

STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012

Introduced by Reps. Jacobsen, Kowall, Kurtz, Tyler and Knollenberg

ENROLLED HOUSE BILL No. 5061

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 761, 813, and 829 (MCL 168.761, 168.813, and 168.829), section 761 as amended by 2005 PA 71 and sections 813 and 829 as added by 2004 PA 92, and by adding section 38.

The People of the State of Michigan enact:

Sec. 38. (1) The secretary of state shall develop a poster that explains ballot coaching and that indicates that ballot coaching is prohibited.

(2) The secretary of state shall provide to each residential care facility in this state at least 1 poster as described in subsection (1).

(3) For the period beginning 45 days before each election and continuing through election day, the owner, operator, or facility director of a residential care facility shall display the poster provided by the secretary of state in a public area in the residential care facility.

(4) As used in this section:

(a) "Home for the aged" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(b) "Nursing home" means that term as defined in section 20109 of the public health code, 1978 PA 368, MCL 333.20109.

(c) "Residential care facility" means both of the following:

(i) Home for the aged.

(ii) Nursing home.

Sec. 761. (1) Except as otherwise provided in this subsection, if the clerk of a city, township, or village receives an application for an absent voter ballot from a person registered to vote in that city, township, or village and if the signature on the application agrees with the signature for the person contained in the qualified voter file or on the registration card as required in subsection (2), the clerk immediately upon receipt of the application or, if the application is received before the printing of the absent voter ballots, as soon as the ballots are received by the clerk, shall forward by mail, postage prepaid, or shall deliver personally 1 of the ballots or set of ballots if there is more than 1 kind of ballot

to be voted to the applicant. Subject to the identification requirement in subsection (6), absent voter ballots may be delivered to an applicant in person at the office of the clerk. If the clerk of a city, township, or village receives an absent voter ballot application from a person registered to vote in that city, township, or village and the person indicates on the absent voter ballot application that he or she is not a citizen of the United States, an absent voter ballot shall not be issued to that person. If the clerk of a city, township, or village receives an absent voter ballot application from a person registered to vote in that city, township, or village and the person does not answer the citizenship question on the absent voter ballot application, the clerk shall issue an absent voter ballot to that person, but that absent voter ballot shall not be counted on election day unless the person answers the citizenship question in writing to the clerk before the polls close on election day. The clerk of the city, township, or village shall include with an absent voter ballot issued to a person who did not answer the citizenship question on his or her absent voter ballot application a notice that prominently states that the person did not answer the citizenship question on his or her absent voter ballot application and that his or her absent voter ballot will not be counted on election day unless he or she answers the citizenship question in writing to the clerk in the manner provided in the notice before the polls close on election day. The secretary of state shall prepare and provide copies of the notice required under this subsection to each city, township, and village clerk.

(2) The qualified voter file shall be used to determine the genuineness of a signature on an application for an absent voter ballot. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, or is not accessible to the clerk, the city or township clerk shall compare the signature appearing on the application for an absent voter ballot to the signature contained on the master card.

(3) Notwithstanding section 759, providing that no absent voter applications shall be received by the clerk after 2 p.m. on the Saturday before the election, and subject to the identification requirement in subsection (6), a person qualified to vote as an absent voter may apply in person at the clerk's office before 4 p.m. on a day before the election except Sunday or a legal holiday to vote as an absent voter. Subject to subsection (1), the applicant shall receive his or her absent voter ballot and vote the ballot in the clerk's office. All other absent voter ballots, except ballots delivered pursuant to an emergency absent voter ballot application under section 759b, shall be mailed or delivered to the registration address of the applicant unless the application requests delivery to an address outside the city, village, or township or to a hospital or similar institution, in which case the absent voter ballots shall be mailed or delivered to the address given in the application. However, a clerk may mail or deliver an absent voter ballot, upon request of the absent voter, to a post office box if the post office box is where the absent voter normally receives personal mail and the absent voter does not receive mail at his or her registration address.

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

TO BE COMPLETED
BY THE CLERK

Name of Voter		Street Address or R.R.
City, Township or Village		County
Ward	Precinct	Date of Election

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TO BE COMPLETED BY THE ABSENT VOTER

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

I further assert that this absent voter ballot is being returned to the clerk or an assistant of the clerk by me personally; by public postal service, express mail service, parcel post service, or other common carrier; by a member of my immediate family; or by a person residing in my household.

DATE:	SIGN HERE: X
	Signature of Absent Voter

The above form must be signed or your vote will not be counted. AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF A MISDEMEANOR.

