prohibit a clerk from
 6 immediately issuing an absent voter ballot to an absent voter who
 7 applies in person in the clerk's office for absent voter ballots.
 8 The clerk shall enclose with the ballot or ballots a return
 9 envelope properly addressed to the clerk and bearing upon the
 10 back of the envelope a printed statement in substantially the
 11 following form:

12 TO BE COMPLETED

13 BY THE CLERK

14 _____
 15 Name of Voter Street Address or R.R.

16 _____
 17 City, Township or Village County

18 Ward _____ Precinct _____ Date of Election _____

19 =====

20 TO BE COMPLETED BY THE ABSENT VOTER

21 I assert that I am a qualified and registered elector of the
 22 city, township, or village named above. I am voting as an absent
 23 voter in conformity with state election law. Unless otherwise
 24 indicated below, I personally marked the ballot enclosed in this
 25 envelope without exhibiting it to any other person.

26 I further assert that this absent voter ballot is being
 27 returned to the clerk or an assistant of the clerk by me

1 personally; by public postal service, express mail service,
2 parcel post service, or other common carrier; by a member of my
3 immediate family; or by a person residing in my household.

4 DATE: _____ SIGN HERE: X _____
5 Signature of Absent Voter

6 The above form must be signed or your vote will not be counted.

7 AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY
8 OF A MISDEMEANOR.

9 =====

10 TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING
11 BY ANOTHER PERSON

12 I assisted the above named absent voter who is disabled or
13 otherwise unable to mark the ballot in marking his or her absent
14 voter ballot pursuant to his or her directions. The absent voter
15 ballot was inserted in the return envelope without being
16 exhibited to any other person.

17 _____
18 Signature of Person Street Address City, Twp., or
19 Assisting Voter or R.R. Village

20 _____
21 Printed Name of Person Assisting Voter

22 A PERSON WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A
23 FALSE STATEMENT IS GUILTY OF A FELONY.

24 =====

25 WARNING

26 PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER
27 BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER;
28 A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY

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1 OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED
2 BY THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT
3 IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A
4 PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE,
5 OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR
6 HER EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER
7 AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR
8 SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT
9 VOTER BALLOT IS GUILTY OF A FELONY.

10 (5) An absent voter who knowingly makes a false statement on
11 the absent voter ballot return envelope is guilty of a
12 misdemeanor. A person who assists an absent voter and who
13 knowingly makes a false statement on the absent voter ballot
14 return envelope is guilty of a felony.

15 **SEC. 766A. IF AN ELECTION IS CONTESTED IN A COURT, AN ABSENT**
16 **VOTER BALLOT THAT WAS NOT COUNTED BECAUSE THE ABSENT VOTER DID**
17 **NOT ANSWER THE CITIZENSHIP QUESTION IN WRITING TO THE CLERK**
18 **BEFORE THE POLLS CLOSED ON ELECTION DAY, AS REQUIRED UNDER**
19 **SECTION 759, MAY BE COUNTED IF THE COURT DETERMINES THAT THE**
20 **VOTER WAS A CITIZEN AT THE TIME OF THE ELECTION IN QUESTION.**

<<Enacting section 1. This amendatory act takes effect
June 1, 2012.>>