

HOUSE BILL No. 4214

February 17, 2015, Introduced by Rep. Lyons and referred to the Committee on Elections.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 759a and 761 (MCL 168.759a and 168.761), as
amended by 2012 PA 523.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 759a. (1) An absent uniformed services voter or an
2 overseas voter who is not registered, but possessed the
3 qualifications of an elector under section 492, may apply for
4 registration by using the federal postcard application. The
5 department of state, bureau of elections, is responsible for
6 disseminating information on the procedures for registering and
7 voting to an absent uniformed services voter and an overseas
8 voter.

1 (2) Upon the request of an absent uniformed services voter
2 or an overseas voter, the clerk of a county, city, township, or
3 village shall electronically transmit a blank voter registration
4 application or blank absent voter ballot application to the
5 voter. The clerk of a county, city, township, or village shall
6 accept a completed voter registration application or completed
7 absent voter ballot application electronically transmitted by an
8 absent uniformed services voter or overseas voter. A voter
9 registration application or absent voter ballot application
10 submitted by an absent uniformed services voter or overseas voter
11 shall contain the signature of the voter.

12 (3) A spouse or dependent of an overseas voter who is a
13 citizen of the United States, is accompanying that overseas
14 voter, and is not a qualified and registered elector anywhere
15 else in the United States, may apply for an absent voter ballot
16 even though the spouse or dependent is not a qualified elector of
17 a city or township of this state.

18 (4) An absent uniformed services voter or an overseas voter,
19 whether or not registered to vote, may apply for an absent voter
20 ballot. Upon receipt of an application for an absent voter ballot
21 under this section that complies with this act, a county, city,
22 village, or township clerk shall forward to the applicant the
23 absent voter ballots requested, the forms necessary for
24 registration, and instructions for completing the forms. If the
25 ballots are not yet available at the time of receipt of the
26 application, the clerk shall immediately forward to the applicant
27 the registration forms and instructions, and forward the ballots

1 as ~~soon as they are available.~~ **PROVIDED IN THIS SECTION.** If a
2 federal postcard application or an application from the official
3 United States department of defense website is filed, the clerk
4 shall accept the federal postcard application or the application
5 from the official United States department of defense website as
6 the registration application and shall not send any additional
7 registration forms to the applicant. If the ballots and
8 registration forms are received before the close of the polls on
9 election day and if the registration complies with the
10 requirements of this act, the absent voter ballots shall be
11 delivered to the proper election board to be tabulated. If the
12 registration does not comply with the requirements of this act,
13 the clerk shall retain the absent voter ballots until the
14 expiration of the time that the voted ballots must be kept and
15 shall then destroy the ballots without opening the envelope. The
16 clerk may retain registration forms completed under this section
17 in a separate file. The address in this state shown on a
18 registration form is the residence of the registrant.

19 (5) ~~Not later than 45~~ **FORTY-FIVE** days before an election, a
20 county, city, township, or village clerk shall electronically
21 transmit or mail as appropriate an absent voter ballot to each
22 absent uniformed services voter or overseas voter who applied for
23 an absent voter ballot 45 days or more before the election.

24 (6) Upon the request of an absent uniformed services voter
25 or overseas voter, the clerk of a county, city, township, or
26 village shall electronically transmit an absent voter ballot to
27 the voter. The voter shall print the absent voter ballot and

1 return the voted ballot by mail to the appropriate clerk.

2 (7) The secretary of state shall prescribe electronic absent
3 voter ballot formats and electronic absent voter ballot
4 transmission methods. Each county, city, township, or village
5 clerk shall employ the prescribed electronic ballot formats to
6 fulfill an absent voter ballot request received from an absent
7 uniformed services voter or overseas voter who wishes to receive
8 his or her absent voter ballot through an electronic
9 transmission. The secretary of state shall establish procedures
10 to implement the requirements in this section and for the
11 processing of a marked absent voter ballot returned by an absent
12 uniformed services voter or overseas voter who obtained his or
13 her absent voter ballot through an electronic transmission.

14 (8) The secretary of state shall modify the printed
15 statement provided under section 761(4) and the absent voter
16 ballot instructions provided under section 764a as appropriate to
17 accommodate the procedures developed for electronically
18 transmitting an absent voter ballot to an absent uniformed
19 services voter or overseas voter. A statement shall be included
20 in the certificate signed by the absent voter who obtained his or
21 her absent voter ballot through an electronic transmission that
22 the secrecy of the absent voter ballot may be compromised during
23 the duplication process. The absent voter ballot instructions
24 provided to an absent uniformed services voter or overseas voter
25 shall include the proper procedures for returning the absent
26 voter ballot to the appropriate clerk.

27 (9) The size of a precinct shall not be determined by

1 registration forms completed under this section.

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

27 (11) An electronic mail address provided by an absent

1 uniformed services voter or overseas voter for the purposes of
2 this section is confidential and exempt from disclosure under the
3 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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

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

18 (a) Make the ballot format for each election available to
19 absent uniformed services voters and overseas voters by
20 electronic mail or on an internet website maintained by the
21 department of state.