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

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

_____ Signature of Person Assisting Voter	_____ Street Address or R.R.	_____ City, Twp., or Village
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Printed Name of Person Assisting Voter

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

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WARNING

PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER; A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED BY THE ABSENT VOTER TO RETURN THE BALLOT; 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; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT VOTER BALLOT IS GUILTY OF A FELONY.

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

(6) If an elector obtains his or her absent voter ballot in person from the clerk of the city, township, or village in which he or she is registered, the clerk of the city, township, or village shall not provide an absent voter ballot to that elector until the elector identifies himself or herself to the clerk by presenting an official state identification card issued to that elector under 1972 PA 222, MCL 28.291 to 28.300, an operator's or chauffeur's license issued to that elector under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or other generally recognized picture identification card. If an elector does not have an official state identification card, operator's or chauffeur's license, or other generally recognized picture identification card, the elector may sign an affidavit to that effect before the clerk of the city, township, or village and be allowed to obtain his or her absent voter ballot in person from the clerk. The clerk of the city, village, or township shall indicate to each elector who obtains his or her absent voter ballot in person from the clerk that the elector may sign an affidavit indicating that the elector does not have an official state identification card, operator's or chauffeur's license, or other generally recognized picture identification card in order to obtain his or her absent voter ballot in person from the clerk. However, if an elector obtains his or her absent voter ballot in person from the clerk and votes by absent voter ballot without providing the identification required under this subsection, the absent voter ballot of that elector shall be prepared as a challenged ballot as provided in section 727.

Sec. 813. (1) Within 6 days after an election, for each provisional ballot that was placed in a provisional ballot return envelope, the city or township clerk shall determine whether the individual voting the provisional ballot was eligible to vote a ballot and whether to tabulate the provisional ballot. In making this determination, the city or township clerk shall not open the provisional ballot return envelope. A provisional ballot shall only be tabulated if a valid voter registration record for the elector is located or if the identity and residence of the elector is established using a Michigan operator's license, chauffeur's license, personal identification card, other government issued photo identification card, or a photo identification card issued by an institution of higher education in this state described in section 6 of article VIII of the state constitution of 1963 or a junior college or community college established under section 7 of article VIII of the state constitution of 1963 along with a document to establish the voter's current residence address as provided in section 523a(5). Before the provisional ballot is tabulated, election officials shall process the ballot as a challenged ballot under sections 745 and 746.

(2) Within 7 days after an election, but sooner if practicable, the city or township clerk shall transmit the results of provisional ballots tabulated after the election to the board of county canvassers. The results shall be transmitted in a form prescribed by the secretary of state.

(3) Within 7 days after an election, the city or township clerk shall transmit to the county clerk a provisional ballot report for each precinct in the jurisdiction. The report shall include for each precinct the number of provisional ballots issued, the number of provisional ballots tabulated on election day, the number of provisional ballots forwarded to the clerk to be determined after the election, the number of provisional ballots tabulated by the clerk after election day, and any additional information concerning provisional ballots as required by the secretary of state.

(4) Within 7 days after an election, the city or township clerk shall transmit to the county clerk an affidavit report that includes the number of affidavits signed by voters under section 523(1). The affidavit report shall be transmitted to the county clerk in a form prescribed by the secretary of state.

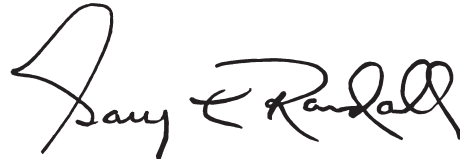
Sec. 829. (1) The board of county canvassers shall include the results of the tabulated provisional ballots in the canvass of the election following procedures prescribed by the secretary of state designed to maintain the secrecy of the ballot.

(2) Within 14 days after a primary or election, the county clerk shall transmit a county provisional ballot report to the secretary of state. The county provisional ballot report shall be in a manner prescribed by the secretary of state. After the secretary of state receives a county provisional ballot report, the county provisional ballot report shall be immediately available for public inspection.

(3) Within 14 days after an election, the county clerk shall transmit a county affidavit report to the secretary of state. The county affidavit report shall include the number of affidavits signed by voters under section 523(1). The county affidavit report shall be transmitted in a form prescribed by the secretary of state. After the secretary of state receives the county affidavit report from the county clerk, the county affidavit report shall immediately be available for public inspection.

Enacting section 1. This amendatory act takes effect August 15, 2012.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor