

SENATE BILL No. 803

November 8, 2011, Introduced by Senator BOOHER and referred to the Committee on Local Government and Elections.

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.

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
 8 ~~pursuant to UNDER the Michigan vehicle code, Act No. 300 of the~~
 9 ~~Public Acts of 1949, being sections 257.1 to 257.923 of the~~

1 ~~Michigan Compiled Laws, 1949 PA 300, MCL 257.1 TO 257.923, or~~
2 other generally recognized picture identification card and by
3 executing an application, ~~showing his or her signature or mark~~
4 ~~and address of residence~~ **ON A FORM PRESCRIBED BY THE SECRETARY OF**
5 **STATE, in the presence of an election official** ~~—WHICH INCLUDES~~
6 **ALL OF THE FOLLOWING:**

7 (A) THE NAME OF THE ELECTOR.

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

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

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

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

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

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

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

25 (4) ~~(2)~~ If, upon a comparison of the signature or other
 26 identification as required in ~~subsection (1),~~ **THIS SECTION**, it is
 27 found that the applicant is entitled to vote, the election

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

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

25 (2) Except as otherwise provided in subsection (1), at
26 anytime during the 75 days before an election, but not later than
27 2 p.m. of the Saturday before the election, an elector who

1 qualifies to vote as an absent voter, as defined in section 758,
2 may apply for an absent voter ballot. The elector shall apply in
3 person or by mail with the clerk of the township, city, or
4 village in which the voter is registered.

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

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

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

11 (c) On a federal postcard application.

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

27 (5) The clerk of ~~the~~ **A** city, township, or village shall have

1 absent voter ballot application forms available in the **CLERK'S**
2 office ~~of the clerk~~ at all times and shall furnish an absent
3 voter ballot application form to anyone upon a verbal or written
4 request. The absent voter ballot application shall be in
5 substantially the following form:

6 "Application for absent voter ballot for:

7 [] The primary or special primary election to be held on
8, 19.... (DATE).

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

11 (Check applicable election or elections)

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

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

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

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

25 [] I am physically unable to attend the polls without the
26 assistance of another.

27 [] I cannot attend the polls because of the tenets of my

1 religion.

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

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

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

7 (Check applicable reason)

8 Send absent voter ballot to me at:

9
10 (Street No. or R.R.)

11
12 (Post Office) (State) (ZIP CODE)

13 My registered address
14 (Street No. or R.R.)

15
16 (Post Office) (State) (ZIP CODE)

17 Date.....

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

20
21 (Signature)

22 WARNING

23 IF YOU ANSWER THAT YOU ARE NOT A CITIZEN OF THE UNITED
24 STATES, YOU WILL NOT BE ISSUED AN ABSENT VOTER BALLOT. IF YOU DO
25 NOT ANSWER THE CITIZENSHIP QUESTION ON THIS APPLICATION, AN
26 ABSENT VOTER BALLOT WILL BE ISSUED TO YOU, BUT THE BALLOT WILL
27 NOT BE COUNTED UNLESS YOU ANSWER THE CITIZENSHIP QUESTION IN
28 WRITING TO THE CLERK BEFORE THE POLLS CLOSE ON ELECTION DAY.

29 A person making a false statement in this absent voter

1 absent voter ballot shall be included with each application
2 furnished an applicant:

3 INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

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

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

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

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

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

23 (d) ~~In the event~~ **IF** an applicant cannot return the
24 application in any of the above methods, the applicant may select
25 any registered elector to return the application. The person
26 returning the application must sign and return the certificate at

1 the bottom of the application.

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

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

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

1 IF THE CLERK OF A CITY, TOWNSHIP, OR VILLAGE RECEIVES AN ABSENT
2 VOTER BALLOT APPLICATION FROM A PERSON REGISTERED TO VOTE IN THAT
3 CITY, TOWNSHIP, OR VILLAGE AND THE PERSON INDICATES ON THE ABSENT
4 VOTER BALLOT APPLICATION THAT HE OR SHE IS NOT A CITIZEN OF THE
5 UNITED STATES, AN ABSENT VOTER BALLOT SHALL NOT BE ISSUED TO THAT
6 PERSON. IF THE CLERK OF A CITY, TOWNSHIP, OR VILLAGE RECEIVES AN
7 ABSENT VOTER BALLOT APPLICATION FROM A PERSON REGISTERED TO VOTE
8 IN THAT CITY, TOWNSHIP, OR VILLAGE AND THE PERSON DOES NOT ANSWER
9 THE CITIZENSHIP QUESTION ON THE ABSENT VOTER BALLOT APPLICATION,
10 THE CLERK SHALL ISSUE AN ABSENT VOTER BALLOT TO THAT PERSON, BUT
11 THAT ABSENT VOTER BALLOT SHALL NOT BE COUNTED ON ELECTION DAY
12 UNLESS THE PERSON ANSWERS THE CITIZENSHIP QUESTION IN WRITING TO
13 THE CLERK BEFORE THE POLLS CLOSE ON ELECTION DAY.

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

22 (3) Notwithstanding section 759, providing that no absent
23 voter applications shall be received by the clerk after 2 p.m. on
24 the Saturday before the election, a person qualified to vote as
25 an absent voter may apply in person at the clerk's office before
26 4 p.m. on a day preceding the election except Sunday or a legal
27 holiday to vote as an absent voter. ~~The~~ **SUBJECT TO SUBSECTION**

1 (1), **THE** applicant shall receive his or her absent voter ballot
2 and vote the ballot in the clerk's office. All other absent voter
3 ballots, except ballots delivered pursuant to an emergency absent
4 voter ballot application under section 759b, shall be mailed or
5 delivered to the registration address of the applicant unless the
6 application requests delivery to an address outside the city,
7 village, or township or to a hospital or similar institution, in
8 which case the absent voter ballots shall be mailed or delivered
9 to the address given in the application. However, a clerk may
10 mail or deliver an absent voter ballot, upon request of the
11 absent voter, to a post office box if the post office box is
12 where the absent voter normally receives personal mail and the
13 absent voter does not receive mail at his or her registration
14 address.

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

26

TO BE COMPLETED

1 voter ballot pursuant to his or her directions. The absent voter
2 ballot was inserted in the return envelope without being
3 exhibited to any other person.

4	_____	_____	_____
5	Signature of Person	Street Address	City, Twp., or
6	Assisting Voter	or R.R.	Village
7	_____		
8	Printed Name of Person Assisting Voter		

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

11 =====

12 WARNING

13 PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER
14 BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER;
15 A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY
16 OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED
17 BY THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT
18 IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A
19 PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE,
20 OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR
21 HER EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER
22 AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR
23 SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT
24 VOTER BALLOT IS GUILTY OF A FELONY.

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

- 1 knowingly makes a false statement on the absent voter ballot
- 2 return envelope is guilty of a felony.