22 (b) Make the ballot information, including the offices,
23 names of candidates, and ballot proposals, for each election
24 available to absent uniformed services voters and overseas voters
25 on an internet website maintained by the department of state.

26 (14) The clerk of a city, village, or township shall submit
27 to the county clerk of the county in which that city, village, or

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

1 village, or township clerk, within 1 business day after the state
2 bureau of elections notifies the clerk of that city, village, or
3 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
8 absent voter ballot or who applies for an absent voter ballot for
9 the presidential primary election, offering the elector the
10 opportunity to select a political party ballot for the
11 presidential primary 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
15 transmitted to an absent uniformed services voter or overseas
16 voter in compliance with subsection (5). The extension shall
17 equal the total number of days beyond the deadline as provided in
18 subsection (5) that the city, village, or township clerk
19 transmitted the requested absentee voter ballots. These absentee
20 voter ballots received during the extension time shall be counted
21 and tabulated for the final results of the election provided that
22 the absentee voter ballots are executed and sent by the close of
23 the 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:

1 (a) "Absent uniformed services voter" means any of the
2 following:

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

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

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

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

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

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

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

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

4 (ii) A person who resides outside of the United States and is
5 qualified to vote in the last place in which the person was
6 domiciled before leaving the United States.

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

11 (d) "Uniformed services" means the army, navy, air force,
12 marine corps, coast guard, the commissioned corps of the public
13 health service, the commissioned corps of the national oceanic
14 and atmospheric administration, a reserve component of a
15 uniformed service, or the Michigan national guard as defined in
16 section 105 of the Michigan military act, 1967 PA 150, MCL
17 32.505.

18 Sec. 761. (1) ~~If~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION**
19 **759A, IF** the clerk of a city, township, or village receives an
20 application for an absent voter ballot from a person registered
21 to vote in that city, township, or village and if the signature
22 on the application agrees with the signature for the person
23 contained in the qualified voter file or on the registration card
24 as required in subsection (2), the clerk **SHALL** immediately upon
25 receipt of the application, ~~or, if the application is received~~
26 ~~before the printing of the absent voter ballots, as soon as the~~
27 ~~ballots are received by the clerk, shall~~ **BUT NOT EARLIER THAN 30**

1 **DAYS BEFORE THE ELECTION**, forward by mail, postage prepaid, or
2 ~~shall~~ deliver personally 1 of the ballots or set of ballots if
3 there is more than 1 kind of ballot to be voted to the applicant.
4 Subject to **THIS SUBSECTION AND** the identification requirement in
5 subsection (6), absent voter ballots may be delivered to an
6 applicant in person at the office of the clerk.

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

15 (3) Notwithstanding section 759, providing that no absent
16 voter applications shall be received by the clerk after 2 p.m. on
17 the Saturday before the election, and subject to the
18 identification requirement in subsection (6), a person qualified
19 to vote as an absent voter may apply in person at the clerk's
20 office before 4 p.m. on a day before the election except Sunday
21 or a legal holiday to vote as an absent voter. The applicant
22 shall receive his or her absent voter ballot and vote the ballot
23 in the clerk's office. All other absent voter ballots, except
24 ballots delivered pursuant to an emergency absent voter ballot
25 application under section 759b, shall be mailed or delivered to
26 the registration address of the applicant unless the application
27 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, **SUBJECT TO SUBSECTION (1)**, 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 _____

=====

TO BE COMPLETED BY THE ABSENT VOTER

I assert that I am a United States citizen and 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.

=====

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

1 _____
 2 Printed Name of Person Assisting Voter

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

5 =====

6 WARNING

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

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

24 (6) If an elector obtains his or her absent voter ballot in
 25 person from the clerk of the city, township, or village in which
 26 he or she is registered, the clerk of the city, township, or
 27 village shall not provide an absent voter ballot to that elector

1 until the elector identifies himself or herself to the clerk by
2 presenting an official state identification card issued to that
3 elector under 1972 PA 222, MCL 28.291 to 28.300, an operator's or
4 chauffeur's license issued to that elector under the Michigan
5 vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or other
6 generally recognized picture identification card. If an elector
7 does not have an official state identification card, operator's
8 or chauffeur's license, or other generally recognized picture
9 identification card, the elector may sign an affidavit to that
10 effect before the clerk of the city, township, or village and be
11 allowed to obtain his or her absent voter ballot in person from
12 the clerk. The clerk of the city, village, or township shall
13 indicate to each elector who obtains his or her absent voter
14 ballot in person from the clerk that the elector may sign an
15 affidavit indicating that the elector does not have an official
16 state identification card, operator's or chauffeur's license, or
17 other generally recognized picture identification card in order
18 to obtain his or her absent voter ballot in person from the
19 clerk. However, if an elector obtains his or her absent voter
20 ballot in person from the clerk and votes by absent voter ballot
21 without providing the identification required under this
22 subsection, the absent voter ballot of that elector shall be
23 prepared as a challenged ballot as provided in section 727 and
24 shall be counted as any other ballot is counted unless determined
25 otherwise by a court of law under section 747 or 748 or any other
26 applicable law.

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.